

**MINNETONKA AMBULATORY  
SURGERY CENTER, LLC**

**MEDICAL STAFF BYLAWS**

## TABLE OF CONTENTS

PREAMBLE .....	3
DEFINITIONS .....	3
ARTICLE I: NAME .....	4
ARTICLE II: PURPOSES .....	4
ARTICLE III: MEDICALSTAFF MEMBERSHIP.....	4
SECTION 1. NATURE OF MEDICAL STAFF MEMBERSHIP .....	4
SECTION 2. CATEGORIES OF MEDICAL STAFF MEMBERSHIP .....	4
SECTION 3. APPOINTMENT TO THE ACTIVE MEDICAL STAFF .....	5
SECTION 4. MEDICAL STAFF REAPPOINTMENT .....	12
SECTION 5. REQUEST FOR MODIFICATION OF PRIVILEGES.....	14
SECTION 6. NON-PHYSICIAN STAFF PRACTITIONERS.....	14
ARTICLE IV: CLINICAL PRIVILEGES .....	15
SECTION 1. TEMPORARY PRIVILEGES .....	15
ARTICLE V: OVERSIGHT OF PRACTITIONERS .....	16
SECTION 1. SUMMARY SUSPENSION.....	16
SECTION 2. AUTOMATIC SUSPENSION .....	17
SECTION 3. OVERSIGHT OF MEMBERS .....	17
SECTION 4. REPORTING .....	26
ARTICLE VI: OFFICERS.....	27
SECTION 1. OFFICERS OF THE MEDICAL STAFF .....	27
SECTION 2. APPOINTMENT OF OFFICERS .....	27
SECTION 3. REMOVAL OF OFFICERS .....	27
SECTION 4. TERM OF OFFICE.....	27
SECTION 5. DUTIES OF OFFICERS.....	28
ARTICLE VII: MEDICALSTAFF MEETINGS .....	28
SECTION 1. REGULAR MEETINGS .....	28
SECTION 2. SPECIAL MEETINGS .....	28
SECTION 3. QUORUM .....	28
SECTION 4. AGENDA .....	28
SECTION 5. ACTIONS IN LIEU OF A MEETING.....	29
ARTICLE VIII: SURGERY CENTER COMMITTEES .....	29
SECTION 1. OBLIGATION TO SERVE ON COMMITTEES .....	29
SECTION 2. LIST OF SURGERY CENTER COMMITTEES .....	29
ARTICLE IX: IMMUNITY FROM LIABILITY .....	30
ARTICLE X: ADOPTION AND AMENDMENTS .....	31
ARTICLE XI: GENDER INCLUSIVE LANGUAGE.....	32
ARTICLE XII: STAFF RULES AND REGULATIONS .....	32
ARTICLE XIII: CONFIDENTIALITY AND AUTHORITY OF COMMITTEES .....	32
SECTION 1. CONFIDENTIALITY .....	32
SECTION 2. BREACH OF CONFIDENTIALITY .....	32
SECTION 3. CONFLICTS .....	33
SECTION 4. AUTHORITY OF BOARD OF DIRECTORS .....	33
SECTION 5. ARBITRATION.....	33

## **PREAMBLE**

WHEREAS, the Minnetonka Ambulatory Surgery Center, LLC is a Limited Liability Company organized under the laws of the State of Minnesota;and

WHEREAS, its purpose is to serve as a surgery center, focused on the provision of high quality of surgical care to its patients;and

WHEREAS, it is recognized that the Minnetonka Ambulatory Surgery Center Medical Staff is responsible for the quality of medical care within the Minnetonka Ambulatory Surgery Center and must accept and discharge this responsibility, subject to the ultimate authority of the Minnetonka Ambulatory Surgery Center Board of Directors, and that the cooperative efforts of the Medical Staff, the Medical Director and the Board of Directors are necessary to fulfill Minnetonka Ambulatory Surgery Center's obligation to its patients;

THEREFORE, the practitioners practicing in the Surgery Center hereby organize themselves into a Medical Staff in conformity with these Bylaws which will be reviewed and revised biennially or as deemed necessary.

## **DEFINITIONS**

1. The term "Medical Staff" means all doctors of medicine and osteopathy, podiatry and dentistry, if appropriately licensed and granted privileges at the Surgery Center.
2. The term "Board of Directors" means the Minnetonka Ambulatory Surgery Center Board of Directors.
3. The "Medical Director" means the individual appointed by the Minnetonka Ambulatory Surgery Center to act according to this title on behalf of the overall management of the Minnetonka Ambulatory Surgery Center.
4. The term "Compliance Committee" means the Peer Review/Compliance Committee
5. The term "Practitioner" shall mean a doctor of medicine, and a doctor of osteopathy, a podiatrist, a dentist and other practitioners identified and approved by the Board of Directors, who have a type of practice consistent with the requirements of the safe harbor to the Anti-Kickback Statue for ambulatory surgery centers.
6. The term "service" means that group of Practitioners who have clinical privileges in one of the following areas of medicine including, but not limited to, anesthesiology, radiology, pathology, and surgery.
7. The term "Surgery Center" and "MASC" means the Minnetonka Ambulatory Surgery Center.
8. The term "Bylaws" means the Medical Staff Bylaws, Rules and Regulations of the Minnetonka Ambulatory Surgery Center.
9. The term "President" of the Medical Staff shall refer to the Medical Director.
10. The term "Plan of Care" shall mean how a Member without privileges at a local hospital's patients will be cared for in the event transfer to a local hospital becomes necessary. The Plan of Care should at a minimum provide a designation of another physician of comparable training who can handle any necessary transfer of care to a local hospital and who has admitting privileges thereto.

## **ARTICLE I: NAME**

The name of this organization shall be the Minnetonka Ambulatory Surgery Center Medical Staff.

## **ARTICLE II: PURPOSES**

The purposes of this organization are:

1. To insure that all patients admitted to or treated at the Minnetonka Ambulatory Surgery Center, shall receive the best possible care;
2. To insure a high level of professional performance of all Practitioners authorized to practice in the Surgery Center through the appropriate delineation of the clinical privileges that each Practitioner may exercise in the Surgery Center and through an ongoing review and evaluation of each Practitioner's performance in the Surgery Center;
3. To initiate and maintain rules and regulations for self-government of the Medical Staff; and
4. To provide a means whereby issues concerning the Medical Staff and the Surgery Center may be discussed by the Medical Staff with the Board of Directors and the Medical Director.

## **ARTICLE III: MEDICAL STAFF MEMBERSHIP**

### **SECTION 1. NATURE OF MEDICAL STAFF MEMBERSHIP**

1. Membership on the Medical Staff of the Surgery Center is a privilege which shall be extended only to professionally competent Practitioners who continuously meet the qualifications, standards and requirements set forth in these Bylaws.
2. No aspect of Medical Staff Membership or particular clinical privileges shall be denied on the basis of sex, race, age, religion, handicap, color, or national origin.
3. The Medical Staff is a fully integrated part of the Surgery Center, not a separate entity distinct from the Surgery Center.

### **SECTION 2. CATEGORIES OF MEDICAL STAFF MEMBERSHIP**

1. Qualifications for Medical Staff:
  - A. Active Staff members shall be Practitioners licensed in the state of Minnesota as medical doctors or doctors of osteopathy, podiatry and dentistry.

- B. Temporary Staff members shall be Practitioners that are under consideration for staff membership, have special expertise, are locum tenens, or are needed for continuity of care. Practitioners shall be appropriately licensed and the review of their submitted information reasonably supports a favorable determination regarding the requesting practitioner's qualifications, ability, and judgment to exercise the privileges requested.
  - C. Inactive Staff shall be those Practitioners who previously were Active Staff at the Surgery Center but who have been placed on inactive status. Inactive Staff may apply for reappointment.
2. Prerogatives for Temporary Staff:
- A. Temporary Staff members may:
    - i. Admit or register patients to the Surgery Center consistent with their delineated privilege(s).
    - ii. Provide and direct patient care consistent with their delineated privilege(s).
    - iii. Order medical services provided by the Surgery Center consistent with their delineated privilege(s).
3. Restriction on all Medical Staff:
- A. The practice of knowingly participating in the illegal receipt or transfer of fees for medical services is grounds for immediate staff dismissal and termination of privileges at the Surgery Center.

