

**PAGE HOSPITAL
FAIR HEARING PLAN**

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PART ONE – INITIATION OF HEARING

1.1 TRIGGERING EVENTS

Any practitioner whose membership and/or privileges are denied, revoked, suspended, reduced or otherwise limited shall be entitled to a hearing upon timely and proper request, unless such limitation constitutes non-reviewable action as defined in the Medical Staff Bylaws.

1.2 NOTICE OF ADVERSE RECOMMENDATION OR ACTION

Upon the adverse recommendation of the Executive Committee, the CEO shall promptly notify the practitioner by special notice, certified mail/return receipt requested, of a reviewable adverse recommendation. The notice shall:

- (a) Advise the practitioner that an adverse recommendation has been proposed; and contain a concise statement of the practitioner's alleged acts or omissions, a list of the specific or representative patient records in question, and/or the other reasons or subject matter forming the basis for the adverse action or recommendation that is the subject of the hearing;
- (b) Advise the practitioner of his or her right to a hearing upon timely and proper request; and specify that the practitioner has 30 calendar days after receiving the notice within which to submit a written request for a hearing to the CEO;
- (c) State that failure to request a hearing within the above stated time period and in the proper manner constitutes a waiver of rights to any hearing or appellate review on the matter that is the subject of the notice;
- (d) Specify the hearing rights to which the practitioner is entitled; and
- (e) State that after receipt of the request for a hearing, the practitioner will be notified of the date, time, and place of the hearing, and the witnesses expected to testify on behalf of the Executive Committee.

1.3 AMENDED ADVERSE RECOMMENDATION OR ACTION

The Executive Committee may modify its proposed adverse recommendation or action, or the grounds for such recommendation or action, and shall notify the practitioner of all additions or deletions. The Hearing Committee may broaden the grounds under examination and may base its recommendation, wholly or in part, upon grounds not previously considered or listed provided:

- (a) That such additional grounds arose out of any of the acts or omissions or patient records set forth in the notice of grounds or are reasonably related thereto or of a similar kind or type, and
- (b) That the parties either give their express or implied consent or are given at least seven days advance written notice of such additional grounds. A hearing recess may be taken for this purpose.

1.4 REQUEST FOR HEARING

The practitioner shall have ten calendar days after receiving a notice under Section 1.2 to deliver to the CEO a written request for a hearing.

1.5 WAIVER BY FAILURE TO REQUEST A HEARING

A practitioner who fails to request a hearing within the time and in the manner specified in Section 1.3 shall be deemed to have waived his or her right to any hearing or appellate review to which he or she might otherwise have been entitled. Such waiver shall apply only to the matters that were the basis for the adverse recommendations triggering the Section 1.2 notice. The waiver shall constitute acceptance of the recommendation and action. The waiver shall be final without any further action. The CEO shall as soon as reasonably practicable send the practitioner notice of the Board's decision, and shall notify the appropriate licensing authority and make such other notifications as are required by law.

1.6 WAIVER BY FAILURE TO PARTICIPATE CONSTRUCTIVELY IN THE HEARING PROCESS

A practitioner who fails to participate constructively in the Hearing Process shall be deemed to have waived his or her right to any hearing or appellate review to which he or she might otherwise have been entitled. The Hearing Officer or Presiding Officer must inform the practitioner that a waiver is being considered and give the practitioner reasonable opportunity to participate constructively. Examples of failure to participate constructively include but are not limited to refusal of the practitioner to be sworn in or to answer questions posed by the Hearing Committee; failure to proceed with the hearing; and failure to abide by a ruling of the Presiding Officer. The waiver has the same force and effect as provided in Section 1.5.

PART TWO – HEARING PREREQUISITES

2.1 NOTICE OF TIME AND PLACE FOR HEARING

Upon receiving a timely and proper request for hearing, the CEO shall deliver the request to the Chief of Staff, who shall schedule the hearing. At least thirty calendar days prior to the hearing, the CEO shall send the practitioner special notice of the date, time, and place of the hearing, and a list of witnesses expected to testify at the hearing on behalf of the Medical Executive Committee. The hearing date shall be set for not less than 30 calendar days nor more than 90 calendar days after the CEO sends such notice to the practitioner; provided, however, that a practitioner who is under suspension then in effect may request an expedited hearing. Upon receipt of a written request by such a practitioner, the hearing must be held as soon as the arrangements may reasonably be made, but not later than 30 calendar days after the receipt of the request for the expedited review. Furthermore, any practitioner can waive the above stated time requirements in order to expedite the hearing process with the consent of the Chief of Staff.

