

# **NORTHERN HEALTH REGION**

## **NORTHERN RHA BOARD BY-LAW MEDICAL STAFF**

# NORTHERN RHA BOARD BY-LAW- MEDICAL STAFF

**WHEREAS** a provincial approach to appointments and credentialing has been developed to enhance patient safety and to streamline recruitment processes for medical staff throughout the Province of Manitoba;

**AND WHEREAS** it is understood that meaningful consultation with medical staff is an important principle;

**AND WHEREAS** with the proclamation of *The Regulated Health Professions Act*, C.C.S.M. c. R117, an inter-professional approach to health care delivery in Manitoba is essential;

**NOW THEREFORE IT IS HEREBY ENACTED** as a By-law of the Northern Regional Health Authority:

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## SECTION 1: DEFINITIONS

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1.1 In this By-law:

**"Act"** means *The Regional Health Authorities Act*, C.C.S.M. c. R34, as amended from time to time;

**"Admitting Privileges"** means the authority to admit patients to a hospital and function as the Practitioner of Record for that patient. Only those Practitioners who are authorized by legislation may admit patients to a hospital;

**"Annual Verification of Information and Attestation Form" or "AVIA Form"** means the form each Practitioner must complete on an annual basis in order to renew and maintain their appointment to the Authority's Medical Staff;

**"Applicant"** means an individual applying for appointment to the Medical Staff;

**"Authorities"** means the collective of all the Manitoba regional health authorities, including the Authority;

**"Authority"** means Northern Regional Health Authority;

**"Board"** means the Board of Directors of the Authority;

**"CEO"** means the Chief Executive Officer appointed by the Board in accordance with section 21 of the Act;

**"Complaint"** means an allegation concerning a professional, ethical or administrative infraction or misconduct of a Practitioner, which includes but is not limited to:

- (a) conduct which is unprofessional or unethical;
- (b) incompetence or demonstrable deficiencies in clinical practice;
- (c) violation of this By-law or the Medical Staff Rules and Regulations, or any formal agreement with, or applicable policy of, the Authority or Site/program in which the Practitioner has Privileges; or
- (d) failure to follow a direction issued by anyone having authority to do so under this By-law, the Medical Staff Rules and Regulations or under any formal agreement with the Authority;

**"CancerCare Manitoba" or CCMB"** means CancerCare Manitoba or any successor;

"**CPSM**" means the College of Physicians and Surgeons of Manitoba or any successor under *The Regulated Health Professions Act, C.C.S.M. c. R117*;

"**Diagnostic Services Manitoba**" or "**DSM**" means Diagnostic Services Manitoba Inc, or any successor;

"**Emergency**" means any situation wherein a patient is in immediate danger of death or serious harm, and in which any delay in administering treatment could contribute to that danger or harm;

"**Health care entity**" includes, but is not limited to, a regulatory body, another hospital, health care organization, professional society, health maintenance organization, independent practice association, or medical group;

"**Health Region**" means the Northern Health Region established under the Act;

"**Lab Scientist**" means an individual with a PhD degree in one of microbiology, chemistry, immunology, genetics or cytology and who has successfully completed a minimum of two years clinical training in one of clinical chemistry, clinical microbiology, clinical genetics, clinical immunology or clinical cytology, sanctioned by their respective national association;

"**Locum Tenens**" means a physician who is replacing a Practitioner of the Medical Staff or is providing necessary support to the Medical Staff as needed on a temporary or episodic basis;

"**MAC**" means the Medical Advisory Committee(s) to the Authority established pursuant to this By-law;

"**Manitoba Privileges Advisory Committee**" or "**MPAC**" means the provincial committee that oversees the credentialing process for the medical staff in Manitoba for the Authorities. The provincial specialty privileges committees report to the MPAC, which in turn reports to the PMLC;

"**Manitoba Privileges Advisory Committee Specialty Privileges Committee**" or "**MPAC Specialty Committee**" means a subcommittee of MPAC comprised of specialists in a specific professional discipline who are responsible to make recommendations as to the appropriate privileges for Selected Applicants in that specialty. These specialty committees report to MPAC;

"**Medical Staff**" is comprised of all physicians, dentists, psychologists, midwives, physician assistants, clinical assistants, trainees, Lab Scientists, Locum Tenens, and Nurse Practitioners who are appointed pursuant to this By-law;

"**Medical Staff Administrative Services Office**" means the office or person designated by the CEO to receive and maintain records, applications, correspondence and information pertaining to the Medical Staff;

"**Medical Staff Rules and Regulations**" means the guidelines and processes established by MAC from time to time based upon a provincial template approved by PMLC;

"**Observer**" means an individual granted authority by the Regional CMO to observe medical practice under the supervision of a Practitioner. An Observer cannot provide or direct the care of any patient or touch the patient and cannot document in the medical record. An Observer is not a Practitioner, nor a member of the Authority's Medical Staff;

"**Practitioner**" means a member of the Medical Staff whether Active, Associate, Trainee, or Locum Tenens;

"**Practitioner of Record**" means the Practitioner who agrees to oversee a specific patient's care. The Practitioner of Record shall have the final decision regarding admission, discharge and treatment options for that patient as set out in section 4.4.1 (xii). Any exemption from this requirement requires a specific written policy outlining the parameters of the exception;

**"Privileges"** means the authority granted to a Practitioner by the Authority to provide care to patients/residents/clients, including admitting, treatment and consultation privileges. Privileges are limited by the individual Practitioner's professional license, experience and competence and are Site specific and may include multiple specified Sites. The Privileges granted by the Authority cannot exceed the privileges recommended by the MPAC Specialty Committee. A grant of Privileges alone does not confer the right to participate in any rota or on-call roster, access to resources, or other like opportunities. Such rights are provided through contracts for services or employment or, where applicable, through collective agreements;

**"Program Medical Director"** means the Practitioner appointed as the medical director of a clinical program or sub-program within the Health Region;

**"Provincial Health Workforce Secretariat" or "the Secretariat"** means the provincial division responsible for health workforce in the Province of Manitoba and which oversees the medical staff administrative services;

**"Provincial Medical Leadership Council" or "PMLC"** means the provincial committee reporting to the Deputy Minister of Health and includes the chief medical officers and associate chief medical officers from each of the regional health authorities in Manitoba, Diagnostic Services Manitoba, CancerCare Manitoba, the Chief Provincial Public Health Officer, the Chief Medical Information Officer of Manitoba eHealth, and representatives from the College of Physicians and Surgeons of Manitoba;

**"Regional CMO"** means the Authority's Chief Medical Officer or equivalent who is licensed by the College of Physicians and Surgeons of Manitoba or any successor regulatory body for physicians in Manitoba;

**"Selected Applicant"** means an Applicant selected by the Authority to fill a vacancy subject to the recommendations of the MPAC Specialty Committee and MAC and the approval of the Regional CMO as set out in this By-law;

**"Site"** includes, but is not limited to, any facility owned or operated by the Authority, or funded by the Authority, providing health care services, including all hospitals in the Health Region;

**"Site CMO"** means the chief medical officer of a Site, operated by or funded by the Authority in the Health Region, or the Chief of Staff of a region, site or facility within the Health Region. The responsibilities of the Site CMO are assumed by the Regional CMO or his/her designate for all community health care sites directly operated by the Authority where there would not otherwise be an on-site chief medical officer;

**"Temporary Privileges"** means the time limited permission granted in exceptional circumstances to a Practitioner by the Authority to provide care to patients/residents and clients, including admitting, treatment and consultation privileges. Temporary Privileges will expire on the date specified by the Authority. Temporary Privileges may be granted by the Regional CMO without the need to consult MAC in advance. Temporary Privileges cannot be granted for a period longer than one hundred and twenty (120) days.

