BYLAWS OF THE MEDICAL STAFF
OF
SJ East Campus ASC, LLC
DBA Denver Surgery Center
DBA Denver Convalescent & Recovery Center

SJ East Campus ASC, LLC; d/b/a Denver Surgery Center, d/b/a Denver Convalescent & Recovery Center (the “Facility”) is an ambulatory surgery facility operated under the ownership Sisters of Charity Leavenworth Health System, Inc and is located at 1830 Franklin Street, Suite 200 Denver, Colorado.

The medical staff practicing in the Facility hereby organize themselves in conformity with the bylaws and rules and regulations hereinafter stated (the “Bylaws”).

These Bylaws do not create a contractual relationship between the medical staff (or any member thereof) and the Facility; however, the failure of a medical staff member to comply with applicable provisions of these Bylaws may result in penalties, sanctions, and loss of Facility Privileges, all as more fully stated in these Bylaws.

The Board of Managers has reviewed and approved these Bylaws.

ARTICLE I
ORGANIZATION, NAME, AND PURPOSES

1. ORGANIZATION AND NAME. Physicians, surgeons, dentists, and podiatrists who provide health services at the Facility shall do so as members of a Facility professional staff organization. Such organization shall be known as the Medical Staff of Denver Surgery Center (hereinafter referred to as the “Medical Staff,” as further defined below).

2. PURPOSES. Subject to the ultimate authority of the Board of Managers, the Medical Staff’s purposes shall be to:

   a) Verify that each Practitioner becoming a Medical Staff member demonstrates qualifications consistent with accepted professional standards;

   b) Promote the delivery of clinical care that is consistent with (i) applicable legal and regulatory requirements, and (ii) applicable accreditation standards;

   c) Monitor and evaluate health services delivered in the Facility;

   d) Assist the Board of Managers in fulfilling its legal obligations pertaining to the Facility’s clinical care; and

   e) Make recommendations to the Board of Managers regarding initial Medical Staff appointments, reappointments, and curtailment of clinical privileges based on a professional peer evaluation process.
ARTICLE II
DEFINITIONS

1. “Administrative Director” or “Director” of the Facility shall be an individual appointed to such position by the Board of Managers. He/she shall be responsible for overall administrative management of the Facility, the supervision of the Facility and its employees, and such other duties as the Board of Managers may from time to time direct.

2. “Adverse Action” means a recommendation or decision to reduce, restrict, suspend, revoke, deny, or deny renewal of Facility Privileges or Medical Staff membership of a Practitioner. However, the following recommendations or decisions shall not be considered an Adverse Action: (a) termination of Medical Staff membership or Facility Privileges of a Practitioner as the result of the termination of a contract pursuant to which the Practitioner is providing services at the Facility, or the dissociation of such Practitioner with the entity that is contracted to provide such services; (b) the termination of temporary Facility Privileges granted pursuant to Article III, Section A, Subsection 4(A) below; (c) the rejection of an application or renewal application for Facility Privileges or Medical Staff membership for failure to meet the eligibility criteria set forth in Article III, Section A, Subsection 2 below, which determination of non-eligibility may be made by the Facility’s Administrative Director or his or her designee; (d) the rejection of an application or renewal application for Facility Privileges or Medical Staff membership due to misstatements or inaccuracies in the application, regardless whether made intentionally or inadvertently by the applicant; (e) the automatic suspension Facility Privileges pursuant to Article III, Section C; or (f) any other action expressly defined as a Non-Adverse Action below.

3. “Allied Health Practitioners” or “AHPs” are health care providers who hold a license, certificate, or other such legal credentials as are required by the state of Colorado which authorizes the Allied Health Practitioner to provide health care services.

4. “Board of Managers” shall mean the Facility’s Board of Managers as defined in the Operating Agreement of Denver Surgery Center, which shall be the governing body of the Facility.

5. “Facility Privileges” shall be similar in definition to the term “clinical privileges” in a clinic or hospital, and shall mean the permission granted by the Board of Managers to a Practitioner or AHP to perform those diagnostic, therapeutic, medical or surgical services specifically delineated to him or her.

6. “Medical Advisory Committee” or “MAC,” which shall consist of Active members of the Medical Staff, shall mean those Active members of the Medical Staff appointed to such committee by the Board of Managers. The Board of Managers will determine the number of participants. The function and composition of responsibilities of the MAC shall be as set forth in these Bylaws and as from time to time determined by the Board of Managers.
7. “Medical Director” shall mean the licensed physician appointed by the Board of Managers to be the Medical Director of the Facility, who shall act as chairperson of the Medical Advisory Committee and as Medical Staff liaison to the Board of Managers. The responsibilities of the Medical Director shall be set forth in a separate Medical Director Agreement.

8. “Medical Staff” or “Staff” shall mean all Practitioners that have been granted Facility Privileges by the Board of Managers.

9. “Non-Adverse Actions” include, but are not limited to, the following: (i) issuance of a warning, letter of admonition, or reprimand; (ii) imposition of probation or a monitoring, consultation, or supervision requirement; (iii) automatic suspension, or (iv) failure to provide an appointment or reappointment application in conjunction with a privileges request.

10. “Practitioner” means a person with an M.D., D.O., or D.P.M. degree, who is duly licensed to practice medicine in the State of Colorado.

11. The pronouns “he,” “him” and “his” shall refer to both males and females, and also to the neuter, throughout these Bylaws, rules and regulations.

ARTICLE III
MEDICAL STAFF

SECTION A
MEMBERSHIP QUALIFICATIONS; APPOINTMENT PROCEDURES

1. The Board of Managers makes appointments to the Medical Staff upon the recommendation of the Medical Advisory Committee.

2. A Practitioner shall be eligible to apply for Facility Privileges and Medical Staff membership provided he or she:

   A. Is a graduate of an accredited medical school or osteopathic medical school that is recognized and approved of by the Board of Managers and has completed an appropriate post-graduate residency program;

   B. Possesses a valid controlled substances registration from the Drug Enforcement Administration (“DEA”), and provides information on registration, revocation, suspension, voluntary relinquishment, probationary status, and other registration conditions and limitations;

   C. Presents written references from at least 2 individuals in his or her profession who (a) have had sufficient experience and ability to observe his professional activities and (b) can provide written opinions of a scope and detail satisfactory to the Board of Managers as to applicant’s competence and character;

   D. Is duly registered and possesses an unconditional license to practice medicine in
Bylaws

Colorado. The applicant shall provide information on any licensure revocation, suspension, voluntary relinquishment, licensure probationary status, and other licensure conditions and limitations;

E. Holds medical staff membership and clinical privileges with St. Joseph Hospital

F. Is board certified, board eligible, or actively pursuing board certification in his or her specialty area and qualified to serve on the Medical Staff by virtue of his qualifications and experience;

G. Provides evidence of current professional liability coverage with policy limits of no less than $1,000,000 per claim and $3,000,000 in the aggregate per year, and provides the Facility with a current certificate of such insurance. The insurance must cover all types of care that applicant is credentialed to provide at the Facility, and shall apply to all such care regardless of when a claim for liability may be asserted. Applicant must provide accurate and complete information on past or current professional liability claims, which will be reviewed by the Medical Advisory Committee and Board of Managers, as well as information regarding refusal or cancellation of any professional liability coverage. Applicant must immediately notify the Facility of any cancellations;

H. Discloses any Medicare or Medicaid sanctions issued against him or her;

I. Provides accurate and complete information on complaints or adverse action reports filed against the Practitioner with any local, state, or national professional society or licensure board;

J. Provides accurate and complete information regarding conviction of any criminal offense, other than minor traffic violations;

K. Provides accurate and complete information regarding denial, suspension, limitation, termination, or nonrenewal of the Practitioner’s professional privileges with any hospital, health plan, medical group, or other health care entity;

L. Discloses existing physical, mental health, or chemical dependency problems that would interfere with Practitioner’s ability to provide high-quality patient care and professional services; and

M. Additionally, agrees to do the following:
   i. appear for interviews in regard to his or her application;
   ii. authorize consultation with members of the medical staffs of facilities with which the applicant has been associated, and with others who may have information on applicant’s competence, character and ethical qualifications;
   iii. consent to inspection of all records and documents that may be material to an evaluation of his or her professional qualifications and competence
to carry out the privileges he or she requests, as well as of his or her moral and ethical qualifications for Medical Staff membership;

iv. as a precondition of his or her application, applicant shall provide release from any liability to all representatives or agents of the Facility and its Medical Staff for their acts performed in good faith and without malice in connection with evaluating the applicant and his credentials;

v. as a precondition of his or her application, applicant shall provide release from any liability to individuals and organizations who provide information in good faith and without malice concerning the applicant's competence, ethics, character and other qualifications for Medical Staff appointment and Facility Privileges; and

vi. as a precondition of his or her application, applicant shall signify agreement to abide by the Bylaws and rules and regulations of the Medical Staff and the Facility, and shall release from liability the Facility and all representatives of the facility for reliance on information submitted in the application and applicant shall otherwise attest to the correctness and completeness of the information submitted.

