



Medical Staff Fair Hearing Plan

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FAIR HEARING PLAN

DEFINITIONS

The following definitions, in addition to those stated in other provisions of the Medical Staff Bylaws, shall apply to the provisions of this Fair Hearing Plan:

Day means calendar days, unless otherwise specified.

Board means the Board of Directors of Saint Francis Healthcare.

Parties means the practitioner who requested the hearing or appellate review and the body or bodies upon whose adverse recommendation or action a hearing or appellate review request is predicated.

Practitioner means an applicant or Staff member with respect to whom an adverse action has been recommended or taken.

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

ARTICLE I. INITIATION OF HEARING

1.1. RECOMMENDATIONS OR ACTIONS

The following recommendations or actions, if deemed adverse pursuant to Section 1.2 below, shall entitle the practitioner affected thereby to a hearing upon a timely and proper request:

1. denial of initial Staff membership;
2. denial of reappointment;
3. suspension of staff membership; (other than Precautionary Suspension);
4. revocation of staff membership;
5. reduction of staff category;
6. restriction of admitting prerogatives;
7. denial of requested clinical privileges, and
8. reduction, restriction, suspension or revocation of clinical privileges.

1.2. WHEN DEEMED ADVERSE

A recommendation or action listed in Section 1.1 shall be deemed adverse action only when it is:

1. recommended by the MEC; or
2. taken by the Board under circumstances where no prior right to a hearing existed;

1.3. EXCEPTIONS

The following recommendations and/or actions, even if deemed adverse pursuant to Section 1.1 and 1.2 of the Fair Hearing Plan shall not give rise to any right to a hearing or appellate review:

1. the issuance of a letter of warning, guidance, counsel, admonition, or reprimand;
2. imposition of conditions, monitoring, or a general consultation requirement (i.e., the individual must obtain a consult but need not get prior approval for the treatment);
3. imposition of a requirement for additional training or continuing education;
4. precautionary suspension;
5. denial of a request for leave of absence or for an extension of a leave;
6. determination that an application is incomplete;
7. determination that an application will not be processed due to a misstatement or omission;
8. determination of ineligibility based on a failure to meet threshold eligibility criteria, a lack of need or resources, or because of an exclusive contract;
9. imposition of a term of probation;
10. the denial, restriction or termination of temporary privileges;
11. the denial, restriction, or termination of Staff membership or Staff category of a member of the Emeritus or Community Staff;
12. any relinquishment or other action imposed automatically;
13. current members of the Medical Staff who are excluded from a Federally funded health care program shall also not have the right to a hearing under this Article regarding the resulting termination of their staff membership and privileges. However, if the member immediately notifies the Hospital President of the exclusion of any proposed or actual exclusion from any Federally funded health care program as required by these Bylaws, a simultaneous request in writing by the member for a meeting with the Hospital President and the VPMA/CMO, to contest the fact of the exclusion and present relevant information shall be granted.;

if requested, such a meeting shall be held as soon as possible but in no event later than five (5) business days from the date of the written request. The Hospital President and the VPMA/CMO shall determine within ten (10) business days following the meeting, and after such follow-up investigation as they deem appropriate, whether the exclusion had in fact occurred, and whether the member's staff membership and privileges shall be immediately terminated. The determination of the Hospital President and the VPMA/CMO regarding the matter shall be final, and the member shall have no further procedural rights within the Hospital or its Medical Staff. The member shall be given notice of the termination in the most expeditious manner possible, and shall also promptly receive written notice of the termination;

a current member who does not immediately notify the Hospital President of the exclusion of any proposed or actual exclusion from any Federally funded health care program as required by these Bylaws shall have his or her staff membership and privileges terminated, effective immediately, at such time as the Hospital President or his or her designee receives reliable information of the member's exclusion. The member shall be given notice of the termination in the most expeditious manner possible, and shall also promptly receive written notice of the termination;

whenever a member's membership and privileges are terminated pursuant to this Section, the VPMA/CMO and the Member's Department Chairperson shall take all necessary steps to ensure that any patients currently under the member's care in the Hospital shall immediately be brought under the care of another appropriate practitioner;

no report of any action taken based on a practitioner's exclusion from a health care program funded, in whole or in part, by the Federal government shall be reported to the State Medical Board or the NPDB, whether that action involves a decision to not process an application or to terminate a practitioner's membership and privileges, because the action taken is based on the practitioner's failure to meet a basic qualification of membership, and

14. any other actions not specified in Sections 1.1 and 1.2 of this Fair Hearing Plan.

