NEWPORT HOSPITAL
Newport, Rhode Island 02840-2299

FAIR HEARING PLAN

Adopted: June 14, 2006

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Adopted: 06/14/06

DEFINITIONS

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

1. "Appellate Review Body" means the group designated under this Plan to hear a request for appellate review properly filed and pursued by a practitioner, Staff Affiliate or Allied Health Professional.*

2. "Hearing Committee" means the committee appointed under this Plan to hear a request for an evidentiary hearing properly filed and pursued by a practitioner, Staff Affiliate or Allied Health Professional.*

3. "Parties" means the practitioner, Staff Affiliate or Allied Health Professional* who requested the hearing or appellate review and the body or bodies upon whose adverse action a hearing or appellate review request is predicated.

4. "Reasonably Practicable" shall mean as soon as possible within the confines of scheduling and other reasonable delays.

5. "Special Notice" means written notification sent by certified mail return receipt requested, or by personal delivery with signed acknowledgment of receipt.

6. "Days" means regular working days, i.e., excluding Saturdays, Sundays and holidays.

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Adopted: 08/20/1987
Approved Bylaws 4/1/98
Amended: 10/15/1999
Proposed 04/03/2001 by the Bylaws Committee
Approved by the Medical Executive Committee, 04/09/2001
Approved by the Board of Trustees, 05/09/2001*

*Changes have been made throughout the entire Fair Hearing Plan to incorporate Staff Affiliates and Allied Health Professionals into the Fair Hearing Process.

PART ONE. INITIATION OF HEARING

1.1 Events Giving Rise to Hearing Rights

1.1-1 Actions or Recommended Actions

Subject to the exceptions set forth in Section 1.1-3 below, the following actions or recommended actions, if deemed adverse under Section 1.1-2 below, entitle the Practitioner, Staff Affiliate or Allied Health Professional to a hearing upon timely and proper request as provided in Section 1.3:

(a) Denial of initial Staff appointment

(b) Denial of reappointment

(c) Suspension of membership, provided that summary suspension entitles the Practitioner, Staff Affiliate or Allied Health Professional to request a hearing

(d) Revocation of membership

(e) Denial of requested appointment to or advancement in Staff category

(f) Reduction in Staff category

(g) Special limitation of the right to admit patients not related to standard administrative or Medical Staff policies within the Hospital as a whole or within one or more specific Departments, Sections or other special units

(h) Denial of requested Department or Section affiliation

(i) Denial or restriction of requested clinical privileges

(j) Reduction in clinical privileges

(k) Suspension of clinical privileges, provided that summary suspension entitles the Practitioner, Staff Affiliate or Allied Health Professional to request a hearing

(l) Revocation of clinical privileges

1.1-2 When Deemed Adverse

Except as provided below, any action or recommended action listed in Section 1.1-1 above is deemed adverse to the Practitioner, Staff Affiliate or Allied Health Professional only when it has been:

a. recommended by the Medical Executive Committee; or

b. taken by the Board of Trustees under circumstances where no prior right to request a hearing existed.

1.1-3 Exceptions to Hearing Rights

a. **Certain Actions or Recommended Actions**: Notwithstanding any provision in this Fair Hearing Plan, in the Medical Staff Bylaws, or in the Credentialing Procedures Manual to the contrary, the following actions or recommended actions do not entitle the Practitioner, Staff Affiliate or Allied Health Professional to a hearing:

(1) the issuance of a verbal warning or formal letter of reprimand;

(2) the imposition of a monitoring or consultation requirement as a condition attached to the exercise of clinical privileges during a provisional period;

(3) the imposition of a probationary period involving review of cases but with no requirement either for direct, concurrent supervision or for mandatory consultation;

(4) the expiration or termination of a contract to provide clinical services;

(5) the removal of a Practitioner, Staff Affiliate or Allied Health Professional from a medico-administrative office within the Hospital unless a contract or employment arrangement provides otherwise;

(6) the denial of appointment or reappointment or suspension or revocation of membership because of a material misstatement or omission on an application for appointment or reappointment or on a request for modification of status or privileges; and

(7) any other action or recommended action not listed in Section 1.1-1 above.

b. **Other Situations**: An action or recommendation listed in Section 1.1- 1 above does not entitle the Practitioner, Staff Affiliate or Allied Health Professional to a hearing when it is:

(1) voluntarily imposed or accepted by the Practitioner, Staff Affiliate or Allied Health Professional;

(2) automatic pursuant to any provision of the Medical Staff Bylaws and related manuals; or

(3) taken or recommended with respect to temporary privileges.

