CORRECTIVE ACTION/FAIR HEARING PLAN

FOR

HENDRICKS REGIONAL HEALTH

DANVILLE, INDIANA

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PREAMBLE AND PURPOSE

The Hendricks Regional Health Board of Trustees ("Board"), the Medical Executive Committee ("MEC") and any committees formed thereby to conduct professional peer review activities, are hereby constituted as peer review and professional review committees as defined by the Indiana Peer Review Act and the Health Care Quality Improvement Act of 1986. Such committees hereby claim all privileges and immunities afforded to them by said federal and state statutes. The purpose of this Corrective Action/Fair Hearing plan ("Plan") is to provide a mechanism through which a fair hearing and appeal might be provided to all Physicians whose Staff membership or Clinical Privileges are subject to adverse action. Any action taken pursuant to this Plan shall be in the reasonable belief that such was in the furtherance of quality health care (including the provision of care in a manner that is not disruptive to the delivery of quality medical care in the Hospital), after a reasonable effort has been made to obtain the true facts of the matter, after adequate notice and hearing procedures are afforded to the affected Physician, and in the reasonable belief that the action was warranted by the facts known after a reasonable effort has been made to obtain the facts.

DEFINITIONS

1. **"Adversely Affecting" or "Adverse Action"** shall mean any action which does or recommends reducing, restricting, suspending, revoking, denying, or failing to renew Clinical Privileges or membership on the Medical Staff which lasts longer than fourteen (14) days. Letters of reprimand or warning, requirements of proctoring or consultations, Investigative Suspensions less than fourteen (14) calendar days, automatic suspensions, requirements of further continuing medical education or training, and imposition of terms of probation which do not prevent a Practitioner from exercising any privileges which have been granted to him or her shall not constitute "Adverse Action."

2. **"Allied Health Professional" or "AHP"** means a non-Physician practitioner who is or has applied to be a member of the Medical Staff.

3. **"Clinical Privileges" or "Privileges"** includes privileges, membership on the Medical Staff, and the other circumstances pertaining to the furnishing of medical care under which a Physician or other licensed health care practitioner is permitted to furnish such care in the Hospital.

4. **"Corrective Action"** means Adverse or non-Adverse Action taken against a Practitioner's Staff membership or Clinical Privileges.

5. **"Days"** as included in this Plan with respect to time allowed for delivery or receipt of any Notice, shall be defined to mean calendar days unless the due date for such Notice or receipt falls on a Saturday, Sunday, or legal holiday, in which case the due date shall be the first weekday thereafter.

6. **"Direct Economic Competition"** shall mean any individual who would with reasonable probability have a personal financial interest in the outcome of any Adverse Action taken against a Physician pursuant to this Plan.

7. **"Hearing Committee" or "Hearing Body"** means the Committee appointed under this Plan to conduct an evidentiary hearing properly filed and pursued by an affected Physician.

8. **"Investigative Suspensions"** are suspensions of all or any portion of a Physician's privileges for a period less than fourteen (14) days during which an investigation is being conducted to see if any corrective action is necessary. Investigative Suspensions are instituted in the same manner and are reviewable in the same manner as a summary suspension.

9. **"Notice"** means notification sent by certified or registered mail, return receipt requested, and/or personally delivered by hand or by courier service designed for overnight or same day delivery.

10. "**Physician**" means an individual with a M.D. or D.O degree who has applied for or is currently a member of the Medical Staff.

11. **"Federal Health Program"** means Medicare, Medicaid or any other federal or state program providing health care benefits, which is funded directly or indirectly by the United States Government.

12. **Criminal Convictions"** shall include conviction, or a plea of guilty or nolo contendere for any felony, or for any misdemeanor related to the practice of a health care profession, Federal Health Program fraud, or abuse (including but not limited to any finding of liability under the False Claims Act), third party reimbursement, or controlled substances.

CORRECTIVE ACTION

SECTIONS I: PROCEDURES FOR INITIATING CORRECTIVE ACTION.