### SECTION 3. APPOINTMENT TO THE ACTIVE MEDICAL STAFF

- 1. Privilege. Appointment to the Medical Staff is a privilege that may be extended to qualified individuals who continuously meet the standards and requirements as set forth in these Staff Bylaws. No individual is entitled to appointment or reappointment to the Medical Staff or the granting of particular clinical privileges because of prior, current, or pending status of privileges at Surgery Center or elsewhere.
- 2. General Rule. The Credentials Committee, with the assistance of administrative staff, shall investigate and consider each application for appointment or reappointment to the Medical Staff and each request for modification of Staff Membership status or privileges. The Board of Directors shall make all final decisions respecting appointment and privileges.

3. Appointment Criteria. Application for a new appointment may be initiated by any qualified practitioner. Such individuals must request and be approved for medical or procedural privileges specific to and appropriate for the Surgery Center.
  - A. Appointment to the Medical Staff shall be confined to those graduates of medical schools, approved by the relevant bodies (Accreditation Council for Graduate Medical Education, American Osteopathic Association, the Educational Commission for Foreign Medical Graduates, as applicable) who are currently licensed to practice without restriction in the State of Minnesota. Where applicable, all practitioners must also hold current a DEA registration. Unless an applicant has been practicing in his specialty for over ten years, the applicant must be either currently certified by the appropriate specialty board or be currently eligible for such certification in the applicant's specialty and/or subspecialty. Applicants who have been practicing for ten years or more in his specialty need not be board certified or eligible. The Credentials Committee reserves the right to require board certification in a particular specialty or subspecialty in order to extend Membership or particular privileges.
  - B. Each applicant for appointment must document adequate experience, education and training; current professional competence; adequate physical and mental health; and professional liability insurance coverage of not less than \$1,000,000/\$3,000,000. Such demonstration shall be evidenced by the information provided by the applicant in the application, supporting documents, and in the discretion of MASC, personal interviews.
  - C. Each applicant must demonstrate and affirm a willingness to participate in and properly discharge those responsibilities delegated to the applicant by the Medical Staff, including without limitation, those related to quality assurance and utilization review and to notifying the Medical Director of the following within forty-eight (48) hours of the applicant's notification thereof: (a) anticipated cancellation of insurance coverage or change of insurance company; (b) revocation or suspension of professional license; (c) the imposition of terms of probation or limitation on practice by any state; (d) the loss of Staff Membership or loss or restriction of privileges at any Surgery Center or other health care entity; (e) any findings reportable to the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank; (f) the commencement of a formal investigation or the filing of charges by the Department of Health, the Minnesota Board of Medical Practice, any other State or Federal agency with jurisdiction over health care professionals, or any law enforcement agency.
  - D. Appointment to the Medical Staff shall also depend upon the applicant's qualifications in light of criteria relevant to the needs of MASC and the

community, as well as the ability of MASC to accommodate the expectations of the applicant. Criteria which shall be considered in the evaluation of each application shall include, without limitation, current and expected patient care needs; availability of adequate facilities, and support services; actual and planned allocations of physical, financial and human resources to support MASC services, including, but not limited to, long and short range development plans in the process of implementation. The purpose of such an evaluation is to insure the quality of medical care provided to patients not to exclude any applicant for solely economic reasons. Economic factors shall be considered only to the extent that quality of health care is affected.

- E. Applicants must be available either on site or by telephone, to respond within twenty (20) minutes of a call regarding a patient either personally or should be able to provide a substitute to provide such patient care. Applicants must either have admitting privileges at a local hospital or, alternatively, if the Applicant does not have privileges at a local hospital, the Applicant must be able to provide a plan of care (“Plan of Care”) acceptable to the Board of Governors which outlines how the Applicant’s patients will be cared for in the event transfer to a local hospital becomes necessary. The Plan of Care should at a minimum provide a designation of another physician of comparable training who can handle any necessary transfer of care to a local hospital and who has admitting privileges thereto.

4. Application Information and Documentation.

- A. Pre-Application Process. A potential applicant may request an application from MASC; however, MASC is not required to send the potential applicant an application. MASC may perform a pre-application screening to determine whether to send an application to the potential applicant. The pre-application screening shall be entirely at the discretion of MASC. MASC shall determine whether or not to send the potential applicant an application. If no application is sent, the potential applicant shall not then become an applicant as defined under this Section. A potential applicant shall not be entitled to any rights of appeal or any other rights under these Bylaws.
- B. Application Process. Upon request, an applicant shall receive an application form for appointment to MASC’s Medical Staff with instructions for its completion. Only fully completed applications will be accepted by MASC. MASC may use the uniform Minnesota application form. Any application shall require at least the following information, along with appropriate supporting documents:
  - i. A copy of the applicant’s registered license to practice medicine, in the State of Minnesota and current DEA registration.

- ii. Immunization documentation as indicated in Exhibit A.
- iii. Verification of the applicant's professional education and post-graduate training, including a photocopy of the applicant's ECFMG certificate, if applicable.
- iv. Verification of specialty/subspecialty board certifications, re-certification and/or eligibility for certification.
- v. Verification of admitting privileges at a local, Medicare-certified hospital or, alternatively if no such privileges, a proposed Plan of Care.
- vi. Although not required, the MASC can request a statement attesting (a) that the applicant's current mental and physical health status is such that the applicant is capable of safely performing the duties and clinical privileges of a Medical Staff Member, and (b) that the applicant is willing to submit to a medical examination should his mental or physical health status ever become an issue.
- vii. A complete chronology of the applicant's academic and professional career, including major organizational positions and committee memberships.
- viii. A listing of the applicant's memberships and fellowships in professional societies.
- ix. A complete description of pending or completed disciplinary actions involving the applicant, including any previously successful or currently pending challenges to licensure or registration, staff privileges, participation in the Medicare or Medicaid programs, professional society membership or fellowship, professional academic appointment, or employment in a clinical or medical administrative position by any health care facility.
- x. A statement about any failures to obtain, voluntary or involuntary reductions in classification, or voluntary or involuntary resignations, restrictions, or terminations of any of the following: professional license or certificate; professional society membership or fellowship; professional academic appointment; staff membership or privileges at any hospital or other health care facility; employment by any health care facility.
- xi. A statement as to the applicant's professional liability insurance including company name, policy number, effective dates and basic coverage in the amount of \$1,000,000/\$3,000,000, or such other amount as Board of Directors may determine from time to time. A photocopy of the insurance policy face sheet showing that basic



coverage amounts are met or exceeded shall also be submitted. A listing of all malpractice awards, settlements, and pending cases.

- xii. A complete description of any convictions for felonies or any state or federal criminal charges, excluding routine traffic violations, involving the applicant and the status of any current indictments or other formal charges.
  - xiii. A statement as to the clinical privileges requested.
  - xiv. At least two letters of professional recommendation for initial applications. One letter of professional recommendation for reappointments.
5. Certification and Agreement of Applicant. As part of the application, the applicant shall certify to the correctness and completeness of the application, acknowledge in writing that any false or misleading statement on the application is grounds for denial or discontinuation, as applicable, of Medical Staff privileges, state a willingness to appear for interviews, agree to abide by these Staff Bylaws and MASC policies and procedures if appointed to the Medical Staff, agree to provide for the continuous care of patients, and agree, in writing, to release MASC from any civil liability for actions in connection with its credentials review.
6. Verification. All information and references placed in the application are subject to verification by whatever means MASC shall deem necessary. In addition, MASC shall request a copy of information on file at the National Practitioner Data Bank and the data bank maintained by the AMA and any other relevant data bank. The applicant, by submitting an application, authorizes MASC or its agents to investigate any and all information concerning the applicant's qualification for Membership on the Medical Staff of MASC and authorizes release of the information required to confirm that the applicant possesses the physical and mental ability to perform the duties and clinical privileges of Medical Staff Membership. The applicant also authorizes MASC to query all applicable data banks.
7. Procedure for Appointment.
- A. Application Procedure. The applicant shall be responsible for submitting all supporting documents and the application fee, if applicable, to MASC.
  - B. Temporary Privileges. Temporary Privileges may be granted at the discretion of the Medical Director, or the Credentials Committee as outlined in Article IV, Section 1.
  - C. Evaluation by Credentials Committee. The Credentials Committee shall

handle the initial review and evaluation of an applicant. The Credentials Committee's evaluation of each applicant's qualifications for Medical Staff Membership and privileges will be based on a thorough review of the applicant's completed application. This evaluation by the Credentials Committee shall take place at its next scheduled meeting or at a special meeting. The Credentials Committee in evaluating any applicant's qualifications is authorized to form ad hoc committees or special committees to assist in that regard and to consult with other Staff Members in the same specialty as the applicant. The Credentials Committee shall forward to the Board of Directors a written recommendation regarding Medical Staff Membership and, if the recommendation for Membership is favorable, a recommendation regarding clinical privileges and any conditions to be attached to appointment or the exercise of privileges. The reasons for each recommendation shall be stated by the Credentials Committee in its written recommendation.

