# **ARTICLE III. CORRECTIVE ACTION**

**3.1. Actions Other Than Summary Restriction or Suspension**

3.1.1 Basis for an Evaluation

An initial evaluation of a member of the Medical Staff may be requested whenever information indicates that the member may have exhibited acts, demeanor, or conduct that may (1) be detrimental to patient safety or to the delivery of quality patient care within the Hospital; (2) be unethical; (3) be contrary to these Bylaws, Medical Staff Rules and Regulations, or any Medical Staff, Hospital or department/division policies and procedures; (4) be below applicable professional standards; or (5) indicate impairment due to substance abuse or a medical or psychological condition. The Department Chair, the Chairperson of the Medical Executive Committee (MEC), the Hospital President, the Chief Medical Officer/Vice President of Medical Staff, or the Board of Trustees may request an evaluation of such member.

3.1.2 Initial Evaluation

Evaluations shall be conducted by a Medical Staff committee or an ad hoc committee appointed by the MEC to conduct such evaluations or by representatives of such committees. Practitioners and others who are not members of the Medical Staff may be invited to participate in any such evaluations. If as a result of the evaluation there is a recommendation for opening an investigation, such recommendation shall be given to the MEC. The initial evaluation shall not constitute a “hearing,” and the member shall not be entitled to a hearing under these Bylaws. All evaluations under this Article 3 shall be part of the peer review and medical committee process.

3.1.3 Investigation

Investigations shall be conducted by a Medical Staff committee or an ad hoc committee appointed by the MEC to conduct such investigation or by representatives of such committees. Practitioners and others who are not members of the Medical Staff may be invited to participate in any such investigations. If as a result of the investigation there is a recommendation for action, such recommendation shall be given to the MEC. The investigation shall not constitute a “hearing,” and the member shall not be entitled to a hearing under these Bylaws. All investigations under this Article 3 shall be part of the peer review and medical committee process.

3.1.4 MEC Action

Upon the conclusion of the investigation, the MEC may, in its sole discretion, take action and/or make recommendations that may include but are not limited to the following:

A. Removal of any adverse information from the member’s file if no corrective action is warranted by the investigation;

B. Deferral of action;

C. Issuance of letters of admonition, censure, reprimand, or warning. The affected member may respond to such letters and warnings, and any written responses shall be placed in the member’s file;

D. Imposition of special conditions that may include, but are not limited to, case review, continuing medical education, counseling, or probation, which do not involve a restriction, reduction, suspension, or revocation of Medical Staff membership or the member’s ability to exercise clinical privileges;

E. Restrictions on continued Medical Staff membership or exercise of clinical privileges that may include co-admissions, mandatory consultation, proctoring, or case supervision;

F. Reduction, suspension, or revocation of clinical privileges;

G. Suspension, revocation, or probation of Medical Staff membership; or

H. Other actions deemed appropriate in the sole discretion of the MEC under the circumstances.

3.1.5 Subsequent Action

A. Any MEC recommendation or action that does not give the Member a right to a hearing under these Bylaws may be implemented by the MEC without further review and shall be effective at the date and time determined by the MEC.

B. The MEC shall notify the Board of Trustees and the affected member of any recommendation or action that gives the Member a right to a hearing under these Bylaws.

3.1.6 Initiation by Board of Trustees

The Board of Trustees in its discretion may direct the MEC to initiate an investigation or to consider such actions as it may deem appropriate. If the MEC fails to act, the Board of Trustees may initiate actions consistent with these Bylaws.

**3.2. Summary Restriction or Suspension**

3.2.1 Criteria for Initiation

A summary restriction or suspension of Medical Staff membership or clinical privileges may be imposed:

A. When a member’s conduct appears to require that immediate action be taken to protect the well-being of any person, including patients, visitors, and Hospital personnel; or

B. To reduce a substantial and imminent likelihood of injury or impairment to the life, health, or safety of any person, including patients, visitors, and Hospital personnel.

Unless otherwise indicated by the terms of the summary restriction or suspension, the affected member’s patients shall be assigned to another Medical Staff member in accordance with these Bylaws, the Medical Staff Policies, Procedures, Rules and Regulations, and Hospital and department/division policies and procedures.