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## **SECTION 2: OBJECTIVES**

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### **2.1 OBJECTIVES**

The objectives of this By-law are to provide provincially consistent structures and processes to:

- (i) appoint Practitioners, grant Privileges and evaluate performance;
- (ii) provide an administrative structure for the governance of the Medical Staff;

- (iii) ensure that professional and ethical standards of the Practitioners are maintained;
- (iv) create and maintain an atmosphere conducive to excellence in clinical care;
- (v) create and maintain an atmosphere conducive to excellence in undergraduate, post graduate and continuing education and research, where applicable;
- (vi) enable the Medical Staff to advise the CEO and Board on matters relating to medical care and the effective and efficient management of medical services within the Health Region.

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### **SECTION 3: APPLICATION OF BY-LAW**

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- 3.1 This By-law shall apply to all Applicants and Practitioners with respect to their practice in:
- (a) all three hospitals (Flin Flon General Hospital, St. Anthony's Hospital, Thompson General Hospital);
  - (b) all four health centres (Gillam Health Centre, Lynn Lake Health Centre, Leaf Rapids Health Centre, Snow Lake Health Centre);
  - (c) personal care homes owned or directly operated by the Authority;
  - (d) primary care clinics (The Pas Clinic, Flin Flon Clinic, Thompson Clinic) and any additional health centres owned or directly operated by the Authority; and
  - (e) any nursing stations directly operated by the Authority.
- 3.2 In addition to the Sites listed in section 3.1 above, this By-law shall also apply to all Applicants and Practitioners of any other Site funded by the Authority that is or becomes subject to this By-law pursuant to an agreement between the board of that Site and the Authority, subject to section 3.7 and 3.8 below.
- 3.3 Without restricting the generality of the foregoing, this By-law only determines an Applicant or Practitioner's right to have and maintain Privileges. All other rights will be determined in accordance with any applicable contract of employment, contract for services and/or any applicable collective agreement. Specifically, any Practitioner who is employed by the Authority (or a funded Site) shall have their employment status and their rights and obligations as employees (or independent contractors) determined in accordance with their employment contract or contract for services and, where applicable, any collective agreement, and not by the processes set out in this By-law. This By-law governs the Practitioner's appointment to the Medical Staff and the Privileges granted to the Practitioner.
- 3.4 The appointment of a Practitioner to a Medical Staff and/or the granting of Privileges does not, of itself, create the relationship of employer and employee, or of principal and agent, between the Authority and the Practitioner or any corporation owned by the Practitioner. The Practitioner shall have no authority to assume or create any obligation in the name of the Authority nor to legally bind the Authority in any manner unless such authority has been specifically delegated in writing to the Practitioner.
- 3.5 No physician, dentist, psychologist, midwife, physician assistant, clinical assistant, Lab Scientist, trainee, Nurse Practitioner or Locum Tenens shall admit or provide services to patients in a facility or at a Site unless he/she is a Practitioner or has been granted Temporary Privileges in accordance with the procedures set forth in this By-law unless it is an emergency as defined in this By-law.
- 3.6 In the application for and/or acceptance of an appointment and Privileges to the Medical Staff of the Authority, all Practitioners and Applicants agree to be bound by this By-law and any Medical Staff Rules and Regulations.

## Limited Application to Non-Devolved Personal Care Homes [if applicable within the specific RHA]

- 3.7 Individuals providing health care services within non-devolved personal care homes funded by the Authority may be governed by their own medical staff by-law, subject to section 3.8.
- 3.8 Notwithstanding section 3.7, the sections of this By-law regarding Appointments and Complaints and Dispute Resolution shall apply to all physicians, dentists, midwives, psychologists, physician assistants, clinical assistants, trainees, Nurse Practitioners, Lab Scientists and Locum Tenens in non-devolved personal care homes, unless limited by a service purchase or other agreement between the personal care home and the Authority. Any non-devolved personal care home may incorporate further sections of this By-law into its own medical staff by-law as it sees fit. Any references in sections in the Appointments, Complaints and Dispute Resolution Sections regarding the "Board" or the "CEO" shall, within a non-devolved personal care home, where appropriate, mean the board of directors of that particular non-devolved personal care home and its chief executive officer.

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## SECTION 4: CATEGORIES, RIGHTS AND DUTIES OF MEDICAL STAFF

### 4.1 GENERAL

- 4.1.1 An appointment under this By-law confers membership to a category on the Medical Staff of the Authority.
- 4.1.2 Membership on the Medical Staff shall be extended to physicians, dentists, midwives, psychologists, physician assistants, clinical assistants, Lab Scientists, Nurse Practitioners, Locums Tenens and trainees who continuously meet the requirements, qualifications and responsibilities set forth in this By-law and who are appointed in accordance with this By-law.
- 4.1.3 All Practitioners shall be granted Privileges that permit the Practitioner to perform specified services within specified Sites within the Health Region.
- 4.1.4 All Practitioners are responsible and accountable to their respective Site CMO, Program Medical Director, if applicable, DSM CMO if applicable, and the Regional CMO on a day-to-day basis respecting their duties and responsibilities and ultimately to the CEO and the Board.
- 4.1.5 All appointments and Privileges are conditional upon and in effect only while the Practitioner has and maintains the appropriate license or registration with the regulatory authority in Manitoba applicable to the Practitioner.
- 4.1.6 The grant of a Medical Staff appointment and Privileges to a Practitioner is exclusive to that Practitioner.
- 4.1.7 A Medical Staff appointment and Privileges may only be granted to an individual and will not be granted to a firm, partnership or corporation, including a professional corporation.

### 4.2 CATEGORIES

Each Practitioner shall be assigned to one category in the Medical Staff which reflects his/her involvement and responsibility to the Authority. The categories are:

- 4.2.1 **Associate Staff:** The Associate Staff shall consist of all Practitioners during their first full calendar year of appointment to the Medical Staff (the "Associate Year"). Leaves of absence for any reason during the Associate Year shall result in an extension of the Associate Year equivalent to the duration of the leave of absence. The Authority shall conduct a performance review of the Practitioner prior to expiration of the Associate Year.

The Associate Year may be waived or reduced by the Authority where it is deemed to be in the best interests of the Authority and the Selected Applicant, due to education and experience and/or the possession of medical qualifications of exceptional merit.

- 4.2.2 **Active Staff:** The Active Staff shall consist of all Practitioners who have successfully completed the Associate Year or for whom the Associate Year has been waived or reduced in accordance with section 4.2.1. Active Staff are appointed for an indefinite term conditional on the Practitioner annually completing the Annual Verification of Information and Attestation Form and meeting the conditions set out in section 5.1.2. Active Staff may be reverted to Associate Staff status in accordance with section 8.3.7.
- 4.2.3 **Trainee Staff:** Trainee Staff shall include any undergraduate (including clinical clerks), graduate, postgraduate or continuing professional development student participating in a training program by an accredited university based in one or more of the Authority's facilities, and who is appropriately licensed by the CPSM or other applicable regulatory authority.
- 4.2.4 **Locum Tenens:** Locum Tenens shall be granted Privileges by the Regional CMO prior to providing medical services for the Authority or within a Site.

#### **Non-Medical Staff Categories**

- 4.2.5 **Assessment Candidates:** Assessment Candidates include, but are not limited to, Non-Registered Specialist Assessment Program candidates and Assessment for Conditional Licensure candidates who work in the Sites and with programs during the term of their clinical assessment only as permitted by any applicable registration in the University of Manitoba clinical assessment program and the CPSM. They are not Practitioners and not members of the Medical Staff and do not work independently of their designated assessor or practice supervisor.
- 4.2.6 **Observers:** As defined in section 1.1.