- D. Decision of the Board of Directors. The authority to make appointments to the Medical Staff and grant clinical privileges rests solely with the Board of Directors. Privileges will be temporary until such decision is made. The Board of Directors, at its next regular meeting after receiving the recommendation of the Credentials Committee, shall at its discretion, accept, reject or return an application to the Credentials Committee for further study; provided, however, that the Board of Directors may not accept an application rejected by the Credentials Committee without further consultation with the Credentials Committee. In reaching its decision, the Board of Directors may consider, without limitation, the adequacy of the applicant's credentials, the needs of MASC, and the ability of MASC to accommodate the expectations of the applicant. Notification of the decision of the Board of Directors, after consultation with the Credentials Committee if required, shall be made in writing by the Chair of the Board of Directors and to the applicant, as well as to the Chair of the Credentials Committee. The reason for the decision shall be set forth in the notification.
8. Denial of Appointment. If a new applicant seeking Membership to the Medical Staff is rejected, the applicant shall have no right to appeal the decision and no right to a hearing. The applicant may request an appeal for such rejection within thirty (30) days of the receipt of notification, by writing to the Chair of the Board of Directors or the Credentials Committee, and the Board of Directors shall have the sole authority to determine whether or not to accept this appeal. If a Member of the Medical Staff's Membership is not renewed or if the Members' privileges are terminated, reduced, or otherwise adversely affected, the Member shall have full right to hearing and appeal pursuant to Article V.
9. Appointment Term. Appointments to the Medical Staff are for a period not to exceed two (2) years, not to include delays that are not the fault of the Member.
10. Obligations of Members. All Members of the Medical Staff are subject to the particular obligations and limitations as listed below.

- A. Information. All have a continuing obligation to ensure that material information provided in their application remains current, including, without limitation, the following: any claims of professional liability; any charge of professional misconduct brought before any licensing or registration board; or any surrender of license or registration while under investigation; any suspension, curtailment, surrender (resignation) while under investigation, or revocation of medical staff membership or clinical privileges at any ambulatory surgical facility, hospital or other health care facility; any pending indictment or formal charge involving a criminal matter, excluding minor traffic violations; any notice of proposed suspension or debarment from participation in any third-party reimbursement program. All such actions shall be reported within forty-eight (48) hours of the Member's knowledge of the event, claim, charge or action to the Medical Director for discussion by the Credentials Committee.
- B. Insurance. Each Member of the Medical Staff is responsible for maintaining current evidence of malpractice insurance, in such amounts as required by Minnetonka Ambulatory Surgery Center; notice of any change in this insurance must be sent to the Medical Director. The Chair of the Credentials Committee shall notify the Member of failure to comply with the requirements relating to evidence of malpractice insurance. Failure to comply within forty-eight (48) hours of written notification will result in a summary suspension of admitting privileges until the Member can provide proof of required insurance.
- i. If any Member changes insurance carriers for any reason, switches "from claims made" to "occurrence" coverage, or anticipates having his/her insurance coverage terminated for any reason, such Member shall: notify the Board of Directors or the Medical Director at least thirty (30) days prior to the expiration date of the current coverage ("Expiration Date"); and obtain the requisite amount of minimum coverage with prior acts coverage which contains a retroactive date sufficient to cover any claims arising out of acts which occurred from the date the Member was originally appointed to the Medical Staff through and including the Expiration Date.
  - ii. When any Member of the Medical Staff either resigns, is removed from, or is for any reason not reappointed to the Medical Staff or given clinical privileges. Such Member shall either maintain prior acts coverage with a retroactive date sufficient to cover any claims arising out of acts which occurred from the date the Member was originally appointed to the Medical Staff through and including the date of Withdrawal; or

obtain an extended reporting endorsement (“Tail Coverage”) from an approved insurer.

- iii. Assessments. Within thirty (30) days of notice thereof, applicants for Medical Staff Membership shall pay the assessment, if any, for processing their Medical Staff application, and Members of the Active Medical Staff shall pay any and all assessments for the conduct of the work of the Medical Staff. If not received within the thirty (30) day notice period, the Medical Director shall give written notice to the applicant that the processing of his/her application has been halted, and written notice to the Member in arrears that his/her privileges shall be suspended. If the assessment is not received within thirty (30) days of the written notice from the Medical Director, the applicant’s application shall be denied, and the Member’s appointment and privileges shall be automatically revoked. The Medical Director shall notify the Chair of the Board of Directors to request that the Board of Directors issue written notice to the applicant and/or Member of such denial or revocation, as applicable, effective three (3) business days after said notice.
  - iv. Medical Staff Members shall be responsible for the timely preparation and maintenance of appropriate records of clinical activities and requirements pertaining to medical records pursuant to the MASC’s policy entitled Physician Documentation Guidelines and shall fully comply with all state and federal regulations and standards regarding preparation of medical records.
- C. Liability Concerns. Each Member shall have a continuing obligation to verbally advise the Medical Director of bad outcomes, wrong patient/wrong procedures or other liability risks according to the protocols and procedures of the MASC.
- D. Payment for Referrals. No Member of the Medical Staff may pay or agree to pay any money, or pay or provide anything else of value, to any person or entity for bringing or referring a patient to the MASC; nor may any Member of the Medical Staff receive or agree to receive any money or other thing of value from any person or entity for bringing or referring a patient to the MASC.
- E. Arbitration. Each Member of the Medical Staff shall agree to abide by the arbitration requirement set forth in these Staff Bylaws.

#### SECTION 4. MEDICAL STAFF REAPPOINTMENT

1. Reappointment Criteria. In order to maintain appointment to the Medical Staff, all Members of the Medical Staff shall be formally reevaluated at least biennially based on updated credentialing information provided by the Member and an assessment of the Member's current qualifications against MASC evaluation criteria. The evaluation criteria for reappointment shall include all the criteria for initial appointment as well as satisfactory performance as a Member of the MASC Medical Staff. In addition to the Member's professional performance, judgment, clinical skills (as evidenced by the results of quality review studies and otherwise) and other matters set forth on the reapplication form, consideration shall be given to the Member's professional ethics; discharge of Medical Staff obligations; compliance with these Staff Bylaws; cooperation with other practitioners and MASC personnel; relationship with patients; effective and efficient use of MASC; the Member's National Practitioner Data Bank file; and any other matters reasonably bearing upon the Member's ability and willingness to contribute to good patient care practices at MASC. To permit the quality of care, case and medical record review required for reapplication, the Member shall have performed a sufficient number of procedures to gauge competency. "Procedures" as used herein shall mean a Surgical procedure using general or local anesthesia.
2. Reappointment Application Form. Each Member of the Medical Staff shall complete and return a reappointment application to the Medical Director of MASC or the authorized representative of the Credentials Committee no later than the date indicated on the form. Failure, without good cause, to return the form within this time period shall constitute a resignation of staff Membership, effective at the expiration of the Member's current term, and the Chair of the Board of Directors shall provide the Member with written notice thereof.
3. The Credentials Committee. After reviewing the application form and all other relevant information available, the Credentials Committee shall formulate recommendations as to Medical Staff reappointment, privileges to be granted, and any special conditions to be attached to reappointment and/or privileges. The Credentials Committee will forward its recommendations in writing to the Board of Directors for action. The Credentials Committee in evaluating any applicant's qualifications is authorized to form ad hoc or special committees to assist in that regard and to consult with other Staff Members in the same specialty as the applicants.
4. Decision of the Board of Directors. The authority to add, continue, curtail, give notice of denial of additional privileges, or revoke clinical privileges or appointments to the Medical Staff rests solely with the Board of Directors. Notification of the actions of the Board of Directors shall be made in writing to all Members whose privileges have been curtailed or revoked, or whose appointment has been revoked, as well as to the Credentials Committee. No

notification is required in the case of an unaltered continuance of privileges or Medical Staff appointment; the Member's original letter of acceptance in terms of appointment shall remain in full force and effect until the next scheduled reappointment or until revoked or curtailed pursuant to these Staff Bylaws.