1.1 Standard of Professional Conduct

A request for Corrective Action may be made whenever the activities or professional conduct of any Physician are considered to be lower than the standards or aims of the Medical Staff, or Hospital, to be disruptive to the delivery of quality medical care in the hospital, to make inefficient use of the Hospital's resources, or determined to violate federal or state laws or regulations as determined by standards established by the Medical Staff, by the Hospital's Chief Executive Officer, or by any member of the Governing Body. All such requests shall be in writing and directed to the Chief of Staff or his/her designee. Such request shall be supported by reference to the specific activities or conduct which constitute the grounds for the request.

1.2 Grounds for Requesting Corrective Action

Grounds for corrective action include:

1.2.1 The clinical competence of a Practitioner;

1.2.2 The care of a particular patient or patients by a Practitioner;

1.2.3 A Practitioner's violation of the Bylaws of the Medical Staff, Governing Body, or other policies and rules and regulations of the Hospital;

1.2.4 The mental, emotional, or physical competency of any Practitioner;

1.2.5 conduct disruptive to the delivery of quality medical care or detrimental to the operation of the Hospital and/or patient care; or

1.2.6 Unauthorized release of peer review information.

1.2.7 Violation of Standards of Conduct established by the Hospital's Corporate Compliance Program.

1.2.8 Failure to comply with the Health Insurance Portability & Accountability Act (HIPAA) or other governmental regulatory requirement.

1.3 MEC Investigation

If, in the opinion of the Chief of Staff (or the Vice Chief of Staff, if the Chief of Staff is unavailable or unable to make such a determination), the result of such Corrective Action could potentially Adversely Affect the Clinical Privileges of a Practitioner, he/she shall promptly request the Medical Executive Committee to investigate the matter.

This investigation must be carried out by the Medical Executive Committee itself or by an Ad Hoc Investigating Committee appointed by the Medical Executive Committee.

1.4 MEC Report

The Medical Executive Committee shall, as soon as practicable, make a report of its investigation to the Chief of Staff, Chief Medical Officer, the affected Practitioner. Prior to making any such report, the affected Practitioner shall have the opportunity for an interview with the Medical Executive Committee or Ad Hoc Investigating Committee. He/she shall be advised in advance of the general nature of the concerns and shall be invited to discuss, explain, or refute said questions. This interview shall not constitute a hearing, shall be preliminary and investigatory in nature, and the procedural rules provided herein with respect to hearings shall not apply. A record of such interview and the deliberations of the Medical Executive or Ad Hoc Investigating Committee shall be made.

1.5 MEC Authority

The Medical Executive Committee, in its report, shall have the authority to make the following recommendations:

1.5.1 To reject, accept or modify the request for Corrective Action;

1.5.2 To issue a warning, letter of admonition, or letter of reprimand;

1.5.3 To impose terms of probation or a requirement for consultation;

1.5.4 To recommend reduction, suspension, or revocation of Clinical Privileges;

1.5.5 Such other recommendation reasonable under the circumstances.

1.6 Rights of Affected Practitioner

Any proposed recommendation to be made by the Medical Executive Committee to the Governing Body that would Adversely Affect the Clinical Privileges of a Physician shall entitle him/her to the rights generally provided in this Plan. AHPs shall be entitled to the rights enumerated under 7.1 hereof.

Notwithstanding any other provision or recommendation to the contrary, the Governing

Body retains the right to unilaterally constitute a Hearing Committee (as provided for hereinafter), in order to evaluate the need for Corrective Action.

1.7 Reports of Actions

The Chief of Staff, Chief Medical Officer and the Chief Executive Officer shall keep each other fully informed of all actions taken in connection herewith, and shall advise and provide copies to each other of any communications made between the Medical Executive Committee and the affected Physician.

SECTION II: SUMMARY SUSPENSION.

2.1 Imposition of Summary Suspension

Any two (2) of the following: The Chief Medical Officer, Chief of Staff (or in his/her absence, the Vice Chief of Staff), the Chairman of the Physician Relations Committee, the Chairman of any Hospital duly constituted Quality Assurance Committee, or the Chief Executive Officer, shall have the authority, whenever action must be taken immediately in the best interest of patient care in the Hospital and/or the orderly functioning of the Hospital, to suspend summarily all or any portion of the Clinical Privileges of a Physician including any lesser measures of summary probation or required consultation, and such summary suspension shall become effective immediately upon imposition. The reasons for the suspension shall promptly thereafter be stated in writing and given to the Physician in the same manner as other notices as provided herein.