### 4.3 **RIGHTS**

- 4.3.1 Practitioners appointed to the Active or Associate Staff may:
- (i) subject to this By-law, be a voting member of MAC and/or any committee or subcommittee established by MAC, and may serve as Chair of any such committee or subcommittee established by MAC; and
  - (ii) hold any position appointed by the Authority.
- 4.3.2 Practitioners appointed to the Trainee Staff or Locum Tenens categories of the Medical Staff may attend meetings of committees and/or subcommittees established by MAC, with the exception of the Regional Standards Committee or subcommittees, but, except for the President of PARIM, shall not be a member of any such committee or subcommittee, nor have a vote.

### 4.4 **DUTIES**

- 4.4.1 Each Practitioner, including individuals with Temporary Privileges, shall:
- (i) maintain licensure through their respective regulatory body and, where applicable, remain enrolled and in good standing in their training program;
  - (ii) promote and provide patient care that is consistent with the standards established by regulatory bodies, professional associations and the Authority;

- (iii) participate, as applicable, in clinical, education, research and administrative duties. Where the Practitioner is providing services pursuant to a contract, these duties shall be consistent with the Practitioner's existing contract for services or employment contract;
- (iv) demonstrate consistent ability to work in a collegial and cooperative manner with others in the provision of care, treatment and services, including participation in inter-professional collaborative practice and education;
- (v) have and maintain the competence in the Practitioner's respective field with the continued ability to perform clinical services in accordance with their Privileges;
- (vi) abide by this By-law, the Medical Staff Rules and Regulations and any policies, procedures and codes of conduct approved by the Authority, including policies regarding a respectful workplace, privacy, confidentiality and security of personal health information, conflict of interest and industry relations;
- (vii) advise the Board on medical matters through their representatives on MAC;
- (viii) meet the standards established by their regulatory body and any professional associations;
- (ix) notify the Regional CMO in writing immediately of the details of any allegation or adverse action by any "health care entity" (whether in Manitoba or not) or law enforcement agency, including:
  - (a) any reprimands;
  - (b) change in medical license status;
  - (c) a criminal charge or conviction of a criminal charge;
  - (d) the filing or service of any professional liability lawsuit against the Practitioner, including by a patient or former patient;
  - (e) a voluntary or involuntary termination of medical staff membership;
  - (f) voluntary or involuntary limitation or imposition of a monitoring requirement;
  - (g) reduction, loss or change of privileges at another health care entity;
  - (h) referral of a complaint or concern about the Practitioner or Locum Tenens to an investigation/investigation committee of the relevant regulatory body; or
  - (i) any investigation of the Practitioner by a law enforcement agency if the alleged conduct is said to have taken place at a Site or during the performance of any services by the Practitioner purporting to be on behalf of the Authority;
- (x) notify the Regional CMO in writing immediately of any change or termination of liability insurance coverage or any change or termination of membership in the Canadian Medical Protective Association;
- (xi) work collaboratively within the relevant clinical program(s) to assist the clinical program in delivering essential patient services, including on-call coverage as defined by the clinical program(s), in a timely and effective manner. In the case of physicians, the duty/responsibility to assist the clinical program(s) in delivering on-call coverage is provisional upon a written agreement being in place with Doctors Manitoba (or between physician(s) and the Authority) respecting remuneration for on-call coverage;



- (xii) when a Practitioner is designated as the Practitioner of Record, the Practitioner of Record shall be responsible to coordinate and oversee all of the patient's care for that admission until the Practitioner of Record formally transfers, in writing, the patient to another Practitioner to be that patient's Practitioner of Record and that other Practitioner accepts that transfer. If the Practitioner of Record for inpatients is unavailable to the patient at any time, they shall develop a mechanism to ensure all health care providers have clear direction as to the availability of an alternative Practitioner that is able to function as the Practitioner of Record for that patient. For greater clarity, an on-call Practitioner or a house medical officer (HMO) does not become the Practitioner of Record by virtue of caring for the patient during an on-call or HMO shift. The Practitioner of Record remains ultimately responsible for the patient's care unless and until there is a formal transfer of care in writing;
- (xiii) fulfill any necessary continuing education requirements to maintain their competency and/or licensure;
- (xiv) complete and file an Annual Verification of Information and Attestation Form annually; and
- (xv) participate in a performance review process as set out in the Medical Staff Rules and Regulations.

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## **SECTION 5: APPOINTMENTS AND PRIVILEGES**

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### **5.1 GENERAL**

- 5.1.1 After considering the recommendations of MAC, the Regional CMO shall appoint successful Applicants to the Medical Staff in a specific category and grant Privileges in accordance with this By-law. Such Privileges may be Site specific.
- 5.1.2 Appointment to the Active Medical Staff category shall be for an indefinite period contingent upon:
  - (i) maintenance of the Practitioner's licensure with the applicable regulatory authority in the Province of Manitoba;
  - (ii) maintenance of registration with a required university training program or specialty college, where applicable;
  - (iii) the Practitioner filing an AVIA Form annually;
  - (iv) a satisfactory performance review every two years as set out in Section 6;
  - (v) maintenance of membership in the Canadian Medical Protective Association or obtaining appropriate insurance with an insurer satisfactory to the Authority; and
  - (vi) maintenance of the minimum requirements for the specific Privileges held by the Practitioner as determined by the MPAC and MPAC Specialty Committee in accordance with section 5.1.6.
- 5.1.3 A grant of Privileges to an Applicant or Practitioner shall not extend to any Site where it is determined there is a conflict with the mission and values of that Site, as so determined in accordance with the Medical Staff Rules and Regulations.
- 5.1.4 Except for any approved leave of absence, any Practitioner who does not use his/her Privileges for a time period equal to or greater than one (1) year may have his/her

Privileges terminated, at the discretion of the Regional CMO. The Practitioner will be notified in writing of the termination of his/her Privileges.

- 5.1.5 Any physician who is registered and holds a current active license with the CPSM, whether or not a Practitioner, and regardless of the Privileges granted by the Regional CMO, may attend a patient where an Emergency exists and take all steps to save the life or limb of that patient when a physician with Privileges is not available.
- 5.1.6 MPAC shall establish the minimum credential requirements for specific privileges on a provincial basis.
- 5.1.7 The Regional CMO shall not grant a Selected Applicant an appointment or Privileges that exceed those recommended by the relevant MPAC Specialty Committee.
- 5.1.8 The Regional CMO is not obligated to grant a Selected Applicant an appointment or Privileges simply because the Selected Applicant has met the minimum credential requirements for the requested privileges and has been recommended by the MPAC Specialty Committee, or the Selected Applicant has been granted similar privileges in another one of the Authorities.

## 5.2 **APPOINTMENT CRITERIA**

- 5.2.1 1 New appointments shall only be granted to fill vacant positions established by the Authority. A vacant position will only be created if there are sufficient resources available to support such a position taking into consideration the impact on the Board's strategic plan, any human resources or physician workforce plan, financial resources and physical resources and equipment.
- 5.2.2 All Applicants for an initial appointment shall hold or be eligible to hold a license with the respective regulatory authority in the Province of Manitoba, and by the commencement of any appointment, all Practitioners must be qualified to practice their profession in the Province of Manitoba and shall be registered and hold a current active license with the Applicant's regulatory authority.
- 5.2.3 All Applicants for appointment and Practitioners shall have the qualifications and experience necessary for the Privileges sought and/or held.
- 5.2.4 All Applicants for appointment and Practitioners shall have and maintain membership in the Canadian Medical Protective Association or appropriate liability insurance with an insurer satisfactory to the Authority.
- 5.2.5 All Applicants for appointment to the Trainee Staff shall be registered with the applicable regulatory authority and shall be recommended to the Authority by the University of Manitoba or the applicable educational institution and shall be enrolled in a training program approved by the applicable regulatory authority.

