



MEDICAL STAFF CREDENTIALING MANUAL

Maine Medical Center



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PART 1

GENERAL

1.A. CONFIDENTIALITY AND PEER REVIEW PROTECTION

1.A.1. Confidentiality:

All professional review activity including but not limited to discussions, evaluations, recommendations and/or decisions (as well as documentation of the same) will be strictly confidential. No disclosures of any such activity may be made outside of meetings of the committees charged with such functions, except:

- 1.A.1.a. to another authorized individual and for the purpose of conducting professional review activity;
- 1.A.1.b. as authorized by a policy; or
- 1.A.1.c. as authorized by the President of the Medical Center or legal counsel to the Medical Center and as applicable to federal and state law.

Any breach of confidentiality may result in appropriate sanctions including but not limited to a professional review action or appropriate legal action. Breaches of confidentiality will not constitute a waiver of any privilege. Any Member of the Medical Staff who becomes aware of a breach of confidentiality is encouraged to inform a Medical Staff Leader.

1.A.2. Peer Review Protection:

All professional review activity will be performed by peer review committees. Peer review committees include, but are not limited to:

- 1.A.2.a. all standing and ad hoc Medical Staff and Medical Center committees;
- 1.A.2.b. all Departments and Service Lines;
- 1.A.2.c. hearing and appellate review panels;
- 1.A.2.d. the Board and its committees;
- 1.A.2.e. Medical Staff Leaders;
- 1.A.2.f. experts and/or consultants retained to assist in professional review activity;

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- 1.A.2.g. the Maine Medical Center Provider Professionalism Committee (PPC) when engaged in professional review activity; and
- 1.A.2.h. any individual or body acting for or on behalf of a peer review committee.

All oral and written communications, reports, recommendations, actions, minutes and/or other activities made or undertaken by peer review committees are confidential and may be deemed to be communications, documents and professional review activity of professional review bodies including as such terms are defined by the Health Care Quality Improvement Act of 1986 (“HCQIA”), 42 U.S.C. §11101 et seq. and the Maine Health Security Act, 24 M.R.S.A. §2501 et. seq.

1.B. EMPLOYMENT VERSUS CREDENTIALING/PRIVILEGING – THE RELATIONSHIP

Employment and Medical Staff credentialing/privileges of a Provider by the Medical Center are two separate processes. An offer of employment does not guarantee Medical Staff appointment or the granting of clinical privileges. Likewise, the Medical Staff may grant credentialing and privileges to an applicant, but the Medical Center may still deny or not offer employment.

Two Important Ties: There are two important ties between Medical Center employment and Medical Staff appointment/credentialing and privileging. They are as follows:

1.B.1. Initial Employment – Impact of Denial of Credentialing/Privileging:

An offer of Maine Medical Center employment is often *contingent* on the Provider becoming credentialed and privileged at the Medical Center. Where this is the case, if the Provider is *denied* credentialing, and/or if the Provider is *denied* privileging (such as a specific privilege) necessary to the employment position, the employment offer is deemed automatically withdrawn and employment will never start. It is important for a Provider to fully understand the written terms of their employment offer with Maine Medical Center in this regard.

1.B.2. Separation of Employment – Impact on Privileges and Medical Staff Membership:

For any Provider that is both employed *and* credentialed/privileged at the Medical Center, the Provider’s Medical Staff membership *automatically terminates* with any separation of employment from the Medical Center that is: (i) involuntary, including involuntary termination or resignation in lieu of termination, and/or (ii) any separation of employment or resignation that is part of a signed Separation Agreement under which the Provider receives any severance pay or benefits. Where such separations of employment occur, the Provider’s Medical Staff membership, appointments and privileges shall be automatically terminated, without right to due process or fair hearing including under Part 7 of this Manual. For purposes of this Paragraph 1.B.2, a “Separation Agreement” means a written document (typically but not necessarily titled “Separation Agreement” or “Letter of Separation”) which is signed by both the Employer and the Provider, which identifies the

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Provider's last day of employment, which contains provisions for separation/severance pay, and which contains legal provisions including a release(s) of claims.

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PART 2

QUALIFICATIONS, CONDITIONS, AND RESPONSIBILITIES

2.A. QUALIFICATIONS

2.A.1. Threshold Eligibility Criteria:

To be eligible for initial appointment, reappointment or clinical privileges to/on the Medical Staff, an applicant must, as applicable:

- 2.A.1.a. have current, active licensure to practice in the field that the applicant is seeking membership and/or clinical privileges, in the State of Maine;
- 2.A.1.b. due to an omission or misrepresentation, have never had an application for Medical Staff membership or clinical privileges not processed, nor had membership or privileges automatically withdrawn for reasons of omission or misrepresentation, at the Medical Center or any of its affiliated entities;
- 2.A.1.c. if the applicant has a DEA registration, the DEA registration is current, active and unrestricted;
- 2.A.1.d. be located close enough to the Medical Center to fulfill Medical Staff responsibilities and fulfill on call requirements as stipulated by EMTALA, to provide timely and continuous care for patients in the Medical Center as appropriate, and based on the acuity of the patient's condition;
- 2.A.1.e. have access to appropriate resources and required technology;
- 2.A.1.f. have current, active & valid professional liability insurance coverage in a form and in amounts satisfactory to the Medical Center based on staff category requested;
- 2.A.1.g. have never been, and not currently be, excluded or precluded from participation in Medicare, Medicaid, or other federal or state governmental health care program;
- 2.A.1.h. have never had Medical Staff or other staff appointment, clinical privileges, or status as a participating Provider denied, revoked, or terminated by any health care facility, including this Medical Center, or health plan for reasons related to clinical competence or professional conduct/behavior;
- 2.A.1.i. have never resigned Medical Staff or other staff appointment or relinquished privileges during an investigation or in exchange for not conducting such an investigation at any health care facility;

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- 2.A.1.j. have never been terminated from a post-graduate training program (residency or fellowship for physicians or a similarly equivalent program for other categories of practitioners), nor resigned from such a program during an investigation or in exchange for the program not conducting an investigation;
- 2.A.1.k. within the last ten years, have not been required to pay a civil money penalty for governmental fraud or program abuse; and within the last ten years, have not been convicted of, or entered a plea of guilty or no contest to, any felony or misdemeanor related to: (i) controlled substances; (ii) illegal drugs; (iii) insurance or health care fraud (including Medicare, Medicaid or other federal or state governmental or private third-party payer fraud or program abuse); (iv) violent acts, (v) sexual misconduct, (vi) moral turpitude, or (vii) child or elder abuse;
- 2.A.1.l. agree to fulfill all responsibilities regarding emergency call for their specialty;
- 2.A.1.m. have an appropriate coverage arrangement, as determined by the Credentials Committee, with other members of the Medical Staff for those times when the individual will be unavailable;
- 2.A.1.n. document compliance with all applicable training and educational protocols that may be adopted by the Medical Executive Committee (MEC) and required by the Board, including, but not limited to, those involving electronic medical records or patient safety;
- 2.A.1.o. meet any current and ongoing eligibility requirements that are applicable to the clinical privileges being sought or granted;
- 2.A.1.p. if applying for privileges in an area that is covered by an exclusive contract or arrangement, meet the specific requirements set forth in that contract;
- 2.A.1.q. demonstrate recent clinical activity in their primary area of practice, and/or in an acute care hospital, during the last two years if applying for a privileged staff category. Applicants with greater than 2 year absence from clinical practice will be required to have an Ongoing Professional Practice Evaluation (OPPE) plan in place supervised by the Department Chair;
- 2.A.1.r. have successfully completed^{*1}:
- (i) a residency and, if applicable, fellowship training program approved by the Accreditation Council for Graduate Medical Education

¹ Exceptions to this provision may be granted based on the residency training and board certification requirements in effect at the time of the applicant's training, and/or if an applicant is only seeking Courtesy membership.

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- (ACGME) or the American Osteopathic Association (AOA), or completion of another accredited post-doctoral medical training program comparable to that of an accredited ACGME or AOA program, e.g., an accredited Canadian program, in the specialty in which the applicant seeks clinical privileges;
- (ii) a dental or an oral and maxillofacial surgery training program accredited by the Commission on Dental Accreditation of the American Dental Association (ADA);
- (iii) a podiatric surgical residency program accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association; or
- (iv) for Active Advanced Practice Provider (APP) Staff, have satisfied the applicable training requirements as established by the Medical Center and State licensing boards;
- 2.A.1.s. be certified in their primary area of practice at the Medical Center by the appropriate specialty/subspecialty board of the American Board of Medical Specialties (ABMS), the AOA, the American Board of Oral and Maxillofacial Surgery, the ADA, the American Board of Foot and Ankle Surgery, or any similar foreign specialty board that conducts comparable reviews of residency or fellowship training with examination to achieve certification, as applicable. Applicants who are not board certified at the time of application but who have completed their residency or fellowship training within the last five to eight years (depending on certification exam cycle and allowing for three exam attempts) will be eligible for Medical Staff appointment. However, in order to remain eligible, those applicants must achieve board certification in their primary area of practice within five to eight years (depending on certification exam cycle and allowing for three exam attempts) from the date of completion of their residency or fellowship training; *²
- 2.A.1.t. maintain board certification in their primary area of practice at the Medical Center and, to the extent required by the applicable specialty/subspecialty board, satisfy recertification requirements. Recertification will be assessed at reappointment;*²
- 2.A.1.u. if seeking to practice as an Active Advanced Practice Provider (APP), must have a written agreement with a Supervising/Collaborating Active Physician/Dentist, and this agreement must meet all applicable requirements of Maine law and Medical Center Bylaws; and

² Exceptions to this provision may be granted based on the residency training and board certification requirements in effect at the time of the applicant's training, and/or if an applicant is only seeking Courtesy membership.

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- 2.A.1.v. have sufficient familiarity with all Medical Center practice areas where care is provided by the applicant, per departmental policy.

2.A.2. Extension of Time Frame to Satisfy Board Certification Criterion:

In exceptional circumstances, the time frame for initial applicants to obtain certification and the time frame for recertification by existing Members may be extended for one additional appointment term, not to exceed two years, in order to permit an individual an opportunity to obtain certification. In order to be eligible to request an extension in these situations, an individual must, at a minimum, satisfy the following criteria:

- 2.A.2.a. the individual has been on the Medical Center's Medical Staff for at least three consecutive years;
- 2.A.2.b. there have been no documented peer review concerns related to the individual's competence or behavior at the Medical Center during the individual's tenure that have required resolution by the MEC or its subcommittees;
- 2.A.2.c. the individual provides a letter from the appropriate certifying board confirming that the individual remains eligible to take the certification examination within the next two years; and
- 2.A.2.d. the appropriate Department Chair or designee at the Medical Center provides a favorable report concerning the individual's qualifications.

2.A.3. Waiver of Threshold Eligibility Criteria:

- 2.A.3.a. Any applicant who does not satisfy one or more of the threshold eligibility criteria outlined above may request that it be waived. The applicant requesting the waiver bears the burden of demonstrating: (i) that they are otherwise qualified, and (ii) exceptional circumstances exist (e.g., when there is a demonstrated Medical Center or Medical Staff need for the services in question). Exceptional circumstances do not include situations where a waiver is sought for the convenience of an applicant (e.g., applicants who wish to defer taking Board examinations).
- 2.A.3.b. A request for a waiver must be submitted to the Credentials Committee, through the Provider's Department Chair or designee, for consideration. In reviewing the request for a waiver, the Credentials Committee may consider the specific qualifications of the applicant in question and the best interests of the Medical Center and the communities it serves. Additionally, the Credentials Committee may, in its discretion, consider the application form and other information supplied by the applicant.

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- 2.A.3.c. The Credentials Committee will forward its recommendation, including the basis for such, to the MEC. Any recommendation to grant a waiver must include the specific basis for the recommendation.
- 2.A.3.d. The MEC will review the recommendation of the Credentials Committee and make a recommendation to the Board regarding whether to grant or deny the request for a waiver. Any recommendation to grant a waiver must include the specific basis for the recommendation.
- 2.A.3.e. The Board's determination regarding whether to grant a waiver is final. A determination not to grant a waiver is not a "denial" of appointment or clinical privileges and the individual who requested the waiver is not entitled to a hearing, including under Part 7 of this Manual. A determination to grant a waiver in a particular case is not intended to set a precedent. A determination to grant a waiver does not mean that appointment will be granted, only that processing of the application can begin.

2.A.4. Factors for Evaluation of Appointment and Reappointment Applications:

The following factors are evaluated as part of the appointment and reappointment processes:

- 2.A.4.a. relevant training, experience, and demonstrated current competence, including medical knowledge, technical skills, clinical judgment and an understanding of the contexts and systems within which care is provided;
- 2.A.4.b. adherence to the ethics of the profession, continuous professional development, an understanding of and sensitivity to diversity and inclusion, and responsible attitude toward patients and the profession;
- 2.A.4.c. good reputation and character;
- 2.A.4.d. ability to safely and competently perform the privileges requested;
- 2.A.4.e. ability to work harmoniously with others, including, but not limited to, interpersonal and communication skills sufficient to maintain professional relationships with patients, families, and all other members of the health care team; and
- 2.A.4.f. recognition of the importance of, and willingness to support, a commitment to quality care and recognition that interpersonal skills and collegiality are essential to the provision of quality patient care.

2.A.5. No Entitlement to Appointment:

No one is entitled to receive an application, be appointed, reappointed or be granted privileges merely because the applicant and/or member:

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- 2.A.5.a. is employed by this Medical Center or its subsidiaries or has a contract with this Medical Center;
- 2.A.5.b. is or is not a member or employee of any particular provider group;
- 2.A.5.c. is licensed to practice a profession in this or any other state;
- 2.A.5.d. is a member of any particular professional organization;
- 2.A.5.e. has had in the past, or currently has, Medical Staff or other staff (or comparable status for APPs) appointment or privileges at any hospital or health care facility;
- 2.A.5.f. resides in the geographic service area of the Medical Center; or
- 2.A.5.g. is affiliated with, or under contract to, any managed care plan, insurance plan, or other entity.

2.A.6. Nondiscrimination:

No one will be denied appointment, continued appointment, membership or clinical privileges on the basis of race, religion, color, sex, ancestry, age, disability, marital status, veteran status, national origin, ethnic origin, citizenship status, sexual orientation, gender identity or any other factor prohibited by law.

