



Shared health
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Manitoba

SHARED HEALTH INC.
BOARD OF DIRECTORS

BY-LAW NO. 3

RESPECTING THE MEDICAL STAFF
OF
SHARED HEALTH INC.

This By-law comes into force on the 28 day of March, 2019

SHARED HEALTH INC. BY-LAW NO. 3 – 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 Shared Health Inc.:

SECTION 1: DEFINITIONS

1.1 In this By-law:

“Act” means *The Regional Health Authorities Act*, C.C.S.M. c. R34, or successor legislation, as amended from time to time;

“Active Staff” means those Practitioners, including Itinerant Staff, who have successfully completed their Associate Year, or for whom the Associate Year has been waived or reduced, and who have been appointed to the Active Medical Staff category in accordance with this By-law by the Authority CMO.

“Admitting Privileges” means the authority to admit patients to a Site and function as the Practitioner of Record for that patient. Only those Practitioners who have been granted Admitting Privileges may admit patients to a Site.

“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;

“Appointment” means the process by which Medical Staff become members of the Medical Staff of the Authority.

“Associate Staff” means those Practitioners who are in their first full calendar year of Appointment to the Medical Staff including those Practitioners who have had their Associate Year extended due to a leave of absence.

“Associate Year” means the first twelve (12) month period of Appointment to the Medical Staff for a Practitioner, including any period of extension as a result of a leave of absence or re-appointment to the Associate Staff in accordance with this By-law.

“Authorities” means the collective of all the Manitoba regional health authorities and Shared Health Inc.;

“Authority” means Shared Health Inc. or any successor;

“Authority CMO” means the Chief Medical Officer appointed by the Authority or equivalent who is licensed by the College of Physicians and Surgeons of Manitoba or any successor regulatory body for physicians in Manitoba.

“Board” means the Board of Directors of the Authority;

“CancerCare Manitoba” or “CCMB” means CancerCare Manitoba or any successor.

“CEO” means the Chief Executive Officer of the Authority as appointed by the Board;

“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/specialty 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;

“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*;

“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 health authority or hospital, health care organization, professional society, health maintenance organization, independent practice association, or medical group;

“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 member 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 Clinical Leadership Council” or “MCLC” means the provincial committee, or any subcommittee thereof, enabled to establish and support clinical governance, provincial medical staff and standards of care. Reporting to the Deputy Minister of Health, MCLC includes the chief medical officers from each of the regional health authorities in Manitoba, Shared Health, CancerCare Manitoba, the Chief Provincial Medical Officer of Health, a representative from Indigenous health, a representative from each of the College of Physicians and Surgeons of Manitoba, the College of Registered Nurses of Manitoba, and the University of Manitoba Rady Faculty of Health Sciences, as well as other representatives from the practice of nursing and allied health.

“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 MCLC;

“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 and make recommendations to the relevant MACs;

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

“Medical Staff Rules and Regulations” or **“Rules”** means the rules and processes adopted in accordance with this By-law by the Authority from time to time based upon a provincial template;

“Observer” means an individual granted authority by the Authority 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;

“PARIM” means the Professional Association of Residents and Interns of Manitoba.

“Performance Review” means the regular review, assessment and consideration of matters which are intended to identify a Practitioner’s strengths and weaknesses, and which provide direction for improving their future performance including:

- (a) professional goals and continuing professional development;
- (b) a Practitioner’s accomplishments and opportunities for improvement, relating to their assignment of duties;
- (c) the clinical program needs and the performance guidelines (as are applicable to the Practitioner’s assignment of duties); and
- (d) the Medical Staff member’s documented performance feedback history;

“Practitioner” means a licensed member of the Medical Staff whether Active, Associate, Trainee, and includes Locum Tenens;

“Practitioner of Record” means the Practitioner who accepts responsibility for a specific patient’s care. The Practitioner of Record shall be responsible for the admission, discharge and treatment options for that patient as set out in this By-Law. 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, including admitting, treatment and consultation privileges. Privileges are limited by the individual Practitioner’s professional license/registration, experience and competence and are Site specific and may include multiple specified Sites.