1.4. NOTICE OF ADVERSE RECOMMENDATION OR ACTION

A practitioner with respect to whom adverse action has been recommended or taken pursuant to Section 1.1 and 1.2 shall promptly be given Special Notice of such action by the Chief Executive Officer. The Notice shall state:

1. that an adverse action has been proposed to be taken involving the practitioner;
2. a general description of the proposed action and the reasons for the proposed action;
3. that the practitioner has the right to request a hearing on the proposed adverse action in accordance with the Medical Staff Bylaws and this Fair Hearing Plan;
4. that the practitioner has thirty (30) days after receiving the Notice within which to request a hearing;
5. a copy of this Fair Hearing Plan;
6. that, after receipt of his hearing request, the practitioner will be notified of the date, time and place for the hearing; and
7. that failure to request a hearing within the specified time period shall constitute a waiver of his or her rights to a hearing and to an appellate review on the matter.

1.5. REQUEST FOR HEARING

A practitioner shall have thirty (30) days following his receipt of a notice pursuant to Section 1.4 to file a written request for a hearing. Such request shall be deemed to have been made when received by the Chief Executive Officer. The request for a hearing shall state whether the practitioner wishes to be represented by an attorney at the hearing.

1.6. FAIR HEARING PROCESS FOR ALLIED HEALTH PROFESSIONALS

Allied Health Professionals may request a fair hearing by submitting a request in writing to the Chief Executive Officer within thirty (30) days following receipt of a notice.

The procedures will be the same as for members of the medical staff as specified in this Plan, with the following exceptions:

In Section 2.3.A. By the Medical Staff – The Hearing Committee shall be composed of two impartial peers and be chaired by an impartial member of the Active Staff (a physician);

In Section 2.3.B. By the Board – The Hearing Committee shall include an impartial peer among its members instead of the requirement for at least one (1) member of the Active Staff.

1.7. WAIVER BY FAILURE TO REQUEST A HEARING

- A. A practitioner who fails to request a hearing within the time specified in Section 1.5 waives any right to such hearing and to any appellate review to which he or she might otherwise have been entitled. Such waiver applies only to the matters that were the basis for the adverse recommendation or action triggering the Special Notice.
- B. Effect of a Waiver: Such a waiver in connection with:
 - 1. An adverse action by the Board shall constitute acceptance of that action, which shall thereupon become effective as the final decision of the Board.
 - 2. An adverse recommendation by the MEC shall constitute acceptance of that recommendation, which shall thereupon become and remain effective pending the final decision of the Board. The Board shall consider the MEC's recommendations at its next regular meeting following the waiver. In its deliberations, the Board shall review all the information and material considered by the MEC and may consider additional relevant information received from any source. The Board is not bound by the adverse recommendation or action that the practitioner has accepted by the waiver but may take any action, whether more or less severe, it deems warranted by the circumstances.
- C. The Chief Executive Officer shall promptly send the practitioner Special Notice informing him of each action taken and also shall inform the President of the Staff.

ARTICLE II. HEARING PREREQUISITES

2.1. SCHEDULING OF THE HEARING

- A. Upon receipt of a timely request for hearing, the Chief Executive Officer shall deliver such request to the President of the Medical Staff or to the Chairman of the Board, depending on whose recommendation or action prompted the request for hearing. The Chief Executive Officer in consultation with the President of the Staff or the Chairman of the Board, as applicable, shall promptly schedule and arrange for a hearing.
- B. The date for commencement of the hearing shall be not less than thirty (30) days nor more than sixty (60) days from the date of receipt of the request for hearing. Requests for postponement or

rescheduling of a hearing shall be granted by the presiding officer only upon a showing of good cause and only if the request is made as soon as reasonably practical.