2.B. GENERAL CONDITIONS OF APPOINTMENT, REAPPOINTMENT, AND CLINICAL PRIVILEGES

2.B.1. Basic Responsibilities and Requirements as Applicable to Staff Category and Privileges:

As a condition of being granted appointment, reappointment and/or clinical privileges and as a condition of ongoing appointment and maintenance of clinical privileges, every individual specifically agrees to the following:

- 2.B.1.a. to be subject to and to abide by the Bylaws, Policies, Rules and Regulations and Organizational or Associated Manual(s) of the Medical Center and Medical Staff and any revisions or amendments thereto;
- 2.B.1.b. to submit to, when requested, an appropriate fitness for practice evaluation, which may include diagnostic testing (such as blood and/or urine test) or a complete physical, mental, and/or behavioral evaluation, as set forth in this Credentials Manual;
- 2.B.1.c. to participate in interviews in regard to an application for initial appointment or reappointment, if requested;

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- 2.B.1.d. to use the Medical Center sufficiently and with familiarity, to allow continuing assessment of current competence and professionalism, or provide such information as may be requested;
- 2.B.1.e. to attend and participate in any applicable orientation programs at the Medical Center before participating in direct patient care;
- 2.B.1.f. to comply with all applicable training, regulatory and educational protocols that may be adopted by the Medical Center, including, but not limited to, those involving electronic medical records, patient safety, and infection control;
- 2.B.1.g. to maintain a current e-mail address with the Medical Staff Office, which will be the primary mechanism used to communicate with all Medical Staff;
- 2.B.1.h. to disclose conflicts of interest regarding relationships with pharmaceutical companies, device manufacturers, other vendors or other persons or entities as may be required by Medical Center or Medical Staff policies;
- 2.B.1.i. if the individual is a member of the Medical Staff who serves or plans to serve as a Supervising/Collaborating Active Physician/Dentist to an Active APP member, that the member of the Medical Staff will abide by the supervision/collaboration requirements and conditions of practice set forth in Part 8 of this Manual; and
- 2.B.1.j. if the Provider is an Active APP, the individual will abide by the conditions set forth in Part 8.

2.B.2. Responsibility for Providing Information:

- 2.B.2.a. All individuals and Medical Staff have the responsibility for producing information deemed adequate by the Medical Center for a proper evaluation of current competence, character, ethics, professionalism and other qualifications and for resolving any doubts.
- 2.B.2.b. Individuals have the responsibility for providing evidence that all statements made and all information provided by the applicant in support of the application are accurate and complete.
- 2.B.2.c. Applications will be complete when all questions on the application form have been answered, all supporting documentation has been supplied, and all information has been verified from primary sources. An application will become incomplete if the need arises for new, additional, or clarifying information. Any application that continues to be incomplete thirty (30) days after the applicant has been notified of the additional information required will be deemed to be withdrawn.

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- 2.B.2.d. Applicants are responsible for providing a complete application, including adequate responses from references and all information requested from third parties for a proper evaluation. An incomplete application will not be processed.
- 2.B.2.e. Applicants and Medical Staff are responsible for notifying the Medical Staff Office of any change in status or any change in the information provided on the application form. This information is required to be provided with or without request, at the time the change occurs, and includes, but not be limited to:
- (i) any and all complaints, documents or other information known to the Provider regarding licensure status and/or DEA controlled substance authorization;
 - (ii) changes in professional liability insurance coverage;
 - (iii) changes in staff membership at any hospital or other health care institution;
 - (iv) the filing of a professional liability lawsuit against the practitioner;
 - (v) any felony or misdemeanor charges by any federal or state law enforcement agency;
 - (vi) exclusion or preclusion from participation in Medicare, Medicaid or any other federal or state healthcare program or any sanctions imposed with respect to the same; and/or
 - (vii) any changes in the Provider's ability to safely and competently exercise clinical privileges or otherwise perform the duties and responsibilities of appointment because of health status issues, including, but not limited to, impairment due to addiction.

2.C. APPLICATION

2.C.1. Information:

- 2.C.1.a. Application forms for appointment, reappointment, and clinical privileges will be approved by the Board, upon recommendation by the Credentials Committee and the MEC.
- 2.C.1.b. The application will contain a request for specific clinical privileges, if applicable, and will require detailed information concerning the applicant's professional qualifications. The applicant will sign the application and

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certify that they are able to perform the privileges requested and the responsibilities of appointment.

2.C.2. Misstatements and Omissions:

- 2.C.2.a.** Any misstatement in, or omission from, the application is grounds to stop processing the application. The applicant will be informed in writing of the nature of the misstatement or omission and permitted to provide a written response. The President of the Medical Staff and Chair(s) of the Credentials Committee will review the response and determine whether the application should be processed further.
- 2.C.2.b.** If appointment has been granted prior to the discovery of a misstatement or omission, appointment and privileges (if any) may be deemed to be relinquished pursuant to this Manual.
- 2.C.2.c.** No action taken pursuant to this section will entitle the applicant or Member to a hearing or appeal.

2.C.3. Requests to Complete Authorization Forms to Obtain/Release Information:

Applicants may be requested to execute authorization form(s) authorizing the release of information from third parties (such as current or former employers, medical staff(s), Residency Program Director(s) and/or provider practice affiliates) concerning the Applicant to the Medical Staff and containing related releases/immunities from claims for such third parties. Such authorization forms may be sought to enable the Medical Staff to obtain information deemed necessary to consideration of the Applicant for (among other things) appointment, reappointment, credentialing and/or privileging and to render an application complete. An Applicant's failure to execute a requested authorization form may be deemed a failure to provide (or to enable the provision of) sufficient information to the Medical Staff to render an application complete, resulting in an application not being processed pursuant to Part 3.A.2 of this Manual. An Applicant's failure to execute such requested form(s) may also be considered by the Medical Staff in any other manner deemed relevant to the circumstances under which it was requested. Matters under this Part 2.C.3 do not give rise to fair hearing rights or process under Part 7.*³

3. Medical Staff members (not just applicants) may also be asked to execute authorization form(s) containing requests for information and releases/immunities from claims for third parties (including as designed above) in connection with medical staff matters. A Member's refusal/failure to execute such authorization form(s) may be considered by the Medical Staff in any manner deemed relevant to the circumstances under which it was requested, and such matters do not give rise to fair hearing rights or processes under Part 7 of this Manual.

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PART 3

PROCEDURE FOR INITIAL APPOINTMENT AND PRIVILEGES

3.A. PROCEDURE FOR INITIAL APPOINTMENT AND PRIVILEGES

3.A.1. Application:

- 3.A.1.a. Any individual requesting an application for initial appointment shall be informed of the threshold criteria for appointment and clinical privileges consideration. The applicant shall also be asked the category of privileges desired. A request will be reviewed. If the individual's qualifications as presented do not meet criteria for appointment under relevant law, regulations or standards or qualification(s) which have been adopted by the Board, the Chief Medical Officer, (CMO) or designee shall so inform the individual and shall decline to provide an application.
- 3.A.1.b. An individual who has been determined to be ineligible for an application under this part is not entitled to the procedural rights provided in the Medical Staff Bylaws, including fair hearing under Part 7.
- 3.A.1.c. If an application is not returned by the applicant within forty-five (45) days, the request will be deemed withdrawn.

3.A.2. Initial Review of Application:

- 3.A.2.a. As a preliminary step, the application will be reviewed by the Medical Staff Office for completeness. Applicants who fail to return completed applications or fail to meet the threshold eligibility criteria will be notified that their applications will not be processed. A determination of threshold ineligibility does not entitle the individual to a hearing and appeal.
- 3.A.2.b. Evidence of the applicant's professional competence, qualifications, behavior, and ethical standing will be examined. This information may be contained in the application, and obtained from references and other available sources, including but not limited to the applicant's past or current department chief, or equivalent, at other health care entities, residency training director, and others who may have knowledge about the applicant's education, training, experience, and ability to work with others. The National Practitioner Data Base (NPDB) and the Office of Inspector General (OIG), Medicare/Medicaid List of Excluded Individuals and Entities ("LEIE") will be queried as required.
- 3.A.2.c. The Medical Staff Office will transmit the reviewed application to the appropriate Department Chair or designee for review and completion.

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3.A.3. Department Chair and Chief Nursing Officer (CNO) Procedure:

The Medical Staff Office will transmit the complete application and all supporting materials to the Chair of each department or designee in which the applicant seeks membership and/or clinical privileges. The Department Chair or designee will interview each applicant before presenting to the Credentials Committee for consideration. The Department Chair, or designee, and perhaps in consultation with the Division Chief, will provide a recommendation regarding appointment and clinical privileges if applicable. The CNO or designee will also review and provide a recommendation regarding the application and clinical privileges if applicable for all Advanced Practice Registered Nurses (APRN).

- 3.A.3.a. A credentialing interview(s) with the applicant will be conducted by the Department Chair or designee. The purpose of the interview is to discuss and review any aspect of the applicant's application, including concerns identified in the application review process such as gaps in education or training, employment, or other practice, malpractice claims, qualifications, and any requested clinical privileges. Any items needing to be specifically reviewed with the applicant will be provided via notation in the electronic approval system by the Medical Staff Office. This interview will be conducted either in person, or via other means if in person is not available.
- 3.A.3.b. If the applicant is being hired outside of their discipline, all relevant Department Chairs or designees will participate in the entire application process, including interviews and presentation at Credentials Committee, if necessary.

3.A.4. Credentials Committee Procedure:

- 3.A.4.a. The Credentials Committee will consider the recommendation provided by the Department Chair or designee(s) and will make a recommendation to the Medical Executive Committee (MEC).
- 3.A.4.b. The Credentials Committee may use the expertise of the Department Chair(s) or designee(s), or any member of the department or service line, or an outside consultant, if additional information is required regarding the applicant's qualifications.
- 3.A.4.c. After determining that an applicant is otherwise qualified for appointment and, if requested, privileges, if there is any question about the applicant's ability to perform the privileges requested and the responsibilities of appointment, the Credentials Committee may require a fitness for practice evaluation, satisfactory to the Credentials Committee. The results of this evaluation will be made available to the Committee.
- 3.A.4.d. The Credentials Committee may recommend specific conditions related to behavior, health or clinical issues. The Credentials Committee may also

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recommend that appointment be granted for a period of less than two years. If issues are identified at any time during the review process, the Department Chair or designee will be asked to present the applicant in person at the next available opportunity.

3.A.5. MEC Recommendation:

- 3.A.5.a. At its next regularly scheduled meeting after receipt of the written report and recommendation of the Credentials Committee, the MEC will:
- (i) accept the report and recommendation of the Credentials Committee as its own; or
 - (ii) refer the matter back to the Credentials Committee for further consideration of specific questions and state its reasons for disagreement with the report and recommendation of the Credentials Committee.
- 3.A.5.b. If the recommendation of the MEC is to appoint, the recommendation will be forwarded to the Board.
- 3.A.5.c. If the recommendation of the MEC would entitle the applicant to request a fair hearing and appeal, the MEC will forward its recommendation to the CMO, Medical Staff President or designee, who will promptly send special notice to the applicant. The CMO, Medical Staff President or designee will then place the application on hold until after the applicant has completed or waived a fair hearing and appeal.

3.A.6. Board Action:

- 3.A.6.a. Upon receipt of a recommendation that the applicant be granted appointment and clinical privileges, the Board may:
- (i) grant appointment and/or clinical privileges as recommended; or
 - (ii) refer the matter back to the Credentials Committee, MEC, or to another source for additional research or information.
- 3.A.6.b. If the Board agrees, the appointment is effective immediately or upon the date the Certificate of Insurance takes effect.
- 3.A.6.c. If the Board disagrees with a favorable recommendation of MEC, it should first discuss the matter with the President of the Medical Staff or designee, and the MEC. If the Board's determination remains unfavorable, the CMO or designee will promptly send special notice that the applicant is entitled to request a fair hearing and appeal under Part 7.

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- 3.A.6.d. Any final decision by the Board to grant, deny, modify, or revoke appointment or clinical privileges will be disseminated to appropriate individuals and, as required, reported to appropriate entities.
- 3.A.6.e. If the Board doesn't meet, it may delegate this responsibility to another committee containing at least two Board members.

3.A.7. Time Periods for Processing:

Once an application is deemed complete by the Credentialing Verification Organization (CVO), it is expected to be processed within one hundred twenty (120) days, unless it becomes incomplete. This time period is intended to be a guideline only and will not create any right for the applicant to have the application processed within this precise time period.

3.A.8. Special Circumstances – Related To Online Fast Track Application Eligibility:

- 3.A.8.a. The following criteria must be met in order for an application to be considered for special circumstances:
- (i) no criminal convictions or criminal proceedings currently pending;
 - (ii) no open malpractice cases, or cases previously paid or settled;
 - (iii) no National Practitioner Data Bank (NPDB) reports, or Licensing Consent Agreements;
 - (iv) valid, active and unrestricted Maine license;
 - (v) Successful completion of education and training with no gaps in education or training;
 - (vi) no gaps in employment greater than ninety (90) days since the beginning of professional practice;
 - (vii) no medical staff applications limited, denied, suspended, revoked, terminated, not renewed, withdrawn or made subject to probationary conditions or otherwise adversely affected, or currently pending any of those proceedings;
 - (viii) no limitations, denials or revocations of any State license;
 - (ix) no Medicare or Medicaid exclusions, suspensions, or other sanctions;
 - (x) no guilty findings in any proceedings for substance abuse; and

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- (xi) no denials, modifications, restrictions, suspensions or revocation of registration by any State, or U.S. DEA for prescribing or dispensing controlled substances.

3.A.8.b. Online Fast Track Application Criteria:

There is an opportunity for fast track processing of applications of those candidates who meet the criteria under 3.A.8 and who also have other special circumstances. There will be one session per month in addition to the monthly in person reviews. These initial applications will be processed via Part 3.A., but if determined to meet the special circumstances by the Medical Staff President/Credentials Committee Chair or designee, the application and recommendation of the Chair/Designee will be eligible to be presented to the Credentials Committee for review via an online platform. If there are any questions raised by any member of the Credentials Committee that cannot be resolved to the Member's satisfaction, the applicant will be removed from the online vote, and will be presented for consideration at the next available in person Credentials Committee meeting. Applicants without special circumstances may also be presented at the monthly in person meetings if the timing is beneficial to the applicant.

3.A.9. Process for Temporary Privileges:

3.A.9.a. Temporary privileges may be granted by two members of the Board, upon recommendation of the President of the Medical Staff and Department Chair, to:

- (i) applicants for initial appointment whose complete application is pending review by the Credentials Committee, MEC and Board. In order to be eligible for temporary clinical privileges, an applicant must have demonstrated ability to perform the clinical privileges requested and have had no (1) current or previously successful challenges to licensure or registration or (2) involuntary restriction, reduction, denial or termination of membership or clinical privileges at another health care facility.
- (ii) non-applicants, when there is an important patient care, treatment, or service need, including the following:
- (1) the care of a specific patient;
- (2) when necessary to prevent a lack of services in a needed specialty area; or
- (3) proctoring.

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- (iii) The following verified information will be considered prior to the granting of any temporary clinical privileges: current active unrestricted licensure, relevant training, experience, current competence, two peer references, current professional liability coverage acceptable to the Medical Center, and results of a query to the NPDB.
- (iv) The duration of temporary clinical privileges will not exceed one hundred twenty (120) days.
- (v) Prior to any temporary clinical privileges being granted, the individual must agree in writing that they are subject to and shall abide by the Bylaws, Policies, Rules and Regulations, Organizational and other Associated Manual(s) of the Medical Staff and the Medical Center and any revisions or amendments thereto.
- (vi) The granting of temporary clinical privileges is a courtesy that may be withdrawn by the President of the Medical Center at any time, after consulting with the President of the Medical Staff, CMO, the Chair of the Credentials Committee and the Department Chair.
- (vii) If temporary privileges are withdrawn, the Department Chair, the President of the Medical Staff or the CMO will assign to another member of the Medical Staff responsibility for the care of patients until they are discharged.