3. Registered physician’s assistants and registered specialist’s assistants applying for employment or privileges in the Facility for the purpose of providing medical services under the supervision of a Practitioner shall be eligible to apply for Facility Privileges provided he or she:

A. Is a graduate of an accredited program that is recognized and approved of by the Board of Managers;

B. If applicable, possesses a valid controlled substances registration from the Drug Enforcement Administration (“DEA”), and provides information on registration, revocation, suspension, voluntary relinquishment, probationary status, and other registration conditions and limitations;

C. Presents written references from at least 2 individuals in his or her profession who (a) have had sufficient experience and ability to observe his or her professional activities and (b) can provide written opinions of a scope and detail satisfactory to the Board of Managers as to applicant’s competence and character;

D. Is duly registered and possesses an unconditional license to practice as a registered physician assistant or registered specialist assistant in Colorado. The applicant shall provide information on any licensure revocation, suspension, voluntary relinquishment, licensure probationary status, and other licensure conditions and limitations;

E. Discloses any Medicare or Medicaid sanctions issued against him or her;

F. Provides accurate and complete information on complaints or adverse action reports filed against him or her with any local, state, or national professional society or licensure board;
G. Provides accurate and complete information regarding conviction of any criminal offense, other than minor traffic violations;

H. Provides accurate and complete information regarding denial, suspension, limitation, termination, or nonrenewal of his or her professional privileges with any hospital, health plan, medical group, or other health care entity;

I. Discloses existing physical, mental health, or chemical dependency problems that would interfere with his or her ability to provide high-quality patient care and professional services; and

J. Additionally, agrees to do the following:
   i. appear for interviews in regard to his or her application;
   
   ii. authorize consultation with members of the medical staffs of facilities with which the applicant has been associated, and with others who may have information on applicant’s competence, character and ethical qualifications;
   
   iii. consent to inspection of all records and documents that may be material to an evaluation of his or her professional qualifications and competence to carry out the privileges he or she requests, as well as of his or her moral and ethical qualifications for Facility Privileges;
   
   iv. as a precondition of his or her application, applicant shall provide a release from any liability to all representatives or agents of the Facility and its Medical Staff for their acts performed in good faith and without malice in connection with evaluating the applicant and his credentials;
   
   v. as a precondition of his or her application, applicant shall provide release from any liability to individuals and organizations who provide information in good faith and without malice concerning the applicant's competence, ethics, character and other qualifications for Facility Privileges; and
   
   vi. as a precondition of his or her application, applicant shall signify agreement to abide by the Bylaws and rules and regulations of the Facility, and shall release from liability the Facility and all representatives of the facility for reliance on information submitted in the application and applicant shall otherwise attest to the correctness and completeness of the information submitted.

4. ROLE OF ALLIED HEALTH PROFESSIONALS. Allied Health Professionals or applicants for such designation shall not be eligible for appointments or reappointments to the Medical Staff, nor shall they be subject to any of the privileges and rights set forth herein. Any services provided at the Facility by Allied Health Professionals shall be at the Board of Managers’ sole discretion, pursuant to Facility policy.
5. APPOINTMENT AND REAPPOINTMENT PROCEDURES. A Practitioner seeking appointment to the Medical Staff shall be eligible to undertake the Facility’s appointment or reappointment procedures, provided that he or she can meet minimum requirements herein and represents a specialty appropriate to the Facility’s plans and resources. An applicant for the Medical Staff of the Facility shall present his or her application for appointment and privileges for specific procedures to the Medical Director utilizing the form prescribed by the Board of Managers. Such form shall include sections requesting all relevant information described above. Upon making application, the applicant shall also signify agreement to abide by the Bylaws, rules and regulations of the Medical Staff and the Facility in accordance with subsection 4 hereof. The application shall include detailed information concerning the applicant's education, training and experience, and give information as to whether the applicant's clinical privileges have ever been revoked, suspended, reduced or not renewed at any hospital or institution, or whether his license to practice his profession in any jurisdiction has ever been suspended, terminated or limited. The applicant shall have the burden of producing adequate information for a proper evaluation of his competence, character, ethics and other qualifications, and for resolving any doubts about such qualifications. Upon receiving the application, the Medical Director, or his or her designee, shall make all necessary verifications on references, licensure and other information which relate to the applicant's qualifications for Medical Staff membership. An applicant for Medical Staff membership shall have the burden of producing adequate information for proper evaluation of his qualifications for Medical Staff membership and Facility Privileges and for resolving any questions about his or her qualifications. The Medical Director or Medical Director’s designee may request any additional information reasonably necessary to resolve any questions about the applicant’s qualifications. Until the applicant has provided a complete application and all information requested, the application will be considered incomplete and will not be processed. The failure of an applicant to provide information within thirty (30) days from the date of the request shall cause the application to be treated as incomplete and it will not be processed.

Once the application is complete it will be transmitted to the Medical Advisory Committee. The Medical Advisory Committee shall review the character, professional qualifications, suitability and physical and mental health status of the applicant and shall submit a recommendation to the Board of Managers. When determining qualifications of the applicant, the Medical Advisory Committee shall recommend Facility Privileges for specific procedures to be granted, commensurate with the applicant's education, training and experience, as provided in these Bylaws. Each applicant must indicate, in writing, the delineation of privileges which he or she requests to perform at the Facility. The recommendations of the Medical Advisory Committee shall be transmitted to the Board of Managers through the Medical Director and, upon receipt of the recommendations; the Board of Managers shall review such recommendations. Following review, the Board of Managers shall either accept or reject the recommendations of the Medical Advisory Committee, or refer the application back for further consideration, stating the reasons for such action. Review by the Board of Managers shall be done at the next regularly scheduled meeting of the Board of Managers, but in no event longer than ninety days after receipt by the Board of Managers of the recommendations of the Medical Advisory Committee. When the Board of Managers has taken final action on the application, the Administrative Director will transmit this information to the applicant.

A. TEMPORARY PRIVILEGES. During pendency of the application, the Board
of Managers may grant temporary privileges with concurrence of the Medical Advisory Committee and the Medical Director, if requested in writing by the applicant. Approval of temporary privileges shall be confirmed in writing. These privileges may be granted for a period not to exceed ninety days. A decision by the Board of Managers to grant temporary privileges must be supported by (i) a completed appointment application, and (ii) information which substantially supports a favorable determination regarding the applicant’s qualifications, competence, and character. Such temporary privileges may be terminated by the Administrative Director at any time, with or upon the recommendation of the Medical Director.

6. **REAPPOINTMENT PROCEDURES.** Staff appointments are for two years or such other length determined by the Medical Advisory Committee, but shall not exceed a period of 3 years. A reappointment application must be submitted not less than 60 days before expiration of the Medical Staff member’s current appointment or reappointment term. All appointments and privileges shall be reviewed for reappointment at the appropriate time. Each applicant seeking reappointment shall be required to demonstrate (i) continuing satisfaction of all requirements for initial appointment, (ii) cooperation and participation in the Facility’s peer review and other quality assurance programs, (iii) cooperation and compliance with these Bylaws, and (iv) professional practice in a fashion which accords recognition of patient rights dignity to Facility’s patients and personnel, and (v) perform a minimum of twelve (12) cases annually. No Medical Staff member shall be reappointed without specific review of the individual's performance and qualifications by the Medical Advisory Committee which will make specific recommendations to the Board of Managers, setting forth its recommendations for renewal or nonrenewal of Medical Staff membership. The Board of Managers shall either accept or reject the recommendations of the Medical Advisory Committee or refer them back to the Medical Advisory Committee for further consideration, stating the reasons for such action. Review by the Board of Managers shall be done at the next regularly scheduled meeting of the Board of Managers, but in no event longer than ninety days after receipt by the Board of Managers of the recommendations of the Medical Advisory Committee. When the Board of Managers has taken final action, the Administrative Director will transmit this information to the applicant for reappointment.