“Provincial Medical Administration Office” or **“PMAO”** means the office or person designated by the CEO to receive and maintain records, applications, correspondence and information pertaining to the Medical Staff provincially;

“Provincial Specialty Lead” means the Practitioner appointed as the medical leader of a clinical specialty within the Authority.

“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 Authority CMO as set out in this By-law;

“Site” means any facility owned or operated by the Authority which provides health care services;

“Site Medical Leader” means the medical leader of the Site designated by the Authority CMO. The responsibilities of the Site Medical Leader are assumed by the Authority CMO or their designate for all Sites where there would not otherwise be an on-site medical leader;

“Temporary Privileges” means the time limited permission granted in exceptional circumstances to a Practitioner by the Authority to provide care to patients, including admitting, treatment and consultation privileges. Temporary Privileges may be granted by the Authority 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. Temporary Privileges shall expire on the date specified by the Authority unless an extension is granted by the Authority CMO in exceptional circumstances for one further period of no longer than one hundred and twenty (120) days. No further extension is permitted without the consent of MCLC.

“Trainee Staff” means the individuals to whom section 4.2.3 of this By-Law applies.

SECTION 2: OBJECTIVES

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 operations of the Authority.

SECTION 3: APPLICATION OF BY-LAW

- 3.1 This By-law shall apply to all Applicants and Practitioners with respect to their practice in the Authority.
- 3.2 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 or engaged by the Authority shall have their rights and obligations as employees or independent contractors, as the case may be, 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.
- 3.3 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.

- 3.4 No Medical Staff shall admit or provide services to patients in a Site unless they are a Practitioner and have been granted Privileges in accordance with the procedures set forth in this By-law unless it is an emergency as defined in this By-law.
- 3.5 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.

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 Medical Staff 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 are required to maintain Privileges that permit the Practitioner to perform specified services within specified Sites in order to perform those services within the Authority.
- 4.1.4 All Practitioners are responsible and accountable to the Authority CMO or designate 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/registration with the professional regulatory body 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 their 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 a Site and who is appropriately licensed/registered by an applicable professional regulatory body.
- 4.2.4 **Locum Tenens:** Locum Tenens shall be granted Privileges by the Authority CMO prior to providing medical services for the Authority.

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 to the extent 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 standards committees 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/registration 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 professional 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 respectful, 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 and code of ethics established by their professional regulatory body and any professional associations;
- (ix) notify the Authority CMO in writing immediately of the details of any allegation made to or adverse action taken by any Health Care Entity, law enforcement agency, or court, whether in Manitoba or not, in respect or relating to the Practitioner, including:
 - (a) any reprimands;
 - (b) any change in professional license/registration status or membership, including but not limited to a censure, reprimand, undertaking, voluntary surrender, suspension, or cancellation/termination;
 - (c) a criminal charge or a conviction of a criminal offence;
 - (d) the filing or service of any legal proceeding in which an allegation or claim is made in respect to the Practitioner's professional liability, including proceedings relating to 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 or contact requirement or prohibition;
 - (g) reduction, loss or change of privileges at another Health Care Entity;
 - (h) referral of a complaint or concern to an investigation/investigation committee or inquiry committee of a relevant professional regulatory body including any decision of an investigation/investigation committee or inquiry committee; 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 Authority CMO in writing immediately of any change or termination of liability insurance coverage or any change or termination of membership in the an applicable professional protective association;
- (xi) work collaboratively in delivering patient services, including on-call coverage as defined by the Authority CMO or designate, in a timely and effective manner. Compensation shall be in accordance with any applicable contractual agreements.
- (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, the Practitioner of Record shall develop or participate in a mechanism that ensures 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 license/registration;
- (xiv) complete and file an Annual Verification of Information and Attestation Form; and
- (xv) participate in a Performance Review process as set out in this By-law and the Medical Staff Rules and Regulations.