2.2. NOTICE OF HEARING

At least twenty (20) days prior to the hearing, the Chief Executive Officer shall send the practitioner Special Notice of the time, place, and date of the hearing. The Notice shall also contain the following information:

1. a concise statement of the reasons;
2. a list by number of the specific or representative patient records in question, and/or the other reasons or subject matter forming the basis for the adverse recommendation or action which is the subject of the hearing;
3. a list of witnesses expected to testify on behalf of the Executive Committee or Board at the hearing;
4. a list of the members of the Hearing Committee (if any);
5. the name of the Hearing Officer or Hearing Examiner (if any);
6. the name of the person representing the MEC or Board;
7. a statement notifying the practitioner that he or she is required to provide to the Chief Executive Officer no later than ten (10) days prior to the hearing date a list of witnesses (if any) expected to testify and a list of documents and other materials expected to be introduced at the hearing on behalf of the practitioner.; and
8. a statement advising that the practitioner will forfeit his or her rights to a hearing and appellate review if the practitioner fails, without good cause, to provide the list of witnesses and documents or to appear at the hearing.

2.3. APPOINTMENT OF HEARING COMMITTEE

- A. **By MEC** – A hearing occasioned by a MEC recommendation or action shall be conducted by a Hearing Committee appointed by the Hospital Chief Executive Officer in consultation with the President of the Medical Staff or designee. The Hearing Committee shall be composed of at least three (3) members of the Active Staff who are qualified to serve. One of the members so appointed shall be designated as Chairperson. In the event it is not possible to appoint a fully qualified Hearing Committee from the Active Staff, qualified physicians from other categories of the Staff may serve on the Hearing Committee.
- B. **By Board** - A hearing occasioned by an adverse action of the Board shall be conducted by a Hearing Committee appointed by the Chairman of the Board and composed of at least three (3) persons who are qualified to serve. At least one (1) Active Staff member chosen shall be included on this Committee when the issues concern professional competence or performance. One of the members so appointed shall be designated as Chairperson.
- C. **Service on Hearing Committee** - To be qualified to serve on a Hearing Committee, a Medical Staff member or a Board member shall not have actively participated in formulating the adverse recommendation or action that occasioned the hearing, or in initiating or investigating the underlying matter at issue at any earlier stage of the proceedings. A Staff or Board member shall

not be disqualified from serving on the Hearing Committee merely because he or she heard of the case or has knowledge of the facts involved or what he or she supposes the facts to be, or because he or she is a party to a contract or is employed by the Hospital or an affiliate. None of the members of the Hearing Committee or the Hearing Officer shall be in direct economic competition with the practitioner. All members of the Hearing Committee shall be required to consider and decide the case with good faith objectivity.

2.4. APPOINTMENT OF A HEARING OFFICER

A hearing must be conducted by a Hearing Officer and such person shall be appointed as follows:

- A. Hearing Officer: The appointment of a Hearing Officer to preside at an evidentiary hearing and assist the hearing committee shall be determined by the Chief Executive Officer after consultation with the President of the Medical Staff or designee (for hearings based upon the actions of the Executive Committee) or with the Chairman of the Board (for hearings based upon the actions of the Board). The Hearing Officer shall act in an impartial manner as the Presiding Officer of the hearing. The Hearing Officer may not participate in the deliberations of the hearing committee and is not entitled to vote.
- B. A Hearing Officer may, but need not be, an attorney, but shall be experienced in conducting hearings. The Hearing Officer may not be a practitioner in economic competition with or having any interest adverse to the subject practitioner. . The Hearing Officer may not have participated in any previous investigation or consideration of the matter. A Hearing Officer shall not be disqualified from serving merely because he or she has heard of the matter or has knowledge of the facts involved. The Hearing Officer, however, must consider and decide the case with good faith objectivity.

2.5. PRE-HEARING PROCEDURES

- A. The pre-hearing and hearing processes will be conducted in an informal manner. Formal rules of evidence or procedure will not apply.
- B. Prior to receiving any confidential documents, the individual requesting the hearing must agree that all documents and information will be maintained as confidential and will not be disclosed or used for any purpose outside of the hearing. The individual must also provide a written representation that his/her counsel and any expert(s) have executed Business Associate agreements in connection with any patient Protected Health Information contained in any documents provided.
- C. Upon receipt of the above agreement and representation, the individual requesting the hearing will be provided with the following:
 - 1. copies of, or reasonable access to, all patient medical records referred to in the statement of reasons, at the individual's expense;
 - 2. reports of experts relied upon by the MEC;
 - 3. copies of relevant minutes (with portions regarding other physicians and unrelated matters deleted); and
 - 4. copies of any other documents relied upon by the MEC.