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PART 4

CLINICAL PRIVILEGES

4.A. CLINICAL PRIVILEGES

4.A.1. General:

- 4.A.1.a. Credentialing will not confer any clinical privileges or right to practice at the Medical Center.
- 4.A.1.b. A request for privileges will be processed only when an applicant satisfies threshold eligibility criteria for the delineated privileges. An individual who does not satisfy the eligibility criteria for clinical privileges may request that the criteria be waived. Only those clinical privileges granted by the Board may be exercised, subject to the terms of this Manual.
- 4.A.1.c. Recommendations for clinical privileges will be based on consideration of the following:
- (i) education, relevant training, experience, and demonstrated current competence, including medical/clinical knowledge, technical and clinical skills, judgment, interpersonal and communication skills, and professionalism with patients, families, and other members of the health care team and peer evaluations relating to these criteria;
 - (ii) appropriateness of utilization patterns;
 - (iii) ability to perform the privileges requested competently and safely;
 - (iv) information resulting from ongoing and focused professional practice evaluation and other performance improvement activities, as applicable;
 - (v) availability of coverage in case of the applicant's illness or unavailability;
 - (vi) adequate professional liability insurance coverage for the clinical privileges requested;
 - (vii) the Medical Center's available resources and personnel;
 - (viii) any previously successful or currently pending challenges to any licensure or registration, or the voluntary or involuntary relinquishment of such licensure or registration;

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- (ix) any information concerning professional review actions or voluntary or involuntary termination, limitation, reduction, or loss of appointment or clinical privileges at another hospital;
- (x) practitioner-specific data as compared to aggregate data, when available;
- (xi) morbidity and mortality data, when available;
- (xii) professional liability actions, especially any such actions that reflect an unusual pattern or number of actions; and
- (xiii) other criteria relevant overall to appointment and membership to the Medical Staff outlined in this Manual.

4.A.1.d. Requests for additional clinical privileges must state the additional clinical privileges requested and provide information sufficient to establish eligibility. If the Member is eligible and the request is complete, it will be processed in the same manner as an application for initial clinical privileges.

4.A.1.e.. Emergency Situations

- (i) For the purpose of this section, an “emergency” is defined as a condition which could result in serious or permanent harm to patient(s) and in which any delay in administering treatment would add to that harm.
- (ii) In an emergency situation, a Member may administer treatment to the extent permitted by their license, regardless of department status or specific grant of clinical privileges.
- (iii) When the emergency situation no longer exists, the patient will be assigned by the Department Chair or designee to a Member with appropriate clinical privileges, considering the wishes of the patient, if able.

4.A.2. Relinquishment of Individual Clinical Privileges:

A member requesting to relinquish any individual clinical privilege, whether or not part of the core, must provide sufficient cause basis for the modification of clinical privileges. This request will be provided to the Chair of the Provider’s department, or designee, for review and forwarded to the Credentials Committee for recommendation to the MEC and Board.

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4.A.3. Resignation of Appointment and Clinical Privileges:

A request to resign all clinical privileges must be in writing and: (1) specify the desired date of resignation, and (2) consider providing the reason for resignation.

4.A.4. Clinical Privileges for New Procedures Being Considered at the Medical Center:

4.A.4.a. Requests for clinical privileges to perform either a procedure not currently being performed at the Medical Center or a new technique to perform an existing procedure (“new procedure”) will not be processed until a determination has been made that the procedure will be offered by the Medical Center and criteria for the clinical privilege(s) have been adopted.

4.A.4.b. As an initial step in the process, a report will be prepared and submitted to the Department Chair or designee and the Credentials Committee addressing the following:

- (i) minimum education, training, experience and other qualifications necessary to perform the new procedure safely and competently;
- (ii) clinical indications and situations for when the new procedure is appropriate;
- (iii) whether there is empirical evidence of improved patient outcomes with the new procedure or other clinical benefits to patients;
- (iv) whether proficiency for the new procedure is volume-sensitive and if the requisite volume would be available;
- (v) whether the new procedure is being performed at other similar hospitals and the experiences of those institutions; and
- (vi) whether the Medical Center currently has the resources, including space, equipment, personnel, and other support services, to safely and effectively perform the new procedure.

The Department Chair or designee and the Credentials Committee will review this report, conduct additional research as necessary, and make a preliminary recommendation as to whether the new procedure should be offered at the Medical Center.

4.A.4.c. If the preliminary recommendation is favorable, threshold credentialing criteria will be developed and approved by the Credentials Committee to determine those individuals who are eligible to request the clinical privileges. In developing the criteria, the following will be considered:

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- (i) the minimum education, training, experience and other qualifications necessary to perform the procedure or service;
- (ii) whether the individual(s) may conduct additional research and consult with experts;
- (iii) the extent (time frame and mechanism) of focused monitoring and supervision that should occur if the privileges are granted; and
- (iv) the manner in which performing of the procedure would be reviewed as part of the Medical Center's ongoing and focused professional practice evaluation activities.

4.A.4.d. The Credentials Committee will forward its recommendations to the MEC, which will review the matter and forward its recommendations to the Board for final action.

4.A.5. Clinical Privileges That Cross Specialty Lines:

- 4.A.5.a. Requests for clinical privileges that previously have been exercised only by Members in another specialty will not be processed until the steps outlined in this section have been completed and a determination has been made regarding the Member's eligibility to request the clinical privilege(s) in question.
- 4.A.5.b. As an initial step in the process, a privilege report will be submitted to the Credentials Committee that specifies the minimum qualifications needed to perform the procedure safely and competently, whether the individual's specialty is performing the clinical privilege at other similar hospitals, and the experiences of those other hospitals.
- 4.A.5.c. The Credentials Committee will then conduct additional research and consult with experts, as necessary, including those on the Medical Staff (e.g., Department Chairs, their designees, individuals on the Medical Staff with special interest and/or expertise) and those outside the Medical Center (e.g., other hospitals, residency training programs, specialty societies).
- 4.A.5.d. The Credentials Committee may or may not recommend that individuals from different specialties be permitted to request the clinical privileges at issue. If it does make the recommendation that individuals from different specialties be permitted to do so, the Committee shall develop further recommendations regarding:
 - (i) the minimum education, training, experience and other qualifications necessary to perform the clinical privileges in question;

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- (ii) the clinical indications for when the procedure is appropriate;
- (iii) the manner of addressing the most common complications that arise, which may be outside of the scope of the clinical privileges that have been granted to the requesting individual;
- (iv) the extent (time frame and mechanism) of focused monitoring and supervision that should occur if the privileges are granted in order to confirm competence;
- (v) the manner in which the procedure would be reviewed as part of the Medical Center's ongoing and focused professional practice evaluation activities (which may include assessment of both long-term and short-term outcomes for all relevant specialties); and
- (vi) the impact, if any, on emergency call responsibilities.

4.A.5.e. The Credentials Committee will forward its recommendations to the MEC, which will review the matter and forward its recommendations to the Board for final action.

4.A.5.f. The Credentials Committee shall forward any recommendations for denying individuals from different specialties from obtaining the clinical privileges at issue to the MEC as well, per usual procedure and for MEC review and further action.

4.A.6. Providers in Training Programs:

4.A.6.a Providers in training programs must be Board eligible in their area of practice and have a full, active and unrestricted Maine license to practice medicine to be granted appointment and clinical privileges.

4.A.7. Telemedicine Privileges:

4.A.7.a. Telemedicine is the provision of clinical services to patients by Providers from a distance via electronic communications.

4.A.7.b. Requests for initial or renewed telemedicine privileges will be processed through one of the following options, as determined by the President of the Medical Center in consultation with the President of the Medical Staff and CMO:

- (i) A request for telemedicine privileges may be processed through the same process for Medical Staff and applications, as set forth in this Manual. In such case, the individual must satisfy all qualifications and requirements set forth in this Manual, except those relating to

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geographic location and emergency call responsibilities requiring physical presence (versus potential remote call).

- (ii) As determined by Medical Center leadership and the MEC, if an individual requesting telemedicine privileges is practicing at a distant hospital that participates in Medicare or a telemedicine entity (as that term is defined by Medicare), a request for telemedicine privileges may be processed using an alternative process that relies on the credentialing and privileging decisions made by the distant hospital or telemedicine entity. In such cases, the Medical Center must ensure, through a written agreement with the distant hospital and/or telemedicine entity, that the distant hospital and/or telemedicine entity complies with all applicable Medicare regulations and accreditation standards. The distant hospital or telemedicine entity must provide:
 - (1) confirmation that the practitioner is currently and actively licensed in the state where the Medical Center is located and as applicable to the privileges to be exercised;
 - (2) a current list of privileges granted to the practitioner;
 - (3) information indicating that the applicant has actively exercised the relevant privileges during the previous 12 months and has done so in a competent manner;
 - (4) a signed attestation that the applicant satisfies all of the distant hospital or telemedicine entity's qualifications for the clinical privileges granted;
 - (5) a signed attestation that all information provided by the distant hospital or telemedicine entity is complete, accurate, and up-to-date; and
 - (6) any other attestations or information required by the agreement or requested by the Medical Center.

- 4.A.7.c. This information received about the individual requesting telemedicine privileges will be provided to the Credentials Committee and MEC for review and recommendation and to the Board for final action consistent with the application and privileging procedures of this Manual. Notwithstanding the process set forth in this subsection, the Medical Center may determine that an applicant for telemedicine privileges is otherwise ineligible for appointment or clinical privileges if the applicant fails to satisfy other qualifying criteria including the threshold eligibility criteria set forth in this Manual.

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- 4.A.7.d. Telemedicine privileges, if granted, will be for a period of not more than two years.
- 4.A.7.e. Individuals granted telemedicine privileges will be subject to the Medical Center's professional review activities. The results of the professional review activities, including any adverse events and complaints filed about the practitioner providing telemedicine services from patients, other practitioners or staff, will be shared with the hospital or entity providing telemedicine services.
- 4.A.7.f. Telemedicine privileges granted in conjunction with a contractual agreement will be incident to and coterminous with the agreement.

4.A.8. Focused Professional Practice Evaluation for Initial Privileges:

- 4.A.8.a. All initial grants of new clinical privileges, whether at the time of appointment, reappointment, or during the term of an appointment, will be subject to Focused Professional Practice Evaluation (FPPE) initiated by the Department Chair or designee.
- 4.A.8.b. This FPPE may include chart review, monitoring, proctoring, external review, and other information as deemed necessary and appropriate. The clinical activity requirements, including numbers and types of cases to be reviewed, will be determined by the Professional Practice Evaluation policy and the Department Chair or designee.
- 4.A.8.c. A newly appointed Member's appointment and privileges will automatically expire if the Provider fails to fulfill their clinical activity requirements within the time frame recommended by the Department Chair or designee, with such expiration not giving rise to any fair hearing rights under Part 7. In such case, the individual may not reapply for initial appointment or privileges for two years, or at the Chair or designee's discretion.
- 4.A.8.d. If a Member who has been granted additional clinical privileges fails to fulfill the clinical activity requirements within the time frame recommended by the Credentials Committee, the additional clinical privileges will automatically expire and the Member may not reapply for the privileges in question for two years, or at the Chair or designee's discretion.
- 4.A.8.e. Certain recommendations concerning privileges including as may be specific to revocation, restriction or termination of privileges for reasons related to clinical competence or professional conduct give rise to due process and hearing rights under Part 7 of this Manual. When, based upon information obtained through the FPPE process or otherwise, a recommendation is made with respect to privileges that triggers an

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individual's rights to due process and a fair hearing under Part 7 of this Manual, proper notice of such due process and fair hearing rights must be provided to the individual in accordance with Part 7.

- 4.A.8.f. The results of the FPPE will be reported to the Medical Staff Office by the Department Chair or designee at the end of the identified term of the FPPE. Interim reports on FPPE compliance or concerns may also be raised at any time, if and as deemed appropriate.

4.B. DISASTER PRIVILEGES

When the disaster plan has been implemented and the immediate needs of patients in the facility cannot be met, the President of the Medical Center, CMO or the President of the Medical Staff may use a modified credentialing process to grant disaster privileges to eligible volunteer licensed independent practitioners (“volunteers”). Safeguards must be in place to verify that volunteers are competent to provide safe and adequate care.

4.B.1. Granting of Disaster Privileges:

Disaster privileges are granted on a case-by-case basis after verification of identity and licensure.

- 4.B.1.a. A volunteer's identity may be verified through a valid government-issued photo identification (i.e., driver's license or passport).
- 4.B.1.b. A volunteer's license may be verified in any of the following ways: (1) current Medical Center picture ID card that clearly identifies the individual's professional designation; (2) current, active license to practice; (3) primary source verification of the license; (4) identification indicating that the individual has been granted authority to render patient care in disaster circumstances or is a member of a Disaster Medical Assistance Team, the Medical Resource Corps, the Emergency System for Advance Registration of Volunteer Health Professionals, or other recognized state or federal organizations or groups; or (5) identification by a current Medical Center employee or Medical Staff member who possesses personal knowledge regarding the individual's ability to act as a volunteer during a disaster.
- 4.B.1.c. Primary source verification of a volunteer's license will begin as soon as the immediate situation is under control and must be completed within 72 hours from the time the volunteer begins to provide service at the Medical Center.
- 4.B.1.d. In extraordinary circumstances when primary source verification cannot be completed within 72 hours, it should be completed as soon as possible. In these situations, there must be documentation of the following: (1) the

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reason primary source verification could not be performed in the required time frame; (2) evidence of the volunteer's demonstrated ability to continue to provide adequate care; and (3) an attempt to obtain primary source verification as soon as possible. If a volunteer has not provided care, then primary source verification is not required.

- 4.B.1.e. The Medical Staff will oversee the care provided by volunteer licensed independent practitioners. This oversight will be conducted through direct observation, mentoring, clinical record review, or other appropriate mechanism developed by the Medical Staff and Medical Center.

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PART 5

**PROCEDURE AND ELIGIBILITY FOR REAPPOINTMENT AND
RENEWAL OF CLINICAL PRIVILEGES**

5.A. PROCEDURE FOR REAPPOINTMENT

All terms, conditions, requirements, and procedures relating to initial appointment will similarly apply to continued appointment, clinical privileges and to reappointment.

5.B. REAPPOINTMENT CRITERIA

5.B.1. Eligibility for Reappointment:

To be eligible to apply for reappointment and renewal of privileges, an individual must have, during the previous term of appointment or privileges and as of the date that application for reappointment and/or renewal of privilege is submitted:

- 5.B.1.a. consistently met and/or otherwise be deemed to have satisfied all criteria, terms and conditions of appointment and privileging as set forth in this Manual, including under Parts 2.A.1, 2.A.4, 2.B.1 and 2.B.2;
- 5.B.1.b. to the extent not otherwise covered by subparagraph (a) above, timely and appropriately completed all medical records as required by this Credentials Manual including under Part 2.B.1;
- 5.B.1.c. timely and successfully completed all continuing medical education requirements;
- 5.B.1.d. have consistently satisfied all other Medical Staff responsibilities, including but not limited to financial responsibilities including payment of any dues, fines, and assessments;
- 5.B.1.e. have demonstrated sufficient familiarity with all Medical Center practice areas where care is provided including per applicable Departmental policy (applicants/members should defer to their Department/Service Line specific guidelines); and
- 5.B.1.f. have had sufficient patient contacts within the Provider(s) specialty(ies) to enable adequate assessment of current clinical judgment and competence for the privileges requested. Any applicant and/or Member seeking reappointment and/or renewal of privileges with the Medical Center with patient contact activity deemed insufficient to make an adequate assessment of competency must submit such additional information as may be requested (such as a copy of their confidential quality profile from their primary hospital, clinical information from their private office practice, or

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a quality profile from a managed care organization or insurer, and/or other additional clinical information deemed necessary), before the application will be considered complete and processed further.