SECTION 5: APPOINTMENTS AND PRIVILEGES

5.1 GENERAL

- 5.1.1 After considering the recommendations of MAC, the Authority CMO shall appoint successful Applicants to the Medical Staff in a specific category and grant Privileges in accordance with this By-law. The Privileges granted by the Authority CMO cannot exceed the privileges recommended by the MPAC Specialty Committee.
- 5.1.2 Appointment to the Active Medical Staff category shall be for an indefinite period contingent upon:
 - (i) maintenance of the Practitioner's license/registration with the applicable professional regulatory body 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 a professional 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 5.1.5.
- 5.1.3 Except for any approved leave of absence, any Practitioner who does not use their Privileges for a time period equal to or greater than one (1) year may have their Privileges terminated, at the discretion of the Authority CMO. The Practitioner will be notified in writing of the termination of their Privileges.
- 5.1.4 Any member of the Medical Staff who is registered and holds a current active license/registration with their professional regulatory body, whether or not a Practitioner, and regardless of the Privileges granted by the Authority CMO, may attend a patient where an Emergency exists and take all steps to save the life or limb of that patient when a Practitioner with appropriate Privileges is not available.
- 5.1.5 MPAC shall establish the minimum credential requirements for specific privileges on a provincial basis.
- 5.1.6 The Authority CMO shall not grant a Selected Applicant an Appointment or Privileges that exceed those recommended by the relevant MPAC Specialty Committee.

- 5.1.7 The Authority 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 by a different Health Care Entity other than the Authority. In determining whether or not to grant Privileges, the Authority CMO may consider the needs and resources of the Authority as well as the provincial clinical and preventative services plan.
- 5.1.8 Neither Appointment to the Medical Staff nor the granting of Privileges shall confer the right or entitlement to resources, to participate in any rota or on-call roster, or other like opportunities. Such rights are provided through contracts or employment or, where applicable, through collective agreements.

5.2 **APPOINTMENT CRITERIA**

- 5.2.1 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 provincial clinical and preventive services plan, the Board's strategic plan, the Authority's operational 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/registration with the respective professional regulatory body 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 professional regulatory body.
- 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 a professional 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 professional regulatory body 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 professional regulatory body.

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 this By-law and the Medical Staff Rules and Regulations.
- 5.3.6 A Selected Applicant may be chosen from the Applicants applying for the vacancy for privileges and Appointments in accordance with the selection process approved by the Authority and as set out in the Medical Staff Rules and Regulations.

- 5.3.7 The Selected Applicant's application is sent to the PMAO which 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 them with an opportunity, within fifteen (15) days, to make a written submission to MCLC, to be considered by MCLC at its next meeting along with the proposed recommendations sent by the MPAC Specialty Committee. MCLC shall notify the Selected Applicant of MCLC's decision on the appeal of the recommendation as soon as possible following its meeting and the decision of MCLC 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 Authority 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 Authority CMO.
- 5.3.11 Following its meeting, MAC shall submit to the Authority 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 exceeds 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 their delegate, which delegate cannot be the Authority CMO.
- 5.3.12 As soon as reasonably possible, the Authority CMO shall make a decision to grant, deny or vary the Appointment and Privileges requested. The Authority CMO shall not grant any Privileges that exceed those recommended by the MPAC Specialty Committee.
- 5.3.13 The decision of the Authority 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 Authority 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 PMAO in accordance with 5.3.7, except if an appeal is made to MCLC, 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 Authority 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 PMAO for the Authority that they:
- (i) agree to be bound by this By-law, the Medical Staff Rules and Regulations, and any policies of the Authority and 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 specialty;
 - (iii) undertakes to notify the Authority CMO or their delegate, with a copy to the PMAO immediately upon 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 Authority CMO or 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, they 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 including any Temporary Privileges granted.
- 5.3.19 Any appeal to the MCLC, pursuant to section 5.3.9, shall be processed in accordance with the procedures which may be established from time to time by MCLC and/or 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 PMAO.
- 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 within the time specified by the Authority.

5.6 **TEMPORARY PRIVILEGES**

- 5.6.1 Temporary Privileges may be granted by the Authority CMO for a time limited period or in regard to a specific patient in exceptional circumstances. 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 be granted for a period longer than one hundred and twenty (120) consecutive days. Temporary Privileges shall expire on the date specified by the Authority unless an extension is granted by the Authority CMO in exceptional circumstances for one further period of no longer than one hundred and twenty (120) days. No further extension is permitted without the consent of MCLC.