5. Reappointment Term. Each qualified Member shall be reappointed to the Medical Staff for a period not to exceed two (2) years, not to include delays that are not the fault of the Member.
6. Reappointment Denial. The revocation or curtailment of Medical Staff reappointment or clinical privileges may be appealed by the Member within thirty (30) days of his receipt of the Board of Director's notification by writing to the Chair of the Board of Directors. The appeal shall be conducted in accordance with Article V.
7. Time Period for Processing. If the processing of a reappointment has not been completed by the expiration date of the Member's current appointment and the delay is not the fault of the Member, such appointment shall remain in effect until processing is completed. However, if the Member is under suspension or a restriction of privileges has been previously imposed, such suspension or restriction shall remain in effect until the application processing has been completed and a final decision is made by the Board of Directors.

## SECTION 5. REQUEST FOR MODIFICATION OF PRIVILEGES

A Medical Staff Member may, either in connection with reappointment or at any other time, request modification of his/her Medical Staff privileges by submitting a written request to the Medical Director and/or Credentials Committee. This includes, without limitation, an expansion of privileges, a reduction of privileges, or a termination of the Member's appointment. Such requests shall be processed in substantially the same manner as a request for reappointment.

## SECTION 6. NON-PHYSICIAN STAFF PRACTITIONERS

This section applies to non-physician practitioners who are licensed by the State of Minnesota and/or nationally certified to practice the healing arts. Examples of such practitioners include, but are not limited to, physician assistants, registered nurses, nurse anesthetists, athletic trainers and licensed practical nurses. The credentialing process shall proceed as follows.

1. General Rule. All non-physician practitioners shall be under the supervision of and responsible to the physician ultimately responsible for the patient's care. Obtaining clinical privileges is a prerequisite if the practitioner wishes to practice at MASC.

2. Responsibilities. Such practitioners shall be responsible for maintaining appropriate records of clinical activities, complying with requirements pertaining to medical records, and meeting the obligations set forth in these Bylaws for Members. Practitioners shall be required to attend meetings and participate in medical education activities as designated by the Medical Director.
3. Distinction from Medical Staff. Such practitioners are not Members of the Medical Staff and therefore do not have the rights of the Medical Staff. The practitioners must agree to comply with all MASC policies and procedures in order to attain any privileges. The practitioner shall not have any right to appeal any adverse action against the practitioner's privileges, including the denial, revocation, or limitation of such privileges.
4. Clinical Privileges. The delineation of clinical privileges shall be consistent with licensure, professional competence, qualifications and the requirements of MASC. Clinical privileges shall be granted in accordance with the provisions set forth herein.
  - A. Non-Employed Practitioners.
    - i. Application Process. See Article III, Section 3.
    - ii. Reappointment Process. See Article III, Section 4.
  - B. Employed Practitioners. Practitioners employed by the MASC shall be credentialed through the Human Resource process to the extent of their license.
5. Term. The grant of Membership and clinical privileges to the practitioner shall be for a period not to exceed two (2) years.

## **ARTICLE IV: CLINICAL PRIVILEGES**

### **SECTION 1. TEMPORARY PRIVILEGES**

1. Upon receipt of an application for Medical Staff Membership from an appropriately licensed Practitioner (current Minnesota license), the Medical Director or the Chair of the Board of Directors may, upon the basis of information then available which may reasonably be relied upon as to the competence and ethical standing of the applicant, grant temporary admitting and clinical privileges, not to exceed ninety days, to the applicant.

Practitioners granted Temporary Privileges under this paragraph must have completed a privilege request form, current MN license, Federal DEA, Certificate of Liability Insurance, receipt of at least one professional reference, receipt of verification from a recent or current hospital documenting membership and

privileges, results from the National Practitioner Data Bank, the AMA profile for MDs and DOs, and results from the OIG and EPLS.

2. Temporary clinical privileges may be granted by the Medical Director for the care of a specific patient to a Practitioner who is not an applicant for Membership in the same manner and upon the same conditions provided that there shall first be obtained such Practitioner's signed acknowledgement that he has received and read copies of the Bylaws, and agrees to be bound by the terms thereof in all matters relating to his temporary clinical privileges. Such temporary privileges shall be restricted to the treatment of not more than one patient in any one year by any Practitioner, after which such Practitioner shall be required to apply for Membership on the Medical Staff before being allowed to attend additional patients.

Practitioners providing special expertise to a Medical Staff member or present to assist a Medical Staff member must provide a CV, current license, current certificate of liability insurance coverage, results from the National Practitioner Data Bank, and results from the OIG and EPLS.

3. Special requirements of supervision and reporting may be imposed by the Medical Director on any Practitioner granted temporary privileges. Upon notice of any failure by the Practitioner to comply with such special conditions, temporary privileges shall be immediately terminated by the Medical Director.
4. The Board of Directors may at any time terminate a Practitioner's Temporary Privileges effective as of the discharge from the Surgery Center of the Practitioner's patient(s) then under his care in the Surgery Center. However, where it is determined that the life or health of such patient(s) would be endangered by continued treatment by the Practitioner, the termination may be imposed by any person entitled to impose a summary suspension pursuant to these Bylaws, and the same shall be immediately effective. The Medical Director shall assign a Member of the Medical Staff to assume responsibility for the care of such terminated Practitioner's patient(s) until they are discharged from the Surgery Center. The wishes of the patient(s) shall be considered where feasible in selection of such substitute Practitioner.
5. In the case of an emergency, any Member of the Medical Staff to the degree permitted by his license and regardless of service or staff status or lack of it, shall be permitted and assisted to do everything possible to save the life of a patient using every facility of the Surgery Center necessary, including the calling for any consultation necessary or desirable. When an emergency situation no longer exists, such Practitioner must request the privileges necessary to continue to treat the patient. In the event such privileges are denied or he does not desire to request privileges, the patient shall be assigned to an appropriate Member of the Medical Staff. For the purpose of this section,



an “emergency” is defined as a condition in which serious permanent harm would result to a patient or in which the life of a patient is in immediate danger and any delay in administering treatment would add to that danger.

## **ARTICLE V: OVERSIGHT OF PRACTITIONERS**

### **SECTION 1. SUMMARY SUSPENSION**

Any one of the following - the Medical Director, the Compliance Committee and the Board of Directors - shall each have the authority, whenever action must be taken immediately in the best interest of patient care in the Surgery Center, to summarily suspend all or any portion of the clinical privileges of a Member of the Medical Staff, and such summary suspension shall become effective immediately upon imposition. Such adverse action will trigger a formal review of the suspended Member and Member shall be entitled to appeal rights outlined in Article V.

Immediately upon the imposition of a summary suspension, the Medical Director, Compliance Committee and/or Board of Directors shall have authority to provide for alternative medical care for the patients of the suspended Practitioner still in the Surgery Center at the time of such suspension. The wishes of the patients shall be considered in the selection of such alternative Practitioner.

### **SECTION 2. AUTOMATIC SUSPENSION**

1. A temporary suspension in the form of withdrawal of a Practitioner’s admitting privileges, effective until medical records are completed, shall be imposed automatically after warning of delinquency for failure to complete medical records within thirty days of a patient’s discharge. The Surgery Center shall attempt to provide two notices to remind Practitioner of delinquent medical records. Practitioner shall be temporary suspended for no more than thirteen days. If, at the end of such temporary suspension, Practitioner has not completed the delinquent records and no just cause for the failure has been provided to the Surgery Center, then Practitioner’s privileges shall be permanently suspended such that an adverse action against such privileges has occurred.
2. Practitioner’s privileges shall be automatically suspended in the event that a State Board of Medical and Osteopathic Examiners has taken an adverse action against the Practitioner’s license, meaning the revocation or probation of such license.
3. Practitioner’s privileges shall be automatically suspended in the event the Practitioner is indicted for a felony, any crime involving health care fraud and abuse, or if the Practitioner’s DEA license is suspended or revoked. Further, the expulsion of Practitioner from any governmental health care program shall also automatically suspend Practitioner’s privileges.

