HARRISHEALTH

AMBULATORY SURGICAL CENTER AT LBJ (ASC) GOVERNING BODY MEETING

Wednesday, November 11, 2026 I 9:00 AM
4800 Fournace Place, Bellaire, Texas 77401 I 1st Floor Board Room

*Notice: The meeting may be viewed online at: **http://harrishealthtx.swagit.com/live**, and some members of the Governing Body may participate by videoconference.*

Mission

Harris Health is a public, integrated health system dedicated to improving the health of our communities by delivering high-quality, person-centered care in collaboration with community and academic partners.

AGENDA

I.	**Call to Order and Record of Attendance**	**Ms. Libby Viera-Bland**	**1 min**
II.	**Approval of the Minutes of Previous Meeting**	**Ms. Libby Viera-Bland**	**1 min**
	• ASC Governing Body Meeting – August 20, 2026		
III.	**New Items for Governing Body Consideration**	**Ms. Libby Viera-Bland**	**5 min**
	A. Consideration of Approval to Appoint Dr. Mackenzie Jacoby as the Medical Director of the Ambulatory Surgical Center at LBJ (ASC) in Accordance with Article X, Section 1 of the ASC Governing Body Bylaws – ***ASC Governing Body***		
	B. Consideration of Approval of the 2027 Annual Meeting Schedule for the ASC Governing Body – ***ASC Governing Body***		
IV.	**Executive Session**	**Ms. Libby Viera-Bland**	**15 min**
	A. Discussion Regarding Medical Staff Applicants and Privileges for the Ambulatory Surgical Center, Pursuant to Tex. Occ. Code Ann. §160.007 and Tex. Health & Safety Code Ann. §161.032 to Receive Peer Review and/or Medical Committee Report in Connection with the Evaluation of the Quality of Medical and Healthcare Services, Including Consideration of Approval of Credentialing Changes for Members of the ASC Medical Staff Upon Return to Open Session – ***Dr. Mackenzie Jacoby***		*(5 min)*
	B. Report by the Vice President, Deputy Compliance Officer, Regarding Compliance with Medicare, Medicaid, HIPAA and Other Federal and State Healthcare Program Requirements and a Status of Fraud and Abuse Investigations, Pursuant to Tex. Health & Safety Code Ann. §161.032, Including Possible Action Regarding this Matter Upon Return to Open Session – ***Mr. Anthony Williams***		*(5 min)*

C. Report Regarding Quality of Medical and Healthcare, Pursuant to Tex. Occ. Code Ann. §160.007 and Tex. Health & Safety Code Ann. §161.032 to Receive Peer Review and/or Medical Committee Report in Connection with the Evaluation of the Quality of Medical and Healthcare Services, the ASC Quality Scorecard, Quality Review Committee Report and Medical Executive Committee Report, Including Possible Action Upon Return to Open Session ***– Dr. Matasha Russell, Dr. Mackenzie Jacoby and Mr. Matthew Reeder*** *(5 min)*

V. Reconvene **Ms. Libby Viera-Bland** **2 min**

VI. General Action Item(s) **Ms. Libby Viera-Bland** **5 min**

A. General Action Item(s) Related to Quality: ASC Medical Staff

1. Consideration of Approval of Credentialing Changes for Members of the ASC Medical Staff ***– Dr. Mackenzie Jacoby and Mr. Matthew Reeder***
2. Consideration of Approval of the Amended Medical Staff Bylaws for Members of the ASC ***– Dr. Mackenzie Jacoby and Mr. Matthew Reeder***
3. Consideration of Approval of Changes to the ASC Otolaryngology Privileges ***– Dr. Mackenzie Jacoby and Mr. Matthew Reeder***

B. General Action Item(s) Related to ASC Policies and Procedures:

1. Consideration of Approval of a New Policy for the ASC ***– Mr. Matthew Reeder***
   - ASC-P-6020 – Surgical Smoke Safety
2. Consideration of Approval of the Amended ASC Scope of Services ***– Mr. Matthew Reeder***