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 by providing no less than ninety (90) days' written notice to the Authority CMO. Practitioners are encouraged to provide as much notice as possible 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 or abridged by the Authority CMO.
- 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 professional regulatory body 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 ninety (90) days) by forwarding such request and the reason(s) for the request, with not less than sixty (60) days' notice, to the Authority CMO, with a copy to the appropriate Clinical Specialty Leader. 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 Authority CMO upon request by the Practitioner.
- 5.7.2.2 The Authority 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 Authority CMO, with a copy to the applicable Clinical Specialty Leader, 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 professional regulatory body, 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 Authority 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 3.2. A Practitioner is not guaranteed access to resources or remuneration upon the Practitioner's return from a leave of absence. As part of the review by the Authority CMO, if the leave of absence was for a period longer than twelve (12) months, the Authority 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 Clinical Specialty Leader to the PMAO for appropriate processing.

5.8 **LOSS OF PRIVILEGES**

- 5.8.1 A Practitioner may lose their Privileges granted by the Authority in the following circumstances:

- (i) immediately upon the Practitioner's death;
- (ii) immediately upon loss of license/registration with, or suspension by, their applicable professional regulatory body;
- (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) in relation to an interim suspension due to a reasonable belief that there exists a threat to the health or 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 Privileges for at least a one (1) year period in accordance with section 5.1.3. 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.

SECTION 6: PERFORMANCE REVIEWS

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 respectful, 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 Provincial Specialty Lead or the Authority CMO in accordance with this By-law and 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 this By-law and 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 Provincial Specialty Lead, to the Authority CMO, and if applicable to the Site Medical Leader of the Site(s) where the Practitioner has Privileges.
- 6.1.8 In the event that a Practitioner receives an unsatisfactory review, the Provincial Specialty Lead, the Site Medical Leader and the Authority 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 Authority CMO for assessment and direction as required, which may include a referral as a Complaint for resolution in accordance with section 8.

SECTION 7: AUTHORITY CHIEF MEDICAL OFFICER

7.1 AUTHORITY CHIEF MEDICAL OFFICER

- 7.1.1 The Authority shall appoint as the Authority 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 an Authority CMO, the CEO shall designate the roles outlined below to members of MAC who are Active Staff Practitioners.
- 7.1.3 The Authority 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 to the Board as directed by the Board with a copy to the CEO;
 - (viii) address complaints and disputes between Practitioners and mediate between the parties concerned in accordance with this By-law;

- (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 from time to time.

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

7.1.5 If the individual appointed as the Authority CMO desires new privileges or a change in privileges already held by that individual, the Authority 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 MCLC. The MCLC shall determine if the privileges are appropriate and shall make its recommendation pertaining to privileges for the Authority CMO directly to the CEO and not to MAC. If the Authority CMO is a member of the MCLC, the Authority CMO shall not attend that portion of the MCLC meeting pertaining to the grant of their privileges and shall not influence the decision.

7.1.6 The CEO shall appoint the Authority CMO to the Medical Staff and shall grant the Authority CMO the privileges recommended by the MCLC except if there are valid resource 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 Authority CMO who shall serve as Chair of the MAC and shall have no vote except in the case of an equality of votes, in which case the Authority CMO shall cast the deciding vote;
- (ii) such Practitioners as determined by the CEO after considering the recommendations of the Authority CMO; and
- (iii) where the members of the Medical Staff form a medical staff council and elect a president, the president of the medical staff council and up to three additional representatives chosen by the 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 MAC 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 MAC 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 by 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 provincial standards required by the Authority's accrediting body 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 MCLC and shall include the Chairs of the MPAC Specialty Committees and other members as may be determined by MCLC.

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 MCLC 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 Committees

7.2.3.1 Composition

Members of all standards committees and subcommittees, including clinical standards subcommittees, are appointed in accordance with applicable legislation.