The provision of this information is not intended to waive any privilege under the state peer review protection statute.

- D. The individual will have no right to discovery beyond the above information. No information will be provided regarding other practitioners.
- E. Prior to the pre-hearing conference, on dates set by the Presiding Officer or agreed upon by both sides, each party will provide the other party with its proposed exhibits. All objections to documents or witnesses, to the extent then reasonably known, will be submitted in writing in advance of the pre-hearing conference. The Presiding Officer will not entertain subsequent objections unless the party offering the objection demonstrates good cause.
- F. Evidence unrelated to the reasons for the recommendation or to the individual's qualifications for appointment or the relevant clinical privileges will be excluded.
- G. Neither the individual, nor any other person acting on behalf of the individual, may contact Hospital employees whose names appear on the MEC's witness list or in documents provided pursuant to this section concerning the subject matter of the hearing, until the Hospital has been notified and has contacted the employees about their willingness to be interviewed. The Hospital will advise the individual once it has contacted such employees and confirmed their willingness to meet. Any employee may agree or decline to be interviewed by or on behalf of the individual who requested a hearing.
- H. The Presiding Officer will require the individual or a representative (who may be counsel) for the individual and for the MEC to participate in a pre-hearing conference. At the pre-hearing conference, the Presiding Officer will resolve all procedural questions, including any objections to exhibits or witnesses. The Presiding Officer will establish the time to be allotted to each witness's testimony and cross-examination. It is expected that the hearing will last no more than fifteen (15) hours, with each side being afforded approximately seven and a half (7 ½) hours to present its case, in terms of 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 fifteen (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.
- I. The parties and counsel, if applicable, will use their best efforts to develop and agree upon stipulations, so as to provide for a more orderly and efficient hearing by narrowing the issues on which live testimony is reasonably required.
- J. The following documents will be provided to the Hearing Committee in advance of the hearing: (a) a pre-hearing statement that either party may choose to submit; (b) exhibits offered by the parties following the pre-hearing conference (without the need for authentication); and (c) stipulations agreed to by the parties.

ARTICLE III. HEARING PROCEDURE

3.1. PERSONAL PRESENCE

The personal presence of the practitioner who requested the hearing is required. A practitioner who fails without good cause to appear and proceed at such hearing shall be deemed to have waived his or her rights in the same manner and with the same consequence as provided in Section 1.6.

3.2. PRESIDING OFFICER

The Hearing Officer or Examiner, if one is appointed pursuant to Section 2.4, or the Chairperson of the Hearing Committee shall serve as the Presiding Officer. The Presiding Officer shall act to maintain decorum and to assure that all participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence. The Presiding Officer shall require and supervise the liberal exchange of evidence prior to the hearing. The Presiding Officer shall be entitled to determine the order of procedure during the hearing and shall make all rulings on matters of law, procedure, and the admissibility of evidence.

3.3. REPRESENTATION

The practitioner who requested the hearing shall be entitled to be accompanied and represented at the hearing by an attorney, a member of the Medical staff in good standing, or by a member of his or her local professional society. The Executive Committee or the Board, depending upon whose recommendation has prompted the hearing, shall appoint an individual (an attorney, Staff member or Board member) to represent it at the hearing, to present the facts in support of its adverse recommendation or action, to introduce exhibits, to be cross examined by the impacted practitioner or his/her representative, and to examine witnesses.

3.4. RIGHTS OF PARTIES

During a hearing, each of the parties shall have the right to:

1. call and examine the witnesses;
2. introduce evidence, including exhibits determined to be relevant by the Presiding Officer, regardless of its admissibility in a court of law;
3. cross-examine any witness on any matter relevant to the issues;
4. impeach any witness;
5. rebut any evidence;
6. submit a written statement at the close of the hearing; and,
7. obtain a copy or transcript of the hearing record.

If the practitioner who requested the hearing does not testify on his/her own behalf, he may be called and examined as if under cross-examination.