(4) taken or recommended with respect to disaster privileges.

1.2 Notice of Adverse Action

The Chief Executive Officer or designee, shall, within 30 days of receiving written notice of an adverse action or recommended action under Section 1.1, give the Practitioner, Staff Affiliate or Allied Health Professional special notice thereof. The notice shall:

(a) advise the Practitioner, Staff Affiliate or Allied Health Professional of the nature of and the reasons for the proposed action, and of the right to a hearing upon timely and proper request pursuant to Section 1.3 below;

(b) specify that the Practitioner, Staff Affiliate or Allied Health Professional has thirty (30) days after receiving the notice within which to submit a request for a hearing and that the request must satisfy the conditions of Section 1.3;

(c) state that failure to request a hearing within that time period and in the proper manner constitutes a waiver of rights to a hearing and to an appellate review

on the matter that is the subject of the notice;

(d) state that any higher authority required or permitted under this Plan to act on the matter following a waiver is not bound by the adverse action or recommended action that the Practitioner, Staff Affiliate or Allied Health Professional has accepted by virtue of the waiver but may take any action, whether more or less severe, it deems warranted by the circumstances;

(e) state that upon receipt of a hearing request, the Practitioner, Staff Affiliate or Allied Health Professional will be notified of the date, time and place of the hearing, and the grounds upon which the adverse recommendation or action is based; and

(f) include a copy of the Fair Hearing Plan.

1.3 Request for Hearing

The Practitioner, Staff Affiliate or Allied Health Professional, shall have thirty (30) calendar days after receiving the above notice to file a written request for a hearing. The request must be delivered to the Chief Executive Officer by special notice.

1.4 Waiver By Failure to Request a Hearing

A Practitioner, Staff Affiliate or Allied Health Professional who fails to request a hearing within the time and in the manner specified in Section 1.3 above waives the right to any hearing or any appellate review to which he/she might otherwise have been entitled. Such waiver shall apply only to the matters that were the basis for the adverse action or recommended action triggering the Section 1.2 notice. The Chief Executive Officer shall send the Practitioner, Staff Affiliate or Allied Health Professional special notice of each action taken under any of the following Sections and shall notify the Medical Staff President of each such action as soon as reasonably practicable. The effect of a waiver is as follows:

1.4-1 After Adverse Action by the Board of Trustees

A waiver constitutes acceptance of the action, which immediately becomes the final decision in the matter.

1.4-2 After Adverse Recommendation by the Medical Executive Committee (MEC)

A waiver constitutes acceptance of the recommendation which becomes effective immediately and remains so pending the final decision of the Board. The Board shall consider the adverse recommendation as soon as practicable following the waiver. Its action has the following effect:

(a) If Board in Accord with MEC's Recommendation: If the Board's action accords in all respects with the MEC's recommendation, it becomes effective immediately as the final decision.

(b) If Board Changes MEC's Recommendation: If, on the basis of the same information and material considered by the MEC in formulating its recommendation, the Board proposes different action, the matter shall be submitted to a special combined council as provided in Section 6.10 of this

Plan. The Board's action after receiving the special council's report becomes effective immediately as the final decision.

1.5 Additional Information Obtained Following Waiver

If the source of the additional information referred to in this Section is the Practitioner, Staff Affiliate or Allied Health Professional, or an individual or group functioning, directly or indirectly, on his/her behalf, the provisions of this Section shall not apply unless the Practitioner, Staff Affiliate or Allied Health Professional, demonstrates to the satisfaction of the Board of Trustees that the information was not reasonably discoverable in time for presentation to and consideration by the party taking the initial adverse action or by the hearing committee if the Practitioner, Staff Affiliate or Allied Health Professional's, waiver is in connection with an appellate review. The Chief Executive Officer shall send the Practitioner, Staff Affiliate or Allied Health Professional, special notice of each action taken under any of the following Sections and shall notify the Medical Staff President of each such action.