2.2 PRELIMINARY MATTERS

2.2-1 APPOINTMENT OF THE HEARING COMMITTEE

A hearing shall be conducted by an ad hoc hearing committee appointed by the Chief of Staff, and composed of at least three members. The Chief of Staff shall designate one of the appointees as chairman of committee. If the Chief of Staff is in direct economic competition with the practitioner, the Vice Chief of Staff, Secretary/Treasurer, immediate past Chief of Staff or remaining members of the Medical Executive Committee (in that order) shall appoint the committee members and chairman. No person in direct economic competition with the practitioner shall participate in the selection of the committee of its chairman.

2.2-2 SERVICE ON HEARING COMMITTEE

The hearing committee shall be composed of individuals who are not in direct economic competition with the involved practitioner. Members of the hearing committee shall be physicians and may, but need not be members of the medical staff. Any individual shall be disqualified from serving on the hearing committee if such member has directly participated in the consideration of the adverse recommendation.

2.2-3 PRESIDING OFFICER

In the absence of a Hearing Officer, the ad hoc hearing committee chairman shall be the Presiding Officer. The presiding officer shall maintain decorum and assure that all participants have a reasonable opportunity to present relevant oral and documentary evidence. The chairman shall be entitled to vote.

2.2-4 HEARING OFFICER

The Chief of Staff, at his or her discretion, may appoint a Hearing Officer. The Hearing Officer shall serve as the Presiding Officer, maintain decorum, rule on matters of law, procedure, and the admissibility of evidence; and act as a legal advisor to the Hearing Committee. The Hearing Officer may participate in the deliberations and assist in the preparation of a written decision, but he or she shall not be entitled to vote or act as an advocate or advisor for either party. The Hearing Officer need not be a member of the Medical Staff or a physician and may not be in direct economic competition with the practitioner.

2.2-5 PRACTITIONER'S RIGHT TO OBJECT

The practitioner will be apprised of the names of the committee members and may within ten days of the notification object to the appointment of any hearing committee member(s). Such objection must be in writing and must include the basis for the objection. If the Chief of Staff or the designee who appointed the committee determines that the objection is reasonable, the Chief of Staff or the designee may designate alternative member(s) and shall notify the practitioner of such new members(s). Where the practitioner is notified of the name of members within 14 days of the scheduled date for the commencement of the hearing, the notification will set forth the date by which the practitioner must object, if at all, and state the basis for the objections. The practitioner may object to any new member(s) by giving written notice of the objection and the reasons therefor.

2.3 LIST OF WITNESSES

At least 10 days prior to the scheduled date for commencement of the hearing, the affected practitioner shall give the Medical Executive Committee a list of the names of the individuals who, as far as is then reasonably known, will give testimony or evidence in support of the practitioner at the hearing. The list shall

contain only the names of individuals who can provide testimony relevant to the grounds for the adverse recommendation or action. Such list and the list of the Executive Committee's witnesses shall be amended as soon as possible when additional witnesses are identified. The Hearing Officer, or Presiding Officer where no Hearing Officer has been appointed, may permit a witness who has not been listed in accordance with this Section to testify if it finds that the failure to list such witness was justified, that such failure did not prejudice the party entitled to receive such list, and that the testimony of such witness will materially assist the hearing committee in making its report and recommendation under Section 4.1 below.

2.4 STATEMENTS IN SUPPORT

If a statement in support of a party's position is to be submitted to the ad hoc hearing committee, such party shall supply five copies of such statement to the Medical Staff Services/Administration office at least five days prior to the scheduled date for commencement of the hearing. The party shall also supply two copies of the statement to the affected practitioner and his or her representative. The Medical Staff Services/Administration office shall distribute the statement (if any) to members of the ad hoc committee at least three days prior to the scheduled date of the commencement of the hearing. Nothing in this paragraph shall preclude the Executive Committee or its representative from submitting procedural information to the hearing committee.

2.5 EXHIBITS

At least ten days prior to the scheduled date for commencement of the hearing, each party shall give the other party a copy of all exhibits, as far as is then reasonably known, which will be introduced during the hearing. Documents previously provided to a party need not be re-supplied. The Presiding Officer may permit the introduction of an exhibit which has not been provided in accordance with this Section if he or she finds that the failure to provide such exhibit was justified, that such failure did not prejudice the party entitled to receive it, and that the exhibit will materially assist the hearing committee in making its report and recommendation under Section 4.1 below.