Except in the event of a summary suspension hereunder, the current status and privileges of a Medical Staff member seeking reappointment shall remain in effect pending the Board’s reappointment decision.

7. **DENIAL OF MEDICAL STAFF MEMBERSHIP.** If the Board of Managers denies application for appointment or reappointment of a Practitioner who meets the eligibility requirements of Article III, Section A, the Administrative Director shall promptly so inform the applicant by certified mail, return receipt requested, and the applicant shall be entitled to the procedural rights as provided in Article III, Section D. No Practitioner shall be entitled to membership on the Medical Staff or to the exercise of particular privileges merely by virtue of the fact that he or she is a member of any professional organization, or that he or she had in the past, or presently has, such privileges at any hospital or ambulatory surgery center. Appointments and reappointments shall be guided by the Facility’s objectives and its capabilities to provide facilities, equipment, staff, and other resources to benefit the Practitioner, his patients, and the community the Facility
serves. Appointments and reappointments shall take into account, among other things, (i) projected Medical Staff complements and vacancies, and (ii) the level of representation of specialty areas integral to the Facility’s current or planned services.

8. **ORGAN PROCUREMENT ORGANIZATION EXEMPTION.** Practitioners from outside organ procurement organizations designated by the Secretary of the United States Department of Health and Human Services, and engaged at the Facility solely in the harvesting of tissues and/or other body parts for transplantation, therapy, research or educational purposes pursuant to federal and state law shall be exempt from having to obtain Medical Staff membership and clinical privileges.

### SECTION B
**RESPONSIBILITIES OF MEDICAL STAFF**

1. All members of the Medical Staff shall be obligated to:

   A. fulfill those responsibilities required by these Bylaws, and the Medical Staff rules and regulations;

   B. provide patient care at the Facility (i) in keeping with accepted professional and Facility standards, and (ii) through a process of informed consent; provided, however, a physician may inform a patient that he or she refuses to give advice with respect to, or participate in, any induced termination of pregnancy;

   C. seek consultation from other Practitioners whenever reasonably necessary and appropriate;

   D. participate, as appropriate, in quality review, evaluation, and monitoring activities required by the Facility;

   E. make reasonable efforts to serve on Facility committees, when requested by the Medical Director, Medical Advisory Committee, or Board of Managers;

   F. attend education programs in his or her field of practice as may be required by the Facility or the State of Colorado;

   G. maintain the confidentiality of all peer review related matters and waive any right he or she may have under state law to disclose such matters;

   H. avoid unprofessional, inappropriate or disruptive behavior while at the Facility;

   I. notify the Administrative Director immediately of any change in his or her (i) licensure, (ii) controlled substances registration, (iii) specialty board certification, (iv) professional liability insurance, or (v) staff membership or privileges at any other facility;

   J. disclose immediately to the Administrative Director (i) any investigation or disciplinary action by any licensing, certification, or other governmental agency,
or (ii) any claim of professional liability asserted against him or her;

K. reasonably cooperate with the Facility and the Medical Staff in its efforts to comply with regulatory, reimbursement, and applicable accreditation organizations;

L. not engage in the practice of division of fees under any guise whatsoever, to the extent prohibited by law;

M. Cooperate with and participate in the Facility’s quality assurance and risk management program;

N. Protect the privacy, confidentiality, and security of patient information in accordance with the Facility’s privacy practices; and

O. refrain from performing, at his or her outpatient clinic, any procedures on the list of Medicare-covered procedures for ambulatory surgical centers that are procedures offered by the Facility, unless: (i) the patient expresses a preference to have the procedure performed at the Practitioner’s outpatient clinic; (ii) the patient’s insurer designates that the procedure be performed at a location other than the Facility; (iii) the Practitioner reasonably believes that providing the service in the Facility is not in the patient’s best medical interests; or (iv) the Practitioner receives approval from the Medical Director of the Facility for permission to provide such procedures at his or her outpatient clinic.

2. LEAVE OF ABSENCE. During an appointment or reappointment, a Medical Staff member may request in writing that the Board of Managers approve a leave of absence of any duration. Following any such leave, the Board of Managers may accept a reinstatement request from the Medical Staff member, provided that he or she documents continuing compliance with all requirements hereunder. If any leave extends for a period of 1 year or longer, it shall be necessary for the Medical Staff member to comply with all procedures for appointment hereunder before resuming practice at the Facility.

3. CLINICAL POLICY PARTICIPATION. Each member of the Medical Staff shall be expected to participate, as requested, in evaluating and recommending Facility clinical policies and procedures for approval by the Board of Managers.

4. ACCEPTANCE OF RESPONSIBILITIES. Submission of an application for appointment or reappointment to the Medical Staff shall be deemed to constitute the Practitioner’s agreement to comply throughout his or her Medical Staff membership with the purposes, obligations, and duties hereunder.
SECTION C
CORRECTIVE ACTION

1. ROUTINE CORRECTIVE ACTION.

A. CRITERIA FOR INITIATION. Whenever a Medical Staff member’s activities or professional conduct are considered (i) to violate the standards and responsibilities set forth in the Medical Staff Bylaws or the rules and regulations of the Medical Staff, (ii) to be detrimental to patient safety or delivery of quality patient care consistent with professionally-recognized standards, or (iii) to be disruptive to the Facility’s operations, corrective action may be requested by the Medical Director, Administrative Director, or any member of the Board of Managers. Upon such request, the requesting party shall be disqualified as a member of any subsequent hearing committee and shall not be included in the decision-making process as to the affected Medical Staff member’s Facility Privileges under these Bylaws. The requesting party may, however, testify as a witness before any subsequent hearing committee.

B. REPORTING REQUIREMENTS. The Administrative Director shall notify the appropriate agencies and/or regulatory bodies of the federal government and of the State of Colorado when any physician is removed or suspended from the Medical Staff of the Facility or has had any other disciplinary action, including the option to resign, taken against him, as provided for or required by Colorado statute or applicable regulation, or by federal law or regulation. Such report shall be filed at the time required by law, but not later than thirty days following the initial occurrence of such action, regardless of the pendency of appeals therefrom. Further, if a professional review action results in a decision that adversely affects the clinical privileges of a practitioner for a period of longer than thirty days, or if the Facility accepts the surrender of Facility Privileges of a Practitioner while he or she is under investigation relating to possible incompetence or improper professional conduct, or in return for not conducting such an investigation or proceeding, then such information regarding the circumstances of the action or surrender shall be reported to the Colorado Board of Medical Examiners as may be required by law.

C. REQUESTS AND NOTICES. All requests for corrective action shall be in writing, submitted to the Medical Advisory Committee and supported by reference to the specific activities or conduct which constitute the grounds for the request. The Medical Director shall promptly notify the Administrative Director in writing of all requests for corrective action received by the Medical Advisory Committee and shall continue to keep the Administrative Director fully informed of all action taken in conjunction therewith.

D. INVESTIGATION. The Medical Advisory Committee shall immediately investigate the matter to obtain all pertinent facts. The investigative procedures shall afford the affected Practitioner an opportunity for appearance before the Medical Advisory Committee. At such appearance, the Practitioner
shall be notified of the general nature of the allegations against him, and the Practitioner may, if he or she chooses, explain the activities or conduct involved, or refute the charges. The appearance does not constitute a hearing, and such appearance need not be conducted according to the formal procedures outlined in Section D hereof. With the written consent of the affected Practitioner, a record by mechanical device or minutes of such interview may be made by the Medical Advisory Committee and included with its written report to the Board of Managers.

E. MEDICAL ADVISORY COMMITTEE ACTION. Within thirty days after the later of the receipt of the request for investigation or appearance by the Practitioner against whom the request has been made, the Medical Advisory Committee shall provide a written report of the investigation to the Board of Managers. In such written report, the Medical Advisory Committee may provide a recommendation:

- to reject the request for corrective action;
- to issue a warning, a letter of admonition, or letter of reprimand;
- to impose terms of probation or individual requirements of consultation;
- to recommend reduction, suspension, revocation or other limitation of Facility Privileges;
- to reduce any Facility Privileges directly related to patient care; or
- to suspend or revoke Medical Staff membership.