1.5-1 When Received by the Board of Trustees

If, on receiving the report of MEC action taken pursuant to Section 1.4, the Board of Trustees acquires or is informed of additional information that is directly relevant to the matter at issue but was not available to or considered by the MEC, the Board shall refer the matter back to the MEC for reconsideration within a time limit set by the Board.

(a) MEC Follow-up Recommendation Adverse But Unchanged: If the MEC's recommendation following reconsideration is unchanged, the Board shall act on the matter as provided in Section 1.4-2.

(b) MEC Follow-up Recommendation Adverse But Changed: If the MEC's recommendation following reconsideration is still adverse but was changed in substance based on the new information, it is deemed a new adverse recommendation under Section 1.1 and the matter shall proceed as such.

(c) MEC Follow-up Recommendation Favorable: A favorable MEC recommendation following reconsideration shall be forwarded as soon as reasonably practicable to the Board by the Chief Executive Officer. The effect of subsequent Board action is as follows:

Favorable Board action on a favorable MEC recommendation becomes effective as the final decision.

If, on receiving this favorable MEC recommendation, the Board determines to change the action, the matter shall be submitted to a special combined council as provided in Section 6.10. Favorable Board action after receiving the special council's report shall become the final decision. Adverse Board action shall be deemed a new adverse action under Section 1.1 and the matter shall proceed as such.

PART TWO. HEARING PREREQUISITES

2.1 Notice of Time and Place for Hearing

The Chief Executive Officer shall deliver a timely and proper request for a hearing to the Medical Staff President or the Board of Trustees Chair, depending on whose recommendation or action prompted the request. The Medical Staff President or the Chair of the Board, as appropriate, shall then schedule a hearing. The Chief Executive Officer shall send the Practitioner, Staff Affiliate or Allied Health Professional special notice of the hearing, including the time, place and date thereof. The hearing date shall be not less than thirty (30) days nor more than sixty (60) days from the date of the special notice of the hearing; provided, however, that the hearing may be held sooner than thirty (30) days from the date of the special notice, if requested by the Practitioner, Staff Affiliate or Allied Health Professional who is under suspension.

2.2 Statement of Issues and Events

The special notice of hearing required under Section 2.1 above shall contain a concise statement of the Practitioner, Staff Affiliate or Allied Health Professional's alleged acts or omissions. The notice shall also contain the place, date, and time of the meeting and 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 action which is the subject of the hearing. In addition, the special notice shall state the place, date and time of the hearing.

2.3 Appointment of Hearing Committee

2.3-1 By Medical Staff

A hearing occasioned by an adverse Medical Executive Committee recommendation shall be conducted by a hearing committee appointed by the Board after consultation with the President of the Medical Staff and composed of three (3) members of the Staff, none of whom shall be in direct economic competition with the Practitioner, Staff Affiliate or Allied Health Professional involved. The CEO shall designate one of the appointees as Chair of the committee.

Circumstances may warrant appointment of committee members from outside of the medical staff to ensure an unbiased due process. Appointment of members outside of the medical staff will be a joint decision made by the Medical Staff President and the CEO.

2.3-2 By the Board of Trustees

A hearing occasioned by an adverse action of the Board of Trustees shall be conducted by a hearing committee appointed by the Chair of the Board and composed of three (3) persons, none of whom shall be in direct economic competition with the Practitioner, Staff Affiliate or Allied Health Professional involved and including at least one Medical Staff member. The Chair of the Board shall designate one of the appointees as Chair of the committee.

2.3-3 Service on Hearing Committee

An individual shall not be disqualified from serving on a hearing committee merely because he/she has heard of the case or has knowledge of the facts involved or what he/she supposes the facts to be.

2.4 List of Witnesses

At least thirty (30) calendar days prior to the scheduled date for commencement of the hearing, each party shall give the other party by special notice a list of the names of the individuals who, as far as is then reasonably known, are expected to give testimony or evidence in support of that party at the hearing. Such list shall be amended as soon as possible when additional witnesses are identified. The hearing committee may permit a witness who has not been listed in accordance with this Section to testify if it finds that the failure to list such witness was justified, that such failure did not prejudice the party entitled to receive such list, or that the testimony of such witness will materially assist the hearing committee in making its report and recommendation under Section 4.1 of this Plan.