3.5. PROCEDURE AND EVIDENCE

The hearing shall not be conducted strictly according to rules of law relating to the examination of witnesses or presentation of evidence. Any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs shall be admitted, regardless of the admissibility of such evidence in a court of law. Evidence will not be excluded merely because it is hearsay. Each party, prior to or during the hearing, shall be entitled to submit memoranda concerning any issue of law or fact, and such memoranda shall become a part of the hearing record. The Presiding Officer may require one or both parties to prepare and submit to the committee, written statements of their position on the issues, prior to, during, or after, the

hearing. The Presiding Officer may, but shall not be required to, order that oral evidence be taken only on oath or affirmation.

3.6. EVIDENTIARY NOTICE

In reaching a decision, the hearing committee (or hearing examiner) may take note, for evidentiary purposes, of any generally accepted technical or scientific matter relating to the issues under consideration and of any facts that may be judicially noticed by the courts of the State of Delaware. Parties present at the hearing shall be informed of the matters to be noticed and those matters shall be recited in the hearing record. Any party shall be given opportunity, on timely request, to request that a matter be evidentially noticed and to refute the evidentially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the hearing committee. The committee shall also be entitled to consider any pertinent material contained on file in the hospital, and all other information that can be considered, pursuant to the Medical Staff bylaws, in connection with applications for appointment or reappointment to the staff and for clinical privileges.

3.7. BURDEN OF PROOF

It shall be the obligation of the Committee or Board representative to go forward and present evidence in support of the adverse recommendation or decision. The affected practitioner shall thereafter be responsible for presenting evidence in support of his/her challenge to the adverse recommendation or decision. The affected petitioner shall be responsible for supporting the challenge to the adverse recommendation or decision by showing by a preponderance of the evidence that the recommended action lacks basis, or that such basis or action based thereon is either arbitrary, unreasonable, or capricious.

3.8. RECORD OF HEARING

A record of hearing shall be kept that is of sufficient accuracy to assure that an informed and valid judgment can be made by any group that may later be called upon to review the record and render a recommendation or decision in the matter. The Presiding Officer shall select the method to be used for making the record, such as court reporter, electronic recording unit, or detailed transcription. A copy of the record may be obtained by the practitioner upon payment of reasonable charges associated with its preparation.

3.9. RECESSES AND ADJOURNMENT

The Presiding Officer may recess the hearing without additional notice for the convenience of the participants or for the purpose of obtaining new or additional evidence or consultation. The Presiding Officer shall reconvene the hearing within a reasonable time period depending upon the availability of the participants.

Upon conclusion of the presentation of oral or written evidence, the hearing shall be closed. The hearing committee (or hearing examiner) shall thereupon, at a time convenient to itself, conduct its deliberations outside the presence of the parties. Upon the conclusion of its deliberations, the hearing shall be declared finally adjourned.

3.10. PRESENCE OF HEARING COMMITTEE MEMBERS AND VOTE

A majority of the Hearing Committee must be present throughout the hearing and deliberations. Any committee member who is absent from any part of the proceedings may not participate in the deliberations or the decision, without the agreement of all parties.

**ARTICLE IV.
HEARING COMMITTEE REPORT AND FURTHER ACTION**

4.1. HEARING COMMITTEE REPORT

Within fourteen (14) days after final adjournment of the hearing, the Hearing Committee or hearing examiner shall prepare a written report of its findings and recommendations in the matter and shall forward the same, together with the hearing record and other documentation considered, to the body whose adverse recommendation or action occasioned the hearing. All findings shall be supported by reference to the hearing record and other evidence considered. A copy of the report shall also be forwarded to the practitioner.

4.2. ACTION ON HEARING COMMITTEE REPORT

Within fourteen (14) days after receipt of the hearing report, the MEC or the Board, as the case may be, shall consider the same and affirm, modify or reverse its recommendation or action in the matter. It shall transmit its decision, together with the hearing record, the hearing report and all other documentation considered, to the Chief Executive Officer.

4.3. NOTICE OF DECISION

The Chief Executive Officer shall promptly send a copy of the decision to the practitioner by Special Notice, to the President of the Medical Staff or designee, the MEC and the Board.