F. PROCEDURAL RIGHTS. In all corrective actions, the Board of Managers makes the final determination as to whether the corrective action will be imposed. Any recommendation by the Medical Advisory Committee that an Adverse Action be taken against the affected Practitioner, or determination by the Board of Managers that Adverse Action be taken against the affected Practitioner, shall entitle the Practitioner to the procedural rights as provided in Article III, Section D hereof, and the matter shall be processed in accordance with such provisions. Such procedural rights shall be afforded or waived in writing by the Practitioner before the Board of Managers takes final action upon the recommendation or determination of the Medical Advisory Committee.
Any recommendation by the Medical Advisory Committee that a Non-Adverse Action be taken against the affected Practitioner (or the decision that no action should be taken against the Practitioner) shall not entitle him or her to the procedural rights as provided in Article III, Section D hereof. Also, if the Board of Managers’ decision results in a Non-Adverse Action being taken against the affected Practitioner (or the Board of Managers decides that no action should be taken against the Practitioner), such result shall become the final decision and the procedural rights provided in Article III, Section D shall not apply. However, if the Board of Managers’ decision is an Adverse Action, the Board of Managers’ decision shall be held in abeyance until the Practitioner has exercised or waived his procedural rights as provided in Article III, Section D hereof, unless a summary suspension is imposed pursuant to Subsection 2 below. If a summary suspension is imposed, Article III, Section C, Subsection 2, below, shall control.

The Administrative Director shall promptly notify the Practitioner of any recommendation for Adverse Action by the Medical Advisory Committee, any Adverse Action determination by the Board of Managers, or final Non-Adverse Action determination by the Board of Managers by delivering a written notice in person, or via certified mail, return receipt requested.

2. SUMMARY SUSPENSION.

A. CRITERIA FOR INITIATION. Whenever a Practitioner's conduct reasonably requires that immediate action be taken to protect the life and safety of any patient(s) or to reduce the substantial likelihood of imminent injury or damage to the health or safety of any patient, employee or other person present in the Facility, either the Medical Director, the Administrative Director, or any member of the Board of Managers shall have the authority to suspend summarily the Medical Staff membership status and/or all or any portion of the Facility Privileges of such Practitioner. Such summary suspension shall become effective immediately upon imposition, and the Administrative Director shall promptly give notice of the summary suspension to the Practitioner in person, or via certified mail, return receipt requested. Such notice will include a statement of the decision’s basis.

B. MEDICAL ADVISORY COMMITTEE ACTION. As soon as reasonably possible after such summary suspension action, but not more than 14 days following the action, a meeting of the Medical Advisory Committee shall be convened to review and consider the appropriateness of the action taken, and the Medical Advisory Committee shall submit a recommendation to the Board of Managers. The Medical Advisory Committee may recommend to the Board of Managers that it modify, continue, or terminate the terms of the summary suspension.
C. PROCEDURAL RIGHTS. The Board of Managers shall make the final decision regarding the continuation, termination, or modification of the summary suspension in accordance with the procedural rights described in Article III, Section C, Subsection 1(F) above. Any Medical Advisory Committee recommendation or Board of Managers determination for the continuance of the suspension shall be deemed a recommendation or determination for an Adverse Action, and the affected Practitioner shall be afforded the procedural rights in Section D below prior to any final action by the Board of Managers. However, any summary suspension shall remain in effect until the conclusion of the procedures set forth in such Section D below.

3. AUTOMATIC SUSPENSION.

A. ACTION BY LICENSING OR CERTIFYING AGENCY. An automatic suspension of all Facility Privileges shall be imposed whenever the pertinent licensing agency revokes or suspends a Practitioner's license, certificate or other legal credential authorizing him to practice in Colorado. In the event of action by the pertinent agency placing a Practitioner on probation, or otherwise limiting the Practitioner’s authorization to practice in Colorado, limitations and restrictions shall automatically be placed on the Practitioner's Medical Staff membership and Facility Privileges under the same terms and conditions as contained in the agency's order. Such a probationary order by the pertinent agency may be deemed a request for corrective action against such Practitioner.

B. DRUG ENFORCEMENT ADMINISTRATION (DEA) NUMBER. A Staff member whose DEA number or similar authorization is revoked or suspended shall immediately and automatically be divested of his right to prescribe medications covered by the number. As soon as possible after such automatic suspension, the Medical Advisory Committee shall convene to review and consider the facts under which the DEA number or similar authorization was revoked or suspended. The Medical Advisory Committee may then recommend to the Board of Managers such further corrective action as is appropriate to the facts disclosed in its investigation.

C. PROFESSIONAL LIABILITY INSURANCE. An automatic suspension of all Facility Privileges shall be imposed whenever a Staff member loses his professional liability insurance. As soon as possible after such automatic suspension, the Medical Advisory Committee shall convene to review and consider the facts under which the liability insurance was revoked or suspended. The Medical Advisory Committee may then recommend to the Board of Managers such further corrective action as is appropriate to the facts disclosed in its investigation.

D. MEDICAL RECORDS. An automatic suspension of Facility Privileges shall, after written warning of delinquency, be imposed for failure to complete and
sign or authenticate medical records within twenty-one days following the date on which services were rendered to the patient. Such suspension shall take the form of withdrawal of a Practitioner's admitting or consulting privileges with respect to new patients, and shall be effective until all delinquent medical records are completed. An automatic suspension under this paragraph shall also fall within the definition of Adverse Action, and the practitioner shall be entitled to the procedural rights set forth in Article III, Section D hereof.

E. FAILURE TO DISCLOSE MATERIAL INFORMATION DURING THE APPLICATION PROCESS. An automatic suspension of all Facility Privileges shall be imposed whenever the Facility becomes aware of any information a Practitioner failed to disclose during his or her application process for Medical Staff membership and Facility Privileges which, if known, likely would have impacted the Facility’s decision to approve the Practitioner’s application for Medical Staff Members and Facility Privileges.

F. REVOCATION, SUSPENSION, OR LOSS OF MEDICAL STAFF MEMBERSHIP OR CLINICAL PRIVILEGES AT COLORADO SPRINGS COMMUNITY HOSPITAL. An automatic suspension of all Facility Privileges shall be imposed whenever the Facility becomes aware of a Practitioner’s revocation, suspension, or loss of medical staff membership or clinical privileges at Colorado Springs Community Hospital.

G. ENFORCEMENT. It shall be the duty of the Medical Director to cooperate with the Administrative Director in the enforcement of all automatic suspensions of members of the Medical Staff. Upon cure of the default occasioning an automatic suspension, the Practitioner shall have his or her clinical privileges restored, subject to any limitations, unless further corrective action has been taken. However, termination of an automatic suspension shall not preclude routine corrective action involving the default. Failure of the Practitioner to cure the default within 45 days shall result in a permanent termination of his or her Facility Privileges and Medical Staff membership. Hearing rights hereunder shall not apply in instances of an automatic suspension or a failure of the Practitioner to cure the default that results in permanent termination of his or her Facility Privileges and Medical Staff membership, unless some additional Adverse Action has been initiated against the Practitioner.

SECTION D
HEARING AND APPELLATE REVIEW PROCEDURE

It is the intention of these Bylaws that the hearing procedure contained herein shall meet all requirements, terms and conditions of 42 U.S.C. §11101, et seq. (the “Health Care Quality Improvement Act of 1986” or “Act”) and the laws of the State of Colorado, as the same may
Bylaws

from time to time be amended. Any provision or requirement in conflict with the terms of the Act, and in particular §11112 of the Act, shall be deemed of no force, effect, or applicability.

1. DEFINITIONS. The following definitions, in addition to those stated elsewhere in these Bylaws, shall apply to the provisions of this Section D.

A. NOTICE OF PROPOSED ACTION means a written communication delivered by certified mail, return receipt requested, which informs the affected Practitioner that an Adverse Action has been proposed to be taken against him or her, the specific reasons for the proposed action, that he or she has the right to request a hearing on the proposed action and the right to be represented by legal counsel at such hearing, that the request for hearing must be received by the Medical Director within thirty days of receipt of written notice by the Practitioner, and contains a summary of the rights in the hearing, as set forth hereinafter.