2.2 Hearing on Summary Suspension

A Physician whose Clinical Privileges have been summarily suspended shall be entitled to request that the Medical Executive Committee hold a meeting on the suspension within a reasonable time period (but not more than fourteen (14) days) thereafter in order that he/she might respond to the action.
After such meeting, the Medical Executive Committee shall recommend modification, continuance, or termination of the summary suspension.
Unless the Medical Executive Committee determines lifts the suspension, the matter shall thereafter be treated as a request for Adverse Action.
The Chief Executive Officer shall inform the affected Physician in writing of the MEC decision within 7 days.

2.3 Medical Coverage for Affected Physician's Patients

Immediately after the imposition of a summary suspension, the Chief Medical Officer, Chief of Staff or his/her designee shall have the authority to provide for alternative medical coverage for the patients of the suspended Physician still in the Hospital. The wishes of the patient shall be considered and followed, if possible, in the selection of any alternative Physician.

SECTION III: AUTOMATIC SUSPENSION.

3.1 Delinquent Medical Records

A Practitioner's patient's chart shall be deemed delinquent if not completed by the 30th day following his/her discharge. The Hospital Health Information Management Department shall issue an immediate warning to each practitioner who has one or more delinquent charts. If a Practitioner fails to complete any delinquent charts within thirty (30) days, his/her Clinical Privileges shall be automatically suspended until all delinquent charts are completed.

A Practitioner whose Privileges are suspended pursuant to this provision may not admit patients under the name of another Practitioner but may continue to care for patients already admitted prior to the effective date of the suspension.

A Practitioner whose Privileges are suspended pursuant to this provision three (3) times during a twelve (12) month period shall be terminated from membership on the Medical Staff and such Practitioner shall be required to reapply for. Such a termination shall not give rise to the hearing and appeal rights as provided for in this plan.

Automatic suspension for delinquent medical records is imposed by written notice to the Practitioner, Chief Medical Officer, Chief Executive Officer, Chief of Staff, Department Heads, and Admitting Office by the Director of Health Information Management.

Practitioners may request in advance a waiver of these requirements for planned vacations or professional absence. Such a request for a waiver shall be directed to the Chief Executive Officer who shall, after consultation with the Chief of Staff, approve or disapprove such a request. The Chief Executive Officer shall not unreasonably withhold approval of such a request. However, the Practitioner shall be required to complete any such delinquent charts within fifteen (15) days after the Practitioner's return, or face the automatic suspension provisions of this Section.

3.2 Suspension of License to Practice/DEA

Any limitation, restriction, suspension or revocation of a Practitioner's license to practice his or her profession by his or her licensing board or legal authority to prescribe narcotic drugs shall automatically suspend his Privileges for the same period of time. Such suspensions do not entitle the Practitioner to any fair hearing or appeal rights. Any such suspension shall be submitted to the Medical Executive Committee and shall not be lifted until the Medical Executive Committee votes on whether or not to initiate its own Corrective Action.

3.3 Exclusion from participation in any Federal Health Program

Any notification or query indicating a Practitioner has been excluded from participation in any Federal Health Program shall result in the automatic

revocation of the Practitioner's Privileges, without recourse to fair hearing or appeal rights.

3.4 Criminal Convictions

Any notification indicating a Practitioner has been convicted of a felony, or for any misdemeanor related to the practice of a health care profession, Federal Health Program fraud, or abuse (including but not limited to a finding of liability under the False Claims Act), third party reimbursement, or controlled substances shall result in the automatic revocation of the Practitioner's Privileges without recourse to fair hearing or appellate rights.

3.5 Medical Malpractice Insurance

Any notification of cancellation or failure to renew professional liability insurance, and of the failure to carry sufficient insurance (or self-insurance) and to pay the surcharge necessary to qualify the Practitioner as a provider under the Indiana Medical Malpractice Act, shall automatically suspend their Privileges until such coverage is re-established. Such action shall not give rise to fair hearing or appeal rights.

3.6 Continuing Medical Education Requirements

Automatic suspension may also be imposed for failure to complete any required number of hours of continuing medical education or for failure to attend required meetings of the Medical Staff and committees as the Medical Staff may provide in its Rules and Regulations.