4. Immediately upon the occurrence of an automatic suspension, Practitioner shall be entitled to a formal review and hearing as outlined in Article V.
5. It shall be the duty of the Medical Director of the Medical Staff to cooperate with the Board of Directors and the Compliance Committee in enforcing all automatic suspensions.

### SECTION 3. OVERSIGHT OF MEMBERS

This portion of the Bylaws outlines the oversight and review of Members of the Medical Staff. The entire oversight process is called “peer review” and all committees that serve this purpose are meant to fit within the Minnesota statutory definition of peer review and the peer review process. Within the peer review process, a formal review of a Member can occur. The formal review process is the process through which a Practitioner shall be subject to a formal review of a complaint against the Practitioner in order to assess whether the Practitioner’s clinical privileges and Staff Membership should be altered, amended, or terminated. The term Practitioner in this section shall include any Member of the Medical Staff.

The formal review process is intended to handle and evaluate complaints against Practitioners and to assess whether the Surgery Center should impose corrective action upon such Practitioner based upon the complaint. If a Practitioner faces corrective action, the Practitioner is also granted certain due process rights as outlined in this Article. The purpose of the process of oversight of Members is to further the quality of health care in the Surgery Center.

#### 1. Definitions.

A. Complaint. A complaint is defined as any allegation reflecting on a Practitioner’s professional conduct or professional competence, including any complaint of conduct defined as unprofessional in, or any amendment similar in substance thereto, disruptive conduct, and sexual harassment. Only complaints that are substantial and credible shall trigger the formal review process.

i. Substantial. The substance of a complaint refers to the seriousness of the complaint. A substantial complaint involves allegations serious enough to affect the Practitioner’s position on the Medical Staff, assuming the allegations are credible.

ii. Credible. The credibility of a complaint refers to the validity of such complaint. A credible complaint is a complaint that has a reasonable amount of supporting or corroborative evidence such as to warrant further review.

- B. Adverse Action. For the definitional purpose of this section, an adverse action is any change, restriction, amendment, limitation, suspension or termination of a Practitioner’s Medical Staff privileges. An adverse action for the purposes of this section may not be an adverse action such as to qualify as a “reportable event,” imposing notification requirements on the Surgery Center.
2. Initiation of the Formal Review Process.
- A. The Compliance Committee, with the assistance of Minnetonka Ambulatory Surgery Center’s Legal Counsel, is the committee responsible for initiating the formal review process. With two exceptions discussed in paragraphs E & F of this Section, all complaints regarding a Practitioner shall be brought to the Compliance Committee for a determination of whether the complaint is substantial and credible enough to initiate the peer review process. All complaints presented to the Compliance Committee are initial complaints, meaning, complaints that must be evaluated by the Compliance Committee for their substance and credibility. The following are the ways through which the Compliance Committee receives initial complaints against a Practitioner:
- i. A complaint is made against Practitioner for disruptive conduct under the Minnetonka Ambulatory Surgery Center’s Disruptive Conduct Policy.
  - ii. A complaint is made against Practitioner for sexual harassment under the Minnetonka Ambulatory Surgery Center’s Sexual Harassment Policy.
  - iii. A complaint is made against Practitioner under Minnetonka Ambulatory Surgery Center’s clinical policies.
  - v. The Quality Improvement Committee brings a complaint regarding a Practitioner’s professional competency to the Compliance Committee.
  - vi. The Minnetonka Ambulatory Surgery Center’s Medical Records Committee brings a concern regarding a Practitioner’s medical records or performance to the Compliance Committee.
  - vii. Any Member of the Compliance Committee receives a complaint regarding a Practitioner’s professional conduct, competence, or performance from any Medical Staff member, Surgery Center employee, contracted ancillary service provider, or patient.

- B. The Compliance Committee shall determine if a complaint regarding the professional competence or conduct of a Practitioner is credible and substantiated. If the complaint involves a Member of the Compliance Committee, that Member must excuse him/herself for the duration of the investigation.

Upon the receipt of a complaint regarding a Practitioner, the Compliance Committee may perform an initial screening to determine whether the complaint is credible and serious enough to warrant the referral to the Board of Directors. The initial screening review shall consist of at least the following:

- i. The separate questioning of the complainant and any available appropriate witnesses regarding the incident(s); and
- ii. The questioning of the involved Practitioner regarding the circumstances forming the basis of the complaint.

The Compliance Committee may notify the Practitioner of the complaint; however, at the time of the initial screening exam, the identity of the complaining party need not be disclosed to the Practitioner. The Compliance Committee can notify counsel for assistance in this initial screening process, but such notification shall not be required. An anonymous complaint shall be considered frivolous if after the initial screening there is no corroborating evidence for the circumstances giving rise to the complaint and the complainant remains anonymous.

- C. If the complaint alleges disruptive conduct, impaired conduct, sexual harassment, the Compliance Committee may also handle the complaint pursuant to the Minnetonka Ambulatory Surgery Center and the Surgery Center's existing policies on such matters.
- D. If the Compliance Committee determines that a complaint against a Practitioner is substantiated and credible, the Compliance Committee may handle the complaint and implement a corrective action plan, which may include any penalty up to an adverse action. Should the Compliance Committee determine that an adverse action may be necessary; the Compliance Committee shall notify the Board of Directors that it recommends a formal review regarding the complaint. At that time, the Compliance Committee shall forward its findings and investigation to the Board of Directors.
- E. If a Practitioner's privileges have been summarily or automatically suspended for longer than fourteen days, then the Compliance Committee need not review the complaint. Upon the effectuation of the summary or automatic suspension for longer than fourteen days, the

formal review process is automatically initiated and the Member is entitled to hearing rights discussed below.

- F. The Board of Directors, the Credentials Committee, and the Medical Director may initiate a formal review without the involvement of the Compliance Committee, and institute any penalty up to taking an adverse action against a Practitioner, without any initial investigation by the Compliance Committee. In the case of the Medical Director, the Medical Director shall bring such complaint directly to the Board of Directors.

**The mere fact of a complaint does not place any Practitioner under investigation. Physician is not “under investigation” within the meaning of 44 USC 11111, *et seq.*, unless and until a formal review against the Practitioner has been initiated by the Board of Directors. In addition, even when a formal review is initiated, such initiation does not automatically constitute or qualify as a reportable event.**

3. Formal Review.

The Board of Directors has the sole and final authority to determine whether or not to take adverse action against a Practitioner’s privileges based on a formal review/initiation of the peer review process. Once the process has been initiated and a formal review recommended under Section 3, subparagraph 2, of this Article, the issue shall be presented at the next regularly scheduled Board of Directors meeting if within 60 days of the finding or, if not, a specially called meeting.

4. Practitioner Rights to Hearing.

Once a complaint has been referred to the Board of Directors from the Credentials Committee or Compliance Committee, the Practitioner has the rights to a formal review of the complaint pursuant to a hearing.

- A. Notice of Formal Review. Once a Practitioner is subject to formal review by the Board of Directors, the Credentials Committee shall provide the Practitioner written notice of this fact. The notice shall inform the Practitioner of the specific complaints against him. The notice shall contain these provisions from the Bylaws outlining the formal review/hearing process. The notice shall also inform the Practitioner of his right to a hearing within thirty days of the receipt of this letter and of the Practitioner’s rights pursuant to this hearing. These rights are: the right to representation at the hearing; the right to have a record made of the proceedings and the right to obtain copies of such record; the right to call, examine, and cross-examine witnesses; the right to present evidence determined to be relevant; the right to submit a written statement at the close of the hearing; and, after the hearing’s completion, the right to

receive a written recommendation resulting from the hearing and the right to receive a written decision of the Board of Directors. In the event the Practitioner does not request such a hearing, the formal review shall proceed without such a hearing.

The failure of the Practitioner to request a hearing in the time frame allocated in the written notice shall be deemed a waiver of the Physician's right to such a hearing and any review of the decision resulting from the formal review.

A formal review of a complaint against a Practitioner shall be performed by the Hearing Panel appointed for this task. The Hearing Panel shall assess whether the allegations of the complaint have validity and whether the Board of Directors should take adverse action against the Practitioner in response to the complaint. The Hearing Panel shall make this determination after a reasonable review of all available evidence and after a hearing on the matter, if requested by the Practitioner.