5.B.2. Factors for Evaluation:

In considering an application for reappointment and/or renewal of privileges, the factors listed in Parts 2.A.1, 2.A.4, 2.B.1, 2.B.2 and 2.C of this Manual will be considered. Additionally, the following factors will be evaluated as part of the reappointment process:

- 5.B.2.a. compliance with the Bylaws and Associated Manuals of the Medical Center;
- 5.B.2.b. participation in medical staff duties, including committee assignments and call coverage responsibilities;
- 5.B.2.c. the Provider's participation and performance in the Medical Center's performance improvement activities;
- 5.B.2.d. all OPPE/FPPE's applicable to the Provider;
- 5.B.2.e. any concerns and/or complaints raised against the Provider of which the Medical Staff has obtained knowledge and/or information, including as regards the Provider's professionalism and/or clinical competence as well as any other medical staff appointment and/or privileging criteria and/or qualifications; and
- 5.B.2.f. other reasonable indicators of continuing qualifications, including as may be commented on by the Provider's Chair, designee and/or peers.

5.C. REAPPOINTMENT PROCESS

5.C.1. Reappointment Applications:

- 5.C.1.a. Appointment terms will not extend beyond two years, and may be for a shorter time frame.
- 5.C.1.b. An application for reappointment will be furnished to applicants at least four months prior to the expiration of their current appointment term. A completed reappointment application must be returned to the MMP CVO within thirty (30) days of receipt.
- 5.C.1.c. Failure to return a complete application within thirty (30) days of the expiration of current appointment, may result in the automatic expiration of appointment and clinical privileges at the end of the then current term of

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appointment. Such automatic expiration shall not result in fair hearing rights under Part 7 of this Manual.

- 5.C.1.e. The application will be reviewed by the Medical Staff Office to determine all questions have been answered and that the Member satisfies all threshold eligibility criteria for reappointment and for the clinical privileges requested.
- 5.C.1.f. Applicants who fail to return completed applications or fail to meet the threshold eligibility criteria will be notified that their applications will not be processed. A determination of threshold ineligibility does not entitle the individual to a hearing and appeal including under Part 7 of this Manual.
- 5.C.1.g. The Medical Staff Office will oversee the process of gathering and verifying relevant information, including from applicants' credentials/medical staff files as applicable. The Medical Staff Office will also be responsible for confirming that all relevant information has been received.
- 5.C.1.h. The Medical Staff Office will transmit the completed application to the appropriate Department Chair or designee, as well as the CNO or designee if for an Advanced Practice Registered Nurse (APRN), for review and recommendation.
- 5.C.1.i. The applicable Department Chair or designee will review the submitted application and address any concerns identified by the Medical Staff Office, as well as review the applicant's privilege selections (if requested) for any errors, omissions or concerns. The CNO or designee shall review the APRN files for appropriateness of privilege selection and supervision plan (see Part 8 of this Manual). Department Chair(s), the CNO and/or their designees are expected to review applicant credential/medical staff files and PPC file(s) as relevant to any professionalism or other concerns during prior appointment period, if/as applicable.
- 5.C.1.j. The Department Chair or designee will complete an appropriate review and recommendation for ongoing membership and clinical privileges if applicable, once any issues are addressed. The CNO or designee shall indicate their approval by signature or electronic means that the APRN application is acceptable.
- 5.C.1.k. The Department Chair or designee will return the completed application along with their recommendation(s) to the Medical Staff Office for preparation for Committee review.
- 5.C.1.l. If the Department Chair or designee (and/or CNO) should have any concerns about the reappointment application, they must indicate in writing what those concerns are as well as request time at the next available

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Credentials Committee meeting for discussion. If the Department Chair, designee and/or CNO believes that reappointment and/or renewal of privileges should come with conditions of any kind, whether in terms of duration or otherwise, such concerns and suggestions shall be indicated in writing and addressed at the next available Credentials meeting for discussion, including as to the reasons therefore.

5.C.2. Conditional Reappointments:

- 5.C.2.a. Reappointments may be recommended for periods of less than two years including but not limited to in order to permit closer monitoring of an applicant's clinical performance, professional conduct, ongoing qualifications for appointment and privileges. It may also be to complete threshold or other eligibility criteria including, but not limited to, timely completion of board certification(s). Recommendations for reappointment may also be subject to an applicant's compliance with specific conditions, including as related to behavior (e.g., professional code of conduct) or to clinical issues (e.g., general consultation requirements, proctoring, completion of CME requirements).
- 5.C.2.b. A recommendation of a conditional reappointment or for reappointment for a period of less than two years does not, in and of itself, entitle an applicant to fair hearing or appeal rights under Part 7.
- 5.C.2.c. In the event an applicant is the subject of an investigation or a hearing at the time reappointment, an option for conditional reappointment including for a period of less than two years may be, but is not required to be, considered pending the completion of that process.

5.C.3. Potential Adverse Recommendation:

- 5.C.3.a. If the Department Chair, designee, Credentials Committee or the MEC is considering a recommendation that may be contrary to one expected or applied for/anticipated by the applicant for reappointment or privileges, that Leader or Committee and/or their designee(s) as appropriate will provide the applicant with an opportunity to be heard via interview about their application and any questions/concerns that may exist prior to any final recommendation being made.
- 5.C.3.b. Prior to this opportunity for the applicant to be heard, the applicant may be notified of the general nature of the concerns and/or questions being raised as well as, if and as desired, any potential recommendation being contemplated that may be contrary to the one expected or applied for/anticipated by the applicant for reappointment or privileges, pending further information from the applicant.

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- 5.C.3.c. The applicant will be invited to discuss, explain, or refute any information deemed necessary and/or desired, and in the forum(s) elected by the Department Chair, designee, Credentials Committee or the MEC (as applicable to the situation). A personal meeting with the applicant is preferable, but not required, and the interview may take place via other format (including via Zoom, “Microsoft Teams” or telephonically, for example) as reasonably dictated by the circumstances. A written summary of the interview will be prepared by the Leader/Committee (as applicable) and submitted with the recommendation being made.
- 5.C.3.d. The interview with the applicant is not a hearing, and the applicant is not entitled to any fair hearing or appeal rights including under Part 7 of this Manual or otherwise as related to the interview and/or its results. The applicant does not have the right to be represented including by any legal counsel during this interview/meeting.

5.C.4. Credentials Committee Procedure:

- 5.C.4.a. The Credentials Committee will consider the recommendation of the Department Chair and/or CNO as applicable and will make a recommendation concerning reappointment.
- 5.C.4.b. The Credentials Committee may use the expertise of the Department Chair(s), Service Line Chief(s), CNO and/or any member of the department or service line, or an outside consultant, if additional information is required regarding the applicant’s qualifications.
- 5.C.4.c. After determining that an applicant is otherwise qualified for reappointment and, if requested, renewal of privileges, if there is any question about the applicant’s ability to perform the privileges requested and/or the responsibilities of reappointment the Credentials Committee may undertake appropriate assessments including but not limited to requiring a fitness for duty evaluation and/or FPPE/OPPE satisfactory to the Credentials Committee. The results of this evaluation will be made available to the Committee.
- 5.C.4.d. The Credentials Committee may recommend specific conditions related to behavior, health or clinical issues. The Credentials Committee may also recommend that reappointment be granted for a period of less than two years in order to permit closer monitoring of the applicant’s compliance with any conditions.

5.C.5. MEC Recommendation:

- 5.C.5.a At its next regularly scheduled meeting after receipt of the written report and recommendation of the Credentials Committee, the MEC will:

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- (i) adopt the report and recommendation of the Credentials Committee as its own; or
- (ii) refer the matter back to the Credentials Committee for further consideration of specific questions and state its reasons for disagreement with the report and recommendation of the Credentials Committee.

5.C.5.b. If the recommendation of the MEC is to reappoint and/or renew privileges, the recommendation will be forwarded to the Board.

5.C.5.c. If the recommendation of the MEC would entitle the applicant to request a fair hearing and appeal under Part 7, the MEC will forward its recommendation to the CMO, who will promptly send special notice to the applicant. The CMO will then place the application on hold until after the applicant has completed or waived a fair hearing and appeal.

5.C.6. Board Action:

5.C.6.a. Upon receipt of a recommendation that the applicant be granted reappointment and/or renewal of clinical privileges, the Board may:

- (i) grant reappointment and/or renewal of clinical privileges as recommended; or
- (ii) refer the matter back to the Credentials Committee, MEC, or to another source for additional research or information;

5.C.6.b. If the Board agrees with a favorable recommendation of MEC, the reappointment and/or renewal of clinical privileges is effective immediately.

5.C.6.c. If the Board disagrees with a favorable recommendation of MEC, it should first discuss the matter with the President of the Medical Staff or designee, and the MEC. If the Board's determination remains unfavorable, the CMO or designee will promptly send special notice that the applicant is entitled to request a fair hearing and appeal under Part 7.

5.C.6.d. Any final decision by the Board to grant, deny, modify, or revoke reappointment or clinical privileges will be disseminated to appropriate individuals and, as required, reported to appropriate entities.

5.C.6.e. If the Board doesn't meet in a given month, it will delegate this responsibility to another committee containing at least two Board members.

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PART 6

**MEDICAL STAFF MEMBER COMPETENCE, FITNESS FOR DUTY,
LEAVE REQUESTS AND/OR SUSPENSIONS AND INVESTIGATIONS**

6.A. OVERVIEW AND GENERAL PRINCIPLES

6.A.1. Options Available to Medical Staff Leaders and Medical Center Administration:

- 6.A.1.a. This Manual empowers Medical Staff Leaders and Medical Center Administration including specifically Department Chairs, the CMO and the Medical Staff President to use various options prior to formal investigation to address and resolve questions or concerns about a Medical Staff member's clinical care, behavior and/or health. These options include, but are not limited to, the following:
- (i) collegial conversation;
 - (ii) progressive steps;
 - (iii) ongoing and focused professional practice evaluations (OPPE/FPPE);
 - (iv) mandatory meeting(s);
 - (v) fitness for practice evaluation(s) and/or other appropriate requests for medical provider evaluations and assessment;
 - (vi) competency assessment(s);
 - (vii) leaves of absence; and
 - (viii) precautionary suspension.
- 6.A.1.b In addition to and/or following any of these options, Medical Staff Leaders and Medical Center Administration also have the discretion to determine whether a matter should be handled in accordance with another policy (e.g., code of conduct, practitioner health, peer review policies) or should be referred to the MEC for further action including formal investigation.

6.A.2. Documentation of Meetings:

- 6.A.2.a. Except as otherwise expressly provided, Medical Staff Leaders may use their discretion to decide whether to document any meeting with an individual that may take place pursuant to the processes and procedures outlined in this Part 6.

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- 6.A.2.b. Any documentation of meetings taking place under this Part 6 may be shared with the Medical Staff member involved, and such Medical Staff member may also be provided an opportunity to respond to such documentation. Any documentation of meetings including any response to such documentation will be maintained by the Medical Staff as appropriate.

6.A.3. No Recordings of Meetings:

It is the policy of the Medical Center to maintain the confidentiality of all Medical Staff meetings, including, but not limited to, discussions relating to credentialing/privileging, quality assessment, performance improvement, and peer review activities. The discussions that take place at any meetings concerning a Medical Staff member's competence including under this Part 6 and regardless of meeting forum (i.e. electronic, video, in person, etc.) are private conversations subject to all protections of peer review including under state and federal law. In addition to existing Bylaws and policies governing confidentiality, individuals in attendance at such meetings are prohibited from making audio, video or any other recordings of/at such meetings unless authorized to do so in writing by the individual chairing the meeting or by the President of the Medical Center.

6.A.4. No Right to Counsel:

- 6.A.4.a. The processes and procedures outlined in this Part 6 are designed to be carried out in an informal manner. Lawyers for Medical Staff member(s) at issue will not be present for any meeting that takes place pursuant to this Part 6, absent a specific express exception otherwise given by the President of the Medical Staff, CMO and/or President of the Medical Center.

- 6.A.4.b. If the individual refuses to attend any meeting requested concerning a matter of their competency within the meaning of this Part 6 (and, therefore, concerning any matter regarding their clinical care, professional conduct or other matter of their competence) without their lawyer present, the meeting will be canceled and it will be reported to the MEC that the individual failed to attend the meeting.

6.A.5. No Right to the Presence of Others:

Peer review activities are confidential and privileged to the fullest extent permitted by law. Accordingly, a Medical Staff member may not be accompanied by friends, relatives or colleagues when attending a meeting that takes place pursuant to this Part 6.

6.A.6. Involvement of Primary Supervising/Collaborating Physician in Matters Pertaining to Active APP Staff Members:

If any peer review activity pertains to the clinical competence or professional conduct of a Member of the Active APP Staff, the Primary Supervising/Collaborating Physician (if any) may be notified and may be invited to participate.

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6.B. COLLEGIAL CONVERSATION AND PROGRESSIVE STEPS

6.B.1. Use of Collegial Intervention and Progressive Steps:

The use of collegial intervention efforts and progressive steps by Medical Staff Leaders and Medical Center Administration is encouraged.

- 6.B.1.a. The goal of these efforts is to arrive at voluntary, responsive actions by Medical Staff member(s) to resolve any issues and/or concerns regarding their competency or professionalism/conduct that have been raised. Collegial efforts and progressive steps may be carried out within the discretion of Medical Staff Leaders and Medical Center Administration, but are not mandatory.
- 6.B.1.b. Collegial intervention efforts and progressive steps are part of the Medical Center's Ongoing and Focused Professional Practice Evaluation (FPPE) activities and may include, but are not limited to, the following:
- (i) sharing and discussing applicable policies, such as policies regarding professionalism and appropriate behavior, emergency and/or other call obligations, and/or the timely and adequate completion of medical records;
 - (ii) counseling, mentoring, monitoring, proctoring, consultation, and education;
 - (iii) sharing comparative quality, utilization, and other relevant information, including any variations from clinical protocols or guidelines, in order to assist an individual to conform their practice to appropriate norms;
 - (iv) communicating expectations for professionalism and behaviors including that promote a culture of safety;
 - (v) informational letters of guidance, education, or counseling; and
 - (vi) FPPE/Performance Improvement Plans.

6.C. ONGOING AND FOCUSED PROFESSIONAL PRACTICE EVALUATION

6.C.1. OPPE and FPPE:

- 6.C.1.a. Individuals granted clinical privileges for the first time, whether at the time of initial appointment, reappointment, or during the term of appointment, will be subject to FPPE to confirm their competence.

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- 6.C.1.b. All individuals who provide patient care services at the Medical Center will have their competence and professionalism evaluated on an ongoing basis. This Ongoing Professional Practice Evaluation (OPPE) process may include an analysis of data to provide feedback and to identify issues in an individual's professional performance, if any, including in regards to both clinical care and professional conduct.
- 6.C.1.c. When concerns are raised about an individual's practice through OPPE, or through a specialty-specific trigger, a reported concern or issue, and/or other triggers (i.e., clinical trend or specific case that requires further review, patient complaint, corporate compliance issue, or sentinel event), an FPPE may be undertaken to evaluate the concern in addition to any other option(s) available to Medical Staff for review and resolution. Please refer to Professional Practice Evaluation Policy.