FAIR HEARING PROCESS

SECTION I: INTRODUCTION.

1.1 Intent of Plan

When any Physician receives notice of an Adverse Action, he/she shall be entitled to a hearing and an appellate review as hereinafter set forth. The intent of this plan is to ensure that the applicable immunities, acts, and protections of the Indiana Peer Review Act of 1986 and the Health Care Quality Improvement Act are afforded to the participants in any such hearing and/or appellate review.

1.2 Grounds for Hearing

Except as otherwise specified in this plan or in the Medical Staff Bylaws, any one or more of the following actions or recommended actions shall be deemed an actual or potential Adverse Action:

1.2.1 Denial of Medical Staff membership.

1.2.2 Denial of requested advancement in Staff membership status or category.

1.2.3 Denial of Medical Staff reappointment.

1.2.4 Involuntary change of Medical Staff category.

1.2.5 Suspension of membership status.

1.2.6 Revocation of Medical Staff membership.

1.2.7 Denial of requested Clinical Privileges, excluding temporary privileges

1.2.8 Involuntary reduction of current Clinical Privileges.

1.2.9 Suspension of Clinical Privileges for a period of longer than fourteen (14) days.

1.2.10 Involuntary imposition of significant consultation or monitoring requirements (excluding monitoring incidental to provisional Staff status).

SECTION II: NOTICE OF PROPOSED ADVERSE ACTION.

2.1 Notice of Adverse Action

The Chief Executive Officer shall be responsible for giving prompt written notice to the affected Physician of the Adverse action and of his/her rights to a hearing, via registered or certified mail, return receipt requested, or by hand delivery or delivery by courier service designed for overnight or same day delivery. Such notice shall contain, at a minimum, the following information:

2.1.1 That an Adverse Action has been proposed;

2.1.2 The reasons for the Adverse Action;

2.1.3 The Physician has thirty (30) days from the date of the notice to request a hearing; and

2.1.4 A summary of the Physician's rights in the hearing.

2.2 Notice of Hearing

If a hearing is timely requested, the Chief Executive Officer will provide the affected Physician written notice of hearing via registered mail, return receipt requested. The following information will be provided:

2.2.1 The time, place, and date of the hearing, which date shall not be less than thirty (30) days after the date of notice of hearing; and

2.2.2 A list of witnesses known at the time of the notice which are expected to testify at the hearing on behalf of the committee bringing the proposed adverse action.

2.2.3 The Physician's rights, as spelled out in Section 3.5, Rights of Participants.

2.3 Failure to Request a Hearing

The failure of an affected Physician to request a hearing on a timely basis shall be deemed a waiver of his/her right to a hearing and to any appellate review to which they might otherwise have been entitled.

SECTION III: CONDUCT OF HEARING AND NOTICE

3.1 Conduct of Hearing

If a hearing is timely requested, it shall be held before an impartial panel of three (3) Physicians appointed by the Chief of Staff. If the Chief of Staff is the subject of the hearing, then the Vice Chief of Staff shall appoint the hearing committee. A Hearing Committee member shall not be in direct economic competition with the affected Physician nor have actively participated in the prior consideration of the issue(s) in dispute. Hearing Committee members may include persons who are not on the Medical

Staff as long as they hold a valid Indiana medical license The Chief of Staff (or designee) shall appoint a member to serve as the Chairperson.

3.2 Failure of Physician to Appear

The right to any hearing pursuant to this provision will be forfeited if the affected Physician fails, without good cause in the opinion of the Hearing Committee, to appear at the place, time, and date of the scheduled hearing and cooperate with the Committee.

3.3 Exchange of Witness List and Exhibits

The Chairperson shall fix a date, time, and place for the exchange of exhibits and witness list by the parties, which date shall not be less than ten (10) days prior to the scheduled date of the hearing. Any witnesses (and their testimony) not then listed and any exhibits provided may, in the discretion of the Chairperson, be excluded from the hearing.

3.4 Access of Affected Physician to File

All material contained in a Physician's credentials and/or personal file shall be part of the hearing record and he/she shall have the right to have a copy of all such material in advance of the hearing.