B. NOTICE OF HEARING means a written communication delivered by certified mail, return receipt requested, to the affected Practitioner who has requested a hearing, within fifteen days from receipt of Practitioner’s request, which notice shall state the time, place, and date of the hearing, which date shall be not less than thirty or more than sixty days after the date of the Notice of Hearing; and shall advise the Practitioner that a failure to personally appear at a requested hearing constitutes a waiver of the hearing and appeal rights provided in this Section D and in these Bylaws.

2. INITIATION OF HEARING. Whenever there is recommendation or determination for an Adverse Action, as herein defined, made by either the Medical Advisory Committee or the Board of Managers regarding a Practitioner who is entitled to a hearing, the Medical Director shall provide the Notice of Proposed Action to such Practitioner. Failure of the Practitioner to request a hearing within the time limit set forth in the Notice of Proposed Action shall be deemed a waiver of his or her right to such a hearing and to any appeal provided for in this Section D. If the Practitioner duly requests a hearing, then the Medical Director shall provide Practitioner with the Notice of Hearing as described above. Together with the Notice of Hearing, the Medical Director shall state the acts or omissions involved in the Adverse Action (“Statement of Charges”).

3. CIRCUMSTANCES NOT REQUIRING A HEARING. A hearing requiring the procedures set forth in this Section D shall not be required where there is no action taken by the Medical Advisory Committee or the Board of Managers, when a Non-Adverse Action is taken, in the case of a summary suspension or restriction of Facility Privileges for a period of no longer than fourteen days (during which an investigation is being conducted to determine the need for a corrective action), or as otherwise stated in these Bylaws. Additionally, the hearing procedures contained herein shall not be construed to preclude an immediate suspension or restriction of Facility Privileges, subject to subsequent notice and hearing or other adequate
procedures, where the failure to take such an action may result in an imminent danger
to the health or safety of any individual.

4. APPOINTMENT. When a hearing is properly requested, the Medical Director shall
be responsible for determining before whom the hearing shall be held, and for
selecting the Hearing Officer, or for appointing the Hearing Committee. If a Hearing
Committee is selected, the Medical Director may appoint a panel composed of three
(3) members (although the number may be more or less, in the discretion of the
Medical Director) of the Medical Staff who have not actively participated in the
consideration of the matter involved at any previous level, and who are not in direct
economic competition with the Practitioner involved. Knowledge of the matter
involved shall not preclude a member of the Medical Staff from serving as a member
of the Hearing Committee. One of the members of the Hearing Committee shall be
designated as chairman.

If feasible, the Medical Director also shall appoint a Medical Staff member
(hereinafter “Medical Staff Representative”) to present the case on behalf of and
otherwise represent the party pursuing the Adverse Action (i.e., the Medical Advisory
Committee or the Board of Managers). In its sole discretion, the Medical Advisory
Committee may remove or replace the Medical Staff Representative at any time. If
no suitable Medical Staff Member is willing to be the Medical Staff Representative,
then the Medical Director may appoint any other suitable individual to so serve. The
Medical Staff Representative shall not be the party who originally requested that the
action be brought against the Practitioner.

The Practitioner shall be notified of the prospective members of the Hearing
Committee or the Hearing Officer as a part of the Notice of Hearing, and if the
Practitioner has any objection to any proposed committee member or the Hearing
Officer, the Practitioner shall, within ten (10) calendar days after notification, state in
writing any objection and the reasons for objection. The Medical Director shall, after
consideration of such objections, decide in his or her sole discretion whether to
replace any person objected to and the Practitioner shall be notified of the action
taken on the objection.

The hearings provided for herein are for the purpose of intraprofessional resolution of
matters bearing on professional conduct or competency. However, the affected
Practitioner and the Facility may be represented in the hearing by an attorney if such
party chooses to be so represented.

5. HEARING COMMITTEE ACTION. A majority of the members of the Hearing
Committee may act as and for the Hearing Committee. No Hearing Committee
member may vote by proxy.

6. POSTPONEMENTS AND EXTENSIONS. The Hearing Committee or Hearing
Officer shall permit postponements or extensions requested by the affected
Practitioner or by the party pursuing the Adverse Action only on an adequate showing
of good cause and if the request therefore is made as soon as is reasonably practical. The length of such postponements and extensions shall be at the discretion of the Hearing Committee or Hearing Officer, but shall reasonably balance the need for an extension with the need for the efficient resolution of the matter.

7. PERSONAL PRESENCE. The personal presence of the Practitioner who requested the hearing shall be required. A Practitioner who fails without good cause to appear and proceed at such hearing shall be deemed to have waived his rights to a hearing and to appellate review as provided in this Section D and these Bylaws and the Adverse Action shall become final immediately.

8. PRESIDING OFFICER. The presiding officer at the hearing shall be the Hearing Officer, or, if no hearing officer has been appointed, the chairman of the Hearing Committee. The presiding officer shall act to maintain decorum and to assure that all participants in the hearing have a reasonable opportunity to present relevant oral and documentary evidence. The presiding officer shall determine the order of procedure during the hearing and the admissibility of evidence. The chairman of the Hearing Committee shall be entitled to vote on the matter.

9. RIGHTS OF PARTIES. During the hearing, each of the parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine any witness on any matter relevant to the issues, and to impeach any witness and rebut any evidence. If the Practitioner who requested the hearing does not testify on his own behalf, he may be called as if under cross-examination. The presiding officer may limit evidence which is cumulative.

10. EVIDENCE. The hearing shall not be conducted according to rules of courts of law relating to the admission of evidence. Evidence upon which responsible persons customarily rely in the conduct of serious affairs shall be admitted, regardless of the admissibility of such evidence in a court of law. Each party shall, prior to or during the hearing, be entitled to submit a written memorandum of points and authorities, and such document shall become part of the hearing record. The presiding officer may order that oral evidence be taken only on oath or affirmation administered by any person who is entitled to notarize documents in Colorado, and who has been designated by the presiding officer to administer such oath or affirmation.

Both the affected Practitioner and the party pursuing the Adverse Action (i.e., the Medical Advisory Committee or the Board of Managers) shall submit to the Hearing Officer or the Hearing Committee a list of names of witnesses expected to testify or otherwise provide evidence at the hearing and a list of exhibits the Practitioner or the party pursuing the Adverse Action intends to submit at the hearing. These lists shall be submitted at least five days before the scheduled date of the hearing. The lists of witnesses and exhibits shall be amended promptly if additional witnesses or exhibits are identified. The Hearing Officer or the Hearing Committee may receive evidence not listed in accordance with this section if it finds that the failure to list the evidence was justified, that such failure did not prejudice the adverse party, and that the
evidence will materially assist the Hearing Officer or Hearing Committee in making its report and recommendation. All lists of witnesses, exhibits and other materials supplied to the Hearing Officer or Hearing Committee by the Practitioner or by the party pursuing the Adverse Action shall be exchanged by the parties no later than the date for submitting the names of witnesses and lists of exhibits to the Hearing Officer or Hearing Committee.

11. OFFICIAL NOTICE. During the hearing, the presiding officer may take official notice of any generally accepted technical or scientific matter relating to the issues under consideration and of any facts, which may be judicially noticed, by the courts of Colorado. Parties to the hearing shall be informed of the matters to be officially noticed and those matters shall be noted in the hearing record. Any party shall be given opportunity, if timely made, to request that a matter be officially noticed or to refute the noticed matters by evidence or by written or oral presentation of authority. The presiding officer shall determine the manner of such refutation and reasonable time shall be granted, if requested, to present written rebuttal of any evidence admitted on official notice.

12. BURDEN OF PROOF. In all cases, the Practitioner shall have the burden of proving by clear and convincing evidence that the Adverse Action recommendation or decision lacks any factual basis, or that the conclusions drawn therefrom are arbitrary, unreasonable, or capricious. The term “clear and convincing evidence” is more than a simple preponderance of the evidence and means evidence that in a matter is substantially more likely than not.