6.D. MANDATORY MEETING

Whenever there is a concern regarding an individual's clinical practice or professional conduct, Medical Staff Leaders may require the individual to attend a mandatory meeting.

For any mandatory meeting under this Part 6.D, written notice will be given to the individual that attendance at a meeting is mandatory.

Failure of an individual to attend a mandatory meeting absent just cause within the discretion of the Medical Staff President may result in an automatic relinquishment of appointment and privileges as set forth under Part 6.F.6 below.

6.E. FITNESS FOR PRACTICE EVALUATION OR OTHER APPROPRIATE REQUEST FOR MEDICAL PROVIDER EVALUATION AND/OR ASSESSMENT

6.E.1. Request for a Fitness for Practice Evaluation:

- 6.E.1.a. An individual may be requested to submit to a fitness for practice evaluation or other appropriate medical provider assessment to determine their ability to safely and competently practice at all times, including as to the exercise of all privileges, at an appropriate level of quality care and including as relevant to their specialty(ies)and as relevant to expectations for behavior, judgment and professionalism, all as determined by the Medical Staff and consistent with these Bylaws and criteria for Medical Staff membership, appointment, credentialing and privileging. Requests for assessments may be made by Medical Staff Leaders, the Credentials Committee, the MEC or an Investigating Committee.
- 6.E.1.b. A request for evaluation or assessment may be made of an applicant during the initial appointment process or of a member during any appointment or reappointment period or process where concerns or issues are raised,

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observed or identified regarding the applicant/member's ability to perform their patient care or other Medical Staff responsibilities safely or as expected and with or without reasonable accommodation.

- 6.E.1.c. Where a Medical Staff Leader(s) or Committee(s) seek an assessment, evaluation or information related to a potential fitness for duty or similar concerns where an applicant's or member's medical information may be necessary to evaluate, the Medical Staff Leader(s) or Committee(s) shall provide the applicant or member with written documentation that: (1) identifies the nature of the concern at issue; (2) identifies, if possible, the nature of the health care professional(s) required to perform the required assessment/evaluation (or otherwise defer to the Medical Staff member's own Provider(s)) to provide appropriate feedback; (3) informs the individual of the time period within which the evaluation(s) must occur and identifies the specific nature of feedback and information requested; and (4) provides the individual with appropriate releases and/or authorizations to allow the Medical Staff Leaders, or relevant committee, to discuss with the health care professional(s) the reasons for the evaluation and the health care professional(s)'s feedback or information responses.
- 6.E.1.d. Failure to comply with the Medical Staff's processes for collecting appropriate information including fit for duty or other assessments/evaluations under this Part 6.E in order to assess competency and compliance/ability to comply with all Medical Staff responsibilities, including through interactive communication processes, may result in an application being withdrawn or an automatic relinquishment of appointment and privileges as set forth below.

6.F. AUTOMATIC ADMINISTRATIVE WITHDRAWAL

Each of the occurrences described in this Part 6.F shall result in the automatic administrative withdrawal of an individual's appointment and clinical privileges. An automatic administrative withdrawal is considered an administrative action and, as such, does not trigger fair hearing rights under Part 7 and/or any obligation on the part of the Medical Center to file a report with the NPDB.

Except as otherwise provided below, an automatic administrative withdrawal of appointment and privileges will be effective immediately upon written or special notice to the individual.

6.F.1. Failure to Timely Complete Medical Records:

Failure of an individual to timely complete medical records, after notification by Health Information Management (HIM) of delinquency including in accordance with applicable policies and Rules and Regulations, may result in automatic administrative withdrawal of all clinical privileges.

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6.F.2. Failure to Satisfy Threshold Eligibility Criteria:

Failure of an individual to continuously evidence satisfaction of all threshold eligibility criteria for credentialing set forth under Part 2.A.1 in this Manual will result in automatic administrative withdrawal of appointment and clinical privileges.

6.F.3. Failure to Complete and Comply with Educational or Training Requirements:

Failure of an individual to complete or comply with training and educational requirements of the Medical Center and/or Medical Staff as deemed necessary to be a practicing Provider at MMC including, but not limited to, training and education pertaining to use of the Electronic Medical Record (EMR), related to Health Insurance Portability and Accountability Act (HIPPA) or patient privacy or safety, related to non-discrimination or sexual harassment, or any other required training and education, will result in the automatic administrative withdrawal of clinical privileges. These are requirements in addition to threshold eligibility criteria and separately imposed on Medical Staff members including by virtue of the Medical Center's own MEC and/or Board.

6.F.4. Failure to Provide Information:

6.F.4.a. Failure of an individual to notify the President of the Medical Staff or President of the Medical Center of any change in any non-demographic information provided on an application for initial appointment or reappointment may, as determined by the MEC, result in the automatic administrative withdrawal of appointment and/or clinical privileges.

6.F.4.b. Failure of an individual to provide information pertaining to their qualifications for appointment or clinical privileges in response to a written request from the Credentials Committee, the MEC, or any other authorized party may, as determined by the MEC, result in the automatic administrative withdrawal of appointment and clinical privileges unless and until the information is provided to the satisfaction of the requesting party.

6.F.5. Failure to Pay Annual Medical Staff Dues:

Failure to pay Annual Medical Staff Dues will result in the automatic administrative withdrawal of appointment and clinical privileges.

6.F.6. Failure to Attend a Mandatory Meeting Regarding Clinical Care or Behavioral Concerns:

Failure to attend a mandatory meeting requested by the Medical Staff Leaders or Medical Center Administration, after written notice under Part 6.D has been given, may, as determined by the MEC, result in the automatic administrative withdrawal of appointment and clinical privileges. The withdrawal will remain in effect unless and until the individual attends the mandatory meeting and resolution is obtained, as set forth under Part 6.F.11 below.

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6.F.7. Failure to Comply with Fitness For Practice or Other Appropriate Medical Assessment/Evaluation and Related Process:

6.F.7.a. Failure to comply with the Medical Staff's processes for collecting appropriate information to assess competency including failure to comply with fitness for practice or other medical evaluations, or failure to engage in an interactive process including by providing necessary information concerning medical conditions, restrictions or accommodations related to or potentially impacting competency may result in an application being withdrawn and/or automatic relinquishment of appointment and privileges.

6.F.8. Certain Criminal Activity:

The occurrence of specific criminal actions will result in the automatic administrative withdrawal of appointment and clinical privileges. Specifically, an arrest, charge, indictment, conviction, plea of guilty or plea of no contest pertaining to any felony will result in an automatic withdrawal.

6.F.9. Failure to Return from Leave of Absence after One Year:

Failure to return from any leave of absence after one (1) year, regardless of reason, or to otherwise notify the Medical Staff Office of the need for leave to extend beyond one (1) year prior to expiration of the one-year period, will result in the automatic administrative withdrawal of appointment and clinical privileges as outlined in the Medical Staff Bylaws.

6.F.10. Failure of APPs to Maintain Supervisory Relationship:

Failure of an APP to maintain a plan of supervision and supervisory relationship as required by the Medical Staff Bylaws will result in the automatic administrative withdrawal of appointment and clinical privileges.

6.F.11. Reinstatement from Automatic Administrative Withdrawal and Automatic Resignation:

6.F.11.a. Where an individual believes that any matter leading to automatic administrative withdrawal of appointment and privileges under this Part 6 has been resolved within ninety (90) days of such administrative withdrawal, the individual may request to be reinstated.

6.F.11.b. All requests for reinstatement from an automatic relinquishment under Part 6.F.11.a will be reviewed by the relevant Department Chair or, the Chair of the Credentials Committee, the President of the Medical Staff, the CMO, and the President of the Medical Center. If, collectively, all of these individuals favorably recommend reinstatement, the individual may immediately resume clinical practice at the Medical Center. This determination will be forwarded to the Credentials Committee, the MEC, and the Board for ratification. If, however, any of these individuals

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reviewing the reinstatement request have questions or concerns, such questions or concerns will be noted and the reinstatement request will be forwarded to the full Credentials Committee, MEC and Board for review and recommendation.

Any individual who has suffered automatic administrative withdrawal of appointment and privileges under this Part 6.F, and who has not been reinstated within ninety (90) days thereafter under Part 6.F.11, will be deemed to have automatically resigned from the Medical Staff. Such resignation shall be deemed effective immediately upon the passing of the ninety (90) day reinstatement period.

6.G. LEAVES OF ABSENCE

Medical Staff member(s) may seek leaves of absence from the Medical Staff for any reason. The process for seeking a leave of absence will depend on the reason, and may also depend on whether the Medical Staff member(s) is a MMC employed or independent Provider.

6.G.1. Medical Leaves of Absence:

- 6.G.1.a. Medical Staff member(s) seeking a leave of absence for medical reasons should immediately notify their Department Chair or designee, as well as the Medical Staff President, as soon as they become aware of the need to take leave. The member shall notify their Department Chair or designee as well as the Medical Staff President of the date that leave is anticipated to begin, after which the Medical Staff office will work with the individual as appropriate on an interactive process concerning the leave of absence and information deemed necessary in regards to return from leave. See Part 6.G.2 for written notice requirements for medical leave.
- 6.G.1.b. **MMC Employed Providers:** Where a Medical Staff member seeks a leave of absence for a medical reason and is also an employee of Maine Medical Center, that member should immediately follow the Hospital's Human Resources (HR) processes in connection with leave management for employment purposes.
- 6.G.1.c. The process for a Leave of Absence from Medical Staff begins with a notice or request (see Part 6.G.2) made by a Provider to their Department Chair or designee. The Chair or designee reviews such documents and, as to all notices, forwards them to the Credentials Committee for further notice to the Board. As to all requests for leave, if approved, the Chair or designee forward such requests to the Credentials Committee for recommendation, which will then forward the requests to the MEC for review and recommendation to the Board.

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6.G.2. Initiation:

- 6.G.2.a. **Initial Requests for Leave:** Medical leaves of absence and other leaves of absence for less than six months must be presented in the form of a “written notice” to a Department Chair (and then to Credentials Committee), specifying the anticipated dates and duration of leave. The Credentials Committee will forward such notices to the Board, and, prior to the Medical Staff member(s) anticipated date(s) of return from leave, the Credentials Committee will forward to the Medical Staff member appropriate paperwork to be completed specific to their reason for leave and/or activities while on leave. Medical Leaves of absence, and other leaves of absence for less than six (6) months, shall be deemed granted, subject to satisfaction of the notice requirements of this Part 6.G.2.
- 6.G.2.b. A leave of absence (non-medical) longer than six (6) months must be requested in writing and submitted to the Medical Staff Office through the Provider’s Department Chair or designee. The request should, when possible, state the beginning and ending dates and the reasons for the leave. Except in extraordinary circumstances, the request will be submitted at least thirty (30) days prior to the anticipated start of the leave.
- 6.G.2.c. The Credentials Committee shall make recommendations on requests for non-medical leaves of absence for more than six (6) months to the MEC, and thereafter the MEC shall make recommendations on such requests to the Board. The Board will ultimately determine whether a request for a leave of absence for more than six (6) months will be granted. The granting of a leave of absence may be conditioned upon the individual’s prior completion of all medical records. The Board’s decision on any requested non-medical leave(s) of absence over six (6) months shall be provided to the requesting Provider by way of written notification, and shall be final without rights or opportunity to fair hearing or appeal including under Part 7 of this Manual.
- 6.G.2.d. **Requests for Extension of Leave:** Requests for Extension on any leave of absence that will extend a leave of absence: (1) beyond six (6) months; or (2) beyond a six (6) month or longer leave period initially granted must be submitted by the requesting Medical Staff member to their Department Chair, who will submit such request to the Credentials Committee along with the Chair’s position on such request. The Credentials Committee will then make a recommendation on the leave extension request to the MEC, and the MEC will make a recommendation on the leave extension request to the Board. The Board’s decision on any request for extension of a leave of absence is final, and shall not be the subject of any due process or fair hearing rights including under Part 7 of this Manual. The Medical Staff member shall receive the Board’s decision by written communication, sent via the United States (U.S.) mail.

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- 6.G.2.e. Leaves of absence are matters of courtesy, not of right. In the event that it is determined that an individual has not demonstrated good cause for a leave, or where a request for extension is not granted, the determination will be final, with no recourse to a hearing and appeal under Part 7.

6.G.3. Duties of Member on Leave:

Medical Staff members on leave of absence from the Medical Staff shall not exercise any medical staff privileges during the leave and are excused from MMC Medical Staff responsibilities (e.g., meeting attendance, committee service, emergency service call obligations). The obligation to pay dues will continue during a leave of absence, except that a Member granted a leave of absence for U.S. military service or medical mission work will be exempt from this obligation.

6.G.4. Reinstatement:

- 6.G.4.a. Individuals requesting reinstatement from leave will submit a written summary of their activities during the leave and any other information that may be requested by the Medical Center at least thirty (30) days prior to requesting return from the leave. Requests for reinstatement will then be reviewed by the relevant Department Chair, Service Line Chief, the Credentials Committee, MEC and Board.
- 6.G.4.b. If a favorable recommendation on reinstatement is made, the individual may immediately resume clinical practice. However, if any of the individuals reviewing the request have any questions, those questions will be noted and the reinstatement request will be further evaluated.
- 6.G.4.c. If the leave of absence was for health reasons (except for maternity leave of three (3) months (twelve (12) weeks) or less), the request for reinstatement must be accompanied by a report from the individual's physician indicating that the individual is capable of resuming a hospital practice and safely exercising the clinical privileges requested. Medical Staff Leadership may also seek appropriate fitness for practice information under Part 6.E.
- 6.G.4.d. Absence for longer than one year regardless of reason will result in the requirement to complete a full reappointment application. It may also include a fitness for practice evaluation or other tool to assess competence to return to practice. If the leave is for longer than two years, the provider will be deemed to be resigned from the Medical Staff including under Part 6.F.9 and 6.F.11 and will be required to complete the initial application process as defined in this Manual.
- 6.G.4.e. If an individual's current appointment is due to expire during any leave, the individual's appointment and clinical privileges will expire at the end of the

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appointment period, and the individual will be required to apply for reappointment. Members who are aware of a need for leave, and the fact that their appointment date will expire during the leave period, are encouraged to work on reappointment applications early, if possible, otherwise such materials may be completed during or following the leave of absence, at the member's option and as appropriate.