## 5.3 **INITIAL APPOINTMENTS**

- 5.3.1 An Applicant shall apply for a vacant position approved by the Authority in accordance with section 5.2.1.
- 5.3.2 Each vacancy shall be advertised in a manner deemed appropriate by the Authority.
- 5.3.3 Applicants for appointment to the Medical Staff shall be provided with an application form, access to a copy of this By-law and any Medical Staff Rules and Regulations.
- 5.3.4 The Applicant shall submit the completed application to the Authority.

- 5.3.5 Upon receipt of a completed application, the Authority shall process the application in accordance with the Medical Staff Rules and Regulations.
- 5.3.6 A Selected Applicant shall be chosen from the Applicants applying for the vacancy for privileges and appointments in accordance with the selection process approved by the Authority and once the Medical Staff Rules and Regulations are approved, as set out in the Medical Staff Rules and Regulations.
- 5.3.7 The Selected Applicant's application is sent to the MPAC through the Secretariat. MPAC shall process the application and forward it to the appropriate MPAC Specialty Committee.
- 5.3.8 On a timely basis, the MPAC Specialty Committee shall:
- (i) review the Selected Applicant's application and credentials (including qualifications and experience);
  - (ii) contact the Selected Applicant's references to seek their comments on the character and professional competence of the Selected Applicant;
  - (iii) make such further inquiries as it sees fit, which may include interviewing the Selected Applicant;
  - (iv) obtain a reference from the most recent supervisor of the Selected Applicant; and
  - (v) subject to section 5.3.9, make a written recommendation to MAC as to the specific privileges the Selected Applicant is eligible to receive, which shall include, if applicable, the reasons for making any recommendation that is at variance with the request(s) of the Selected Applicant.
- 5.3.9 Before making a recommendation to MAC that is at variance with the request(s) of the Selected Applicant, the MPAC Specialty Committee shall notify the Selected Applicant in writing providing its reasons for making a recommendation at variance with the request(s) of the Selected Applicant and provide him/her with an opportunity, within fifteen (15) days, to make a written submission to PMLC, to be considered by PMLC at its next meeting along with the proposed recommendations sent by the MPAC Specialty Committee. PMLC shall notify the Selected Applicant of PMLC's decision on the appeal of the recommendation as soon as possible following its meeting and the decision of PMLC shall be forwarded to MAC and shall be considered by MAC in accordance with this By-law as if it was the recommendation of the MPAC Specialty Committee.
- 5.3.10 Upon receipt of the written recommendation of the MPAC Specialty Committee, MAC, at its next meeting, shall review the recommendation and provide a written recommendation to the Regional CMO as to whether an appointment to the Medical Staff and Privileges should be granted, not granted, or granted in a form different from that which the Selected Applicant requested. MAC may also refer the application back to the MPAC Specialty Committee and request further information from the MPAC Specialty Committee prior to making its recommendation to the Regional CMO.
- 5.3.11 Following its meeting, MAC shall submit to the Regional CMO the application, any written submissions from the Selected Applicant in accordance with section 5.3.9, together with MAC's recommendation as to the appointment of the Selected Applicant to the Medical Staff, the category of appointment, and the Privileges to be granted to the Applicant. Where the recommendation of MAC is at variance with the request(s) of the Selected Applicant, or the recommendations of the MPAC Specialty Committee, MAC shall set out its reasons in writing. MAC may not recommend privileges for a Selected Applicant that exceed the privileges recommended by the MPAC Specialty Committee. The written reasons of MAC shall be drafted and submitted by the Vice Chair of MAC or his/her delegate, which delegate cannot be the Regional CMO.

- 5.3.12 As soon as reasonably possible, the Regional CMO shall make a decision to grant, deny or vary the appointment and Privileges requested. The Regional CMO shall not grant any Privileges that exceed those recommended by the MPAC Specialty Committee.
- 5.3.13 The decision of the Regional CMO shall be transmitted in writing to the Selected Applicant. If the decision is to deny or vary the Privileges requested by the Selected Applicant, the Regional CMO shall include reasons for the decision, which decision shall be final.
- 5.3.14 All procedures contained in 5.3.7 to 5.3.13 shall be completed within six (6) months of receipt of the Application by the Secretariat in accordance with 5.3.7, except if an appeal is made to PMLC, in which case all subsequent steps will be taken as expeditiously as possible.
- 5.3.15 If the application is accepted in accordance with this By-law, the Regional CMO shall appoint the Applicant to the Medical Staff. The appointment shall designate the category of Medical Staff to which the Applicant is assigned and the Privileges granted.
- 5.3.16 The appointment shall come into effect upon the Selected Applicant submitting a signed statement to the Medical Staff Administrative Services Office for the Authority that he or she:
- (i) agrees to be bound by this By-law, the Medical Staff Rules and Regulations, and any policies of the Authority, appropriate Clinical Program(s), and appropriate sites;
  - (ii) understands and agrees to the assignment of category, the Privileges granted, including the specified Sites, and the appointment(s) within the specific clinical program(s);
  - (iii) undertakes to notify the Regional CMO or his/her delegate, with a copy to the Authority's Medical Staff Administrative Services Office, within seven (7) days of the Practitioner learning of any of the matters requiring notification by the Practitioner as set out in section 4.4.1 (ix);
  - (iv) undertakes to complete any required orientation within a specified time frame; and
  - (v) undertakes to respond on a timely basis to any enquiry made of the Applicant by the Regional CMO or the CEO.
- 5.3.17 Where the Selected Applicant fails to submit such a signed statement within thirty (30) days of receipt of the notification of the appointment, he or she shall be deemed to have rejected the appointment.
- 5.3.18 The Authority shall maintain a written record of the Medical Staff category appointment and Privileges granted to each Practitioner and any Temporary Privileges granted.
- 5.3.19 Any appeal to the PMLC, pursuant to section 5.3.9, shall be processed in accordance with the Medical Staff Rules and Regulations.

#### 5.4 **CHANGE IN APPOINTMENT/PRIVILEGES**

- 5.4.1 At any time a Practitioner may apply for a change in Privileges by completing a form approved by the Authority and forwarding it to the Medical Staff Administrative Services Office.
- 5.4.2 Upon receipt of an application for a change in Privileges, the application for a change shall be processed in accordance with the provisions applicable to an initial award of Privileges set out in sections 5.3.4 to 5.3.15, as if the Practitioner was the "Selected Applicant" in those provisions.

## 5.5 **CONTINUATION OF PRIVILEGES**

5.5.1 All Active Staff Practitioners who wish to continue their appointment and Privileges must complete an Annual Verification of Information and Attestation Form in accordance with the Medical Staff Rules and Regulations at the time specified by the Authority.

## 5.6 **TEMPORARY PRIVILEGES**

5.6.1 Temporary Privileges may be granted by the Regional CMO for a limited period or in regard to a specific patient. All the necessary paperwork for the application must be submitted by the Selected Applicant within thirty (30) days of a grant of Temporary Privileges or the Temporary Privileges will automatically cease and the Applicant will be required to commence the application process from the start. Temporary Privileges may not exceed one hundred and twenty (120) days unless extended in exceptional circumstances at the sole discretion of the Regional CMO.

## 5.7 **RESIGNATION. RETIREMENT AND LEAVE OF ABSENCE**

### 5.7.1 **Resignation and Retirement**

5.7.1.1 Subject to section 5.7.1.2, Practitioners may resign or retire from the Medical Staff any time with ninety (90) days' written notice to the Regional CMO. Practitioners are encouraged to provide as much additional notice as possible in excess of ninety (90) days to facilitate recruitment and a smooth transition.

5.7.1.2 The notice requirement set out in section 5.7.1.1 may be waived by the Regional CMO upon request by the Practitioner to the Regional CMO, in exceptional circumstances, relating to a Practitioner's health or personal circumstances.