13. ORDER OF HEARING. The Medical Staff Representative shall present an opening summary of the matter, notices given, any administrative decisions rendered to date, and, optionally, of key findings to be proven; thereafter, the Medical Staff Representative shall present facts upon which he or she is relying, by calling witnesses and presenting written evidence. At the close of the Medical Staff Representative’s case, the presiding officer may terminate the hearing, by a ruling that the Adverse Action recommendation or determination clearly was not supported by the Medical Staff Representative’s case. If such ruling is not made, then the Practitioner or his representative shall (a) make an opening statement, and (b) present evidence and testimony. After the opposing party’s initial presentations, each party shall be entitled to present rebuttal evidence, subject to reasonable limitations by the presiding officer as to order, time, relevance, and repetition. Upon close of all presentations and evidentiary rebuttals, the parties shall be entitled, subject to reasonable limitations by the presiding officer, to (a) submit a written statement, and (b) give closing statements and arguments. At the conclusion of all closing statements and arguments, the presiding officer shall declare the hearing fully adjourned, and all persons other than the Hearing Committee or Hearing Officer shall leave; thereafter, the Hearing Committee or Hearing Officer shall deliberate at its convenience.
14. RECORD OF HEARING. A court reporter shall record the proceedings verbatim in order to permit an informed and valid judgment to be made by any individual or group which later may be requested to review the record and render a recommendation or decision in the matter. The Facility shall bear the cost of the reporter's appearance and the Practitioner who requested the hearing shall bear the cost of his or her transcript.

15. PRESENCE OF HEARING COMMITTEE MEMBERS. If the hearing is held before a hearing committee, a majority of its members must be present throughout the hearing and deliberations. If a committee member is absent from any part of the proceedings, he shall not be permitted to participate in the deliberations or the decision.

16. HEARING COMMITTEE DECISION AND FURTHER ACTION.

A. BASIS OF DECISION. The decision of the Hearing Committee or Hearing Officer shall be based on the evidence produced at the hearing. This evidence may include, but shall not be limited to, oral testimony of witnesses, briefs, or memoranda of points and authorities presented in connection with the hearing; any material contained in the Medical Staff’s personnel files regarding the Practitioner; any and all applications, references and accompanying documents; all officially noticed matters; and any other evidence deemed admissible by the presiding officer. The hearing committee shall also be entitled to consider all other information that can be considered, pursuant to these Bylaws, in connection with applications for appointment or reappointment to the Medical Staff and for Facility Privileges.

B. HEARING COMMITTEE DECISION. Within thirty days after adjournment of the hearing, except that the time shall be ten days in the case of a staff member currently under summary suspension, the hearing committee shall render a written decision in the matter and shall forward the same, together with the hearing records and all other documentation considered by the committee, to the Administrative Director. The Hearing Committee’s decision shall be supported by reference to the hearing record and the other documentation considered by the Hearing Committee.

C. NOTICE OF DECISION. The Administrative Director shall promptly send a copy of the Hearing Committee’s decision to the Practitioner by certified mail; and to Medical Director, to the Medical Advisory Committee members, and to the Board of Managers.

D. EFFECT OF DECISION. If the Hearing Committee’s decision is adverse to the Practitioner, the Notice of Decision shall inform the Practitioner of his right to request an appellate review by the Board of Managers, as provided below. If the Hearing Committee’s decision is adverse to or modified the action which occasioned the hearing, the Notice of Decision shall inform the
Bylaws

Medical Advisory Committee or the Board of Managers, as the case may be, of the right to request an appellate review by the Board of Managers as provided below.

17. **INITIATION AND REQUIREMENTS OF APPELLATE REVIEW.**

   A. **REQUEST FOR APPELLATE REVIEW.** Within ten (10) days following receipt of the Notice of Decision, either party may file a written request for an appellate review by the Board of Managers. Such request shall be delivered to the Administrative Director either in person or by certified mail.

   B. **WAIVER BY FAILURE TO REQUEST APPELLATE REVIEW.** A party who fails to request an appellate review within the time and in the manner specified above waives any right to such review. In the event that each party fails to request an appellate review within the time and in the manner specified above, the Hearing Committee’s decision shall be deemed final and the matter shall be considered closed.

   C. **NOTICE OF TIME AND PLACE FOR APPELLATE REVIEW.** Upon receipt of a proper and timely request for appellate review, the Administrative Director shall deliver such request to the Board of Managers. As soon as practicable, the Board of Managers shall schedule and arrange for an appellate review which shall be conducted not less than twenty (20) days nor more than forty-five (45) days from the date of receipt of the appellate review request; provided, however, that an appellate review for a Practitioner who is under a summary suspension then in effect shall be held as soon as arrangements for it may reasonably be made, but not later than thirty (30) days from the date of receipt of the request for appellate review. At least ten (10) days prior to the appellate review, the Administrative Director shall deliver to the Practitioner, by certified mail return receipt requested, notice of the time, place and date of the review.

   D. **POSTPONEMENTS AND EXTENSIONS.** The president or chairman of the Board of Managers, or the president or chairman of the Board of Managers’ designated appellate review committee shall permit postponements or extensions of the appellate review only on good cause and if the request therefore is made as soon as is reasonably practicable. The length of such postponements and extensions shall be at the discretion of the Board of Managers, but shall reasonably balance the need for an extension with the need for the efficient resolution of the matter. In all cases, such time periods shall be extended until the transcript of the Hearing Committee or Hearing Officer is completed.

   E. **APPELLATE REVIEW BODY.** The Board of Managers shall determine whether the appellate review shall be conducted by the Board of Managers as a whole or by an appellate review committee of three (3) members of the
Board of Managers appointed by the president of the Board of Managers. If a committee is appointed, one of its members shall be designated as chairman. If a member of the Board of Managers was the party who originally requested the action be taken against the Practitioner, that member shall not participate in the appellate review of the matter.

F. POWERS OF APPELLATE REVIEW BODY. The appellate review body shall have all the powers granted to the Hearing Committee, and such additional powers as are reasonably appropriate to the discharge of its responsibilities.

18. APPELLATE REVIEW PROCEDURE.

A. NATURE OF PROCEEDINGS. The proceedings by the Board of Managers or its designated appellate review committee shall be in the nature of an appellate review based upon the record of the hearing before the Hearing Committee, that committee's decision, and all other documentation considered by the Hearing Committee. The Board of Managers or its designated appellate review committee shall also consider the written statements, if any, submitted pursuant to subsection (B) below and such other materials as may be presented and accepted under subsections (D) and (E) below.

B. WRITTEN STATEMENTS. The party requesting the appellate review may submit a written statement detailing the findings of fact, conclusions and procedural matters with which he disagrees, and the reasons for such disagreement. This written statement may cover any matters raised at any step in the hearing process, and legal counsel may assist in its preparation. The statement shall be submitted to the Board of Managers and to all other parties through the Administrative Director at least fifteen (15) days prior to the scheduled date of the appellate review, except if such time limit is expressly waived by the Board of Managers. The Administrative Director shall send a copy of the statement to the other party. A written statement in reply may be submitted not later than five (5) days before the scheduled date of the appellate review to the Board of Managers through the Administrative Director. The Administrative Director shall provide a copy thereof to the party requesting the appeal.

C. PRESIDING OFFICER. The president of the Board of Managers or the chairman of its designated appellate review committee shall be the presiding officer. The presiding officer shall determine the order of procedure during the review, make all required rulings, and maintain decorum.

D. ORAL STATEMENTS. The presiding officer may, in its sole discretion, permit the parties or their representatives to appear personally and make oral statements. Any party or representative who appears personally shall be required to answer questions put to him by any member of the appellate
review body. In the event that one party or his representative is permitted to make an oral statement, the other party or his representative shall automatically be permitted to make an oral statement if he desires.

E. CONSIDERATION OF NEW OR ADDITIONAL MATTERS. New or additional matters or evidence not raised or presented during the hearing or in the hearing decision and not otherwise reflected in the record shall not be introduced at the appellate review.

F. PRESENCE OF MEMBERS AND VOTE. A majority of the Board of Managers or its designated appellate review committee must be present throughout the review and deliberations. If a member of the Board of Managers or review committee is absent from any part of the proceedings, said member shall not be permitted to participate in the deliberations or the decision.

G. RECESSES AND ADJOURNMENT. The Board of Managers or its designated appellate review committee may recess the review proceedings for the convenience of the participants or for consultation and may reconvene the proceedings without additional notice. Upon the conclusion of oral statements, if permitted, the appellate review shall be adjourned. The Board of Managers or its appellate review committee shall thereupon, within the time set forth in below, conduct its deliberations outside the presence of the parties, their representatives, or any other persons and shall render a written decision on the matter.