3.2.2 Initiation of Summary Restriction or Suspension

A summary suspension may be initiated by the Chairperson of the MEC, the Chief Medical Officer/Vice President of Medical Staff, or the appropriate Department Chair. If neither the Chairperson of the MEC, Chief Medical Officer/Vice President of Medical Staff, nor the appropriate Department Chair is available, the Hospital President or the Board of Trustees may summarily restrict or suspend a Member’s Medical Staff membership or clinical privileges.

3.2.3 Notice of Summary Restriction or Suspension

Written notice of the summary restriction or suspension shall be given to the Member. The MEC, the Hospital President, the Chief Medical Officer/Vice President of Medical Staff, and the Board of Trustees shall be informed of the action taken.

3.2.4 Duration of Summary Restriction or Suspension

Unless otherwise stated, such summary restriction or suspension shall be effective immediately upon imposition. The summary restriction or suspension may be limited in duration and shall remain in effect for the period stated or, if not stated, until resolved as set forth herein.

3.2.5 MEC Action

No later than fourteen (14) days after the initiation of a summary restriction or suspension, the MEC shall review and consider the action. The affected Member may request to present a statement to the MEC in writing or in person, and that request may be granted or denied by the MEC in its sole discretion; however, the Member may not be represented by an attorney at any meeting, and any meeting shall not be considered a hearing under these Bylaws. The MEC may conduct whatever review or investigation it deems appropriate. At the conclusion of the review and/or investigation, the MEC shall determine whether to modify, continue, or terminate the summary restriction or suspension and shall deliver notice of its determination to the affected Member and shall inform the Board of Trustees.

If the MEC does not ratify the restriction or suspension, it shall terminate upon the earlier of (a) the end of the fourteenth (14th) day after imposition or (b) the date the MEC votes not to ratify the action.

3.2.6 Procedural Rights

If the summary restriction or suspension is not terminated by the end of the fourteenth (14th) day, the affected Member shall be entitled to a hearing under these Bylaws.

### **3.3 Administrative Suspension and Revocation**

An administrative suspension of Medical Staff membership or clinical privileges may be made by the MEC based on a Member’s conduct as described in this Section 3.3. Unless otherwise stated, an automatic administrative suspension as described herein shall be effective immediately upon the first business day following the date of delinquency or expiration or upon imposition in all other cases. The MEC shall deliver written notice to the affected Member and shall inform the Department Chair, the Hospital President, the Chief Medical Officer/Vice President of Medical Staff, and the Board of Trustees. The administrative suspension shall remain in effect for the period stated or, if not stated, until resolved as set forth herein. The Member shall have no right to a hearing for an administrative suspension.

3.3.1 Licensure

If a Member’s license to practice medicine, dentistry, or podiatry in Texas lapses, the Member’s clinical privileges shall be automatically suspended until the deficiency is corrected. If, within ninety (90) days following the lapse, the Member does not demonstrate that his license to practice in Texas has been renewed, the Member shall be deemed to have voluntarily resigned Medical Staff membership and clinical privileges due to ineligibility.

If a Member’s license to practice in Texas is restricted, reduced, suspended, revoked, or placed on probation, the Member’s Medical Staff membership and clinical privileges shall be subject to the same action under the same terms and conditions as of the date such action becomes effective and throughout its term.

The Member shall not be entitled to a hearing under this section.

3.3.2 DEA Certificate

Unless the requirements have been waived by the MEC, if a Member’s Federal Drug Enforcement Administration (DEA) certificate lapses, the Member’s clinical privileges may be suspended unless the Member provides documentation from the DEA demonstrating that the expiration date of the DEA certificate has been extended, or the Member agrees in writing to refrain from issuing any orders or prescriptions covered by such certificate or registration. The Member shall have fourteen (14) days following the lapse to demonstrate that the DEA certificate has been renewed. If not renewed within this fourteen (14) day period, the Member may request from the MEC an extension of time of not more than an additional fourteen (14) days to demonstrate renewal. The MEC may grant or deny an extension in its sole discretion. Absent a request for an extension, the Member’s Medical Staff membership and clinical privileges shall automatically be deemed voluntarily resigned at the end of the initial fourteen (14) day period due to ineligibility for membership. If at the end of any extension the Member cannot demonstrate renewal, the Member’s Medical Staff membership and clinical privileges shall be considered voluntarily resigned due to ineligibility.