5.7.1.3 Failure to provide the minimum required notice may be noted in any subsequent reference checks concerning the Practitioner and may be reported to the appropriate regulatory authority as failure to comply with this By-law.

### 5.7.2 **Leave of Absence**

5.7.2.1 Practitioners may request a leave of absence (a time period equal to or greater than three (3) months) by forwarding such request and the reason(s) for the request, with not less than sixty (60) days' notice, to the Regional CMO, with a copy to the appropriate Program Medical Director(s). Practitioners are to provide as much notice as possible in advance of the requested date for commencement of the leave of absence. The sixty (60) day notice requirement may be waived by the Regional CMO upon request by the Practitioner, in exceptional circumstances, relating to a Practitioner's health or personal circumstances.

5.7.2.2 The Regional CMO may grant a leave of absence to a Practitioner for a period not exceeding two (2) years.

5.7.2.3 Prior to a return from a leave of absence, a Practitioner shall provide to the Regional CMO, with a copy to the applicable Program Medical Director(s), any information respecting the Practitioner's professional activities, including experience, during the term of the leave of absence, including any disciplinary referrals or actions by any regulatory authority, that may have an impact on the Practitioner's duties, responsibilities or practice. The Practitioner shall provide such further information as requested, including reference names.

5.7.2.4 Upon returning from a leave of absence and conditional upon a satisfactory review by the Regional CMO of the Practitioner's professional activities as per section 5.7.2.3, a Practitioner will be entitled to Privileges but all other rights are

determined by and flow from any other applicable contracts and agreements as set out in section 3.3. There is no guarantee of access to resources or remuneration upon a Practitioner's return from a leave of absence. As part of the review by the Regional CMO, if the leave of absence was for a period longer than 12 months, the Regional CMO may require that any previously held Privileges that the Practitioner desires to resume, first be assessed by the relevant MPAC Specialty Committee.

- 5.7.3 All resignations, retirements and leaves of absence shall be reported by the appropriate Program Medical Director to the Medical Staff Administrative Services Office for appropriate processing.

## 5.8 **LOSS OF PRIVILEGES**

- 5.8.1 A Practitioner may lose his/her Privileges granted by the Authority in the following circumstances:
- (i) immediately upon the Practitioner's death;
  - (ii) immediately upon loss of registration with, or suspension by, the applicable regulatory authority;
  - (iii) immediately upon loss of registration with, or suspension by, any applicable training program at the University of Manitoba or other applicable requisite training program;
  - (iv) for failure to file the Annual Verification of Information and Attestation Form within sixty (60) days of the deadline for its submission;
  - (v) for failure to complete medical records in accordance with section 8.4.2;
  - (vi) interim suspension due to a perceived threat to the safety of patients or staff in accordance with section 8.4.1;
  - (vii) as a result of a Complaint that has been reviewed through the formal processes in this By-Law as set out in section 8.3 which resulted in an outcome set out in section 8.3.7 (f) or (g);
  - (viii) for failure to use any Privileges for at least a one (1) year period in accordance with section 5.1.4. Privileges may be lost only at a specified Site(s) if the failure to use the Privileges is limited to that (or those) Site(s); and
  - (ix) immediately upon termination of the employment by the Authority, or a Site, of a Practitioner who is not a physician.

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## **SECTION 6: PERFORMANCE REVIEWS**

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### 6.1 **PERFORMANCE REVIEWS**

- 6.1.1 Performance reviews shall be conducted to facilitate the development of Practitioners and to identify concerns before they become serious problems.
- 6.1.2 Each Practitioner shall be subject to formal performance reviews at minimum every two years.
- 6.1.3 A performance review of a Practitioner shall include the Practitioner's:
- (i) quality of patient care, teaching, and research as applicable;

- (ii) ability to work in a cooperative and collegial manner with other Practitioners, other health care providers, whether employed by or contracted to the Authority, and any other employees or contractors of the Authority;
  - (iii) contribution to committee work and administration; and
  - (iv) compliance with this By-law, the Medical Staff Rules and Regulations, and any policies established by the Authority.
- 6.1.4 Performance reviews shall be conducted by the individual to whom the Practitioner most directly reports, or by the applicable Program Medical Director or the Regional CMO in accordance with the Medical Staff Rules and Regulations.
- 6.1.5 Performance reviews shall be documented and kept in the Practitioner's file maintained in accordance with the Medical Staff Rules and Regulations.
- 6.1.6 Performance reviews shall include input from other Practitioners and, where appropriate, other health care providers, patients, and trainees.
- 6.1.7 All performance reviews which do not meet the expected standards shall be referred to the Program Medical Director, to the Regional CMO, and if applicable to the Site CMO of the Site(s) where the Practitioner has Privileges.
- 6.1.8 In the event that a Practitioner receives an unsatisfactory review, the Program Medical Director, the Site CMO and the Regional CMO will assess the potential for improvement and may prescribe a remedial program, if required.
- 6.1.9 In the event that a Practitioner fails or refuses to participate in a performance review, receives a further unsatisfactory performance review, or fails to participate in a remedial program as prescribed, the matter will be referred to the Regional CMO for assessment and direction as required, which may include a referral as a Complaint for resolution in accordance with section 8.

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**SECTION 7: REGIONAL CHIEF MEDICAL OFFICER**

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**7.1 REGIONAL CHIEF MEDICAL OFFICER**

- 7.1.1 The Authority shall appoint as the Regional CMO a physician who is qualified to practice medicine in the Province of Manitoba and is registered and holds a current active license with the CPSM.
- 7.1.2 In the absence of a Regional CMO, the CEO shall designate the roles outlined below to members of MAC who are Active Staff Practitioners.
- 7.1.3 The Regional CMO shall:
- (i) ensure that the quality of services offered by all Practitioners is evaluated on a regular basis and that corrective actions are taken when problems are identified;
  - (ii) monitor Practitioners' practices to ensure compliance with this By-law, the Medical Staff Rules and Regulations and any policies and procedures and codes of conduct approved by the Authority;
  - (iii) serve as the Chair of MAC and shall be a non-voting member of all subcommittees of MAC;
  - (iv) encourage the participation of Practitioners in appropriate continuing education;
  - (v) implement and maintain appropriate measures for reviewing and managing the use of resources by Practitioners;

- (vi) monitor and advise the Board and the CEO on the processes used to appoint Practitioners and assess their performance;
- (vii) ensure that a report on the activities of MAC is made at each regular meeting of the Board and provide a copy of same to the CEO;
- (viii) informally address complaints and disputes between Practitioners and mediate between the parties concerned;
- (ix) appoint Practitioners to the Authority's Medical Staff in accordance with this By-law; and
- (x) perform such other duties as specified in this By-law and as may be determined by the Board or the CEO.

7.1.4 The Regional CMO shall actively participate in the selection of any Site CMO, and the Site CMO shall be appointed subject to the approval of the Regional CMO. The Site CMO(s) shall assist the Regional CMO as appropriate in carrying out the Regional CMO's responsibilities as set out in this By-law and to act as designates of the Regional CMO as may be determined by the Regional CMO.

7.1.5 If the individual appointed as the Regional CMO desires new privileges or a change in privileges already held by that individual, the Regional CMO shall apply for those privileges in accordance with this By-law except that the recommendation of the MPAC Specialty Committee in section 5.3.8 and 5.3.10 shall be made directly to the PMLC. PMLC shall determine if the privileges are appropriate and shall make its recommendation pertaining to privileges for the Regional CMO directly to the CEO and not to MAC. If the Regional CMO is a member of PMLC, the Regional CMO shall not attend that portion of the PMLC meeting pertaining to the grant of his or her privileges and shall not influence the decision.

7.1.6 The CEO shall appoint the Regional CMO to the Medical Staff and shall grant the Regional CMO the privileges recommended by the PMLC except if there are valid resources implications that mitigate against a grant of those privileges.