3.5 Rights of Participants

In the hearing, the affected Physician and the Medical Staff or Governing Body committee bringing the charges, each will have the following rights:

3.5.1 To representation by an attorney or any other person of the party's choice, at their expense;

3.5.2 To have a record made of the proceedings, copies of which may be obtained upon payment of any reasonable charges associated with the preparation thereof;

3.5.3 To call, examine, and cross-examine witnesses;

3.5.4 To present any evidence determined to be relevant by the Chairperson, regardless of its admissibility or inadmissibility in a court of law;

3.5.5 To submit a written statement at the close of the hearing; and

3.5.6 Upon the completion of the hearing, the affected Physician shall have the right to receive the written recommendation of the Hearing Committee, including a statement of the basis for the recommendation.

3.6 Record of Hearing

An accurate record of the hearing must be kept. The mechanism shall be established by the Chairperson and may be accomplished by the use of a court reporter (preferred method), electronic recording unit, or detailed transcription.

3.7 Postponement or Recess

The Chairperson shall have the right to postpone the hearing or to recess the hearing if, in its judgment, such action will be in the best interest of obtaining the facts at issue.

3.8 Hearing Committee Chairperson

The Chairperson shall preside at the hearing and make determinations and decisions as appropriate and shall further determine the order of procedure in the hearing. The Chairperson shall assure that all participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence.

3.9 Report of Committee

Within ten (10) days after the adjournment of the formal hearing and any succeeding deliberations, the Hearing Committee shall issue its written report and decision to uphold, set aside or modify the Adverse Action to the parties. This time period may be extended if the Hearing Committee has not received a copy of the transcript or other materials in sufficient time to allow adequate time to thoroughly review the facts and testimony in the hearing. The Committee's written report shall be provided to the parties along with a statement of the basis for the decision. The decision shall be delivered by mail to the parties.

Either party shall have the right to appeal the Hearing Committee decision pursuant to the provisions of Section IV of this Plan.

3.10 Burden of Proof

The MEC (or, where appropriate, the Board) shall be required to present evidence in support of the Adverse Action. Thereafter, the Physician must demonstrate by a preponderance of the evidence that the Adverse Action, or facts upon which it is based, are arbitrary, unreasonable or capricious.

3.11 Presence of Hearing Committee Members

A majority of the Hearing Committee must be present throughout the hearing and deliberations. If a Committee member is absent from any part of the hearing, he/she may not participate in the deliberations or the decision unless such member shall be able to hear a recording or read the transcript of the deliberations that were missed or with the consent of both parties.

SECTION IV: APPEAL TO THE GOVERNING BODY.

4.1 Physician's Right to Appeal

A party may appeal the Hearing Committee decision within ten (10) Days after receipt thereof by written Notice to the Governing Body delivered through the Chief Executive

Office Such appellate review may be held only on the record on which the Hearing Committee decision was based, including the transcript, supporting documents that were admitted by the Hearing Committee and any briefs submitted by the parties. At the discretion of the Governing Body, oral argument may be permitted.

4.2 Waiver of Right to Appellate Review

If such appellate review is not requested within ten (10) days, the parties shall be deemed to have waived all rights to the same and the Hearing Committee decision same shall be submitted to the Governing Body for final action.

4.3 Date for Appellate Review

If a party provides a timely request for an appellate review, within fifteen (15) days after receipt of such notice, the Governing Body shall schedule a date for such review, including a time and place for oral argument if granted. Thereafter, the Governing Body shall send the written notice sent by certified mail, return receipt requested, of the time, place and date of the appellate review. Such date shall be as soon as practicable.

4.4 Conduct of Appellate Review

The appellate review may be conducted by the Governing Body as a whole, or, if approved by the Governing Body, by an appellate review committee of the Governing Body appointed by the Chairman of the Board. Such an appellate review committee shall not have less than three (3) Board members.

4.5 Physician's Access to Records

The affected Physician shall have access to the report, record, exhibits and transcript, if any, of the Hearing Committee and all other material, favorable or unfavorable, that was considered in making the adverse recommendation or decision. The parties shall have the right to submit a written statements identifying those factual and/or procedural matters with which they disagree, Such statements shall be submitted to the Governing Body through the Chief Executive Officer by certified mail, return receipt requested, at least ten (10) days prior to the scheduled date for the appellate review.