2.6 DUTY TO NOTIFY OF NONCOMPLIANCE

If the practitioner believes that there has been a deviation from the procedures required by this Fair Hearing Plan or applicable law, the practitioner must promptly notify the Chief of Staff of such deviation, including the Fair Hearing Plan/Bylaws or applicable law citation. If the Chief of Staff agrees that a deviation has occurred and is substantial and has created demonstrable prejudice, he or she shall correct such deviation.

PART THREE – HEARING PROCEDURE

3.1 PERSONAL PRESENCE

The right to a hearing shall be waived if the physician fails, without good cause, to appear. The personal presence of the practitioner is required throughout the hearing. The presence of the practitioner's counsel or other representatives does not constitute the personal presence of the practitioner. A practitioner who fails without good cause to be present throughout the hearing shall be deemed to have waived his or her rights in the same manner and with the same consequence as provided in Section 1.4. The ad hoc hearing committee shall determine what constitutes "good cause".

3.2 PRESENTATION

The practitioner may be represented at the hearing by legal counsel or any other person of the practitioner's choice. The Executive Committee shall appoint a representative who may be a member of the Executive Committee or another member of the active staff to represent it and may also be represented by legal counsel.

3.3 RIGHTS OF PARTIES

During a hearing, each party shall have the following rights, subject to the ruling of the chairman or hearing officer on the admissibility of evidence and provided that such rights shall be exercised in a manner so as to permit the hearing to proceed efficiently and expeditiously:

- (a) Call, examine and cross-examine witnesses;
- (b) Present relevant evidence;
- (c) Rebut any evidence;
- (d) Submit a written statement in support of such party's position if such statement is tendered pursuant to Section 2.4; and
- (e) The practitioner may be examined by the Executive Committee representative and the ad hoc hearing committee members regardless of whether the practitioner testifies on his or her own behalf. After the reconsideration of the recommendation by the Executive Committee, the practitioner has the right to receive the written recommendations of the ad hoc hearing committee and the Executive Committee, both of which must include a statement of the basis for the decision.

3.4 PROCEDURE AND EVIDENCE

The hearing need not be conducted according to rules or law relating to the examination of witnesses or presentation of evidence. At the discretion of the chairman, any relevant matter may be considered. During the hearing, each party shall be entitled to submit a statement in support concerning any issue of law or fact if such statement was tendered pursuant to Section 2.4, and those statements shall become part of the hearing record. The hearing committee may ask questions of witnesses, call additional witnesses, or request documentary evidence if it deems it appropriate. The chairman or hearing officer may order that oral evidence be taken only under oath.

3.5 BURDEN OR PROOF

The representative of the Executive Committee shall have the initial obligation to present evidence in support of its action. The affected practitioner requesting the hearing shall have the opportunity of proving that the adverse action lacked substantial factual basis, or that such conclusions drawn therefrom are either arbitrary, unreasonable or capricious.

3.6 HEARING RECORD

A record of the hearing shall be kept. A court reporter shall be used for making the record.

3.7 POSTPONEMENT

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

3.8 RECESSES AND ADJOURNMENT

The hearing committee may without special notice recess and reconvene the hearing for the convenience of the participants or for the purpose of obtaining new or additional evidence or consultation. Upon conclusion of the presentation of oral and written evidence, the hearing shall be adjourned. The hearing committee shall, at a time convenient to itself, conduct its deliberations outside the presence of the parties.

3.9 DELIBERATIONS

In reaching its conclusion of fact and making its recommendations, the ad hoc hearing committee must act:

- (a) In the reasonable belief that the recommendation is in furtherance of quality health care;
- (b) After a reasonable effort to obtain the facts of the matter, and;
- (c) In the reasonable belief that the action is warranted by the facts known after reasonable effort to obtain such facts.

PART FOUR – HEARING COMMITTEE REPORT AND FURTHER ACTION

4.1 HEARING COMMITTEE REPORT

Within ten days after adjournment of the hearing, the ad hoc hearing committee shall make a written report of its findings and recommendations. The ad hoc hearing committee shall forward the report along with the record and other documentation to the Executive Committee.