VII. Adjournment **Ms. Libby Viera-Bland** **1 min**

HARRISHEALTH

HARRIS HEALTH
AMBULATORY SURGICAL CENTER AT LBJ
GOVERNING BODY MEETING MINUTES
Thursday, August 20, 2026
9:00 AM

AGENDA ITEM	DISCUSSION	ACTION/RECOMMENDATIONS
I. Call to Order & Record of Attendance	The meeting was called to order at 9:01 A.M. by Ms. Libby Viera-Bland, Chair. A quorum was noted as present, and attendance was recorded. Some Board members attended in person while others participated by videoconference, in accordance with state law and the Harris Health Videoconferencing Policy. Only scheduled speakers were provided dial-in information; the public was able to view the meeting live via the Harris Health website at http://harrishealthtx.swagit.com/live.	**A copy of the attendance is appended to the archived minutes.**
II. Approval of the Minutes of the Previous Meeting • ASC at LBJ Governing Body Meeting – May 21, 2026	Ms. Viera – Bland presented the minutes of the May 21, 2026, ASC Governing Body meeting for consideration and approval. A copy of the minutes is available in the permanent record.	**Motion No. 26.08 – 12** **Moved by Ms. Carol Paret, seconded by Dr. Glorimar Medina, and unanimously approved that the Governing Body adopt the minutes of the May 21, 2026 meeting. Motion carried.**
III. Executive Session	At 9:03 A.M., Ms. Viera – Bland announced that the ASC Governing Body would enter into Executive Session for Items "A through C", as permitted by law under Tex. Health & Safety Code Ann. §161.032 and Tex. Occ. Code Ann. §160.007.	
	A. Discussion Regarding Medical Staff Applicants and Privileges for the Ambulatory Surgical Center, Pursuant to Tex. Occ. Code Ann. §160.007 and Tex. Health & Safety Code Ann. §161.032 to Receive Peer Review and/or Medical Committee Report in Connection with the Evaluation of the Quality of Medical and Healthcare Services, Including Consideration of Approval of Credentialing Changes for Members of the ASC Medical Staff Upon Return to Open Session	**No Action Taken.**
	B. Report by the Vice President, Deputy Compliance Officer, Regarding Compliance with Medicare, Medicaid, HIPAA and Other Federal and State Healthcare Program Requirements and a Status of Fraud and Abuse Investigations, Pursuant to Tex. Health & Safety Code Ann. §161.032, Including Possible Action Regarding this Matter Upon Return to Open Session	**No Action Taken.**

AGENDA ITEM	DISCUSSION	ACTION/RECOMMENDATIONS
	C. Report Regarding Quality of Medical and Healthcare, Pursuant to Tex. Occ. Code Ann. §160.007 and Tex. Health & Safety Code Ann. §161.032 to Receive Peer Review and/or Medical Committee Report in Connection with the Evaluation of the Quality of Medical and Healthcare Services, the ASC Quality Scorecard, Quality Review Committee Report and Medical Executive Committee Report, Including Possible Action Upon Return to Open Session	**No Action Taken.**
IV. Reconvene	At 9:13 A.M., Ms. Viera – Bland reconvened the meeting in open session, confirmed a quorum, and noted that no action was taken in Executive Session.	
V. General Action Item(s)		
	A. General Action Item(s) Related to Quality: ASC Medical Staff	
	1. Approval of Credentialing Changes for Members of the Harris Health ASC Medical Staff Dr. Scott Perry, Medical Director, ASC, presented the proposed credentialing changes for members of the ASC medical staff. He reported that eleven (11) initial appointments had been reviewed and approved by the Medical Executive Committee and were being presented to the Governing Body for consideration. A copy of the credentialing report is available in the permanent record.	**Motion No. 26.08 – 13** **Moved by Dr. Glorimar Medina, seconded by Ms. Carol Paret, and unanimously passed that the Governing Body approve item V.A.1. Motion carried.**
	B. General Action Item(s) Related to Policy and Procedures	
	1. Approval of Revisions to the ASC Policy ASC-P-5004, Infection Control Plan Mr. Matthew Reeder, Administrator, ASC, presented the proposed revisions to ASC Policy ASC-P-5004, Infection Control Plan. He explained that the updates incorporated current best practices, revised references within the policy, addressed contagious disease risks, and the hazards and vulnerability analysis. A copy of the ASC Policy ASC-P-5004, Infection Control Plan is available in the permanent record.	**Motion No. 26.08 – 14** **Moved by Dr. Glorimar Medina, seconded by Mr. Mattew Reeder, and unanimously passed that the Governing Body approve item V.B.1. Motion carried.**