4.4. EFFECT OF FAVORABLE RESULT

- A. Adopted by the Board: If the Board's decision is favorable to the practitioner, it shall become the final decision of the Board and the matter shall be considered closed.
- B. Adopted by the MEC: If the MEC's decision is favorable to the practitioner, the Chief Executive Officer shall promptly forward it, together with all supporting documentation, to the Board for its final action. The Board shall take action thereon by adopting or rejecting the MEC's result in whole or in part, or by referring the matter back to the MEC for further reconsideration. Any such referral back shall state the reasons therefore, set a time limit, and may include a directive that an additional hearing be conducted to clarify issues that are in doubt. After receipt of such subsequent recommendation and any new evidence in the matter, the Board shall take final action. The Chief Executive Officer shall promptly send the practitioner Special Notice of each action taken. Favorable action shall become the final decision of the Board, and the matter shall be considered closed.

4.5. EFFECT OF ADVERSE RESULT

If, subsequent to the hearing, initiated by the MEC or the Board, the decision of the MEC or of the Board is adverse to the practitioner in any of the respects listed in Section 1.1, the practitioner shall be entitled to appellate review by the Board. The Chief Executive Officer shall promptly send the practitioner a Special Notice informing the practitioner of his or her right to appellate review.

**ARTICLE V.
INITIATION AND PREREQUISITES OF APPELLATE REVIEW**

5.1. REQUEST FOR APPELLATE REVIEW

A practitioner shall have fourteen (14) days following receipt of a Special Notice pursuant to Section 4.5 to submit a written request for an appellate review. Such request shall be deemed to have been made when received by the Chief Executive Officer. The request may include a request for a copy of the report and hearing record and all other material, favorable or unfavorable, if not previously forwarded, that was considered in making adverse action or result. The practitioner may be represented by an attorney or other appropriate person with regard to appellate review and at any appellate review appearance that may be granted under Section 6.4.

5.2. WAIVER BY FAILURE TO REQUEST APPELLATE REVIEW

A practitioner who fails to request an appellate review within the time and in the manner specified in Section 5.1 waives any right to such review. Such waiver shall have the same force and effect as that provided in Section 1.6.

5.3. NOTICE OF TIME AND PLACE FOR APPELLATE REVIEW

Upon receipt of a timely request for appellate review, the Chief Executive Officer shall deliver such request to the Chairman of the Board. The Board shall promptly schedule and arrange for an appellate review, which shall be not less than thirty (30) days nor more than forty-five (45) days from the date of receipt of the appellate review request; provided, however, that an expedited appellate review shall be offered to a practitioner who is under a suspension then in effect, which shall be held as soon as the arrangements for it may reasonably be made, but not later than thirty (30) days from the date of receipt of the request for appellate review. The Chief Executive Officer shall promptly send the practitioner Special Notice of the time, place and date of the review. The time for the appellate review may be extended by the appellate review body upon request of the parties for good cause if the request is made as soon as is reasonably practical.

5.4. APPELLATE REVIEW BODY

The Board shall determine whether the appellate review shall be conducted by the Board as a whole or by an appellate review committee composed of at least three (3) members of the Board (who did not serve on the hearing committee) appointed by the Chairman of the Board. If a Committee is appointed, one of its members shall be designated as Chairperson.

ARTICLE VI. APPELLATE REVIEW PROCEDURE

6.1. NATURE OF PROCEEDINGS

The proceedings by the appellate review body shall be in the nature of an appellate review based upon the Report of the Hearing Committee or Examiner, the hearing record and other evidence admitted at the hearing, all subsequent results and actions, any written statements, and any other materials or oral statements as may be presented and accepted under Sections 6.4 and 6.5.

6.2. WRITTEN STATEMENTS

The practitioner seeking the review shall submit a written statement detailing the findings of facts, conclusions and procedural matters with which he or she disagrees, and the reasons for such disagreement.

This written statement may cover any matters raised at any step in the hearing process. The statement shall be submitted to the appellate review body through the Chief Executive Officer at least fifteen (15) days (seven (7) days for expedited appellate review) prior to the scheduled date of the appellate review, except if the time limit is waived by the review body. A written statement in reply may be submitted by the Executive Committee or by the Board and, if submitted, the Chief Executive Officer shall provide a copy thereof to the practitioner at least seven (7) days (four (4) days for an expedited review) prior to the scheduled date of the appellate review.