6.H. PRECAUTIONARY/SUMMARY SUSPENSION OR RESTRICTION OF CLINICAL PRIVILEGES

6.H.1. Grounds for Precautionary/Summary Suspension or Restriction:

- 6.H.1.a. Whenever failure to take action may result in imminent danger to the health and/or safety of any individual, the President of the Medical Center, the President of the Medical Staff, the relevant Department Chair or Service Line Chief, the CMO, the MEC, or the Board Chair is authorized to:
(1) afford the individual an opportunity to voluntarily refrain from exercising clinical privileges while the matter is being reviewed; or
(2) suspend or restrict all or any portion of an individual's clinical privileges. For purposes of this Part 6.H.1.a, the "health and/or safety of any individual" shall be deemed to include the physical, emotional and/or mental health and/or the personal or workplace safety of any patient, Medical Center personnel/staff and/or any Medical Staff Member, including but not limited to the Medical Staff member at issue. "Imminent danger" shall be a standard deemed to be met in any given matter within the discretion of the President of the Medical Center, the President of the Medical Staff, the relevant Department Chair or Service Line Chief, the CMO, the MEC and/or the Board Chair.
- 6.H.1.b. A precautionary suspension can be imposed at any time, including after a specific event, a pattern of events, or a recommendation by the MEC that would entitle the individual to request a hearing. When possible, prior to the imposition of a precautionary suspension, the person(s) considering the suspension will meet with the individual and review the concerns that support the suspension and afford the individual an opportunity to respond.
- 6.H.1.c. Precautionary suspension is an interim step in the professional review activity and does not imply any final finding regarding the concerns supporting the suspension.
- 6.H.1.d. A precautionary suspension is effective immediately and will be promptly reported to the President of the Medical Center and the President of the Medical Staff. A precautionary suspension will remain in effect unless it is modified by the President of the Medical Center, CMO, President of the Medical Staff or MEC.

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6.H.1.e. Within three (3) calendar days of the imposition of a suspension, the individual will be provided with a brief written description of the reason(s) for the action, including the names and medical record numbers of the patient(s) involved (if any).

6.H.1.f. The relevant Supervising/Collaborating Physician will be notified when the affected individual is a member of the Active APP Staff.

6.H.2. MEC Procedure:

6.H.2.a. Within a reasonable time, not to exceed fourteen (14) calendar days of the imposition of the suspension, the MEC will review the reasons for the suspension.

6.H.2.b. As part of this review, the individual may be invited by the President of the Medical Staff or designee, to meet with the MEC. In advance of the meeting, the individual may submit a written statement and other information to the MEC.

6.H.2.c. At the meeting, if in attendance the individual will be asked to provide information to the MEC and may respond to questions that may be raised by committee members. The individual may also propose ways, other than precautionary suspension, to protect patients, employees or others while the matter is being reviewed.

6.H.2.d. After considering the reasons for the suspension and the individual's response, if any, the MEC will determine whether the precautionary suspension should be continued, modified, or lifted. The MEC may also determine whether to begin an investigation including by seating an ad hoc committee.

6.H.2.e. If the MEC decides to continue the suspension, it will send the individual written notice of its decision, including the basis for it, and instructions for next steps as outlined in this Manual.

6.H.2.f. Any precautionary/summary suspension continued for a period that, in total with the initial suspension would not exceed thirty (30) days, will not afford the Medical Staff member opportunity for legal representation, or rights to fair hearing under Part 7. Precautionary suspensions continued for more than thirty (30) days are subject to fair hearing right under Part 7 of this Manual.

6.H.2.g. Upon the imposition of a precautionary suspension, the appropriate Department Chair, Service Line Chief or designee will assign responsibility for the care of any hospitalized patients to another individual with appropriate clinical privileges.

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6.I. INVESTIGATIONS

Please also refer to the Medical Staff Bylaws

6.I.1. Initial Review:

- 6.I.1.a. Whenever a serious question has been raised, or where collegial efforts have not resolved an issue regarding Items i-iv below, the matter may be referred to the President of the Medical Staff, the Department Chair, the chair of a standing Medical Staff committee, the CMO, the President of the Medical Center, or the Chair of the Board.
- (i) clinical competence or clinical practice, including patient care, treatment or management, or documentation in the medical record;
 - (ii) the safety or proper care being provided to patients;
 - (iii) the known or suspected violation of applicable ethical standards or the Bylaws, policies, Rules and Regulations of the Medical Center or the Medical Staff; or
 - (iv) conduct that is considered lower than the standards of the Medical Center or disruptive to the orderly operation of the Medical Center or the Medical Staff, including the inability of the Member to work harmoniously with others, including trainees and other members of the Medical Center community.
- 6.I.1.b. Serious questions raised, or where collegial efforts have not resolved an issue regarding Item iv set forth above, may also be referred to Maine Medical Center's PPC.
- 6.I.1.c. In addition, if the Board becomes aware of information that raises concerns about membership qualifications of any Medical Staff member, the matter will be referred to the President of the Medical Staff, the CMO, or the President of the Medical Center.
- 6.I.1.d. The person to whom the question is referred will make a sufficient inquiry to determine whether the question is credible and, if so, may forward it to the MEC.
- 6.I.1.e. No action taken pursuant to this initial review will constitute an investigation.

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6.I.2. Initiation of Investigation:

- 6.I.2.a. The MEC will review the matter in question, may discuss the matter with the individual, and will determine whether to conduct an investigation or direct that the matter be handled pursuant to another policy. An investigation will commence only after a determination by the MEC.
- 6.I.2.b. The MEC will inform the individual that an investigation has begun. Notification may be delayed if, in the judgment of the MEC, informing the individual immediately might compromise the investigation or disrupt the operations and/or personnel of the Medical Center or the Medical Staff.
- 6.I.2.c. The Board may also determine to commence an investigation and may delegate the investigation to the MEC, a subcommittee of the Board, or an ad hoc committee.

6.I.3. Investigative Procedure:

- 6.I.3.a. Once a determination has been made to begin an investigation, the MEC will investigate the matter itself or appoint an individual, an ad hoc committee and/or MMC's PPC (an ad hoc committee and/or the PPC if/as elected shall be referred to as the "Investigating Committee") to do so. The Investigating Committee may include individuals not on the Medical Staff, but will not include any individual who:
- (i) is in direct economic competition with the individual being investigated;
 - (ii) is professionally associated with or a relative of the individual being investigated;
 - (iii) has an actual bias, prejudice, or conflict of interest (see Part 9 of this Manual) that would prevent the individual from fairly and impartially considering the matter; or
 - (iv) actively participated in the specific matter at any previous level for medical staff (versus, for example, employment) purposes other than to make, if applicable, sufficient inquiry to determine whether a question/concern raised (and to be investigated) is credible.
- 6.I.3.b. The individual under investigation will be notified of the names of the Investigating Committee members. Within five business days of receipt of this notice, the individual must submit any reasonable objections to the service of any Investigating Committee member to the President of the Medical Center or the CMO. The objections must be in writing. The President of the Medical Center or the CMO will review the objection and

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determine whether another Member should be selected to serve on the Investigating Committee. The President of the Medical Center and CMO have final discretion in this regard. Instructions on procedure will be provided to the members of the Investigating Committee.

- 6.I.3.c. The Investigating Committee may:
- (ii) review any documents it deems relevant, which may include patient records, incident reports, correspondence, communications, policies, procedures, other documents and/or relevant literature or guidelines;
 - (ii) conduct interviews
 - (iii) conduct an outside review utilizing consultants;
 - (iv) require an examination or assessment by a health care professional(s) acceptable to it. The individual being investigated may be asked to execute a release allowing the Investigating Committee to discuss with the health care professional(s) the reasons for the examination or assessment and allowing the health care professional to discuss and report the results to the Investigating Committee;
 - (v) obtain and review any other information it deems appropriate and relevant, which may also include requests for additional authorization forms/releases for information from the individual being investigated; and
 - (vi) obtain and utilize any other resources as deemed appropriate and necessary.
- 6.I.3.d. As part of the investigation, the Investigating Committee shall have the full resources of the Medical Center available to it as deemed appropriate and necessary, including but not limited to access to Medical Center legal counsel throughout its process.
- 6.I.3.e. As part of the investigation, the individual will have an opportunity to meet with the Investigating Committee. Prior to this meeting, the individual will be informed of the issue being investigated and will be invited to discuss, explain, or refute the details. A summary of the interview will be made and included with the Investigating Committee's report. This meeting is not a hearing, and none of the procedural rules for hearings nor fair hearing rights under Part 7 will apply.

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- 6.I.3.f. The Investigating Committee will make a reasonable effort to complete the investigation and issue its report within twenty-five (25) business days, provided that an outside review is not necessary. When an outside review is used, the Investigating Committee/Consultant will make a reasonable effort to complete the investigation and issue its report within twenty-five (25) business days of receiving the results of the outside review. These time frames are intended to serve as guidelines and, as such, will not be deemed to create any right for an individual to have an investigation completed within such time periods.
- 6.I.3.g. At the conclusion of the investigation, the Investigating Committee will prepare a report to the MEC with its findings, conclusions, and recommendations, if any.

6.I.4. Recommendation:

- 6.I.4.a. The MEC may accept, modify, or reject any recommendation it receives from an Investigating Committee. Specifically, the MEC may do any of the following, some of which would trigger a potential request for a Fair Hearing:
- (i) determine that no action is warranted;
 - (ii) issue a letter of guidance, counsel, warning, or reprimand;
 - (iii) impose conditions for continued appointment;
 - (iv) require monitoring, proctoring or consultation;
 - (v) require additional training or education;
 - (vi) recommend reduction or restriction of clinical privileges;
 - (vii) recommend suspension of clinical privileges for a term;
 - (viii) recommend revocation of appointment or clinical privileges; or
 - (ix) make any other recommendation that it deems necessary or appropriate.
- 6.I.4.b. A recommendation by the MEC that would entitle the individual to request a hearing will be forwarded to the President of the Medical Center, who will promptly inform the individual by special notice. The recommendation will not be forwarded to the Board until after the individual has completed or waived a hearing and appeal.

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- 6.I.4.d. If the Board makes a modification to the recommendation of the MEC that would entitle the individual to request a hearing, the President of the Medical Center will inform the individual by certified mail, return receipt request and by regular mail and/or e-mail. No final action will occur until the individual has completed or waived a hearing and appeal.

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PART 7

HEARING AND APPEAL PROCEDURES

This Part 7 sets forth the categories of adverse actions against a Medical Staff member or an applicant for Medical Staff membership or privileges that may give rise to the Member or applicant's right to a hearing to contest the action. It also describes the notice, pre-hearing, hearing and post-hearing procedures in such circumstances.

7.A. ADVERSE ACTIONS FOR WHICH AN OPPORTUNITY FOR HEARING IS PROVIDED

7. A.1. Recommendations and Actions Giving Rise to an Opportunity for Hearing:

- 7.A.1.a. The following adverse actions, if based on the clinical competence or professional conduct of the Member or applicant, rather than the ineligibility of the Member or applicant for membership or particular clinical privileges, are subject to hearing at the request of the Member or applicant, if the request is made timely and in accordance with this Manual:
- (i) An MEC recommendation to deny initial membership appointment, or reappointment.
 - (ii) An MEC recommendation to deny a request for clinical privileges, or to reduce clinical privileges.
 - (iii) An MEC recommendation to deny reinstatement from a leave of absence.
 - (iv) An MEC recommendation to revoke membership or clinical privileges.
 - (v) A recommendation by the MEC, or action by the MEC or authorized Hospital official, to suspend a Member's clinical privileges for more than thirty (30) calendar days.
 - (vi) A recommendation by the MEC, or action by the MEC or authorized Hospital official, to restrict a Member's independent exercise of clinical privileges for more than thirty (30) calendar days.
 - (vii) Any of the adverse actions listed above, if taken by the Board without a prior recommendation to take such action having been made by the MEC.

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7. A.2. Actions Not Constituting Grounds for Hearing:

No actions, other than those listed in 7.A.1, shall give rise to an opportunity for hearing under this Manual. By way of further clarification of this provision, none of the following actions constitute grounds for a hearing. The following actions take effect without hearing or appeal (unless otherwise noted). The affected individual is entitled, however, to submit a written statement regarding any of the following actions for inclusion in their file:

- 7.A.2.a. issuance of a letter of guidance, counsel, warning, or reprimand
- 7.A.2.b. imposition of conditions, monitoring, proctoring, or a general consultation requirement, so long as not a restriction on privileges for thirty (30) days or more;
- 7.A.2.c. imposition of a requirement for training or continuing education;
- 7.A.2.d. automatic withdrawal/relinquishment of appointment or privileges as set forth under Part 6.F;
- 7.A.2.e. imposition of quality monitoring, i.e., FPPE for cause;
- 7.A.2.f. precautionary suspension of thirty (30) days or less;
- 7.A.2.g. denial of a request for leave of absence or for an extension of a leave;
- 7.A.2.h. removal from the on-call roster or any reading or rotational panel;
- 7.A.2.i. determination that an initial appointment or renewal appointment application or application for clinical privileges is incomplete;
- 7.A.2.j. determination that an initial appointment or renewal appointment membership application or application for clinical privileges will not be processed due to a misstatement or omission or failure to provide requested information; or
- 7.A.2.k. determination of ineligibility based on a failure to meet other threshold eligibility criteria, a lack of need for the clinical privileges sought, the lack of resources reasonably necessary to support the safe exercise of the privileges sought, or because of an exclusive contract.

7.A.3. Notice of Adverse Recommendation or Action:

The Medical Staff President or their designee will promptly give notice of an adverse recommendation or action governed by Part 7.A.1 to the affected Member or applicant. This notice will contain:

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- 7.A.3.a. A statement of the proposed adverse recommendation or action, and the general reasons for it.
- 7.A.3.b. A statement that the individual has the right to request a hearing on the recommendation within thirty (30) calendar days after receipt of the notice, by transmitting a written request for hearing to the CMO at a stated address; and that if such request is not timely received by the CMO, the right a hearing will be deemed waived and forfeited.
- 7.A.3.c. A reference to this Part 7 of the Credentialing Manual and statement of how a copy of the Bylaws can be obtained, and a summary of the individuals rights under this Part 7 in connection with such a hearing, which shall include the following:
- (i) The right to a hearing under this Manual and the Medical Staff Bylaws, with a determination after hearing to be made by person(s) not in competition with the individual.
 - (ii) The right to be represented at the hearing by an attorney or other person of their choosing.
 - (iii) The right to call, examine, and cross-examine witnesses at the hearing.
 - (iv) The right to have a record made of the proceedings, and to receive a copy of it upon payment of reasonable charges for the record.
 - (v) The right to present evidence at the hearing, even if not necessarily admissible under applicable court rules of evidence.
 - (vi) The right to submit a written statement at the close of the hearing.
- 7.A.3.d. A statement that upon completion of the hearing, the person has the right to:
- (i) receive the written recommendation of the officer, or panel, including a statement of the basis for the recommendations, and
 - (ii) receive in writing the ultimate decision of the Medical Center, including a statement of the basis for the decision.

7. A.4. Request for Hearing:

An individual has thirty (30) calendar days following receipt of the notice of an adverse action governed by Part 7.A.1 to request a hearing, in writing, sent to the CMO and Medical Staff President, including the name, address, and telephone number of the individual's

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counsel, if any. Failure to request a hearing will constitute waiver of the opportunity for a hearing, and the adverse recommendation will be transmitted to the Board for final action, if Board action is necessary.