2.5 Pre-Hearing Matters

2.5-1 The individual requesting the hearing is entitled to the following, subject to the condition that all documents and information be maintained as confidential and not disclosed or used for any purpose outside of the hearing:

(a) copies of, or reasonable access to, all patient medical records referred to in the statement of issues and events, at the individual's expense;

(b) reports of experts relied upon by the MEC;

(c) copies of relevant minutes (with portions regarding unrelated matters deleted); and

(d) 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. The individual shall have no right to discovery beyond the above information. No information shall be provided regarding other practitioners.

2.5-2 The parties and counsel, if applicable, shall 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.

2.5-3 The Presiding Officer shall require 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 shall resolve all procedural questions, including any objections to exhibits or witnesses, and the time to be allotted to each witness's testimony and cross-examination. It is expected that the hearing will last no more than 15 hours, with each side being afforded approximately seven and a half 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 shall be concluded after a maximum of 15 hours. The Presiding Officer may, after considering any objections, grant limited extensions upon a demonstration of good cause and to the extent compelled by fundamental fairness.

2.5-4 Evidence unrelated to the reasons for the recommendation or to the individual's qualifications for appointment or the relevant clinical privileges shall

be excluded.

PART THREE. HEARING PROCEDURE

3.1 Personal Presence

The personal presence of the Practitioner, Staff Affiliate or Allied Health Professional is required throughout the hearing, unless such personal presence is excused for any specified time by the hearing committee. The presence of the Practitioner, Staff Affiliate or Allied Health Professional's representative does not constitute the personal presence of the Practitioner, Staff Affiliate or Allied Health Professional. A Practitioner, Staff Affiliate or Allied Health Professional who fails, without good cause, to be present throughout the hearing unless excused or who fails to proceed at the hearing in accordance with this Fair Hearing Plan shall be deemed to have waived his rights in the same manner and with the same consequence as provided in Section 1.4 and in Section 1.5, if applicable.

3.2 Presiding Officer

The hearing officer, if appointed pursuant to Section 7.1 of this Plan, or if not appointed, the hearing committee Chair, shall be the presiding officer. The presiding officer shall maintain decorum and assure that all participants have a reasonable opportunity to present relevant evidence. He/she shall determine the order of procedure during the hearing and make all rulings on matters of procedure and the admissibility of evidence. The presiding officer shall not act as a prosecuting officer or as an advocate to any party to the hearing. If a hearing officer is appointed, he/she shall not be entitled to vote. If the Chair of the hearing committee serves as the presiding officer, he/she shall be entitled to vote.

3.3 Representation

The Practitioner, Staff Affiliate or Allied Health Professional may be accompanied and assisted at the hearing by a member of the Medical Staff in good standing, by a member of his local professional society, or by an attorney. He/she shall inform the Chief Executive Officer in writing of the name of that person at least ten days or as soon as reasonably practicable prior to the hearing date. The body whose recommendation or action prompted the request for hearing shall appoint an individual to represent it at the hearing, provided that such individual may be an attorney only if the Practitioner, Staff Affiliate or Allied Health Professional is represented by an attorney.

3.4 Rights of Parties

During the hearing, each party shall have the following rights which shall be exercised in a manner so as to permit the hearing to proceed efficiently and expeditiously:

(a) call and examine witnesses;

(b) introduce exhibits;

(c) cross-examine any witness on any matter relevant to the issues;

(d) impeach any witness; and

(e) rebut any evidence.

If the Practitioner, Staff Affiliate or Allied Health Professional does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination.

3.5 Procedure and Evidence

The hearing need not be conducted strictly according to rules of law relating to the examination of witnesses or presentation of evidence. In the discretion of the presiding officer, any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs may be considered, regardless of the admissibility of such evidence in a court of law. Each party shall be entitled, prior to or during the hearing, to submit memoranda concerning any issue of law or fact, and those memoranda shall become part of the hearing record. Written memoranda, if any, must be presented to the presiding officer and a copy must be provided to the other party. The hearing committee may ask questions of the witnesses, call additional witnesses, or request documentary evidence if it deems appropriate.

3.6 Official Notice

In reaching a decision, the hearing committee may take official notice, either before or after submission of the matter for decision, 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 Rhode Island. Participants in the hearing shall be informed of the matters to be noticed and those matters shall be noted in the hearing record. Either party shall have the opportunity to request that a matter be officially noticed and to refute the officially noticed matters by written or oral presentation of authority, in a manner to be determined by the hearing committee. Reasonable additional time shall be granted, if requested, to present written rebuttal of any evidence admitted on official notice.