## 7.2 COMMITTEES

### 7.2.1 Medical Advisory Committee (MAC)

#### 7.2.1.1 Composition

MAC is the senior patient care committee advisory to the Board on medical issues.

The voting members of MAC shall include:

- (i) the Regional CMO who shall serve as Chair of the Committee and shall have no vote except in the case of an equality of votes, in which case the Regional CMO shall cast the deciding vote;
- (ii) such Practitioners as determined by the CEO after considering the recommendations of the Regional CMO; and
- (iii) **For WRHA:** where the members of the Medical Staff form a regional medical staff council and elect a president, the president of the regional medical staff council and up to three additional representatives chosen by the regional medical staff council shall be appointed as a member of MAC.

**For other RHAs:** where the members of the Medical Staff form a regional medical staff council and elect a president, the president of the regional medical staff council shall be appointed as a member of MAC.



The non-voting members of MAC include the CEO and other senior staff designated by the CEO to sit on the Committee ex-officio.

#### 7.2.1.2 **Meetings**

MAC shall meet at regular intervals and not less than quarterly. Special meetings may be called by the Chair, and written or oral notice shall be given to all members of the Committee at least 48 hours prior to any meeting.

#### 7.2.1.3 **Duties**

MAC shall:

- (i) take all reasonable steps to ensure proper professional and ethical conduct of Practitioners;
- (ii) advise the Board on matters concerning the standards of medical practice provided within the facilities and programs of the Authority. Where the Authority has a professional advisory committee ("PAC"), MAC may advise the Board through PAC;
- (iii) in accordance with this By-law, make recommendations to the Authority concerning appointments, re-appointments and Privileges of Applicants;
- (iv) consider and act on all matters and recommendations forwarded from standing and ad hoc committees or subcommittees;
- (v) assist the Board and the CEO in developing regional standards required by Accreditation Canada and/or as recommended by regulatory/ accrediting bodies and/or professional associations of the Medical Staff; and
- (vi) consider and make recommendations to the Board on such other matters as may be referred to it by the Board and perform such other duties as specified in this By-law and as may be determined by the Board.

#### 7.2.1.4 **Quorum**

A quorum of MAC shall consist of a simple majority (51%) of the voting members of MAC, including the Chair.

#### 7.2.1.5 **Tied Votes**

In the case of a tie in votes, the Chair shall cast the deciding vote.

### 7.2.2 **Manitoba Privileges Advisory Committee (MPAC)**

#### 7.2.2.1 **Composition**

The MPAC shall be appointed by the PMLC and shall include the Chairs of the MPAC Specialty Committees and other members as may be determined by PMLC.

#### 7.2.2.2 **Duties**

The MPAC shall:

- (i) create and oversee appropriate specialty subcommittees to review and evaluate the credentials of all Applicants for appointment to the Medical Staff or matters related to a change in a Practitioner's Privileges;
- (ii) make recommendations to MAC in accordance with this By-law;
- (iii) perform such other duties as the Provincial Medical Leadership Council may determine and as may be further particularized in the Medical Staff Rules and Regulations; and
- (iv) review the credentials requirements related to specific privileges, across all specialty areas, to ensure there is consistency for like privileges.

#### 7.2.3. **Standards Committee**

##### 7.2.3.1 **Composition**

Members of all Standards Committees and subcommittees are appointed by the CPSM in accordance with applicable legislation. Regional or provincial standards committees shall include a minimum of four (4) physician Practitioners who are members of the Authority's Active Staff.

In addition to the Standards Committee, other clinical program standards subcommittees may be created and approved by MAC (and PAC where a PAC exists) and the members of those subcommittees shall also be appointed by the CPSM in accordance with applicable legislation.

##### 7.2.3.2 **Duties**

The Standards Committee shall promote and maintain standards of physician practice through the employment of educational strategies.

The Standards Committee shall:

- (i) monitor and evaluate the standards of practice of Practitioners;
- (ii) educate Practitioners using the knowledge gained through monitoring and evaluation;
- (iii) as required, provide input into inter-professional teams focused on patient care standards and quality improvements;
- (iv) forward a report to the Central Standards Committee of the CPSM at least annually;
- (v) forward a summary of the report to MAC and the Board which summarizes the activities of the Committee without identifying any Practitioners or patients, at least annually, and provide a copy of same to the CEO;
- (vi) subject to sub-clause 7.2.3.3 (iii), refer issues or concerns, which cannot be adequately addressed through educational interventions, to the Regional CMO and to the Registrar and the Central Standards Committee of the CPSM. The Regional CMO shall take all appropriate actions including notification within the Authority on a need-to-know basis; and
- (vii) function in accordance with any applicable CPSM Standards By-law(s).

#### 7.2.3.3 Confidentiality

A Standards Committee member, who does not have the prior approval of the Committee, shall not disclose information provided or produced by the Committee, or any findings of the Committee, as per Section 9 of *The Evidence Act*.

The Standards Committee, at their own discretion, may disclose information or findings for:

- (i) advancing medical research or medical education (the information shall be shared in a manner that does not identify Practitioners or patients);
- (ii) regular reporting to the CPSM and to the Board; and
- (iii) referring issues or concerns to the Regional CMO and the Registrar of the CPSM. When a physician is to be identified in a referral pursuant to this sub-clause, then the referral shall be supported by a motion passed by a majority of the Committee. The motion shall identify the information to be forwarded, which information shall not include any information obtained upon the assurance that it would be kept confidential.

#### 7.2.3.4 Powers

The Standards Committee has the power to:

- (a) direct the review of some or all of the patient charts of a Practitioner;
- (b) access information related to the utilization of resources of the Authority by a Practitioner;
- (c) direct that a Practitioner meet with the Committee;
- (d) develop guidelines or protocols;
- (e) direct an audit of the practice of a Practitioner; and
- (f) establish ad hoc committees as required.

#### 7.2.4 Other Medical Staff Committees and Subcommittees

MAC may establish such other standing or ad hoc committees and subcommittees as it deems necessary. MAC shall develop written terms of reference for each committee or subcommittee and such terms of reference shall be adopted by resolution of MAC, shall be attached to the minutes of the meeting at which they were adopted, and provided to each member of the committee or subcommittee to which they pertain.

#### 7.2.5 Medical Staff Council

7.2.5.1 The Medical Staff at each hospital or health centre in the Health Region may establish and maintain a medical staff association to represent Practitioners who are granted Privileges in that facility. The presidents of these associations may constitute a regional medical staff council to represent the Medical Staff as a whole.

7.2.5.2 The chair of the regional medical staff council may be appointed as an ex-officio member of the Board, and if so appointed is expected to attend and participate at Board meetings, as if he/she is a regular member of the Board, but shall have no voting rights and shall not have the right to attend *in camera* sessions of the Board except upon invitation of the Board.

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**SECTION 8: RESOLUTION OF COMPLAINTS**

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**8.1 COMPLAINTS**

Complaints concerning alleged professional, ethical or administrative infractions or misconduct may be referred for disciplinary review in accordance with this section. All Complaints arising from an alleged breach of the Authority's Respectful Workplace Policy shall be processed initially in accordance with the provisions of that policy but are then subject to sections 8.3.19 and 8.3.20 herein insofar as any findings, recommendations or other disposition affects a Practitioner's Privileges.

**8.2 COMPLAINT REFERRAL**

Subject to section 8.1, complaints involving a Practitioner(s) shall be referred to the appropriate level of authority responsible for the Practitioner(s) as set out in the Medical Staff Rules and Regulations.