7. A.5. Organization of Hearing Panel or Selection of Hearing Officer and Presiding Officer:

7.A.5.a. **Hearing Panel:** When a hearing has been requested pursuant to Part 7.A.4, the President of the Medical Staff will appoint a Hearing Panel (or Hearing Officer under Part 7.A.5.a.vi) in accordance with the following guidelines, who will make findings and a written recommendation following the hearing:

- (i) The Hearing Panel will consist of at least three members, one of whom will be designated as chair.
- (ii) The Hearing Panel may include any combination of:
 - (1) any Member of the Medical Staff, or
 - (2) physicians, other health professionals or laypersons not connected with the Medical Center.
- (iii) Knowledge of the underlying matter, in and of itself, will not preclude the individual from serving on the Hearing Panel.
- (iv) Employment by, or other contractual arrangement with, the Medical Center, MaineHealth, or an affiliate, will not, by itself, preclude an individual from serving on the Hearing Panel.
- (v) The Hearing Panel will not include any individual who:
 - (1) is an owner or principal officer of a private medical practice that is in direct economic competition with the individual requesting the hearing;
 - (2) is professionally associated with, or a relative of, the individual requesting the hearing;
 - (3) has an actual bias, prejudice, or conflict of interest (see Part 9 of this Manual) that would prevent the individual from fairly and impartially considering the matter; or
 - (4) has personally conducted an investigation of the matter.
- (vi) As an alternative to a Hearing Panel, in matters in which the underlying recommendation or action is based upon concerns

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involving conduct arguably unacceptable in any context, including but not limited to sexual or other discrimination, harassment or retaliation, or failure to comply with rules, regulations or policies, but not involving matters of clinical competence, knowledge, or technical skill, the President of the Medical Staff may appoint a single Hearing Officer in lieu of a 3-person Hearing Panel to perform the functions of the Hearing Panel. The Hearing Officer, who preferably should be an attorney, must not be not be, and must not represent clients who are, in direct economic competition with the individual requesting the hearing, unless otherwise waived by the individual. If a Hearing Officer is appointed instead of a Hearing Panel, all references in this Article to the "Hearing Panel" or "Presiding Officer" will be deemed to refer to the Hearing Officer.

- 7.A.5.b. Presiding Officer: The President of the Medical Center may appoint an attorney at law as Presiding Officer in the case of a Hearing Panel. Such Presiding Officer may be counsel to the Medical Center, but must not act as a prosecuting officer or as an advocate for either side at the hearing. If requested by the Hearing Panel, the Presiding Officer may participate in its deliberations and act as its legal advisor, however they shall not be entitled to vote. If a Presiding Officer is not appointed, the Chair of the Hearing Panel shall be the Presiding officer and shall be entitled to one vote.

The Presiding officer shall act to maintain decorum, assure that the Hearing Panel makes a reasonable effort to obtain the facts of the matter, and assure that all the participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence. The President Officer shall determine the order of procedure during the hearing and shall make all rulings on matters of law, procedure, and the admissibility of evidence.

- 7.A.5.c. Compensation: Members of the Hearing Panel, the Presiding Officer, or the Hearing Officer may be compensated for their service by the Medical Center. Compensation will not constitute grounds for challenging the impartiality of the Hearing Panel members.

7. A.6. Notice of Hearing:

- 7.A.6.a. The Medical Staff President, in consultation with the Presiding Officer, will schedule the hearing and provide to the individual requesting the hearing, by written notice, the following information:
- (i) the time, place, and date of the hearing, which shall be set no earlier than thirty (30) days from the date of hearing notification;
 - (ii) the names of the Hearing Panel members and Presiding Officer (or Hearing Officer) if known, and a statement that any objections to

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the Hearing Panel membership or Presiding Officer or Hearing Officer must be submitted, with supported reasons, in writing to the President within seven (7) calendar days of the receipt of notice; and

- (iii) a statement of the basis for the adverse recommendation or action, including reference to patient records (if applicable), and any other information supporting the adverse recommendation or action.

7.A.6.b. Objections to Hearing Panel Make-Up: Any objection to any member of the Hearing Panel, to the Hearing Officer, or to the Presiding Officer, must be made in writing, within seven (7) calendar days of receipt of notice, to the President of the Medical Staff. The objection must include all reasons in support of the objection. A copy of the objection must be provided to the CMO, who will be given seven (7) calendar days to comment. The President of the Medical Staff will rule on the objection and give notice to the objector. If the objection is granted, the President of the Medical Staff shall appoint substitute member(s) of the Hearing Panel, or a Hearing Officer. The President of the Medical Staff shall have final authority to determine members of the Hearing Panel, the Hearing Officer and/or the Presiding Officer.

7.A.6.c. The hearing will begin on the date and time set by the hearing notice, unless an alternative hearing date has been specifically agreed to in writing by the parties.

7. A.7. Responsibilities of the Presiding Officer:

7.A.7.a. Prehearing conference: The Presiding Officer will schedule and conduct a pre-hearing conference and other pre-hearing procedures, in accordance with Part 7.B.

7.A.7.b. Hearing: The Presiding Officer will conduct and preside over the hearing in accordance with Part 7.B and C. During the hearing, the Presiding Officer will:

- (i) allow the participants in the hearing to have a reasonable opportunity to be heard and to present evidence, subject to reasonable limits on the number of witnesses and duration of direct and cross-examination;
- (ii) prohibit conduct or presentation of evidence that is cumulative, excessive, irrelevant or abusive or that causes undue delay;
- (iii) maintain decorum throughout the hearing;
- (iv) determine the order of procedure;

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- (v) rule on matters of procedure and the admissibility of evidence; and
- (vi) conduct argument by counsel on procedural points outside the presence of the Hearing Panel unless the Panel wishes to be present.

7.A.7.c. Counsel: The Presiding Officer may be advised by legal counsel to the Medical Center, or counsel retained for this purpose, with regard to the hearing procedure.

7.A.7.d. If there is a Hearing Panel (versus Hearing Officer), the Presiding Officer (whether attorney or Chair of Hearing Panel) may participate in the private deliberations of the Hearing Panel and may draft the report of the Hearing Panel's decision based upon the findings and discussions of the Panel. If the Presiding Officer is the Chair of the Hearing Panel, the Presiding Officer is also entitled to one vote. Where the Presiding Officer is an attorney, they are not entitled to vote on any recommendations, but they may also serve as legal advisor to the Hearing Panel.

7. B. PRE-HEARING PROCEDURES

7. B.1. General Procedures:

The pre-hearing processes will be conducted in an informal manner. Formal rules of evidence or procedure will not apply.

7. B.2. Scheduling of Pre-Hearing Conference:

The Presiding Officer will schedule a pre-hearing conference to occur at least fourteen (14) calendar days prior to the hearing.

7. B.3. Pre-Hearing Exchange of Relevant Information, Limits:

7.B.3.a. Prior to receiving any confidential documents under the authority of this Part 7.B, the individual requesting the hearing must agree in writing that all documents and information will be maintained as confidential and will not be disclosed or used for any purpose outside of the hearing by the individual and/or any other person or entity on their behalf, including their counsel. The individual must also provide a written representation that their counsel and any expert(s) have executed Business Associate agreements in connection with any patient Protected Health Information contained in any documents provided.

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- 7.B.3.b. Upon receipt of the above agreements and representations, the individual requesting the hearing will be provided with the following:
- (i) copies of, or reasonable access to, all patient medical records (as applicable) referred to in the statement of basis in the notice provide under Part 7.A.5;
 - (ii) reports of retained experts, if any, relied upon by the MEC for its recommendation, or by relied upon by officers taking the adverse action;
 - (iii) copies of the portion of any MEC minutes concerning the recommended adverse action; and
 - (iv) copies of any other documents relied upon by the MEC for its recommendation, or by other officers taking the adverse action.
- The provision of this information is not intended and shall not be deemed to waive any privileges or peer review protections under federal or state law, including the inadmissibility, non-discoverability and confidentiality provisions of the Maine Health Security Act or Health Care Quality and Immunity Act.
- 7.B.3.c. Except as provided in this subparagraph, neither the individual requesting the hearing, nor any other person acting on behalf of the individual, shall be entitled as of right to depose or interrogate witnesses or other individuals prior to the hearing. If such individual, or their representative, seeks to interview such persons, they must first notify the CMO and secure the CMO's permission to do so under the circumstances provided below. The CMO or CMO's designee shall contact the individuals about their willingness to be interviewed. Any MMC employee or Medical Staff Member or any other relevant witness or individual may agree or decline to be interviewed by or on behalf of the individual who requested a hearing. If such person is willing to be interviewed, the CMO shall permit the interview to occur, at a place, time and circumstances agreeable to person and not disruptive of Medical Center operations, and the CMO shall so notify the individual requesting the hearing, or the individual's representative.
- 7.B.3.d. The individual requesting the hearing has no right to any information beyond that specified in this Part 7.B. No information will be provided regarding the activities of other members of the Medical Staff whose conduct is not the subject of the pending adverse action.

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7. B.4. Exchange of Information for the Pre-Hearing Conference:

- 7.B.4.a. At least fourteen (14) calendar days prior to the pre-hearing conference, the parties will exchange with each other and submit to the Presiding Officer:
- (i) a list of the names of persons whom they expect to call as witnesses on their behalf at the hearing, including (if not previously provided) a summary of the proposed testimony of each such witness;
 - (ii) documentary or other exhibits proposed to be used by that party at the hearing; and
 - (iii) any proposed stipulations.
- 7.B.4.b. Any objection to the witness list, summary of proposed testimony, and proposed exhibits must be submitted to the Presiding Officer, with a copy to the offering party, at least seven (7) calendar days prior to the pre-hearing conference.
- 7.B.4.c. The witness and exhibit list of either party may be amended at any time during the course of the hearing, provided that notice of the change is given to the other party and the Presiding Officer determines that the amendment of the list under the circumstances will not unfairly disadvantage the opposing party's presentation of its case.

7. B.5. Conduct of the Pre-Hearing Conference:

The subject of the adverse action and the person who will present the case in support of the adverse action for the MEC (or a representative of each, who may be counsel) shall participate in a pre-hearing conference conducted by the Presiding Officer.

- 7.B.5.a. At the Pre-Hearing Conference, the Presiding Officer will:
- (i) resolve all procedural questions, including any objections to exhibits or witnesses;
 - (ii) finalize all stipulations agreed upon by the parties, including any stipulations concerning the authenticity of exhibits, the admissibility of exhibits, and factual propositions with which both parties agree;
 - (iii) determine, at the Presiding Officer's discretion, whether initial direct examination testimony of witnesses shall be provided to the Panel in writing in advance of hearing rather than offered through the live testimony of witnesses at the hearing;

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- (iv) establish the time to be allotted to each side's testimony and cross-examination;
- (v) determine whether all testimony must be given under oath or sworn declaration; and if not, whether testimony not under oath or declaration will be given the same or lesser probative value than testimony provided under oath or declaration;
- (vi) determine whether to permit opening statements at the hearing, in addition to the summary required by Part 7.B.5;
- (vii) determine whether to allow, or require, each side to submit proposed findings, conclusions and recommendations to the Hearing Panel (or Hearing Officer, if no Panel);
- (viii) determine whether to permit post hearing oral arguments, in addition to submissions in writing at the close of or following the hearing; and the time for such written submissions and any oral argument; and
- (ix) address any other relevant matter concerning the conduct of the hearing.

The Presiding Officer shall document the determinations made at the pre-hearing conference in a writing provided to the Parties, or their counsel, and to Panel members, which document shall be included in the record of proceedings.

7. C. THE HEARING

7. C.1. Pre-Hearing Submissions to the Hearing Panel (or Hearing Officer, if no Panel):

- 7.C.1.a. Each party to the hearing shall submit the information set forth below to the Medical Staff Office at least seven (7) calendar days in advance of the hearing. The parties shall provide a sufficient number of copies of the following information so that copies are available to all Panel members, the Presiding Officer, any counsel for the Presiding Officer, and a single additional copy is available for reference by testifying witnesses at the hearing:
- (i) a Pre-Hearing statement summarizing the party's case to be presented at the hearing;
 - (ii) all exhibits offered by the party;
 - (iii) all stipulations agreed to by both parties; and

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- (iv) initial written direct examination testimony for all witnesses, if previously ordered by the Presiding Officer.

7. C.2. Time Allotted for Hearing:

A hearing should last no more than 15 hours, with each side being afforded approximately 7.5 hours to present their case including both direct and cross-examination of witnesses. Both parties are required to prepare their case so that a hearing will be concluded after a maximum of 15 hours. The Presiding Officer may, after considering any objections, grant limited extensions upon a demonstration of good cause and to the extent compelled by fundamental fairness.

7. C.3. Record of Hearing:

A reporter will be present to make a record of the hearing. The cost of the reporter will be paid by the Medical Center. Copies of the transcript will be available at the individual's expense. Oral testimony will be taken on oath or affirmation administered by any authorized person, if so specified in the Pre-Hearing determinations of the Presiding Officer.

7. C.4. Conduct of the Hearing:

- 7.C.4.a. At the hearing, and subject to reasonable limits determined by the Presiding Officer, both parties may:
- (i) provide an opening statement at the beginning of the hearing, in accordance with any Pre-Hearing determinations of the Presiding Officer;
 - (ii) call, examine and cross examine witnesses;
 - (iii) present evidence determined to be relevant by the Hearing Panel or Officer regardless of its admissibility in a court of law, including by introducing exhibits;
 - (iv) have a record made of the proceeding(s), copies of which may be obtained by the provider upon payment of reasonable charges associated with preparation thereof;
 - (v) have representation by counsel of their choice;
 - (vi) provide a written statement at the close of the hearing, including in accordance with any Pre-Hearing determinations of the Presiding Officer; and

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- (vii) submit proposed findings, conclusions and recommendations to the Hearing Panel, if specified in the Pre-Hearing determinations of the Presiding Officer.
- 7.C.4.b. The Hearing Panel (or Hearing Officer, if no Panel) may question witnesses, request the presence of additional witnesses, or request documentary evidence (in any form, including digital, electronic or otherwise).
- 7.C.4.c. The individual who requested the hearing may be called as a witness, including by any party or at the request of any Panel member or the Hearing Officer; and if the individual refuses to testify when so requested by the MEC or a Panel member (or Hearing Officer), the Panel (or Hearing Officer) may draw appropriate adverse inferences from the refusal.
7. C.5. Order of Presentation:
- The MEC will present its case first in support of its recommendation. Thereafter, the burden will shift to the Medical Staff member who requested the hearing to present evidence.
7. C.6. Admissibility of Evidence:
- The hearing will not be conducted strictly in accordance with the rules of evidence. Evidence will not be excluded merely because it is hearsay. Any relevant evidence will be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. In assessing the relevance and probative value of the evidence, the Panel (or Hearing Officer, if no Panel) shall consider whether the evidence directly addresses the individual's clinical competence, professional conduct, and/or other qualifications at issue relevant to appointment, continuation of appointment, re-appointment to membership and/or clinical privileges.
- 7.C.7. Burden of Proof:
- The burden of proof and persuasion shall be on the individual requesting the hearing to demonstrate that they satisfy, on a continuing basis, all criteria for initial appointment, continuing appointment, reappointment and clinical privileges in connection with their Medical Staff membership.
- 7.C.8. Persons to Be Present:
- The hearing will be restricted to those individuals involved in the proceeding. Medical Staff Office personnel may be present as requested by the CMO or the President of the Medical Staff.
- 7.C.9. Presence of Hearing Panel Members:

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All Hearing Panel members must be present, in person or through electronic means if and as necessary, throughout the hearing. If a Hearing Panel member must be absent for unusual or unforeseeable circumstances during any part of a hearing, the hearing should be postponed to enable that Panel member to resume participation and maintain consistency of Panel presence. If a Panel member is unforeseeably absent for an extended period of time and where postponing for the length of absence would cause undue prejudice to the party requesting the hearing in the opinion of the Presiding Officer, the Presiding Officer may decide whether to proceed with the hearing: (1) with the absent Panel Member continuing and participating through reading the transcript only, if able, or (2) with an alternative third Panel Member with such Member participating through review of the transcript for portions of in-person testimony missed. The Presiding Officer will consult with the parties on the matter, but has ultimate discretion on the manner in which to proceed.