3.7 Burden of Proof

When a hearing relates to section 1.1(a), (e), (h), or (i) as it pertains to an initial application for appointment or privileges, the Practitioner, Staff Affiliate or Allied Health Professional shall have the burden of coming forward with evidence and proving by clear and convincing evidence that the adverse action or recommended action lacks any substantial factual basis or is otherwise arbitrary, unreasonable, or capricious. In all other circumstances, the body whose adverse action or recommended action occasioned the hearing shall have the burden of coming forward with evidence in support thereof. Thereafter the Practitioner, Staff Affiliate or Allied Health Professional shall have the burden of coming forward with evidence and proving by clear and convincing evidence that the adverse action or recommended action lacks any substantial factual basis or is otherwise arbitrary, unreasonable, or capricious.

3.8 Hearing Record

A record of the hearing shall be kept. A stenographer or court reporter will be the preferred method to record the proceedings. Those giving testimony need not be sworn by said reporter. The practitioner can obtain a transcript of the proceedings at his/her own expense.

3.9 Postponement

Requests for postponement or continuance of a hearing may be granted by the presiding officer or hearing committee only upon a timely showing of good cause.

3.10 Presence of Hearing Committee Members and Vote

A majority of the hearing committee must be present throughout the hearing and deliberations. If a committee member is absent from any part of the hearing or deliberations, the presiding officer, in his discretion, may rule that such member may not participate further in the hearing or deliberations or in the decision of the hearing committee.

3.11 Recesses and Adjournment

The hearing committee may recess and reconvene the hearing without special notice 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 adjourned. The hearing committee shall, at a time convenient to itself, conduct its deliberations outside the presence of the parties.

PART FOUR. HEARING COMMITTEE REPORT AND FURTHER ACTION

4.1 Hearing Committee Report

As soon as reasonably practicable, but at least within 30 days after adjournment of the hearing, the hearing committee shall make a written report of its findings and recommendations with such reference to the hearing record and other documentation considered as appropriate. The hearing committee shall forward the report to the body whose adverse recommended action or actions occasioned the hearing. The Practitioner, Staff Affiliate or Allied Health Professional shall also be given a copy of the report by special notice. The hearing record and other documentation shall be transmitted to the Administrative Office for safekeeping as official records and minutes of the Medical Staff and shall be made available for review by any party between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays. The practitioner can obtain a transcript of the hearing record at his/her own expense.

4.2 Action on Hearing Committee Report

Within thirty (30) calendar days after receiving the hearing committee report, the body whose adverse action or recommended action occasioned the hearing shall consider said report and affirm, modify or reverse its action or recommended action. It shall transmit the result to the Chief Executive Officer.

4.3 Notice and Effect of Result

4.3-1 Notice

As soon as is reasonably practicable, the Chief Executive Officer shall send a copy of the result to the Practitioner, Staff Affiliate or Allied Health Professional by special notice and to the Medical Staff President.

4.3-2 Effect of Favorable Result

(a) Adopted by the Board of Trustees: If the Board of Trustees' result under Section 4.2 is favorable to the Practitioner, Staff Affiliate or Allied Health Professional, it shall become effective as the final decision in the matter.

(b) Adopted by the Medical Executive Committee: If the MEC's result is favorable to the Practitioner, Staff Affiliate or Allied Health Professional, the Chief Executive Officer shall, as soon as is reasonably practicable, forward it to the Board which may adopt or reject the result in whole or in part, or refer the matter back to the MEC for further reconsideration. Any referral back shall state the reason(s) for requesting reconsideration, set a time limit within which a subsequent recommendation must be made, and may include a directive for an additional hearing. After receiving a subsequent recommendation and any new evidence, the Board shall take action. Favorable action by the Board has the same effect as provided in Section 4.3-2(a) above. If the Board's action is adverse, the matter shall be submitted to a special combined council as provided in Section 6.10. Favorable Board action after receiving the special council's report has the same effect as provided in Section 4.3-2(a) above. If the Board's action after the special council continues to be adverse, the special notice required herein shall inform the Practitioner, Staff Affiliate or Allied Health Professional of his/her rights to request an appellate review. The Chief Executive Officer shall, as soon as is reasonably practicable, send the Practitioner, Staff Affiliate or Allied Health Professional special notice informing him/her of each action taken under this Section.