7.2.3.2 **Duties**

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

Standards committees shall:

- (i) monitor and evaluate the standards of practice of Practitioners;
- (ii) conduct medical audits or peer review for educational purposes;
- (iii) educate Practitioners using the knowledge gained through monitoring and evaluation;
- (iv) as required, provide input into inter-professional teams focused on patient care standards, patient safety and quality improvements;
- (v) forward a report to any applicable standards committee of a professional regulatory body as may be required;
- (vi) 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;
- (vii) subject to sub-clause 7.2.3.3 (iii), refer issues or concerns, which cannot be adequately addressed through educational interventions, to the Authority CMO and to any applicable standards committee of a professional regulatory body. The Authority CMO shall take all appropriate actions including notification within the Authority on a need-to-know basis; and
- (viii) function in accordance with any by-laws of an applicable professional regulatory body.

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. The activities of a standards committee are privileged in accordance with Section 9 of *The Manitoba Evidence Act*.

Standards committees, 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 an applicable professional regulatory body and to the Board; and
- (iii) referring issues or concerns to the Authority CMO and the registrar of any applicable professional regulatory body. 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 be included and any information obtained upon the assurance that it would be kept confidential.

7.2.3.4 Powers

Standards committees have 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 Associations and Medical Staff Council

7.2.5.1 The Medical Staff at each Site may establish and maintain a medical staff association to represent Practitioners who are granted Privileges in that Site in respect to Practitioner-related matters and the fulfillment of the responsibilities and duties of Practitioners pursuant to this By-law and the Medical Staff Rules and Regulations. The presidents of these associations may constitute a medical staff council to represent the Medical Staff as a whole.

7.2.5.2 The chair of the 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 they are 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.

SECTION 8: COMPLAINTS

8.1 COMPLAINTS

8.1.1 Complaints concerning a Practitioner's 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 the Authority CMO or their delegate. A Complaint not provided in writing may be generated into a written Complaint by the Site Medical Leader or the Provincial Specialty Lead, if applicable. The Authority CMO may forward written complaints to a Practitioner for response, but the Authority CMO does not become the Complainant under this By-law. The Authority CMO, the Site Medical Leader and the relevant Provincial Specialty Lead 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 Authority CMO, Site Medical Leader or Provincial Specialty Lead. The Practitioner shall have an opportunity to respond, in writing, to the Complaint within ten (10) working days of receipt, to the Authority CMO, Site Medical Leader or Provincial Specialty Lead.
- 8.2.4 The Authority CMO, the Site Medical Leader or the Provincial Specialty Lead, at any time, may inform the registrar of the appropriate professional regulatory body of a Complaint and, in any event, shall report a Complaint in accordance with any legislation or the requirements of the appropriate professional regulatory body. If the referral to the professional regulatory body is made by either the Site Medical Leader or the Provincial Specialty Lead, they shall provide a copy to the Authority CMO.
- 8.2.5 Notwithstanding any other provision of this By-law, any time period set out in section 8 may be abridged or extended with the mutual consent of all parties, or unilaterally by the Authority CMO provided that the discretion of the Authority CMO in this respect shall be exercised reasonably.
- 8.2.6 The obligations of the Authority and the Practitioner 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 this By-law, and excluding the matters referenced in section 8.2.1, against the Authority CMO shall be forwarded to the CEO who shall investigate the Complaint and may seek guidance from MCLC. The CEO may make a determination consistent with section 8.3.7 in respect to a Complaint against the Authority CMO. 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 Authority CMO is referenced, it shall be read as being the CEO.

8.3 COMPLAINT INVESTIGATION, RESOLUTION, AND DETERMINATION

- 8.3.1 The Authority CMO, Site Medical Leader and the Provincial Specialty Lead may consult with each other and together may make such initial inquiry and investigation as deemed necessary.