If a Member’s DEA certificate is suspended or revoked, the Member shall be administratively suspended until such time as it is reinstated. If not reinstated at the end of the Member’s current appointment period, the Member shall not be qualified for reappointment. Any application for appointment thereafter will be processed as an initial appointment.

If a Member’s DEA certificate is placed on probation, restricted, or reduced, the Member’s clinical privileges shall be subject to the same action under the same terms and conditions as of the date such action becomes effective and throughout its term.

The Member shall not be entitled to a hearing under this section.

3.3.3 Professional Liability Insurance

If a Member fails to maintain professional liability insurance as set forth in these Bylaws, the Member’s clinical privileges shall be automatically suspended until the deficiency is corrected. If within ninety (90) days following the deficiency, the Member does not provide evidence of required professional liability coverage, the Member shall be deemed to have voluntarily resigned due to ineligibility for membership. The Member shall not be entitled to a hearing under this section.

3.3.4 Medical Records

If a Member fails to complete and sign medical records in accordance with Medical Staff Rules and Regulations and policies and procedures, including those of the Medical Staff, the Member’s clinical privileges may be suspended as described in the Medical Staff Rules and Regulations until the deficiency is corrected. The Member shall not be entitled to a hearing under this section.

3.3.5 Failure to Respond to Request for Information

A Member shall respond in writing to any requests for information from the Hospital, any Hospital committee, the MEC, any Medical Staff committee, the Chief Medical Officer/Vice President of Medical Staff, the Board of Trustees, or any of their designees. The response shall be made within ten (10) days of the date of the request or any other date specified. If a Member fails to respond or provide the requested information in a timely manner, the Member’s clinical privileges may be suspended for a period of time up to fourteen (14) days as determined by the MEC in its sole discretion. The failure to provide a timely response shall not, in and of itself, delay any action that might be taken with regard to the subject matter of the request for information. The Member shall not be entitled to a hearing under this section.

3.3.6 Failure to Appear

A Member shall appear at any department, division, or committee meeting at which the Member has been requested to attend. Failure to appear without good cause or a failure to participate in good faith at the meeting may result in a suspension of any such portion of privileges as the MEC specifies, for a period of time up to fourteen (14) days as determined by the MEC in its sole discretion. The failure to appear as required shall not, in and of itself, delay any action that might be taken with regard to the subject matter of the required appearance. The Member shall not be entitled to a hearing under this section.

3.3.7 Behavior, Conduct, and Practice

A Member shall adhere to these Bylaws, the Medical Staff’s and Hospital’s Code of Conduct, policies, procedures, rules and regulations, departmental/division policies and procedures, the ethics of the profession, and the Member’s specific discipline, shall work cooperatively with others, and shall discharge properly the responsibilities of the Medical Staff, which include an obligation to act within the standard of care. If a Member fails to do so, or if a Member’s behavior or actions undermine the reasonably expected functioning of the Medical Staff or the Hospital, the Member’s clinical privileges may be suspended for a period of time up to fourteen (14) days as determined by the MEC in its sole discretion. The Member shall not be entitled to a hearing under this section.

3.3.8 Obligation to Undergo Examination and Testing

A Member shall undergo physical and/or mental examinations and related testing when so instructed by the Chief Medical Officer/Vice President of Medical Staff, Chief of Staff, Department Chair, MEC, Health and Rehabilitation Committee, or the Board of Trustees or when required by Medical Staff rules, regulations, or policies and procedures or Hospital or department/division policies or procedures. Such testing may include drug, alcohol, or substance abuse testing. Such examination and/or testing shall take place at such time and place as specified and shall be at the Member’s expense. A failure to comply with such instructions may result in an administrative suspension for a period of time up to fourteen (14) days as determined by the MEC in its sole discretion. A failure to undergo drug, alcohol, or substance abuse testing in accordance with Medical Staff or Hospital policy or as otherwise instructed shall be deemed to be a positive test.