4.2 ACTION ON HEARING COMMITTEE REPORT

At its next regularly scheduled meeting after receipt of the ad hoc hearing committee report and the hearing record, the Executive Committee shall consider the report and shall affirm, modify, or reverse its previous recommendation or action. The Executive Committee shall also have available to it the hearing record and all documentation submitted at the hearing. The chairman of the ad hoc hearing committee or his designee shall be invited to the Executive Committee to discuss the findings and recommendations of the ad hoc committee.

4.3 NOTICE AND EFFECT OF RESULT

4.3-1 NOTICE

- (a) If, after the Executive Committee has considered the ad hoc hearing committee report and the hearing record, the Executive Committee's reconsidered recommendation continues to be adverse, the CEO shall promptly so notify the practitioner by special notice. The CEO shall also forward such recommendation and documentation to the Board, but the Board shall not take any action thereon until after the practitioner has exercised or has been deemed to have waived the right to an appellate review.
- (b) In the event the practitioner is deemed to have waived the right to appellate review, the recommendations shall be final without any further action. The CEO shall notify the appropriate licensing authority

and make such other notifications as are required by law regarding the recommendations and the grounds therefor and of the affected practitioner's pending appeal rights.

PART FIVE – INITIATION AND PREREQUISITES OF APPELLATE REVIEW

5.1 REQUEST FOR APPELLATE REVIEW

A practitioner shall have 10 days after receiving notice under Section 4.3 to file a written request for an appellate review. The written request for appellate review shall include an identification of the grounds for appeal and a clear and concise statement of the facts in support of the appeal. The grounds for appeal shall be: 1) the hearing was not in substantial compliance with the procedures required by these Bylaws or applicable law and created demonstrable prejudice; or 2) the reconsidered adverse recommendation or action was arbitrary, capricious, or not supported by substantial evidence based upon the hearing record. If the practitioner desires to present an oral statement in favor of his or her position, the notice must include a request to appear before the appellate review body. The request must be delivered to the CEO and may include a request for a copy of record, upon payment of any reasonable charges associated with the preparation thereof.

5.2 WAIVER BY FAILURE TO REQUEST APPELLATE REVIEW

A practitioner who fails to request an appellate review within the time and in the manner specified shall have waived any right to review. The waiver has the same force and effect as provided in Section 1.4. A practitioner who fails to request an appearance before the appellate review body similarly shall be deemed to have waived the right to make an oral statement and to appear before the appellate review body.

5.3 NOTICE OF TIME AND PLACE FOR APPELLATE REVIEW

The CEO shall promptly deliver a request for appellate review to the general counsel of the Board. As soon as practicable, the general counsel shall schedule an appellate review.

5.4 APPELLATE REVIEW BODY

The appeals subcommittee of the Board shall conduct the appellate review.

PART SIX – APPELLATE REVIEW PROCEDURE AND FINAL ACTION

6.1 NATURE OF PROCEEDINGS

The appeals subcommittee shall consider the hearing record, with all exhibits thereto, and the written reports of the ad hoc hearing committee and the Executive Committee.

6.2 WRITTEN STATEMENTS

The practitioner may submit a written statement in support of his or her position, which may cover only such matters raised at the hearing. The statement shall be submitted to the general counsel of SHS at least five days prior to the date of the scheduled review. If submitted, the general counsel shall distribute such statement to the appeals subcommittee and to the representative of the Executive Committee at least three days prior to the scheduled review. The Executive Committee may submit a similar statement at least five day prior to the scheduled review, and if submitted, the general counsel shall provide a copy to the practitioner and to the appeals subcommittee at least three days prior to the scheduled date of the appellate review.

6.3 ORAL STATEMENTS

If an oral statement has been requested, the appeals subcommittee shall allow the practitioner to make oral statements in favor of his or her position. Any party or representative appearing shall be required to answer questions asked by any member of the review body.

6.4 PRESIDING OFFICER

The chairman of the appeals subcommittee is the presiding officer. He or she shall determine the order of procedure during the review, make all required rulings, and maintain decorum.

6.5 CONSIDERATION OF NEW OR ADDITIONAL MATTERS

New or additional matters or evidence not raised or presented during the original hearing report and not otherwise reflected in the record may not be introduced at the appellate review.

6.6 RECESSES AND ADJOURNMENT

The appeals subcommittee may recess and reconvene the proceedings without special notice for the convenience of the participants or for the purpose of

obtaining consultation. At the conclusion of the oral statement the appellate review shall be adjourned. The review body shall then, at a time convenient to itself, conduct its deliberations outside the presence of the parties.