6.3. PRESIDING OFFICER

The Chairperson of the appellate review body shall be the Presiding Officer. The Presiding Officer shall determine the order of procedure during the review, make all required rulings, and maintain decorum.

6.4. ORAL STATEMENT

The appellate review body, in its sole discretion, may allow the parties or their representatives to appear personally and make oral statements in favor of their positions. Any party or representative so appearing shall be required to answer questions put to him by any member of the appellate review body.

6.5. CONSIDERATION OF NEW OR ADDITIONAL MATTERS

New or additional matters or evidence not raised or presented during the original hearing or in the hearing report and not otherwise reflected in the record shall be introduced at the appellate review only at the discretion of the review body and, as the review body deems appropriate, only if the party requesting consideration of the matter or evidence shows that it could not have been discovered in time for the initial hearing. The requesting party shall provide, through the Chief Executive Officer, a written substantive description of the matter or evidence to the appellate review body and the other party at least seven (7) days prior to the scheduled date of the review.

6.6. POWERS

The appellate review body shall have all power granted to a hearing committee, and such additional powers as are reasonably appropriate to the discharge of its responsibilities.

6.7. PRESENCE OF MEMBERS AND VOTE

A majority of the members of the appellate review body must be present throughout the review and deliberations. If a member of the review body is absent from any part of the proceedings, that member may not be permitted to participate in the deliberations or the decision without the agreement of the parties.

6.8. RECESSES AND ADJOURNMENT

The appellate review body may recess the review proceedings and reconvene the same without additional notice for the convenience of the participants or for the purpose of obtaining new or additional evidence or consultation.

Upon the conclusion of oral statements, if allowed, the appellate review shall be closed. The appellate review body shall thereupon, at a time convenient to itself, conduct its deliberations outside the presence

of the parties. Upon the conclusion of those deliberations, the appellate review shall be declared finally adjourned.

6.9. ACTION TAKEN

The appellate review body may recommend that the Board affirm, modify or reverse the adverse result or action taken by the MEC or by the Board, or, in its discretion, may refer the matter back to the Hearing Committee for further review and recommendation to be returned to it within fourteen (14) days and in accordance with its instructions. Within fourteen (14) days after receipt of such recommendation after referral, the appellate review body shall make its recommendation to the Board.

**ARTICLE VII.
FINAL DECISION OF THE BOARD**

7.1. BOARD ACTION

Within thirty (30) days after the conclusion of the appellate review, the Board shall render its final decision in the matter in writing and the Chief Executive Officer shall send Special Notice thereof to the practitioner and to the Executive Committee. If this decision is in accord with the MEC's last recommendation in the matter, if any, it shall be immediately effective and final. If the Board's action has the effect of changing the MEC's last such recommendation, if any, the Board shall refer the matter to the Joint Conference Committee comprised of the officers of the Medical Staff and the officers of the Board.

7.2. JOINT CONFERENCE COMMITTEE REVIEW

Within fourteen (14) days of its receipt of a matter referred to it by the Board pursuant to the provisions of this Plan, the Joint Conference Committee shall submit its recommendation to the Board. The Board's action on the matter shall be immediately effective and final.

**ARTICLE VIII.
GENERAL PROVISIONS**

8.1. NUMBER OF REVIEWS

Notwithstanding any other provision of the Medical Staff Bylaws or of this Fair Hearing Plan, no practitioner shall be entitled as a right to more than one evidentiary hearing and appellate review with respect to the subject matter that is the basis of the adverse recommendation or action triggering the right.

8.2. EXTENSIONS

Stated time periods and limits for actions, notices, requests, submissions of material and scheduling in this Fair Hearing Plan may be extended upon the agreement of the parties, and, when necessary, the Presiding Officer.

8.3. RELEASE

By requesting a hearing or appellate review under this plan, a practitioner agrees to be bound by the provisions of the Medical Staff Bylaws relating to immunity from liability in all matters related thereto.

**ARTICLE IX.
ADOPTION AND AMENDMENT**

9.1. AMENDMENT

This Fair Hearing Plan may be amended or repealed, in whole or in part, in accordance with the procedure set forth in the Medical Staff Bylaws.

9.2. ADOPTION

This Fair Hearing Plan is adopted and made effective upon approval of the Board of Directors, superseding and replacing any previous Fair Hearing Plans of Saint Francis Healthcare.