- B. Hearing Panel. The Board of Directors shall appoint a panel as the Hearing Panel for the formal review. The panel shall consist of at least three Members of the Medical Staff. One of such Members shall be designated as chairman. The appointees to the panel cannot be in direct economic competition with the Practitioner standing review. If there are no three Members of the Medical Staff that are not in direct economic competition with the Practitioner standing review, the appointee(s) can be an independent person who is not a Member of the Medical Staff. The substituted appointee(s) also cannot be in direct economic competition with the Practitioner standing review. The Board of Directors and the Practitioner standing review must approve the substitution of any non-Medical Staff appointee. If three appointees for the panel cannot be found or agreed upon, the Board of Directors shall appoint an independent arbitrator to make the determination. The Practitioner standing review must agree to the appointed arbitrator. The appointed panel or the arbitrator is referred to herein as the Hearing Panel.
  
- C. Decision Without A Hearing. If the Practitioner standing review does not request a hearing, the Hearing Panel shall conduct an investigation of the allegations and complete such investigation in a timely manner. In no event shall such investigation be longer than sixty days after the appointment of the Hearing Panel. The Hearing Panel shall make a reasonable effort to obtain the facts of the matter. Such investigation shall include a review of all applicable documents, including any written complaints or other documentation regarding the Practitioner standing review. The Hearing Panel shall also have the authority to interview the Practitioner standing review and any witness or employee of the Surgery Center deemed relevant by the Hearing Panel. If a witness or employee requests

confidentiality, the Hearing Panel shall attempt to respect such a request; granted, however, the Practitioner standing review shall be fully informed of the interview. The Board of Directors shall assign an attorney to advise the Hearing Panel in this investigation. The role of the attorney is not as a prosecutor but to advise the Hearing Panel and to protect the integrity of the investigation. Should the Practitioner proceed without a hearing, the Practitioner shall have no right to appeal the decision of the Hearing Panel or the Board of Directors.

- D. Decision With A Hearing. If the Practitioner requests a hearing, the Practitioner's request must be in writing. The hearing shall be scheduled within sixty days of the request for such a hearing.
  
- E. Notice of Hearing. The Board of Directors shall send the Practitioner notice of such scheduled hearing. The notice shall be sent to the Practitioner at least thirty days prior to the hearing. The notice shall state the place, time, and date of the hearing. The notice shall also state a list of witnesses (if any) expected to testify at the hearing on behalf of the Surgery Center and the Hearing Panel, and may request that the Practitioner provide a list of witnesses expected to testify on behalf of the Practitioner.
  
- F. Hearing. The hearing shall be conducted at the time, place, and date specified in the notice. The hearing shall be conducted pursuant to the following rules:
  - i. There shall be at least a majority of Members of the Hearing Panel present when the hearing takes place, and no Member may vote by proxy.
  
  - ii. The appointed chairman of the Hearing Panel shall preside over the hearing to assure that all participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence, and to maintain decorum.
  
  - iii. The Minnetonka Ambulatory Surgery Center shall be entitled to have an attorney advising the Hearing Panel. The role of this attorney shall not be as a prosecutor but to provide the written notice of charges, the marshaling of evidence and facts, and the selection of witnesses on behalf of Minnetonka Ambulatory Surgery Center.
  
  - iv. The Practitioner standing review shall be entitled to counsel or other representative of himself at the hearing and throughout the course of the formal review process.

- v. Minnetonka Ambulatory Surgery Center and the Practitioner standing review shall be entitled to present any relevant evidence. The Hearing Panel determines the relevance of evidence regardless of its admissibility in a court of law. The Hearing Panel has the authority to limit evidence based on discretionary factors including time constraints.
- vi. Minnetonka Ambulatory Surgery Center and the Practitioner standing review shall be entitled to present witnesses, testifying under oath, within the discretion of the Hearing Panel. The Practitioner or the Practitioner's counsel shall be entitled to cross-examine any witnesses presented by Minnetonka Ambulatory Surgery Center, and, likewise, the attorney advising the Hearing Panel shall be authorized to question or cross-examine the Practitioner's witnesses.
- vii. There shall be a court reporter present at the hearing who makes a verbatim transcript of the hearing, an expense borne by Minnetonka Ambulatory Surgery Center. This record shall be made available to the Practitioner at his request.
- viii. Official notice shall be taken by the Hearing Panel, either before or after submission of the matter for decision, of any generally accepted technical or scientific matter relating to the issues under consideration at the hearing and of any facts which may be judicially noticed by the courts of the State of Minnesota. Participants in the hearing shall be informed of the matters to be noticed and those matters shall be noted in the record of the hearing. The Practitioner for whom the hearing is being held shall be given the opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Hearing Panel. The Hearing Panel shall also be entitled to consider any pertinent material contained on file in the Surgery Center and Minnetonka Ambulatory Surgery Center, and all other information which can be considered in the connection with applications for appointment to the Medical Staff and for clinical privileges pursuant to these Bylaws.
- ix. The Hearing Panel may recess the hearing and reconvene the same for the convenience of the participants or for the purpose of obtaining new or additional evidence or consultation. Upon conclusion of the presentation of oral and written evidence, the hearing shall be closed.



- x. At the close of the hearing, the Practitioner standing review has the right to submit a written statement. The attorney advising the Hearing Panel may also submit such a written statement.
  - xi. The personal presence of the Practitioner standing review for whom the hearing has been scheduled shall be required. A Practitioner standing review who fails without good cause to appear and proceed at such hearing shall be deemed to have waived his rights in the same manner to have accepted the adverse recommendation or decision involved.
- G. Hearing Panel's Recommendation. Within a reasonable time not to exceed ten days after the completion of the investigation and/or hearing, the Hearing Panel shall issue a written Recommendation. The Recommendation shall include the Hearing Panel's decision as to the validity of the substance of the complaint and any recommended corrective action to be taken against the Practitioner standing review. The Recommendation shall state the extent to which the evidence reasonably supports a conclusion that the allegations are true. The Recommendation shall also state whether the Hearing Panel found the allegations serious enough to warrant corrective action. Finally, the Recommendation shall state any corrective action that the Hearing Panel recommends be taken against the Practitioner standing review. The Hearing Panel is authorized to recommend any appropriate adverse action. A copy of the Recommendation shall be sent to the Practitioner standing review immediately.
- H. Final Decision. The Board of Directors shall make the final decision as to the outcome of the formal review process. The Board of Directors shall meet within thirty days of the Recommendation's issuance to determine whether to implement or reject the Hearing Panel's Recommendation. The Board of Directors shall place substantial deference on the Recommendation. Such proceedings and deliberations of the Board of Directors shall not be open to the Practitioner standing review. The Board of Directors shall issue its decision within ten days of its initial meeting. The Practitioner standing review shall be immediately notified, in writing, of the Board of Director's decision.
- I. Appeal. The Practitioner has no absolute right to any appeal of the decision. If Practitioner chooses, however, the Practitioner may file in writing for an appeal to the Board of Directors of any adverse action recommended by the Hearing Panel and/or approved by the Board of Directors. This appeal must be made within ten days of the Practitioner's notice of the Board of Directors decision. Notice of an appeal shall be delivered to the Chairman of the Board of Directors. Such notice shall request that the appellate review be held only on the record on which the

adverse recommendation or decision is based, as supported by the Practitioner's written statement provided for below, or may also request that oral argument be permitted as part of the appellate review. The Board of Directors can accept or reject any appeal, or portion thereof, at its discretion.

If the Practitioner standing review does not file such a notice of appeal, then the Practitioner shall be deemed to have accepted the Board of Directors' decision. If the Board of Directors rejects the appeal, then the matter shall be deemed concluded. The Board of Directors must accept or reject the appeal within sixty days of its receipt.

The appellate review may be conducted by the Board of Directors or by a duly appointed appellate review committee of the Board of Directors of not less than five Members. New or additional matters not raised during the original hearing or in the hearing committee report, not otherwise reflected in the record, shall only be introduced at the appellate review under unusual circumstances, and the Board of Directors or the appellate review committee shall in its sole discretion determine whether such new matters shall be accepted.

The Board of Directors or its appointed appellate review committee shall act as an appellate body. The appellate body shall determine a timely schedule for appeal and whether or not to authorize oral argument, if requested. The appellate body shall review the record created in the proceedings, and shall consider the written statements for the purpose of determining whether the adverse recommendation or decision against the Practitioner standing review was justified and was not arbitrary or capricious. If oral argument has been granted as part of the review procedure, the Physician standing review shall be present at such appellate review, shall be permitted to speak against the adverse recommendation or decision, and shall answer questions put to him by any Member of the appellate body. The Board of Directors shall also be represented by an individual who shall be permitted to speak in favor of the adverse recommendation or decision and who shall answer questions put to him by any Member of the appellate review body.