- 8.2.1 For greater certainty, it is not intended that the processes outlined in this By-law be used to adjudicate any matters respecting administrative positions, administrative responsibilities, administrative decisions and contractual matters of Practitioners or matters dealing with the use by and assignment of clinical or other resources to Practitioners.
- 8.2.2 All Complaints concerning a Practitioner (including Complaints from employees, patients or members of the public) may be detailed in writing by the person filing the Complaint (the Complainant) and forwarded to Regional CMO or his/her delegate. A Complaint not provided in writing may be generated into a written Complaint by the Site CMO or the Medical Director, if applicable. The Regional CMO may forward written complaints to a Practitioner for response, but the Regional CMO does not become the Complainant under this By-law. The Regional CMO, the Site CMO and the relevant Program Medical Director shall advise each other if any of them receives a Complaint against a Practitioner.
- 8.2.3 A copy of a written Complaint regarding a Practitioner shall be provided to the Practitioner within ten (10) working days of receipt of the written Complaint, by the Regional CMO, Site CMO or Regional CMO's designate. The Practitioner shall have an opportunity to respond, in writing, to the Complaint within ten (10) working days of receipt, to the Regional CMO, Site CMO or Regional CMO's designate.
- 8.2.4 The Regional CMO, the Site CMO or the Program Medical Director, at any time, may inform the registrar of the appropriate regulatory authority of a Complaint and, in any event, shall report a Complaint in accordance with any requirements of the appropriate regulatory authority. If the referral to the regulatory authority is made by either the Site CMO or the Program Medical Director, they shall provide a copy to the Regional CMO.
- 8.2.5 Notwithstanding any other provision of this By-law, any time period in section 8, except the times in section 8.4, may be abridged or extended with the consent of all parties, or unilaterally by the Regional CMO provided that the discretion of the CEO in this respect shall be exercised reasonably.
- 8.2.6 A Practitioner's obligations respecting any privacy legislation, rules or regulations, including *The Personal Health Information Act* (Manitoba) and *The Freedom of Information and Protection of Privacy Act* (Manitoba) shall continue throughout the Complaint process.
- 8.2.7 Any complaint under the By-law, and excluding the matters referenced in section 8.2.1, against the Regional CMO shall be forwarded to the CEO who shall investigate the complaint and may seek guidance from PMLC. The CEO may make a determination



consistent with section 8.3.7. Any determination by the CEO consistent with 8.3.7 (c), (d), (e), (f) or (g) may be referred to arbitration in accordance with the provisions of 8.3.8 through 8.3.20, except that where the Regional CMO is referenced, it shall be read as being the CEO.

### 8.3 COMPLAINT INVESTIGATION, RESOLUTION, AND DETERMINATION

- 8.3.1 The Site CMO and the relevant Program Medical Director may consult with each other and together may make such initial inquiry and investigation as deemed necessary, including consultation with the Regional CMO.
- 8.3.2 **Screening and Informal Process:** The Regional CMO, Site CMO, Program Medical Director, or any of them individually or in combination, shall in a timely manner review the results of any inquiries and investigations referenced in section 8.3.1, including any report arising from those inquiries or investigations, with the Practitioner and may, following discussions with the Practitioner:
- (a) determine that the complaint is unsubstantiated and/or that the matter does not warrant further steps and advise the Practitioner accordingly;
  - (b) give a verbal or written reprimand to the Practitioner and place a report to that effect on the Practitioner's file; or
  - (c) obtain a voluntary undertaking in writing from the Practitioner.
- 8.3.3 If the Complaint is informally resolved within paragraph 8.3.2 above, the Site CMO shall keep a record of the Complaint and the resolution, and a copy of the record shall be provided to the appropriate Program Medical Director, the Regional CMO and the Practitioner. The Practitioner may provide a written response to the record generated, which would be included with the record.
- 8.3.4 **Formal Process:** If a Complaint:
- (a) is of a sufficiently serious nature; or
  - (b) is not resolved pursuant to paragraphs 8.3.2 above,
- the Site CMO or the appropriate Program Medical Director shall refer the Complaint to the Regional CMO for disposition on behalf of the Authority.
- 8.3.5 Where a matter is referred pursuant to the previous paragraph, the Regional CMO shall within fifteen (15) days of the Regional CMO's receipt of the referral, review the Complaint and initiate such further inquiries respecting the Complaint be undertaken as the Regional CMO sees fit and may appoint such persons as necessary to provide assistance, including external consultants.
- 8.3.6 After considering the Complaint and the results of any inquiries made in accordance with sections 8.3.5, the Regional CMO shall:
- (a) dismiss the complaint against the Practitioner; or
  - (b) provide the Practitioner with any new information received as a result of the further inquiries and give the Practitioner an opportunity to make written representations to the Regional CMO in respect of the Complaint.
- 8.3.7 After consideration of the Complaint, and any written representations of the Practitioner, if a Complaint was not dismissed pursuant to section 8.3.6 (a) and remains unresolved, the Regional CMO has the authority to dispose of the matter as he/she sees fit, and without limiting the generality of the foregoing, one or more of the following outcomes is available to the Regional CMO:

- (a) dismissal of the complaint and a determination that no further action be taken;
- (b) resolution of the Complaint as agreed by the Practitioner and the Regional CMO;
- (c) placement of a letter of caution or a letter of reprimand on the Practitioner's file maintained by the Medical Staff Administrative Services Office;
- (d) remedial education be undertaken or the Practitioner be placed under the supervision of another practitioner;
- (e) re-appointment to the Associate Staff for not more than one year;
- (f) termination or restriction of some, or all, Privileges on a temporary or permanent basis; and
- (g) removal from the Medical Staff (loss of appointment);

and the Regional CMO shall forward his/her written decision to the Practitioner, the Site CMO, the Program Medical Director and the CEO. The Regional CMO shall include reasons if the decision is to take an action in section (c), (d), (e), (f) or (g) above.

- 8.3.8 Where the Regional CMO makes a decision under 8.3.7 (c), (d), (e), (f) or (g), within fifteen (15) days of receipt by the Practitioner of the Regional CMO's written decision, the Practitioner may request to the CEO, in writing, that the matter be referred to a binding arbitration process in accordance with the provisions of section 8.3.

If the Practitioner does not make a request for binding arbitration, the Regional CMO may implement his/her decision and shall notify the Practitioner, the CEO, the Site CMO and the Program Medical Director accordingly, in writing. The Practitioner will then not be entitled to a binding arbitration process and sections 8.3.9 to 8.3.17 will not apply to the Practitioner.

- 8.3.9 Upon written request for a binding arbitration process in accordance with section 8.3.8, the CEO shall refer, in writing, the matter to arbitration. The CEO shall provide the Practitioner with a copy of the CEO's written referral. The Regional CMO shall adduce evidence and make submissions in support of the Regional CMO's decision before the arbitrator (the "Arbitrator").

- 8.3.10 The PMLC shall maintain a joint list of names of, at a minimum, three (3) lawyer-arbitrators, generally acceptable in the community and approved by Doctors Manitoba, who may hear a matter under this section. The list of lawyer-arbitrators shall be reviewed annually by PMLC.

- 8.3.11 The Practitioner and the Regional CMO shall agree upon an Arbitrator from the list of lawyer-arbitrators. Failing agreement within fifteen (15) days from the date of referral, the Arbitrator shall be appointed from the list on a rotational basis, appointing the arbitrator listed immediately after the last arbitrator which heard the most recent past Complaint.

- 8.3.12 The Arbitrator shall have the powers of an arbitrator pursuant to *The Arbitration Act* (Manitoba) and shall give opportunity to the Practitioner and the Regional CMO to present evidence and make representations.

- 8.3.13 After considering the evidence and representations, the Arbitrator shall:

- (a) dismiss the Complaint;
- (b) uphold the decision of the Regional CMO; or
- (c) substitute for the decision of the Regional CMO the action under section 8.3.7 (c), (d), (e), (f) or (g), as appropriate.