6.7 DELIBERATIONS

In reaching its conclusions of fact and making its recommendations, the appellate review body must act:

- (a) In the reasonable belief that the recommendation is in furtherance of quality health care.
- (b) After a reasonable effort to obtain the facts; and
- (c) In the reasonable belief that the action is warranted by the facts known after reasonable effort to obtain such facts.

6.8 ACTION TAKEN

As soon as practicable after adjournment of the appellate review, the review body shall prepare its report and recommendation. The general counsel shall send notice to the practitioner and to the Chief of Staff for transmittal to the Executive Committee.

6.8-1 APPEALS SUBCOMMITTEE IN ACCORD WITH THE EXECUTIVE COMMITTEE

If the appeals subcommittee's decision is in accord with the Executive Committee's last recommendation in the matter, it shall be promptly forwarded to the Board along with all relevant documentation.

6.8-2 APPEALS SUBCOMMITTEE NOT IN ACCORD WITH THE EXECUTIVE COMMITTEE

If the subcommittee's action differs from the Executive Committee's last recommendation, the matter shall be referred to the QA Committee, which may make a recommendation or may refer the matter back to the Executive Committee for further consideration. If the QA Committee's recommendation is in accord with the Executive Committee's last recommendation, the QA shall promptly forward such recommendation together with all supporting documentation to the Board. If the QA Committee's recommendation differs from that of the Executive Committee's, the Executive Committee may request special joint conference review as provided in Section 6.9. this special joint

conference recommendation shall be submitted to the Board. The Board shall take action, which shall be effective immediately as the final decision in the matter.

6.9 SPECIAL JOINT CONFERENCE REVIEW

As soon as practicable after receiving a matter referred to it, a special joint conference review committee of equal numbers of medical staff and Board members shall convene to consider the matter and shall submit its recommendations to the Board. The special joint conference review committee shall be composed of a total of six members selected in the following manner: three Board members appointed by the chairman of the QA Committee and three medical staff members appointed by the Chief of Staff.

6.10 EFFECT OF ADVERSE RESULT

When the Board's final decision results in the reduction, suspension, revocation or other limitation of a practitioner's privileges or membership, the CEO shall notify the appropriate licensing authority and make such other notifications as are required by law regarding the recommendations and the grounds therefor.

PART SEVEN – GENERAL PROVISIONS

7.1 NUMBER OF HEARINGS AND REVIEWS

Notwithstanding any other provision of these Bylaws, no practitioner is entitled as a right to more than one evidentiary hearing and one appellate review with respect to the subject matter that is the basis of the adverse recommendation.

7.2 RELEASE

By requesting a hearing or appellate review, a practitioner agrees to be bound by the provisions of the Bylaws including those provisions relating to confidentiality, releases, and immunity from liability.

PART EIGHT – AMENDMENT

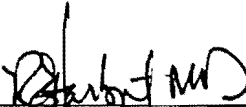
8.1 AMENDMENT

This Fair Hearing Plan may be amended or replaced in whole or in part by a resolution of the Medical Staff and approval by the Executive Committee and the Board.

8.2 ADOPTION

8.2-1 MEDICAL STAFF

This Fair Hearing Plan was adopted by the Medical Staff Executive Committee and recommended to the Banner Health Arizona Board of Directors on 10/7/99.



Ronald Harbut, Ph.D., M.D.

8.2-2 BOARD OF DIRECTORS

This Fair Hearing Plan was approved by the Banner Health Arizona Board of Directors 1/18/2000, upon the recommendation of the Executive Committee.

David M. Bixby,
General Counsel/Secretary

PAGE HOSPITAL

REVIEWED 5-99

Page, Arizona 86040

NURSING SERVICE POLICY

Subject: Admission of Patients-Special

Approval: Administration

Policy No.: A-5b

Page: 1 of 1

Date: January, 1981

Last Revised:

October, 1996

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1. Page Hospital shall admit patients suffering from all types of disease with provisions the following: communicable diseases, acute alcoholism*, narcotic addiction and mental disorders be referred to an appropriate facility as soon as possible.
 2. A patient in need of admittance to the hospital for a medical reason other than acute alcoholism, narcotic addition or mental disorder, but who also suffers from one of these, may be admitted under the following circumstances.
 - A. Referral is made to the proper community agency for assistance in meeting the needs of the patient, ie., alcoholism, additional and or psychiatric problems.
 - B. A family member or responsible person named by the patient of family member remains with the patient. This person must be eighteen (18) years of age or older.

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