The Physician standing review shall have access to the report and record and transcription, if any, of the Hearing Panel and the Board of Directors and all other material, favorable or unfavorable, that was considered in making the adverse recommendation or decision against him. According to the schedule determined by the appellate body, the Practitioner standing review shall be authorized to submit a written statement in his own behalf, in which those factual and procedural matters with which he disagrees, and his reasons for such disagreement, shall be specified. This written statement may cover any matters raised at any step in the procedure to

which the appeal is related, and legal counsel may assist in its preparation. A similar statement may be submitted by the Minnetonka Ambulatory Surgery Center or the Board of Directors or by the chairman of the Hearing Panel appointed by the Board of Directors and if submitted, the Board of Directors shall provide a copy thereof to the Practitioner standing review.

If the appellate review is conducted by the Board of Directors, it may affirm, modify or reverse its prior decision. If the appellate review is conducted by an appellate review committee of the Board of Directors, such committee shall, within fifteen days after the scheduled or adjourned date of the appellate review, make a written report recommending that the Board of Directors affirm, modify or reverse its prior decision.

The full Board of Directors shall meet within thirty days after the conclusion of the appellate review in order to reach the final decision as to the outcome of the peer review process. The Practitioner standing review shall be immediately notified of such decision, preferably in writing. Notwithstanding any other provision of these bylaws, upon the completion of the initial appeals process, the Practitioner has no right to further appeal.

#### SECTION 4. REPORTING

1. Pursuant to 42 USC § 11133, the Minnetonka Ambulatory Surgery Center shall report, within fifteen days, to the State Board of Medical and Osteopathic Examiners and to the National Practitioner Data Base any of the following occurrences:
  - A. Any adverse action that affects the clinical privileges of a Practitioner for longer than thirty days whether such adverse action results from an immediate suspension, automatic suspension or as a result of the peer review;
  - B. Any acceptance of a resignation of a Practitioner's clinical privileges while the Practitioner is under investigation or in return for not conducting an investigation into the complaint;
  - C. Any revisions of professional review actions.

### **ARTICLE VI: OFFICERS**

#### SECTION 1. OFFICERS OF THE MEDICAL STAFF

The President of the Medical Staff shall be the Medical Director. The Medical Staff has the right to appoint other officers; however, there shall be no other standing officers. If ad

hoc officers are appointed, they must be qualified as follows. Officers must be Members of the Active Medical Staff at the time of appointment and must remain Members in good standing during their term of office.

## SECTION 2. APPOINTMENT OF OFFICERS

The Medical Director and therefore the President of the Medical Staff shall be appointed by the Board of Directors. In the event that the Medical Staff determines the need for other officers, the procedure for their election shall be determined at the time of appointment of the Medical Director.

## SECTION 3. REMOVAL OF OFFICERS

The Medical Director serves at the discretion of the Minnetonka Ambulatory Surgery Center Chief Medical Officer. In the event of opposition to the holder of the office, said grievance shall be presented at a Special Meeting of the Medical Staff, after all Members of the staff are given a one week notice by registered mail of the grievance and intention to remove said officer. The Medical Staff shall have the right to remove the Medical Director from his or her position as President of the Medical Staff, as determined by simple majority vote of all Staff Members present at such meeting.

## SECTION 4. TERM OF OFFICE

All officers shall serve a two-year term from their appointment date or until a successor is appointed. Officers shall take office on the first day of appointment or as otherwise directed.

## SECTION 5. DUTIES OF OFFICERS

President: The President shall serve as the chief administrative officer of the Medical Staff to act in coordination and cooperation with the Director of Nursing and other clinical managers, in all matters of mutual concern within the Surgery Center.

# **ARTICLE VII: MEDICAL STAFF MEETINGS**

## SECTION 1. REGULAR MEETINGS

The Medical Staff shall have no regularly scheduled Meetings.

## SECTION 2. SPECIAL MEETINGS

1. The President of the staff or not less than one-half of the Members of the Active Medical Staff may at any time file a written request with the President that within seven days of the filing of such request, a special meeting of the Medical Staff be called.

2. Written or printed notice stating the place, day, and hour of any special meeting of the Medical Staff shall be delivered, either personally or by mail, to each Member of the Active Staff not less than seven nor more than fourteen days before the date of such meeting, by or at the direction of the President or other persons authorized to call the meeting. If mailed, the notice of the meeting shall be deemed delivered when deposited, postage prepaid, in the United States mail addressed to each Staff Member at his address as it appears on the records of Minnetonka Ambulatory Surgery Center and the Surgery Center. The attendance of a Member of the Medical Staff at a meeting shall constitute a waiver of notice of such meeting. No business shall be transacted at any special meeting except that stated in the notice calling the meeting.

### SECTION 3. QUORUM

A quorum is a simple majority of Active Members of the Medical Staff. Actions are approved by a majority of a quorum present at a meeting.

### SECTION 4. AGENDA

The agenda at special meetings shall be:

1. Reading of the notice calling the meeting;
2. Transaction of business for which the meeting was called;
3. Adjournment.

### SECTION 5. ACTIONS IN LIEU OF A MEETING

The Medical Staff can act in lieu of a formal meeting, whether regular or special, as long as written consent is given by the number of Members required to have authority to act at a meeting and notice is provided to all other Members of the decisions.

## **ARTICLE VIII: SURGERY CENTER COMMITTEES**

### SECTION 1. OBLIGATION TO SERVE ON COMMITTEES

The Surgery Center shall have various committees upon which Members of the Medical Staff may be appointed and/or asked to serve. Medical Staff Members must serve appointments if required.

### SECTION 2. LIST OF SURGERY CENTER COMMITTEES

The following shall be a non-exclusive list of such Surgery Center Committees, whether a sub-committee of Minnetonka Ambulatory Surgery Center, or otherwise:

1. Corporate Compliance Committee shall advise and assist the Compliance Officer in the development, review, and approval of the Surgery Center's compliance standards and policies; the implementation and oversight of the Corporate Compliance Program; the oversight of the process for investigating reported violations; the development of monitoring and auditing procedures to ensure that the Corporate Compliance Program is functioning effectively; and the development and oversight of the Surgery Center's systems for communicating compliance questions and concerns and reporting wrongdoing.
2. Peer Review/Compliance Committee shall address disruptive behavior by physicians and other non-physician staff practitioners and will involve the Board of Directors should circumstances warrant. The Compliance Committee will strive to maintain the confidentiality of complaints, ensuing investigations and outcomes to the extent appropriate under the circumstances and as permitted by law. In this regard, it is intended that the Compliance Committee qualify as a "Peer Review Committee. The Compliance Committee will undertake peer review activity to "monitor, evaluate, and recommend actions to improve the delivery and quality of services," ... including the "review and evaluation of ... competency, character, ... activities, conduct [and] performance of any health professional" at the Surgery Center.
3. Medical Records Committee shall oversee the process for case review and medical record review. Objective and systematic monitoring will be utilized in the evaluation of procedure validation, documentation, quality of care and unexpected outcomes. Medical records review will be completed to assist in reappointment as well as being a mechanism for evaluating the quality of patient care.
4. Quality Improvement/Risk Management Committee shall act as the organizational body accountable for quality improvement / risk management activities. Responsibilities include but are not limited to, designing the annual quality improvement / risk management strategic plan, evaluating the scope, organization and effectiveness of the quality improvement / risk management plan, assisting in the identification and monitoring of QI activities, coordinating a system of problem identification, problem resolution and re-evaluation and reviewing employee/visitor incident reports, and variance reports.
5. Privileging and Credentialing Committee shall evaluate applications to the MASC Medical Staff as described under Section 3, Part 7 (C) and Section 6, Part 4. In addition, the Committee shall assess all requests to expand the types of medical/surgical procedures performed at the Surgery Center, the purchase and use of surgical equipment the use of which may require additional training or education, and the incorporation of new surgical techniques that may require additional training or education.