	2. Approval of the ASC 2026-2027 Quality Assessment and Improvement Program Mr. Reeder presented the ASC 2026–2027 Quality Assessment and Improvement Program. He stated that updates were made to align the program, where appropriate, with the Harris Health Strategic Plan for 2026–2030. He also noted that minor grammatical and editorial revisions had been incorporated. A copy of the ASC 2026-2027 Quality Assessment and Improvement Program is available in the permanent record.	**Motion No. 26.08 – 15** **Moved by Dr. Glorimar Medina, seconded by Mr. Mattew Reeder, and unanimously passed that the Governing Body approve item V.B.2. Motion carried.**
	3. Approval of the ASC 2026-2027 Infection Control Program Mr. Reeder presented the ASC 2026–2027 Infection Control Program. He reported that the ASC would continue monitoring hand hygiene, surgical site infections (SSIs), and adenosine triphosphate (ATP) testing to assess surface cleanliness throughout the facility. He noted that these measures would remain part of the ASC's ongoing infection prevention and control monitoring efforts. A copy of the ASC 2026-2027 Infection Control Program is available in the permanent record.	**Motion No. 26.08 – 16** **Moved by Dr. Glorimar Medina, seconded by Mr. Mattew Reeder, and unanimously passed that the Governing Body approve item V.B.3. Motion carried.**
	4. Approval of the ASC 2026 Workplace Safety and Violence Reduction Plan Mr. Reeder presented the ASC 2026 Workplace Safety and Violence Reduction Plan. He stated that the plan had been updated to incorporate Harris Health System's crisis intervention updates and applicable recommendations. A copy of the ASC 2026 Workplace Safety and Violence Reduction Plan is available in the permanent record.	**Motion No. 26.08 – 17** **Moved by Dr. Glorimar Medina, seconded by Mr. Mattew Reeder, and unanimously passed that the Governing Body approve item V.B.4. Motion carried.**

	C. Miscellaneous General Action Item(s)	
	1. Approval to Appoint/Re-appoint Key Positions to the ASC Mr. Reeder presented the proposed appointments and reappointments of key leadership and operational positions required to support the ASC's operations and maintain applicable industry standards. He reported that he had contacted the individuals listed to confirm their continued commitment to serving in their respective roles. The following appointments and reappointments were presented for approval: i. Administrator: Matthew Reeder ii. Clinical Manager(s): Randy Polanco, Rochelle Mariano, and Jessica Larson iii. Medical Director: Scott Perry iv. Business Office Manager: Pollie Martinez v. QA/PI Officer: Gina Taylor vi. Medical Staff Privileges Officer: Jessey Thomas vii. Infection Control Coordinator: Jessica Palacios viii. Pharmacy Officer: Alvin Nnabuife ix. Risk Manager: Erica Reyes x. Compliance Officer: Anthony Williams xi. Safety Officer: Harold Sias xii. Radiation Officer: Patricia Svolos xiii. Privacy Officer: Catherine Walther xiv. Medical Records Officer: Michael Kaitschuck	**Motion No. 26.08 – 18** **Moved by Dr. Glorimar Medina, seconded by Mr. Mattew Reeder, and unanimously passed that the Governing Body approve item V.C.1. Motion carried.**