H. REFERRAL TO HEARING COMMITTEE. The Board of Managers or its designated review committee may refer the matter back to the Hearing Committee for further review and recommendation to be returned to the Board of Managers within ten (10) days and in accordance with its instructions.

I. CONCLUSION. The appellate review shall not be deemed to be concluded until all of the procedural steps provided herein above have been completed or waived.

19. FINAL DECISION OF THE BOARD OF MANAGERS.

A. BOARD ACTION. Within fifteen (15) days after the conclusion of the proceedings of the appellate review, the Board of Managers or its designated review committee shall render its final decision in writing and shall deliver notice and a copy of the decision, in person or by certified or registered mail, to the Practitioner, the Medical Director and the Administrative Director. The final decision of the Board of Managers following the appeal procedures set forth above shall be effective immediately and shall not be subject to further review.
20.  GENERAL PROVISIONS.

A.  NUMBER OF HEARINGS AND REVIEWS. Notwithstanding any other provision of the Medical Staff Bylaws, no Practitioner shall be entitled as a right to more than one hearing and one appellate review with respect to each Adverse Action or Adverse Actions that are the subject of the hearing or appellate review.

B.  RELEASE. By requesting a hearing or appellate review, a Practitioner agrees to be bound by the provisions of both Colorado and federal statutes relating to immunity from liability in all matters relating thereto.

C.  WAIVER. If, at any time after receipt of notice of an Adverse Action or decision, a Practitioner fails to make a required request or appearance or otherwise fails to comply with the provisions of this Section D, the Practitioner shall be deemed to have consented to such Adverse Action or decision and to have voluntarily waived all rights to which he might otherwise have been entitled under this Section D with respect to the matter involved.

ARTICLE IV
MEDICAL ADVISORY COMMITTEE

SECTION A
GENERAL

1.  MEDICAL ADVISORY COMMITTEE. By acceptance hereof, the Medical Staff has the delegated responsibility for the establishment, maintenance and improvement of high professional standards. To ensure this and to act on behalf of the Medical Staff, there shall be a Medical Advisory Committee (“MAC”) that represents the Medical Staff, and is concerned with the effectiveness of all clinical activities of the Medical Staff.

2.  OTHER COMMITTEES. The Board of Managers or, with prior Board of Managers approval, the Medical Director, may establish such other Medical Staff committees as are necessary to fulfill Facility objectives. The objectives and scope of such committees’ authority shall be subject to approval by the Board of Managers.

SECTION B
ORGANIZATION AND COMPOSITION OF MEDICAL ADVISORY COMMITTEE

1.  COMPOSITION. The MAC shall be composed of members of the Medical Staff. The number of individuals serving on the MAC shall be at the discretion of the Board of Managers, and more than one individual from any specialty or specialties may be appointed to serve. The Medical Director shall serve as chairman of the MAC. The
Medical Director should appoint a representative to function in the capacity of chairman during his or her absence. The MAC shall recommend amendments to the Bylaws and the rules and regulations of the Medical Staff, as necessary for the proper conduct of the Medical Staff. Members of the MAC shall be expected to attend all meetings, but shall be required to attend a minimum of fifty percent (50%) of the official meetings unless excused by the Medical Director for such conditions as sickness, absence from the community, medical emergencies, etc. Unexcused absence from three (3) consecutive regular meetings shall be considered a resignation by such member from the MAC.

2. SUBCOMMITTEES. The MAC or the Board of Managers may appoint special subcommittees from time to time as may be required for a specific purpose and until the duty assigned is accomplished. All such subcommittees shall be assigned with the knowledge and cooperation of the Medical Director, and shall be subject to the approval of the Board of Managers.

3. TERM. The term of membership on the MAC shall be two (2) years, commencing on January 1 of each year. However, membership on the MAC does not guarantee reappointment to the Medical Staff. Reappointments to the MAC are permitted.

4. QUORUM. A quorum of the Medical Advisory Committee shall consist of fifty percent (50%) of the members, excluding excused absences, plus one. In matters of dismissal and appeal, no excused absences will be permitted for purposes of determining a quorum. The chairman shall be authorized to excuse a member of the MAC from attendance at meetings for valid reason such as illness, vacations, medical emergencies and similar important conflicting obligations.

SECTION C
FUNCTIONS OF MEDICAL ADVISORY COMMITTEE

1. The MAC shall act on behalf of the Medical Staff to coordinate the activities and general policies of the various services provided by Practitioners at the Facility, pursuant to the Bylaws, and Medical Staff rules and regulations. The MAC shall meet at least quarterly and must maintain a permanent record of its proceedings and actions. Special meetings of the MAC to consider specific problems may be called at any time by the Medical Director at his or her discretion or at the request of the Board of Managers. Written notice stating the purpose of the special meeting shall be mailed to staff members involved at least seven (7) calendar days prior to the date of the meeting. Any requirement for notice herein may be waived in writing.

The functions and concerns of the Medical Advisory Committee shall include, but not be limited to, the following:

A. to receive and act upon the reports of Medical Staff committees;
B. to consider and recommend action on all matters of a medical-administrative nature;

C. to implement the approved policies of the Medical Staff;

D. to make recommendations to the Board of Managers regarding clinical and Medical Staff issues;

E. to take all reasonable steps to ensure professional and ethical conduct on the part of all members of the Medical Staff and to initiate such prescribed corrective measures as are necessary to accomplish that goal;

F. to fulfill the Medical Staff's accountability to the Board of Managers for the medical care rendered to the patients in the Facility;

G. to fulfill, within the structure of the MAC, the function of:

- credentials review;
- medical records review;
- tissue and surgical evaluation and audit;
- infections control evaluation;
- pharmacy and therapeutics review;
- reappointments/utilization review, as provided in Article III of these Bylaws;
- Bylaws, and Medical Staff rules and regulations review; and
- quality assurance/risk management.

SECTION D
CREDENTIALS

The MAC, in granting initial privileges and reappointments, shall perform credentials review. The function of credentials review shall be to review all information presented regarding the competence of Practitioners and Allied Health Practitioners and, as a result of such review, to make recommendations to the Board of Managers for granting of initial privileges and reappointments; and to investigate any breach of ethics that may be reported and to transmit its findings and recommendations to the Board of Managers. The MAC shall meet to review credentials at the request of the Medical Director. The MAC may delegate to another person or entity the task of gathering and verifying credentialing information.

SECTION E
MEDICAL RECORDS

The MAC or its appointed subcommittee shall perform medical records review. The duties of medical records review shall be to supervise and appraise the medical records, to determine
adequacy of source documents, and compliance with established standards for completeness and accuracy. This review shall take place semiannually for the purpose of reviewing selected medical records of patients discharged during the preceding months and any other records referred to the MAC by any medical records consultant or the Administrative Director.

At monthly intervals, the Medical Records Associate or designee shall inform the Medical Director of those Medical Staff members who are delinquent in their records. The “Medical Records Associate” shall be an employee of the Facility, who shall be responsible for the medical records maintenance and other duties as prescribed by the Administrative Director. The Medical Director, acting under the direction of the MAC, will take appropriate action according to the Bylaws. Records are considered delinquent when they have not been completed in compliance with the provisions of these Bylaws or applicable Medical Staff rules and regulations.

A medical records consultant, which may or may not be the same individual as the Medical Records Associate, may perform periodic record reviews at the direction of the Board of Managers or the MAC and issue a written report to the MAC prior to its next regularly scheduled meeting.

SECTION F
TISSUE AND SURGICAL EVALUATION AND AUDIT

The MAC or a designated subcommittee shall perform the function of tissue and surgical evaluation and audit.

The function of tissue and surgical evaluation shall be to study (1) the agreement, or absence thereof, between the preoperative and postoperative (pathological) diagnosis, and (2) whether surgical procedures undertaken in the Facility were medically justified. This study shall also include those procedures in which no tissue was removed for diagnosis. Upon request by the MAC, any Medical Staff members shall supply any additional information required by the MAC. Failure to provide such information by such Medical Staff members may result in corrective action.

The function of the tissue and surgical audit shall be to evaluate the quality and type of medical practice within the confines of the Facility. The audit shall be conducted at least annually, or at more frequent intervals if so directed by the Board of Managers or Medical Director.