**All Surgery Center Committees shall operate in a manner intended to protect the confidentiality of information reviewed and discussed. Information revealed in such committee operations shall not be disclosed except for the furtherance of the committee's purpose and function. In no way shall any committee member be authorized to disclose the information attained through service on the committee except for the furtherance of the committee's purpose.**

#### **ARTICLE IX: IMMUNITY FROM LIABILITY**

The following shall express conditions to any Practitioner's application for, or exercise of, clinical privileges at this Surgery Center:

1. Any act, communication, report, recommendation, or disclosure, with respect to any such Practitioner, performed or made in good faith and without malice and at the request of an authorized representative of this or any other health care facility, for the purpose of achieving and maintaining quality patient care in this or any other health care facility, shall be privileged to the fullest extent permitted by law.
2. Such privilege shall extend to Members of the Surgery Center's Medical Staff and of its Board of Directors, its other Practitioners, Administration and its representatives, and to third parties, who supply information to any of the foregoing authorized to receive, release, or act upon the same. For the purpose of this Article, the term "third parties" means both individuals and organizations from whom information has been requested by authorized representatives of the Board of Directors the Medical Staff, or Administrative Staff of the Surgery Center.
3. There shall, to the fullest extent permitted by law, be absolute immunity from civil liability arising from any such act, communication, report, recommendation, or disclosure, even where the information involved would otherwise be deemed privileged.
4. Such immunity shall apply to all acts, communications, reports, recommendations, or disclosures performed or made in connection with this or any other health care institution's activities related, but not limited to: (1) applications for appointment or clinical privileges, (2) periodic reappraisals for reappointment or clinical privileges, (3) corrective action, including summary suspension, (4) hearings and appellate reviews, (5) patient care evaluations, (6) utilization reviews and (7) other Surgery Center service or committee activities related to quality patient care and intraprofessional conduct.
5. The acts, communications, reports, recommendations and disclosures referred to in this Article may relate to Practitioner's professional qualifications, clinical competency, character, mental or emotional stability, physical condition,

ethics, or any other matter that might directly or indirectly have an effect on patient care.

6. In furtherance of the foregoing, each Practitioner shall upon request of the Surgery Center and/or Minnetonka Ambulatory Surgery Center, release information in accordance with the tenor and import of this Article in favor of the individuals and organizations specified in paragraph two, subject to such requirements, including those of good faith, absences of malice and the exercise of a reasonable effort to ascertain truthfulness, as may be applicable under the laws of the State.
7. The consents, authorizations, releases, rights and privileges and immunities provided by these Bylaws for the protection of the Surgery Center's Practitioners, other appropriate Minnetonka Ambulatory Surgery Center and Surgery Center officials and personnel and third parties, in connection with applications for initial appointment, shall also be fully applicable to the activities and procedures covered by this Article.
8. The Members of the Surgery Center Medical Staff shall, at the time of reappraisal and reappointment, sign a statement to agree to be bound by the terms of the Bylaws of the Medical Staff and the Minnetonka Ambulatory Surgery Center and Surgery Center policies that apply to the applicant's activities as a Member.

#### **ARTICLE X: ADOPTION AND AMENDMENTS**

These Bylaws may be adopted by the majority of the Medical Staff Members at a meeting. In the absence of a meeting, the Bylaws may be adopted if the Bylaws are sent to all Members with notification and the opportunity to object. If a majority of Members express written approval of the Bylaws, they shall be adopted. Amendments to the Bylaws may be adopted by a majority of Members present at a meeting, if there is a quorum, or in the same manner as the Bylaws were originally adopted. Neither the Bylaws nor any Amendment shall be effective until approved by the Board of Directors.

#### **ARTICLE XI: GENDER INCLUSIVE LANGUAGE**

All masculine references and pronouns in this document are intended to be gender inclusive.

#### **ARTICLE XII: STAFF RULES AND REGULATIONS**

The Board of Directors may adopt such additional Staff Rules and Regulations and Medical Staff Policies as may be necessary to implement the principles of accountability and intraprofessional standards set forth in these Staff Bylaws.



## **ARTICLE XIII: CONFIDENTIALITY AND AUTHORITY OF COMMITTEES**

### **SECTION 1. CONFIDENTIALITY**

The proceedings, minutes, records, notes and files of all committees upon which Members serve that have responsibility for evaluation and improvement of quality of care rendered in Surgery Center shall be confidential, to the fullest extent permitted by law. Such confidentiality shall extend to information regarding any Member of the Medical Staff or Non-physician Staff Practitioners or any applicant, including any information provided by third parties. This information shall become part of the reviewing committee's files and not part of any patient's file or part of the general Surgery Center records. Dissemination of such information, records, proceedings, notes and files shall be within official peer review channels only and only to those with a need to know unless otherwise expressly required by law. Requests for such information from sources inside or outside Surgery Center shall be put in writing by the appropriate committee chair or individual serving in a peer review capacity, shall indicate the purpose of the request and shall remind the recipient of the confidential nature of the communication.

### **SECTION 2. BREACH OF CONFIDENTIALITY**

Inasmuch as effective credentialing, peer review, quality improvement and consideration of the qualifications of Members of and applicants to the Medical Staff and Non-physician Staff Practitioners to perform specific procedures must be based on free and candid discussions, any breach of the confidentiality of the discussions or deliberations -- except in conjunction with the peer review activities of another health care facility, professional society or licensing authority -- is outside appropriate standards of conduct under these Staff Bylaws and will be deemed disruptive to the operations of Surgery Center. If it is determined that such a breach has occurred, the Board of Directors may undertake such corrective action as it deems appropriate, up to and including revoking the Membership and privileges of the breaching party.

### **SECTION 3. CONFLICTS.**

Nothing in these Staff Bylaws is intended to conflict with any federal, state or local laws, rules or regulations. If any provisions of these Staff Bylaws are found to be unlawful, null or void, the remaining Staff Bylaws provisions shall continue to be valid and enforceable between Surgery Center and the Members. Further, in the event there is a conflict between these Staff Bylaws and provisions of the Partnership Agreement, as amended, of Surgery Center or any requirement imposed on Surgery Center under its license from the State of Minnesota, the conflicting provision of these Staff Bylaws shall be null and void and of no force or effect.

#### SECTION 4. AUTHORITY OF THE BOARD OF DIRECTORS

Nothing in these Staff Bylaws adopted pursuant to them shall be construed or interpreted as an obligation or delegation of the authority vested in the Board of Directors of Surgery Center, and nothing shall be interpreted as creating or constituting the Medical Staff or Non-physician Staff Practitioners as a separate legal entity, separate and apart from Surgery Center.

#### SECTION 5. ARBITRATION

Any controversy, dispute or disagreement arising out of or relating to interpretation of these Staff Bylaws, the breach thereof, or the subject matter thereof, which remains unresolved following full application of the procedures set forth in these Staff Bylaws, shall be settled exclusively by binding arbitration which shall be conducted in Minnesota in accordance with the American Health Lawyers' Association (AHLA) Alternative Dispute Resolution Service Rules of Procedure for Arbitration, and which to the extent of the subject matter of the arbitration shall be binding not only on all parties to the Agreement, but on any other entity controlled by, in control of or under common control with the party to the extent that such affiliate joins the arbitration, and judgment on the award rendered by the arbitrator may be entered in any court hearing jurisdiction thereof. Jurisdiction for the dispute shall reside solely in Ramsey County, Minnesota.

*Approved and adopted by the MASC Board of Governors on May 12, 2014.*

*Amended, approved and adopted by the MASC Board of Governors and Medical Staff on February 15, 2016.*

*Amended, approved and adopted by the MASC Board of Governors and Medical Staff on February 27, 2017.*

**EXHIBIT A**

**REQUIRED IMMUNIZATIONS**

	<i>Initial Appointment or First Reappointment After May 1<sup>st</sup>, 2011</i>	<i>Reappointment</i>
Tuberculin Skin Test (TST)	<input type="checkbox"/> Two Step Mantoux Test If positive, CXR required or documentation of CXR in past 12 months	<input type="checkbox"/> One Step Mantoux Test - if previous positive, symptom questionnaire - CXR required if new Positive at reappointment
Measles, Mumps, Rubella (MMR) & Varicella	<input type="checkbox"/> Documentation of 2 live virus vaccines; or Documentation of disease by a healthcare provider; or	
Hepatitis B	<input type="checkbox"/> Documentation of completed series; or <input type="checkbox"/> Declination signed; or <input type="checkbox"/> Positive titer	
<b>Recommended Immunizations (not required):</b> Influenza Vaccine – annually T-dap (Pertussis) Vaccine - once		