VI. ASC Leadership Reports		
	A. Report Regarding Medical Staff Operations, Clinical Operations, Statistical Analysis of Services Performed and Operational Opportunities at the ASC at LBJ Including Questions and Answers Mr. Matthew Reeder provided updates regarding ASC medical staff operations, clinical operations, service activities, and operational accomplishments. He highlighted several accomplishments and developments at the ASC. He reported that the ophthalmology team had expanded its services at the ASC, with the new team beginning operations in early August. He noted that this expansion represented a positive partnership and would provide increased access to services. An update was also provided regarding ongoing construction and renovation activities at the facility. The work is expected to continue through approximately summer 2027, although a definitive completion date has not been established due to the nature of renovation projects and the potential for unforeseen conditions. Mr. Reeder further reported that the ASC's Hand Hygiene Quality Improvement Project had been selected as a finalist for the Bernard A. Kirscher Innovations and Quality Improvement Award. The team is expected to attend an awards event during the winter. He also indicated that the project would be submitted for additional recognition through the appropriate quality improvement channels. Additionally, Mr. Reeder announced that the ASC had become the first ambulatory surgery center in the continental United States to receive the Smoke-Free designation. He recognized the team for its efforts in achieving this distinction and noted that Harris Health was the fourth major healthcare provider in the Houston area to earn the related recognition. Mr. Reeder also shared that he had been selected to participate as a panelist at an upcoming conference in Chicago in October. The panel discussion will focus on hiring, structuring, and leading the team needed to support an ambulatory surgery center. Ms. Viera-Bland congratulated Dr. Perry and the ASC team on the accomplishments and recognitions reported. She also expressed appreciation to Dr. Perry and Mr. Reeder for their leadership and representation of the ASC.	**As Presented.**
VII. Adjournment	There being no further business and without objection from the members of the Governing Body, the meeting adjourned at 9:20 A.M.	

I certify that the foregoing are the Minutes of the Harris Health ASC at LBJ Governing Body Meeting held on August 20, 2026.

Respectfully Submitted,

Libby Viera – Bland, AICP, ASC at LBJ Governing Body Chair

Recorded by Cherry A. Joseph, MBA

HARRISHEALTH

Ambulatory Surgical Center at LBJ (ASC) Governing Body I Thursday, August 20, 2026
ATTENDANCE RECORD

PRESENT GOVERNING BODY MEMBERS	ABSENT GOVERNING BODY MEMBERS	OTHER PRESENT BOARD MEMBERS
Carol Paret, BS	Philip Sun, AIA, ACHA, NCARB	
Libby Viera-Bland, AICP *(Governing Body Chair)*		
Glorimar Medina, MD		
Matthew Reeder		
Scott Perry, MD		

PRESENT EXECUTIVE LEADERSHIP, STAFF & GUESTS	
Alexander Barrie	John Matcek
Anthony Williams	Louis Smith
Catherine Walther	Maria Cowles
Cherry Joseph	Dr. Matasha Russell
Daniel Smith	Olga Rodriguez
Dr. Esmaeil Porsa *(President & Chief Executive Officer)*	Randy Manarang
Dr. Jackie Brock	Randy Polanco
Jennifer Zarate	Sara Thomas *(Harris County Attorney's Office)*
Jessey Thomas	Shawn DeCosta

Virtual Attendee Notice: *If you joined as a group and would like your attendance to be added to the official record, please submit an email to: BoardofTrustees@harrishealth.org before the close of business on the day of the meeting.*

BOARD OF TRUSTEES

Ambulatory Surgical Center at LBJ Governing Body

HARRISHEALTH

Wednesday, November 11, 2026

Consideration of Approval of the 2027 Annual Meeting Schedule of the ASC Governing Body

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2027 Ambulatory Surgical Center at LBJ Governing Body meeting series:

DAY:	DATE:	TIME:
Thursday	March 4, 2027	10:30 AM – 11:00 AM
Thursday	June 3, 2027	10:30 AM – 11:00 AM
Thursday	September 2, 2027	10:30 AM – 11:00 AM
Thursday	December 2, 2027	10:30 AM – 11:00 AM

BOARD OF TRUSTEES

HARRISHEALTH

Ambulatory Surgical Center at LBJ Governing Body

Wednesday, November 11, 2026

Executive Session

Discussion Regarding Medical Staff Applicants and Privileges for the Ambulatory Surgical Center, Pursuant to Tex. Occ. Code Ann. §160.007 and Tex. Health & Safety Code Ann. §161.032 to Receive Peer Review and/or Medical Committee Report in Connection with the Evaluation of the Quality of Medical and Healthcare Services, Including Consideration of Approval of Credentialing Changes for Members of the ASC Medical Staff Upon Return to Open Session.