SECTION G
INFECTION CONTROL EVALUATION

The MAC or its designated subcommittee shall perform the function of the infection control evaluation.

The function of the infection control evaluation shall be to evaluate any infections observed in the Facility as well as potential sources of infection. This evaluation shall take place
Bylaws

semiannually, or more often when requested by the Medical Director. A written report of the findings shall be made available to the Board of Managers.

**SECTION H  
PHARMACY AND THERAPEUTICS**

The MAC or its designated subcommittee shall perform the function of a pharmacy and therapeutics evaluation and review.

The function of the pharmacy and therapeutics evaluation and review shall be:

- to approve all policies and procedures relating to pharmacy service within the Facility;
- to establish criteria relative to the safe and effective use of pharmaceuticals;
- to establish and maintain a pharmaceutical formulary of those drugs which may be used in the Facility; and
- to review efforts aimed at cost containment with regards to pharmacy and therapeutic services.

A contract with a pharmacy consultant service may be entered into by the Facility, with approval of the Board of Managers, in order to facilitate this evaluation and review. Such consultant service, if contracted with, will conduct quarterly review of records and drug inventories and issue a written report to the MAC. The MAC will make any reports of either the pharmacy consultant service or the MAC available to the Board of Managers.

**SECTION I  
QUALITY ASSURANCE/RISK MANAGEMENT**

The MAC shall participate in a quality assurance/risk management program, to reduce the potential for and/or severity of any litigation. The quality assurance program shall integrate the review activities of all medical services performed at the Facility to enhance the quality of patient care and identify and prevent medical malpractice.¹

The function of the quality assurance/risk management program shall be to coordinate with the Administrative Director a formal program of risk prevention and reporting of incidents as set forth in the Facility's risk management plan and as required by regulatory agencies and all applicable law. It is intended that such procedures will comply with all requirements of the Health Care Quality Improvement Act of 1986 (42 U.S.C. §11101, et seq.) and the laws of the State of Colorado, in order to obtain immunities under the Act and the laws of the State of Colorado. The MAC shall identify standards for quality assurance, perform quality assurance

¹ NTD: NY regulations require that ASCs maintain a detailed, written quality assurance program; we want to confirm that Denver Surgery Center has a quality assurance program in place/drafted.
audits, evaluate care, and create reports at its quarterly scheduled meetings, which shall be made available to the Administrative Director and the Board of Managers, and which shall be consistent with the requirements of N.Y. Comp. Codes R. & Regs. tit. 10, § 405.6.

The Facility shall maintain a scheduling and staffing plan that facilitates quality of care and minimizes patient waiting time, including a follow-up system to monitor cancellations. The Facility shall systematically review and evaluate surgical patients who require hospitalization following ambulatory surgery. The MAC shall review all such quality assurance/risk management activities of the Facility, and provide recommendations to the Administrative Director and Board of Managers regarding the same.

ARTICLE V
GENERAL

1. MEETINGS OF MEDICAL STAFF AND COMMITTEES. The annual meeting of the Medical Staff, at which the MAC shall make an annual report describing its activities throughout the year, shall be held in the____________________ month of each year. Other Medical Staff meetings shall be held as deemed necessary by the Medical Director, at a date, time, and place designated by the Medical Director. Notice of such meetings shall be posted in a prominent place in the Facility, and written notice shall be sent to all Medical Staff members at least seven (7) days prior to the time set for the meeting. The Medical Director shall prepare the agenda for each meeting, placing emphasis on Facility professional and medico-administrative matters. At any time, the Board of Managers, Medical Director, Medical Advisory Committee, or not less than one-quarter of the Medical Staff members may file a written request for a special meeting of the Medical Staff with the Medical Director. Unless otherwise specified, Medical Staff meetings shall be conducted in accordance with Robert’s Rules of Order.

2. QUORUM. The presence of one-third of the Medical Staff members at a regular or special Medical Staff meeting shall constitute quorum. In the absence of a quorum, the Medical Director may then direct a ballot by mail, with the approval of a majority then present.

3. VOTING. Unless otherwise indicated herein, any issue that is submitted to a vote of the Medical Staff or any committee of the Medical Staff shall be decided by a simple majority vote of the members present at such meeting, provided that quorum has been satisfied.

4. MINUTES. Minutes shall be prepared of all Medical Staff and Medical Staff committee meetings, and shall include a record of attendance and the vote taken on each matter. Individual member votes shall not be recorded unless (i) requested in writing by a voting member, or (ii) otherwise required hereunder. Copies of minutes shall be (i) signed by the preparer and (ii) subject to Facility policies on confidentiality, be made available to the Board of Managers, the Medical Director, and such other persons as approved by the Administrative Director. The Administrative Director shall maintain a permanent file of minutes of each meeting.
5. AMENDMENTS TO BYLAWS. Amendments to these Bylaws, except amendments to the rules and regulations which may be amended as provided herein, shall be proposed by the Medical Advisory Committee at any of its meetings. Such amendments, if passed by the MAC, shall be acted upon at the next regular meeting of the Medical Staff. Such amendments shall pass by a vote of at least two-thirds (2/3) of those present at a meeting of the Medical Staff at which a quorum is in attendance, and the subsequent approval by the Board of Managers. An amendment to these Bylaws may also be proposed at any regular Medical Staff meeting. If an amendment originates with the Medical Staff, it shall be voted upon at the next annual meeting of the Medical Staff or a special meeting called by the Medical Director or the president of the Board of Managers after at least five (5) days prior notice has been given to the Medical Staff of the proposed amendments in writing. Amendments shall become effective when approved by a majority vote of the Board of Managers. The Board of Managers upon majority vote at any regular or special meeting may also make amendments. All members of the Medical Staff shall be notified by mail of bylaw changes or changes in the rules and regulations within two (2) weeks after approval by the Board of Managers.

6. INITIAL BYLAWS. The initial Bylaws shall be adopted by the Board of Managers and shall be effective when so adopted. The initial rules and regulations shall be adopted by the Board of Managers and shall be effective when so adopted.

7. RULES AND REGULATIONS. These Bylaws may be supplemented by such rules and regulations as may be necessary to more specifically implement the general principles embodied herein. Such rules and regulations may be adopted, amended, or repealed by vote of the Medical Staff, effective upon approval of the Board of Managers.

8. CONFIDENTIALITY OF PROCEEDINGS. Except as otherwise authorized in these Bylaws or by law, all parties, participants, and attendees shall keep hearing and appellate review proceedings confidential and shall not disclose or release any information from or about the proceedings.

9. PRIVILEGED INFORMATION. Any act, communication, report, recommendation, or disclosure with respect to any Practitioner applying to become or already a Medical Staff member made for the purpose of assessing patient care capability and professional and personal conduct shall be privileged to the fullest extent permitted by law. The information referred to in this section may relate to a Practitioner’s (i) professional licensure or certification, (ii) education and training, (iii) clinical ability, (iv) professional ethics, (v) utilization practices, (vi) physical or mental health and emotional stability, (vii) judgment, (viii) character, or (ix) any other matter that might directly or indirectly affect the quality, efficiency, or appropriateness of health care services. The informational privileges in this section shall extend to all individuals at the Facility participating in assessing or achieving and maintaining quality patient care, as well as to all third parties who supply information to any of the individuals authorized to receive, release, or act upon such information.

10. IMMUNITY. Immunity from civil liability for any act communication, report,
recommendation, or disclosure arising from the giving or receipt of privileged information pursuant to Section 9 above, shall be absolute and to the fullest extent permitted by state and federal law. Such immunity shall be made in connection with the Facility’s or any other health care institution’s activities related to (i) applications for appointments and clinical privileges; (ii) periodic reappraisals for reappointment; (iii) corrective actions, including automatic and summary suspensions; (iv) hearings and appellate reviews; (v) utilization, peer review, and quality management activities; (vi) claims reviews; (vii) risk management activities; and (viii) other Facility activities related to monitoring and promoting quality, efficient health care services and appropriate conduct.

[BOARD OF MANAGERS ATTESTATION FOLLOWS]
Bylaws

These Bylaws were adopted by the Board of Managers of Denver Surgery Center on _______
_______________, 2018.

ATTEST:

__________________________________  _________________________________
President