4.6 Determination of Appellate Review Body

The appellate review Body shall review the record and consider the written statement(s) submitted pursuant to this Section for the purpose of determining whether the Hearing Committee decision was supported by the evidence and whether the Physician was granted a hearing consistent with the requirements of the Plan. If oral argument is approved , the parties may be present at the appellate review, permitted to present argument for up to thirty (30) minutes, and answer by any member of the appellate review body. Both parties may be represented by counsel if they so choose.

4.7 Scope of Appellate Review

New or additional matters not raised during the original hearing or in the Hearing Committee decision, not otherwise reflected in the record, shall only be introduced at the appellate review if the appellate body decides that the requesting party has carried the

burden of showing that in the exercise of due diligence it could not have discovered the information during the pendency of hearing. The appellate body shall, in its sole discretion, determine whether such new matter may be accepted.

4.8 Decision of the Governing Body

If the appellate review is conducted by the Governing Body, it may affirm, modify, or reverse the Hearing Committee decision, or in its discretion, refer the matter back to the Hearing Committee/Officer for further review and recommendation. The decision shall be sent to the parties, in writing, within seven (7) days of final adjournment.

4.9 Report of Appellate Review Committee

If the appellate review is conducted by a committee of the Governing Body, such committee shall, within fourteen (14) days after adjournment, issue a final decision which affirms, modifies, or reverses the Hearing Committee decision or remand it back to such Committee for further review and recommendation. The Governing Board shall communicate the decision made to the parties, in writing, within seven (7) days of their final adjournment.

SECTION V.: FINAL DECISION BY THE GOVERNING BODY

5.1 Affected Physician's Rights

Notwithstanding any other provision herein, no Physician shall be entitled, as a right, to more than one hearing and one appellate review on any matter which shall have been the subject of an action by the Medical Executive Committee or by the Governing Body, or by a duly authorized committee of the Governing Body, or both.

5.3 Compulsory Reporting of Adverse Actions

In compliance with applicable state and federal law, the Chief Executive Officer shall file reports of final Adverse Actions with the Indiana Medical Licensing Board and the National Practitioner Data Bank.

SECTION VI AHPs

7.1 AHP Rights.

A decision to impose Adverse or Non-adverse Action on the membership or privileges of an AHP may be initiated by the Administrator or the MEC, shall be communicated in writing to the affected AHP and appealed by written request to the Medical Executive Committee. The AHP has a right to appear before the MEC, with or without their supervising Physician, to present relevant evidence and to respond to the allegations. The AHP shall be given written notice of such meeting not less than fourteen (14) days prior to the meeting. Neither the AHP nor the Medical Executive Committee shall have legal counsel present. The Medical Executive Committee shall make a final decision as to

whether to uphold the Corrective Action which decision will be communicated to the parties in writing.

The privileges of an AHP shall automatically terminate, without recourse, to any hearing or appeal procedure upon the happening of any of the following events:

7.1.1 revocation of the applicable authority of the license or certificate of the AHP;

7.1.2 in the case of a sponsored AHP, with the sponsoring Physician for any reason; privileges will terminate unless a new collaborative agreement with a new physician is established within 30 days;

Section VIII: AMENDMENT.

8.1 Amendments to Plan

This plan may be amended or repealed, in whole or in part, by one of the following mechanisms:

8.1.1 A resolution passed by a majority of the Medical Staff recommending such action to the Governing Body, and such resolution is ultimately accepted and adopted by the Governing Body; or

8.1.2 A resolution of the Governing Body, taken on its own initiative after a request to the Medical Staff has been made by the Governing Body to initiate an amendment which, in the opinion of the Governing Body, is necessary and appropriate and the Medical Staff thereafter has refused or failed to act on such a request for amendment.

SECTION IX: ADOPTION.

9.1 Medical Staff

This Plan was adopted and recommended to the Governing Body by the Medical Staff in accordance with and subject to the Medical Staff Bylaws.

9.2 Governing Body

This Plan was approved and adopted by resolution of the Governing Body after considering the Medical Staff's recommendations and in accordance with and subject to the Hospital Bylaws.