- Pages 12 – 25 Were Intentionally Left Blank -

BOARD OF TRUSTEES

HARRISHEALTH

Ambulatory Surgical Center at LBJ Governing Body

Wednesday, November 11, 2026

Executive Session

Report Regarding Quality of Medical and Healthcare, Pursuant to Tex. Occ. Code Ann. §160.007 and Tex. Health & Safety Code Ann. §161.032 to Receive Peer Review and/or Medical Committee Report in Connection with the Evaluation of the Quality of Medical and Healthcare Services, the ASC Quality Scorecard, Quality Review Committee Report and Medical Executive Committee Report, Including Possible Action Upon Return to Open Session.

- Pages 27 – 40 Were Intentionally Left Blank -

BOARD OF TRUSTEES

HARRISHEALTH

Ambulatory Surgical Center at LBJ Governing Body

Wednesday, November 11, 2026

Consideration of Approval of Credentialing Changes for Members of the ASC Medical Staff

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The ASC Medical Executive Committee and Dr. Mackenzie Jacoby, MEC Chair, reviewed the attached credentialing changes for the members of the Ambulatory Surgical Center. The report is attached for approval.

Ambulatory Surgical Center Governing Body

HARRISHEALTH

November 2026 Medical Staff Credentials Report

Medical Staff Initial Appointments: 4

Medical Staff Reappointments: 0

Medical Staff Changes in Clinical Privileges: 7

Medical Staff Resignations: 3

Other Business

Leave of Absence: 1

Medical Staff Files For Discussion: 0

BOARD OF TRUSTEES

Ambulatory Surgical Center at LBJ Governing Body

HARRISHEALTH

Wednesday, November 11, 2026

Consideration of Approval of the Amended Medical Staff Bylaws for Members of the ASC

The Harris Health Ambulatory Surgical Center Medical Executive Committee and Medical Staff have approved the amended Harris Health Ambulatory Surgical Center Medical Staff Bylaws.

The Harris Health Ambulatory Surgical Center Medical Executive Committee and Dr. Mackenzie Jacoby, MEC Chair, request the approval of the Ambulatory Surgical Center at LBJ Governing Body.

Listed below is a summary of the amendments made to the attached redlined version.

Definitions

- Added definition of "**Health Matter**"
- Added definition of "**Inappropriate Conduct**"

Article III, Section 7 –Duty to Self-Disclose (Page 9)

- Added new section outlining **required self-disclosure events** and associated **reporting timeframes** for medical staff members

HARRISHEALTH
AMBULATORY SURGICAL CENTER AT LBJ

Medical Staff Bylaws

~~May~~September 2026

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BYLAWS

OF THE

AMBULATORY SURGICAL CENTER (ASC) AT LBJ HOSPITAL

MEDICAL STAFF

PREAMBLE

WHEREAS The Ambulatory Surgical Center at LBJ, (ASC) is an ambulatory surgical center, as defined in Title 25, Part 1, Chapter 135, of the Texas Administrative Code, as amended; and

WHEREAS, the ASC is wholly owned by the Harris County Hospital District d/b/a Harris Health System (Harris Health), which is organized under the laws of the State of Texas and pursuant to Chapter 281 of the Texas Health and Safety Code Ann. as amended; and

WHEREAS, the ASC is a distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization and in which the expected duration of services will not exceed twenty-four (24) hours following an admission; and

WHEREAS, subject to oversight by the Harris Health Board of Trustees, the ASC Governing Body assumes full legal responsibility for determining, implementing, and monitoring policies governing the ASC's operation, including the quality and safety of the medical care in the ASC, and holding the medical staff accountable to fulfill the ASC's obligations to its patients; and

WHERAS, the ASC Governing Body has approved these ASC Medical Staff Bylaws.