7.C.10. Failure to Appear:

Failure of the individual requesting a hearing to appear and proceed throughout the hearing, without good cause, will constitute a waiver of the right to a hearing and the matter will be forwarded to the Board for final action, if further Board action is necessary.

7.C.11. Postponements and Extensions:

Postponements of the hearing, and extensions of time to conduct the hearing, may be requested by anyone, but will be permitted only by the Presiding Officer, President of the Medical Staff or the CMO on a showing of good cause. Both participants will be allowed to be heard on the request.

7.D. HEARING CONCLUSION, DELIBERATIONS, AND RECOMMENDATIONS

7.D.1. Basis of Hearing Panel Recommendation:

Consistent with the burden on the individual to demonstrate that they satisfy, on a continuing basis, all criteria for initial appointment, reappointment and clinical privileges, the Hearing Panel shall uphold the recommendation by the MEC, or action by the MEC or authorized Hospital official, unless it finds that the individual who requested the hearing has proved, by a preponderance of the evidence, that the recommendation or action was not supported by reliable evidence, or otherwise arbitrary or capricious.

7.D.2. Deliberations and Determination of the Hearing Panel or Hearing Officer:

Within thirty (30) calendar days after final adjournment of the hearing (which may be designated as the time the Hearing Panel or Hearing Officer receives the hearing transcript or any post-hearing statements, whichever is later), the Hearing Panel or Hearing Officer (as applicable) will conduct its deliberations outside the presence of any other person except the Presiding Officer, and any counsel thereto. The Hearing Panel or Hearing

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Officer will render its determination, accompanied by a report, which will contain a statement of the basis for its determination, utilizing the standard set forth in Part 7.D.1.

7.D.3. Disposition of Hearing Panel or Hearing Officer Report:

The Hearing Panel or Hearing Officer will deliver its report to the President of the Medical Staff and CMO. The President of the Medical Staff will send a copy of the report to the individual who requested the hearing and/or their counsel via certified mail, return receipt requested and by first class mail and/or e-mail.

7.D.4. Subsequent Action Based on the Hearing Panel's or Hearing Officer's Determination:

- 7.D.4.a. If the Hearing Panel or Hearing Officer upholds the recommendation by the MEC, or the challenged action by the MEC or authorized Hospital official, the matter shall be referred to the Board for final action, if Board action is necessary; and the party who requested the hearing shall then have an opportunity for appeal in accordance with Paragraph 7.E.
- 7.D.4.b. If the Hearing Panel or Hearing Officer does not uphold the recommendation by the MEC, or the challenged action by the MEC or authorized Hospital official, the MEC shall reconsider its prior recommendation or the challenged action.
- (i) If the MEC modifies the prior recommendation or action in a manner that is consistent with the Hearing Panel or Hearing Officer determination, no further Panel Hearing shall be required, and that matter shall be referred to the Board for final action, if Board action is necessary; and the party who requested the hearing shall then have an opportunity for appeal in accordance with Part 7.E.
 - (ii) If the MEC modifies the prior recommendation or action in a manner that is not consistent with the Hearing Panel or Hearing Officer determination, and the modifications are adverse to the person who requested the hearing, the MEC shall refer the matter to the Hearing Panel or Hearing Officer for a further hearing limited to the issue of whether the adverse modifications are not supported by reliable evidence, or otherwise arbitrary or capricious. The conduct of the Hearing Panel or Hearing Officer shall be subject to the same procedures that are applicable to the original hearing, and the post-hearing process shall be the same as if the determination on further hearing were a determination after the initial hearing.
 - (iii) The provider in issue shall receive copy(ies) of all written decisions and recommendations affecting them, including from the MEC as set forth under 7.D.4.b (i) and/or (ii).

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7.E. OPPORTUNITY FOR APPEAL PROCEDURE

7.E.1. Time for Appeal:

- 7.E.1.a. Within ten (10) days after notice of the Hearing Panel's or Hearing Officer's determination in accordance with Paragraph 7.D.3, or the MEC's final action under Paragraph 7.D.4., the individual who had requested the hearing may appeal the determination or final action. The request must be made in writing, delivered to the Medical Staff office by certified mail, return receipt requested, and must include a statement of the reasons for appeal that qualifies as a ground for appeal under Part 7.E.2.
- 7.E.1.b. If an appeal is not requested within ten (10) days, an appeal is deemed to be waived and the Hearing Panel's reports and the MEC's final action will be forwarded to the Board for final action, if further Board action is required.

7.E.2. Grounds for Appeal:

The grounds for appeal will be limited to the following:

- 7.E.2.a. there was substantial and material failure by the Hearing Panel to comply with this Manual or the Medical Staff Bylaws during the hearing, to such a degree that hearing was fundamentally unfair; or
- 7.E.2.b. the recommendations of the Hearing Panel were made arbitrarily or capriciously or were not supported by reliable evidence.

7.E.3. Time, Place and Notice:

Whenever an appeal is requested, the Chair of the Board will schedule and arrange for an appeal panel and appeal hearing. The individual will be given notice of the time, place, and date of the appeal. The appeal will be held as soon as arrangements can reasonably be made, taking into account the schedules of all the individuals involved.

7.E.4. Nature of Appellate Review:

- 7.E.4.a. The Board may serve as the Review Panel or the Chair of the Board may appoint a Review Panel, composed of members of the Board or others, including but not limited to qualified persons not otherwise associated with the Medical Center. The Panel shall consist of at least three (3) members, none of whom shall be in economic competition with the person requesting the appeal. The Board, in its discretion, may retain counsel to serve as counsel to the Review Panel. In lieu of a Review Panel, the Board may appoint a single person, with relevant experience in judicial or administrative or arbitration proceedings to serve as the Review Officer.

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References to the Review Panel in this Article shall be deemed to include such a Review Officer, if appointed.

- 7.E.4.b. Each party has the right to present a written statement in support of its position on appeal. The party requesting the appeal will submit a statement first and the other party will then have ten days to respond. In its sole discretion, the Review Panel may schedule a hearing which allows each party or its representative to appear personally and make oral argument, not to exceed thirty (30) minutes for each side.
- 7.E.4.c. The Review Panel shall limit its review to determining whether the recommended action, or actions previously taken, were arbitrary and capricious, or were the product of procedures so fundamentally unfair as to undermine the validity of the recommendation or action. The Review Panel shall base its review decision on the record of proceedings of the Hearing Panel, including any hearing transcripts and exhibits, post-hearing submissions, and on the findings and recommendations of the MEC and Hearing Panel.
- 7.E.4.d. If requested by a party, the Review Panel may, in its discretion, decide to consider additional evidence not in the record before the Hearing Panel, but only under the circumstances specified in this paragraph, and subject to the same rights of witness examination/cross-examination provided at the Hearing Panel proceedings. Additional evidence will be allowed and considered only if the Review Panel determines that the party seeking to submit the evidence can demonstrate that it is new, relevant evidence not reasonably available to the party at the time of the Hearing Panel proceedings, or that the party sought to admit the evidence at the hearing and was unreasonably and improperly denied the opportunity to do so by the Hearing Office in a fundamentally unfair manner; and that the additional evidence, if credited, could warrant a rejection of the recommendation of the Hearing Panel.
- 7.E.4.e. The Review Panel shall render its decision as promptly as reasonably possible, but no later than sixty (60) days after receipt of the notice of appeal, unless the time period is extended for good cause.
- 7.E.4.f. The Review Panel shall provide a copy of its written decision(s) to the CMO and to the Provider involved.

7.F. BOARD ACTION

7.F.1. Final Decision of the Board:

- 7.F.1.a. The Board will take final action within sixty (60) days after it: (1) receives the recommendation of the MEC, if no hearing has been timely requested;

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(2) considers a timely appeal when the Board itself acts as a Review Panel,
(3) the Board receives a recommendation from a separately constituted
Review Panel, or (4) receives the Hearing Panel's report when no appeal
has been timely requested; whichever is applicable. The sixty (60) day time
period may be extended, for good cause.

- 7.F.1.b. The Board may review any information that it deems relevant, including, but not limited to, the findings and recommendations of the MEC, the Hearing Panel determinations, and the Review Panel determinations (if applicable).
- 7.F.1.c. Consistent with its ultimate legal authority for the operation of the Medical Center and the quality of care provided, the Board may adopt, modify, or reverse any recommendation that it receives or refer the matter for further review by the MEC.
- 7.F.1.d. The Board will communicate the decision to the Medical Staff President. The President will notify the member or applicant of the Board's decision, in writing, and send a copy to the CMO.
- 7.F.1.e. The decision of the Board will be effective immediately and will not be subject to further review.

7.F.2. Right to One Hearing and One Appeal Only:

Notwithstanding any other provision of this Manual, no individual shall be entitled as a right to more than one evidentiary hearing and one appellate review with respect to an adverse recommendation or action.

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PART 8

CONDITIONS OF PRACTICE APPLICABLE TO THE ADVANCED PRACTICE PROVIDERS (APPs)

8.A. GENERAL CONDITIONS OF PRACTICE APPLICABLE TO ADVANCED PRACTICE PROVIDERS (APPs)

8.A.1. Collaboration with APPs:

- 8.A.1.a. APPs will practice at all times in collaboration with and under the supervision of an Active Physician/Dentist member of the Medical Staff. As a condition of their Medical Staff appointment and any granting of clinical privileges, all APPs specifically agree to be bound by, and to abide by, the conditions set forth in this Credentials Manual, including operating under a plan of supervision or collaboration agreement. Additionally, all Medical Staff members who serve as Supervising/Collaborating Physicians to APPs who are given Medical Staff appointment(s) and clinical privileges by the Medical Center also specifically agree to be bound by, and to abide by, this Credentials Manual and the conditions specifically set forth in this Part 8.
- 8.A.1.b. The following conditions apply to the practice of APPs in the Medical Center, both in the inpatient and outpatient setting:
- (i) APPs shall not be the admitting Provider of record.
 - (ii) APPs cannot be the primary consultant for an inpatient and must maintain a plan of supervision or collaboration agreement for outpatient encounters.
 - (iii) APPs cannot be the primary contact for Emergency On Call Coverage.
 - (iv) APPs may take calls regarding supervising/collaborating physician's hospitalized patients at that physician's discretion, however the physician must personally respond to all calls directed to them in a timely manner.
 - (v) APPs may assist their supervising/collaborating physician in fulfilling daily inpatient rounds as appropriate and may assist their supervising/collaborating physician in fulfilling daily outpatient encounters.

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8.A.2. Delegation of Practice Roles and Responsibilities:

- 8.A.2.a. APPs shall function in the Medical Center only so long as they have a Supervising/Collaborating Physician and a plan of supervision or collaboration agreement.
- 8.A.2.b. Clinical privileges for the APP should be commensurate to their Supervising/Collaborating Physician providing oversight at the time care is delivered.
- 8.A.2.c. If Medical Staff appointment or clinical privileges of a Supervising/Collaborating Physician become the subject of an adverse action subject to a right of fair hearing under Part 7 of this Manual, regardless of whether or not such right of fair hearing is exercised, the APP must immediately seek an alternative Supervising/Collaborating Physician for oversight.
- 8.A.2.d. As a condition of clinical privileges, an APP and the Supervising/Collaborating Physician must provide the Medical Center with a current plan of supervision or collaboration agreement, and notice of any revisions or modifications that are made to the agreement between them. This notice must be provided to the Medical Staff Office within three (3) days of any such change. If at any time the APP is not operating under a plan of supervision or collaboration agreement, or does not have a Collaborating/Sponsoring Physician, the privileges of that APP are automatically relinquished until a new agreement can be achieved, or no later than thirty (30) days from the date of the termination of the acting agreement.
- 8.A.2.e. Physicians who intend to practice in collaboration with or as a supervisor of an APP in their clinical practice must provide advanced notification to the Medical Staff Office. It is their responsibility to ensure that the APP has been appropriately credentialed and privileged in accordance with this Manual prior to the APP engaging in any practice in the Medical Center.
- 8.A.2.f. The number of APPs practicing with plans of supervision/collaboration agreements with one physician, as well as the care they may provide, will be consistent with applicable state statutes and regulations and any other policies adopted by the Medical Center. The Supervising/Collaborating Physician(s) will make all appropriate filings with the applicable state agency or agencies regarding the supervision/collaboration and responsibilities of the APP, to the extent that such filings are required, as well as the required documentation needed for Medical Staff membership and privileges for the APP

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- 8.A.2.g. It will be the responsibility of the Supervising/Collaborating Physician to be aware of their responsibilities as a supervisor and provide the necessary resources as such.

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PART 9

CONFLICTS OF INTEREST

9.A. CONFLICTS OF INTEREST RELATED TO THIS CREDENTIALING MANUAL

The following are considered conflicts of interest related to this Credentialing Manual.

- 9.A.1. If a Medical Staff or Committee Member has or reasonably could be perceived as having a conflict of interest or a bias in decision-making or performing any function outlined in this Manual or in the Medical Center Bylaws, applicable policies, or the Medical Staff Rules and Regulations, that Member shall not participate in voting on the matter (and/or in the function), and may be excused from any meeting during vote. However, the Medical Staff or Committee Member may provide relevant information and may answer any questions concerning the matter prior to vote, consistent with Part 9.A.4. below.
- 9.A.2. Recognized conflict of interest limitations include financial and familial conflict of interests. Medical Staff and Committee Member(s) should not vote on matters in which they stand to benefit financially from the decision, either directly or by virtue of the Member's ownership interest in a company that would financially benefit from the decision. A Member should not vote on a matter in which their family member(s) would directly benefit from this decision. These constraints apply to (but are not limited to) decisions about medical staff membership, award of privileges, and even scope of eligible privileges for candidates with a given level of training or experience.
- 9.A.3. Medical Staff and Committee Member(s) should abstain from voting on any matter when for any reason they are not capable of making a decision based on the objective merits of the proposition. Bias reasons warranting abstaining from vote may include personal friendship, personal animosity, or unrelated prejudgments.
- 9.A.4. A Medical Staff or Committee Member who is limited by a conflict of interest may still have useful information to share with fellow Member(s) about the proposition under consideration. That Member should disclose the conflict, and state that they will not be voting on the matter because of the conflict, before expressing an opinion to other Members on the matter.
- 9.A.5. An employee of Maine Medical Center need not abstain from voting on a matter involving another employee of Maine Medical Center, not family-related, simply by virtue of employment status. An employee of Maine Medical Center has no ownership interest in Maine Medical Center that requires abstention.
- 9.A.6. A Member who is a shareholder in a private practice group should not vote on an application for Medical Staff membership of persons who are or will be under contract to work for that group. Similarly, they should not vote on privileges/a scope of privilege decision(s) that might affect the financial interest of the business in which the Member is a shareholder.

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9.A.7. The fact that a Medical Staff or Committee Member chooses to refrain from participation, or is excused from participation, will not be interpreted as a finding of actual conflict.

Approval Dates:

MEC: 4/21/23

BOT: 6/7/23