- 8.3.2 **Screening and Informal Process:** The Authority CMO, Site Medical Leader, and Provincial Specialty Lead, 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;
 - (c) obtain a voluntary undertaking in writing from the Practitioner; or
 - (d) resolve the Complaint as otherwise agreed to by the Practitioner and the Authority CMO, Site Medical Leader or Provincial Specialty Lead.
- 8.3.3 If the Complaint is informally resolved under paragraph 8.3.2 above, the Authority shall keep a record of the Complaint and the resolution, and a copy of the record shall be provided to the Authority CMO, Site Medical Leader, Provincial Specialty Lead, PMAO and the Practitioner. The Practitioner may provide a written response to the record generated, which shall 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 paragraph 8.3.2 above,
- the Site Medical Leader or the Provincial Specialty Lead shall refer the Complaint to the Authority CMO for disposition on behalf of the Authority.
- 8.3.5 Where a matter is referred pursuant to the previous paragraph, the Authority CMO shall within fifteen (15) days of the Authority CMO's receipt of the referral, review the Complaint and initiate such further inquiries respecting the Complaint be undertaken as the Authority CMO sees fit and may engage or 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 Authority 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 further representations to the Authority CMO in respect of the Complaint, either in writing or in person.
- 8.3.7 After consideration of the Complaint, and any further representations of the Practitioner, if a Complaint was not dismissed pursuant to section 8.3.6 (a) and remains unresolved, the Authority CMO has the authority to dispose of the matter as they see fit, and without limiting the generality of the foregoing, one or more of the following outcomes is available to the Authority 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 Authority CMO;
 - (c) placement of a letter of caution or a letter of reprimand on the Practitioner's file maintained by the PMAO;
 - (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 Authority CMO shall forward their written decision to the Practitioner, the Site Medical Leader, the Provincial Specialty Lead and the CEO. The Authority 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 Authority 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 Authority 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 Authority CMO may implement their decision and shall notify the Practitioner, the CEO, the Site Medical Leader and the Provincial Specialty Lead 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 Authority CMO shall adduce evidence and make submissions in support of the Authority CMO's decision before the arbitrator (the "Arbitrator").

- 8.3.10 The MCLC 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 MCLC.

- 8.3.11 The Practitioner and the Authority 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 Authority 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 Authority CMO; or
- (c) substitute for the decision of the Authority 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 Authority CMO of their 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 and 8.3.16, 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 Authority CMO shall have the authority to dispose of the matter as they see fit, in accordance with the outcomes available under section 8.3.7, except that such disposition may not have any affect on the Practitioner's privileges unless the issue is also referred by the Authority 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 Authority 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 their discretion may access the arbitration process set out in sections 8.3.8 to 8.3.18.

8.3 INTERIM SUSPENSIONS

8.4.1 Threat to Health or Safety of Patients or Staff

- 8.4.1.1 The Authority CMO, Site Medical Leader or Provincial Specialty Lead, 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 they reasonably believe(s) may threaten the health or safety of patients or staff, including without limitation where the Practitioner exceeds the limits of their Privileges. A written copy of the reasons for the interim suspension shall immediately be provided to the Practitioner, the CEO, the Authority CMO, the Site Medical Leader, the Provincial Specialty Lead, any applicable professional regulatory body, and the chief executive officer of any applicable Site.
- 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 ninety-six (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 Unless the Authority CMO and Practitioner agree on a longer extension period, the Authority 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 Authority CMO in accordance with section 8.3.8, then the Complaint shall be immediately referred by the CEO to an Arbitrator for determination by binding arbitration in accordance with sections 8.3.8 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 Authority CMO, shall terminate an interim suspension if the threat to the health or safety of the patient or staff no longer exists.
- 8.4.1.5 A Practitioner who believes they are 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 Authority 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 Authority CMO, Site Medical Leader, or Provincial Specialty Lead 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 specialty or the Site, in accordance with this By-law and the Medical Staff Rules and Regulations and/or the policies of the Authority, Site or specialty. 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.

SECTION 9: TIMELINES IN THE BY-LAW

- 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.

SECTION 10: AMENDMENTS

- 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 of the Authorities 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 MCLC.

- 10.4 Amendments to this By-law are of no force and effect until approved by the Board and the Minister of Health.


SECTION 11: RULES AND REGULATIONS

- 11.1 The Authority may, in consultation with its Practitioners and under the leadership of MCLC, 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 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 substantive 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 Authority CMO.

SECTION 12: ADOPTION

- 12.1 This Medical Staff By-law is adopted and shall replace and supercede any previous Medical Staff By-law of the Authority.

APPROVED by the **Board of Directors of Shared Health Inc.** this 28 day of March, 2019.


_____, Chair


_____, Vice Chair

APPROVED by the **Minister of Health** or delegate this 28th day of MARCH, 2019.