THEREFORE, the Practitioners and Advanced Practice Professionals practicing in the ASC shall carry out the functions delegated to the Medical Staff by the Governing Body in compliance with these Bylaws.

DEFINITIONS

Whenever the context requires, words of masculine gender used herein shall include the feminine and the neuter, and words used in the singular shall include the plural.

1. The term **"ACTIVE STAFF"** shall consist of those Medical Staff members who assume all the functions and responsibilities of membership on the Active staff.
2. The term **"ADVANCED PRACTICE PROFESSIONAL" (APP)** shall be defined as an individual who holds a state license in their profession as well as other educational credentials attesting to training and qualifications to provide services in one or more of the following categories: Physician Assistant (PA), Certified Registered Nurse Anesthetist (CRNA), Nurse Practitioner (NP) or Clinical Nurse Specialist (CNS).

3. The term "**AFFILIATE STAFF"** shall consist of Medical Staff members who may provide patient care and participate in staff activities in a non-voting capacity.

4. The term "**ATTENDING STAFF**" means all Medical Staff holding faculty appointments at The University of Texas Health Science Center at Houston, and/or Baylor College of Medicine and approved by the credentialing mechanisms of the ASC. Medical school faculty appointment status is not required for Practitioners or Advanced Practice Professionals employed by Harris Health, or Contract Practitioners.

5. The term "**BOARD CERTIFIED"** means a designation that the Practitioner is certified in his or her specialty by the American Board of Medical Specialties, American Osteopathic Association, American Board of Dental Specialties, or American Board of Podiatric Medicine.

6. The term "**BOARD ELIGIBLE**" means a designation that the Practitioner has satisfied all requirements to be eligible to take the certification examination(s) in accordance with appropriate certifying board.

7. The term **"CLEAN APPLICATION"** shall mean a completed application in which all aspects of the application are complete; all references have been returned with all questions fully answered as either superior or good; the applicant has not been a party to any malpractice cases, adverse actions involving medical staff membership, clinical privileges or licensure/certification requiring further investigation; and all training, licensure, National Practitioner Data Bank, and OIG database information has been verified, with the results of such verification found to be acceptable. The term "Clean Application" may also be applied to an application from a Medical Staff member requesting new clinical privileges.

8. The term **"CLINICAL PRIVILEGES"** or **"PRIVILEGES"** means the permission granted by the Governing Body to a Practitioner to provide those diagnostic, therapeutic, medical, or surgical services which the Practitioner has been approved to render.

9. The term **"COMPLETED APPLICATION"** shall mean a signed Texas State Standardized Application and ASC Addendum in which all questions have been answered, current copy of licensure (State, DEA), peer reference letters, delineation of clinical privileges or job description, current appropriate professional liability insurance, National Practitioner Data Bank, OIG, Board Status, hospital affiliations, and verification of any other relevant information from other professional organizations according to the ASC Medical Staff Bylaws and Credentialing Procedures Manual. Additionally, all information and documentation has been provided, and all verifications solicited by the ASC have been received and require no further investigation. A completed application may be determined to be incomplete, based upon the review of Medical Staff Services, the Medical Director, or the Medical Executive Committee.

10. The term "**CONTRACT PRACTITIONER**" means, unless otherwise expressly limited, all physicians, podiatrists, or dentists who are appointed to the Medical Staff and (i) whose patient care services are contracted for by Harris Health and are performed within the ASC; (ii) are not affiliated with Baylor College of Medicine and/or The University of Texas Health Science Center at Houston; and (iii) are not employed by Harris Health to provide healthcare services at designated Harris Health Facilities. All Contract Practitioners will be categorized as Affiliate Staff.

11. The term "**CREDENTIALING PROCEDURES MANUAL"** shall mean the policy containing additional details related to the credentialing process of the ASC, as further detailed in Article XVI of these Bylaws.

12. The term **"DAYS"** shall mean calendar days, including Saturdays, Sundays, and holidays unless otherwise specified herein. Days are counted beginning on the day following the transmittal or receipt of a notice or other required correspondence.