3.3.9 Proximity to Hospital

Members shall maintain a professional office in reasonable proximity to the Hospital as necessary for the Member’s clinical duties unless such is not required by the Member’s applicable privileges. A failure to do so may result in a deemed voluntary withdrawal of privileges due to membership ineligibility.

The Member shall not be entitled to a hearing under this section.

3.3.10 Falsification of Application

If an applicant or Member has falsified an application for appointment or reappointment, the applicant’s or Member’s Medical Staff membership and clinical privileges may be suspended. If upon investigation such falsification is confirmed, the MEC may declare an automatic revocation and the applicant or Member shall not be entitled to a right to a hearing under these Bylaws.

3.3.11 Repetitious Infractions

If a Member has been subject to at least three (3) administrative suspensions under this Section 3.3 within a consecutive twenty-four (24) month period, the Member’s Medical Staff membership and clinical privileges may be revoked by the MEC. The Member shall not be entitled to a hearing under this section.

3.3.12 Felony

If a Member is convicted of a felony, the Member’s Medical Staff membership and clinical privileges shall be automatically revoked upon the Hospital receiving notice of the conviction. Such revocation shall be effective immediately upon the conviction without regard to any right of appeal of the conviction the Member may have. The Member shall not be entitled to a hearing under this section.

3.3.13 Violation of Practice Agreement

If a Member violates the terms of a fitness for duty agreement and/or substance abuse agreement, the Member’s Medical Staff membership and clinical privileges may be revoked by the MEC in its sole discretion. The Member shall not have a right to a hearing under this section.

3.3.14 Revocation Under Agreement

In the event that a Member is under an agreement (practice, behavior, substance, or otherwise) with a Medical Staff committee or the Board of Trustees, which by its terms provides for the loss of clinical privileges and Medical Staff membership without a hearing under these Bylaws, and the Member loses clinical privileges and Medical Staff membership under the agreement, the Member shall be disqualified from Medical Staff membership or reapplication at any time in the future. The Member shall not be entitled to a hearing under this section.

3.3.15 Sanctions and Exclusions by State or Federal Programs

If a Member is excluded by any state or federal health care program, including Medicare, Medicaid, and/or Tricare, the Member’s clinical privileges shall be automatically suspended and Medical Staff membership shall be considered voluntarily resigned as of the date such exclusion becomes effective. If a Member is sanctioned or has a limitation imposed by any state or federal health care program including Medicare, Medicaid, and/or Tricare, the Member’s clinical privileges may be suspended by the MEC for as long as such sanction or limitation exists. The Member shall not be entitled to a hearing under this section.

**3.4 Professional Health**

Whenever the Member’s behavior, actions, demeanor, conduct, or physical or mental condition appears to be inappropriate, dysfunctional, or impaired, the Member will be referred to the Health and Rehabilitation Committee and may be asked by the Department Chair, Chief of Medical Staff, Chief Medical Officer/Vice President of Medical Staff, Hospital President, Credentials Committee, Health and Rehabilitation Committee, MEC, or the Board of Trustees to provide evidence of current health status through a physical or mental examination. An impairment due to physical or mental impairment or drug, alcohol, or substance abuse may be grounds for immediate summary suspension of the Member’s clinical privileges as provided in these Bylaws.

A Member has an affirmative duty to self-report to the Department Chair, Chief of Staff, Hospital President, MEC, Chief Medical Officer/Vice President of Medical Staff, Health and Rehabilitation Committee or Board of Trustees any health matter that may adversely affect the Member’s ability to safely exercise clinical privileges. A failure to self-report may result in corrective action as provided herein.

Management and resolution of professional health matters shall be the responsibility of the Health and Rehabilitation Committee, which shall report to the Credentials Committee.

A Member may seek assistance from the Health & Rehabilitation Committee at any time.

Any physical or mental examination and drug, alcohol, or drug testing or screening shall be at the expense of the affected Member and shall be performed by persons or entities approved by the Health and Rehabilitation Committee or the MEC.