4.3-3 Effect of Adverse Result

If the result of the Medical Executive Committee or Board of Trustees under Section 4.2 continues to be adverse to the Practitioner, Staff Affiliate or Allied Health Professional, the special notice shall inform him/her of his/her right to request an appellate review as provided in Part Five of this Plan.

PART FIVE. INITIATION AND PREREQUISITES OF APPELLATE REVIEW

5.1 Request for Appellate Review

A Practitioner, Staff Affiliate or Allied Health Professional shall have fifteen (15) days after receiving special notice of an adverse result pursuant to Section 4.3 to file a written request for an appellate review. The request must be delivered to the Chief Executive Officer by special notice.

5.2 Waiver by Failure to Request Appellate Review

A Practitioner, Staff Affiliate or Allied Health Professional who fails to request an appellate review within the time and in the manner specified in Section 5.1 shall have waived any right to a review. The waiver has the same force and effect as provided in Section 1.4 and Section 1.5, if applicable.

5.3 Notice of Time and Place for Appellate Review

The Chief Executive Officer shall deliver a timely and proper request for appellate review to the Chair of the Board. As soon as practicable, said Chair shall schedule an appellate review to commence not less than twenty (20) days nor more than forty (40) days after the Chief Executive Officer received the request; provided, however, that an appellate review for a Practitioner, Staff Affiliate or Allied Health Professional who is under a suspension then in effect shall be held as soon as the arrangements for it may be reasonably made, but not later than twenty (20) days after the Chief Executive Officer received the request. At least ten (10) days prior to the appellate review, the Chief Executive Officer shall send the Practitioner, Staff Affiliate or Allied Health Professional special notice of the time, place and date of the review. The time for appellate review may be extended by the Chair of the Board for good cause.

5.4 Appellate Review Body

If a Medical Executive Committee recommendation occasions the appellate review, the Board shall serve as the appellate review body. If a Board action occasions the review, the appellate review may be conducted by the Board as a whole or a committee appointed by the Chair of the Board who designates one of the committee members as Chair.

PART SIX. APPELLATE REVIEW PROCEDURE

6.1 Nature of Proceedings

The proceedings by the review body consist of a review based upon the hearing record, the hearing committee's report, all subsequent results and actions, the written statements provided below, if any, and any other material that may be presented and accepted. The presiding officer shall direct the Administrative Office to make the hearing record and hearing committee report available at the appellate review for use by any party. If the Practitioner, Staff Affiliate or Allied Health Professional requests a copy of the hearing record be provided to him/her, he/she shall bear the cost of the same. The review body shall determine whether the foregoing evidence demonstrates that the Practitioner, Staff Affiliate or Allied Health Professional has met the applicable burden of proof as required under Section 3.7 of this Plan.

6.2 Written Statements

The Practitioner, Staff Affiliate or Allied Health Professional may submit a written statement detailing the findings of fact, conclusions, and procedural matters with which he/she disagrees and his/her reasons. 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 and to the group whose adverse action or recommended action occasioned the review through the Chief Executive Officer at least five (5) days prior to the scheduled date of the review, except if the time limit is waived by the review body or its presiding officer. A similar statement may be submitted by the body whose adverse action or recommended action occasioned the review. The statement is submitted through the Chief Executive Officer who shall provide a copy to the Practitioner, Staff Affiliate or Allied Health Professional and to the appellate review body at least three (3) days prior to the scheduled date of the appellate review.

6.3 Presiding Officer

The Chair of the appellate review body is the presiding officer. He/she 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 personally appear and make oral statements in favor of their positions. Any party or representative appearing shall be required to answer questions put by any member of the review body. Representation of any party by an attorney at the appellate review shall be handled in the same manner as provided in Section 3.3 of this Plan.

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 may be introduced at the appellate review only in the discretion of the review body and only if the party requesting consideration of the matter or evidence demonstrates to the satisfaction of the review body 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 prior to its being introduced at the review. Any such new or additional matters or evidence shall be subject to the same rights of cross-examination, impeachment, and rebuttal provided at the hearing pursuant to Section 3.4 above.