- 8.3.14 The Arbitrator shall notify the Practitioner, the CEO and the Regional CMO of his/her decision. The CEO shall report the outcome to the Board.
- 8.3.15 The Authority shall pay the fees and expenses associated with the Arbitrator, subject to section 8.3.16.
- 8.3.16 If a decision listed in section 8.3.13 (b) or (c) is made, the Arbitrator may order an amount of costs to be paid by the Practitioner, taking into consideration the length and complexity of the arbitration, as well as the positions taken by the parties.
- 8.3.17 The decision of the Arbitrator shall be final and binding upon all parties concerned.
- 8.3.18 Subject to section 8.3.15, each party shall be responsible for the fees and expenses incurred by them.
- 8.3.19 Where a formal complaint is processed through the Authority's Respectful Workplace Policy, upon reviewing the findings of the investigation report as provided in that policy, the Regional CMO shall have the authority to dispose of the matter as he/she sees fit, in accordance with the outcomes available under section 8.3.7, except that such disposition may not have any effect on a physician's privileges unless the issue is also referred by the Regional CMO as a formal complaint under this Medical Staff By-law and processed in accordance with section 8.3.4.
- 8.3.20 Where the Regional CMO makes a decision pursuant to section 8.3.19 and disposes of the matter pursuant to section 8.3.7 (c), (d), (e), (f) or (g), after a formal referral under section 8.3.4, the Practitioner at his/her discretion may access the arbitration process set out in sections 8.3.8 to 8.3.18.

#### 8.4 **INTERIM SUSPENSIONS**

##### 8.4.1 **Threat to Safety of Patients or Staff**

- 8.4.1.1 The Regional CMO, the appropriate Program Medical Director, or the appropriate Site CMO, or any of them individually or in combination may, at any time, suspend or limit the Privileges of a Practitioner until such time as a Complaint processed in accordance with section 8.1 is disposed of in accordance with section 8.3.7, for a maximum period of thirty (30) days, for conduct which he/she/they reasonably believe(s) may threaten the safety of patients or staff, including without limitation exceeding the limits of his/her Privileges. A written copy of the reasons for the interim suspension shall immediately be provided to the Practitioner, the CEO, the Regional CMO, the Site CMO, the appropriate Program Medical Director(s), any applicable regulatory authority, and the chief executive officer of the applicable Site(s).
- 8.4.1.2 Where an interim suspension is imposed in the absence of a written Complaint, the individual initiating the suspension shall cause a Complaint to be initiated within 96 hours pursuant to section 8.2.2 and the Complaint shall be considered and processed in accordance with section 8.
- 8.4.1.3 The Regional CMO may extend for one further period of thirty (30) days any suspension or limitation of Privileges imposed under this section, following the expiry of which, if the matter has not been disposed of by the Regional CMO in accordance with section 8.3.7, then the Complaint shall be immediately referred by the CEO to an Arbitrator for determination by binding arbitration in accordance with sections 8.3.9 through 8.3.18. The CEO shall request that the expedited arbitration processes be utilized to determine whether or not a suspension should continue pending the Arbitrator's final determination of the substantive Complaint.



- 8.4.1.4 At any time, the individual initiating the suspension, with the approval of the Regional CMO, shall terminate an interim suspension if the threat to the patient or staff safety no longer exists.
- 8.4.1.5 A Practitioner who believes he or she is entitled to receive remuneration as a result of a period of suspension under section 8.4.1 may make a written submission to the CEO respecting entitlement to remuneration. The CEO shall make a determination respecting entitlement to any remuneration and the quantum thereof after the Complaint is finally disposed of, which decision shall be final.
- 8.4.1.6 Notwithstanding any of the above, the Board has the authority, at any time after considering the advice of the CEO and the Regional CMO, to suspend or remove a Practitioner or take other actions, pending the final determination of a Complaint, provided that this authority shall be exercised reasonably.

#### 8.4.2 **Medical Records Completion**

- 8.4.2.1 The Regional CMO, the appropriate Program Medical Director, or the appropriate Site CMO may, at any time, suspend or limit the Privileges of a Practitioner for failure to complete medical records within deadlines established by the Authority, the clinical program or the Site, in accordance with the Medical Staff Rules and Regulations. Failure to complete medical records at one Site may result in the suspension or limitation of Privileges at all Sites. For a first offence, the Practitioner shall be given a minimum of fifteen (15) days' notice of the suspension or limitation. Once a Practitioner has been suspended for failure to complete medical records, for any repeated offence, notice shall not be required.
- 8.4.2.2 Once the outstanding medical records are completed, as determined by the person imposing the suspension as set out in section 8.4.2.1, the suspension shall be lifted and Privileges restored subject to the provisions for repeated offences set out in section 8.4.2.3.
- 8.4.2.3 Repeated suspensions for incomplete medical records may result in a Practitioner being reassigned to the Associate Staff, termination of appointment and/or Privileges changed. In such a case, a Practitioner is entitled to access the Complaint Resolution process as provided for in section 8.

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### **SECTION 9: TIMELINES IN THE BY-LAW**

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- 9.1 Any time period in this By-law may be abridged or extended with the consent of the involved parties. Absent mutual consent, the time periods in this By-law shall prevail, except as provided in section 8.2.5.

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### **SECTION 10: AMENDMENTS**

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- 10.1 As the By-law is required to be consistent with the approved provincial template, all Practitioners in the Active or Associate Staff category in each of the Authorities shall be notified in writing of any proposed substantive amendments to the provincial By-law template prior to its submission to each of the respective boards of the Authorities. The Authorities shall collectively hold a vote of all Practitioners in the Active or Associate Staff category within the Authorities with regard to the proposed amendment(s). Unless fifty-one percent (51%) of all Practitioners in the Active or Associate Staff category province wide, who are eligible to vote, vote to reject the proposed amendments, such proposed amendments shall be forwarded to each of the boards of the Authorities for their approval.

- 10.2 A Practitioner in the Active or Associate Staff category with privileges in more than one regional health authority shall only be entitled to one vote for the purposes of section 10.1.
- 10.3 Any proposed amendment of the By-law of a minor administrative, clerical or non-substantive nature may be referred directly to MAC, which shall in turn make recommendations to the Board with respect to such amendments, and a copy shall be provided to PMLC.
- 10.4 Amendments to this By-law are of no force and effect until approved by the Board and the Minister of Health.

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**SECTION 11: RULES AND REGULATIONS**

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- 11.1 The Authority may, in consultation with its Practitioners and under the leadership of the Provincial Medical Leadership Council, develop such Medical Staff Rules and Regulations as it deems necessary for patient care and the conduct of Practitioners. The Medical Staff Rules and Regulations shall be primarily provincial in scope, with certain designated sections that may be specific to the Authority.
- 11.2 All Practitioners shall be notified in writing of any proposed substantive Medical Staff Rules and Regulations or substantive amendments prior to their submission to the Board. The Authority shall enter into meaningful consultation with the Medical Staff prior to any amendments to the Medical Staff Rules and Regulations being considered by the Board. Should any dispute arise, a representative of the Practitioners may appear before the Board to make oral submissions regarding the proposed Rules and Regulations or amendments thereto.
- 11.3 Medical Staff Rules and Regulations and all amendments thereto are of no force and effect until approved by the CEO after consultation with the Regional CMO.

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**SECTION 12: ADOPTION**

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- 12.1 This Medical Staff By-law is adopted and shall replace and supercede any previous Medical Staff By-law of either of the regional health authorities amalgamated to form the Authority.

**APPROVED** by the **Board of Directors of the Northern Regional Health Authority** this \_\_\_\_\_ day of April, 2014.

  
\_\_\_\_\_, **Chair**

  
\_\_\_\_\_, **Vice Chair**

**APPROVED** by the **Minister of Health** or delegate this 2<sup>ncl</sup> day of !Tprl J, 2014.

  
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