6.6 Powers

The appellate review body has all the powers granted to the hearing committee, and any additional powers that are reasonably appropriate to or necessary for the discharge of its responsibilities.

6.7 Presence of Members and Vote

A majority of the members of the review body must be present throughout the appellate review and deliberations. If a member is absent from any part of the proceedings, the presiding officer of the appellate review may, in his/her discretion, rule that said member shall not be permitted to participate further in the review or deliberations or in the decision of the review body.

6.8 Recesses and Adjournments

The review body may recess and reconvene the proceedings without special notice for the convenience of the participants or for the purpose of obtaining new or additional evidence or consultation. At the conclusion of the oral statements, if allowed, the appellate review shall be adjourned. The review body shall then, at a time convenient to itself, conduct its deliberations outside the presence of the parties.

6.9 Action Taken

As soon as reasonably practicable, but no later than thirty (30) calendar days after adjournment pursuant to Section 6.8, the review body shall prepare its report and conclusion with the result as provided below. The Chief Executive Officer shall send notice of each action taken under either Section 6.9-1 or 6.9-2 below to the Medical Staff President for transmittal to the appropriate Staff authorities and to the Practitioner, Staff Affiliate or Allied Health Professional by special notice.

6.9-1 Board of Trustees Acted as Review Body

(a) In Accord With Medical Executive Committee (MEC): If the Board of Trustees' conclusion is in accord with the MEC's last recommendation, if any, the Board's action shall be effective as the final decision in the matter.

(b) Not In Accord With Medical Executive Committee: If the Board of Trustees' action has the effect of changing the MEC's last recommendation, if any, the matter shall be referred to a special combined council as provided in Section 6.10. The Board's action after receiving the special combined council's report shall be effective as the final decision in the matter.

6.9-2 Committee Acted as Review Body

The committee's report and conclusion shall be forwarded to the Board of Trustees for final action. The effect of the Board's action shall be as provided in Section 6.9-1(a) or (b) above.

6.10 Special Combined Council Review

Within ten (10) days after receiving a matter referred to it under this Plan, a special combined council of equal numbers of Medical Staff and Board members shall convene to consider the matter. The special combined council shall be composed of a total of six (6) members selected in the following manner: three Board members appointed by the Chair of the Board and three Medical Staff members appointed by the President of the Medical Staff.

PART SEVEN. GENERAL PROVISIONS

7.1 Hearing Officer Appointment and Duties

The use and selection of a hearing officer to preside at the evidentiary hearing is optional and is to be determined by the Chair of the Board after consultation with the Chief Executive Officer and the Medical Staff President, as appropriate. A

hearing officer may or may not be an attorney at law but must be experienced in and recognized for conducting hearings (e.g. arbitration proceedings, employee labor disputes and/or grievance procedures, administrative proceedings, military court martials, or like proceedings) in an orderly, efficient and non-partisan manner.

7.2 Number of Hearings and Reviews

Notwithstanding any other provision of the Medical Staff Bylaws or of this Plan, no Practitioner, Staff Affiliate or Allied Health Professional 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 action or recommended action giving use to the right.

7.3 Release

By requesting a hearing or appellate review under this Plan, a Practitioner, Staff Affiliate or Allied Health Professional agrees to be bound by the provisions of Article Twelve of the Medical Staff Bylaws.

PART EIGHT. AMENDMENT

8.1 Amendment

This Fair Hearing Plan may be amended or repealed, in whole or in part, by a resolution of the Medical Executive Committee (MEC), recommended to and adopted by the Board.

8.2 Responsibilities and Authority

The procedure outlined in Article Fourteen of the Medical Staff Bylaws shall be followed in the adoption and amendment of this Fair Hearing Plan.

PART NINE. ADOPTION

9.1 Medical Staff

This Fair Hearing Plan was adopted and recommended to the Board of Trustees by the Medical Executive Committee on April l0, 2006.

Robert H. Schwengel, MD

President of the Medical Staff

Newport Hospital

9.2 Board of Trustees

This Fair Hearing Plan was approved and adopted by resolution of the Board of Trustees on June 14, 2006 after considering the Medical Executive Committee's recommendations

Suzette D. Schochet

Secretary, Board of Trustees
Newport Hospital

Arthur J. Sampson_____

President/Chief Executive Officer
Newport Hospital