13. The term **"DENTIST"** means an individual with a D.D.S. or equivalent degree licensed or authorized to practice dentistry by the State of Texas.

14. The term **"EXECUTIVE SESSION"** means any meeting or portion of any meeting, of any section, department, or committee of the Medical Staff at which privileged and/or confidential information regarding quality assessment and improvement and/or peer review information is presented or discussed.

15. The term **"EX-OFFICIO"** shall mean service as a member of a body by virtue of an office or position held and, unless otherwise expressly provided, refers to a position without voting rights.

16. The term **"FEDERAL HEALTH CARE PROGRAM"** shall mean any plan or program that provides health benefits whether through insurance or otherwise, which is funded directly in whole or in part by the United States government or a state health program (with the exception of the Federal Employees Health Benefits program). The most significant federal health care programs are Medicare, Medicaid, Blue Cross Federal Employees Program (FEP)/Tricare/CHAMPUS and the veterans' programs.

17. The term **"FELLOW"** means a physician who has completed his or her residency training and is engaged in further training in a specialized area under the direct supervision of a specialized member of the Medical Staff.

18. The term **"GOOD STANDING"** means that, at the time of his or her most recent appointment, this individual was deemed to have met the following requirements: satisfactory clinical competence, satisfactory technical skill/judgment, satisfactory results of Quality Assurance activity, satisfactory adherence to ASC Medical Staff Bylaws, satisfactory medical records completion, satisfactory physical mental health completion, satisfactory relationships to peers and status.

19. The term **"GOVERNING BODY"** means the Governing Body of the ASC.

20. The term **"HARRIS HEALTH"** shall mean the Harris County Hospital District d/b/a Harris Health System, a group of general, tertiary care, clinics, and teaching hospital campuses located in Harris County, Texas, including the Ben Taub General Hospital campus, the Quentin Mease Community Hospital campus, the Lyndon B. Johnson General Hospital campus, the Ambulatory Surgery Center at LBJ Hospital, and other locations licensed or accredited as part of Harris Health, including the clinics of the Ambulatory Care Services (collectively, "Harris Health Facilities").

21. The term **"HEALTH MATTER"** means any physical, mental, or emotional condition that could adversely affect a Practitioner's or APP's ability to practice safely and competently.

~~20.~~22. The term **"INAPPROPRIATE CONDUCT"** means behavior that adversely affects the healthcare team's ability to work effectively and/or has a negative effect on the communication and collaboration necessary for quality and safe patient care.

~~21.~~23. The term **"INELIGIBLE PERSON"** means any individual or entity that: (i) is currently excluded, debarred, suspended, or otherwise ineligible to participate in any federal and/or state health care programs or in federal and/or state procurement or non-procurement programs (this includes persons who are on the List of Excluded Individuals or Entities of the Inspector General, List of Parties Excluded from Federal Programs by the General Services

Administration or the Medicaid Sanction List); or (ii) has been convicted of a criminal offense related to the provision of a health care program that falls within the ambit of 42 U.S.C. §1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible.

~~22.~~24. The term **"MEDICAL EXECUTIVE COMMITTEE"** means the committee with authority to exercise ASC-wide functions on behalf of the Medical Staff.

~~23.~~25. The term **"MEDICAL STAFF"** means all physicians, dentists, podiatrists and oral-maxillofacial surgeons who are appointed to the Medical Staff to provide healthcare services at designated Harris Health facilities and who either (i) hold a faculty appointment at Baylor College of Medicine and/or The University of Texas Health Science Center at Houston, (ii) are employed by Harris Health, or (iii) are Contract Practitioners. Medical school faculty appointment status is not required for Practitioners or Advanced Practice Professionals employed by Harris Health or Contract Practitioners.

~~24.~~26. The term "**PEER**" shall mean an individual who practices in the same profession as the Practitioner under review. The level of subject-matter expertise required to provide meaningful evaluation of a Practitioner's performance will determine what "practicing in the same profession" means on a case-by-case basis. For example, for quality issues related to general medical care, a physician may review the care of another physician. For specialty-specific clinical issues, such as evaluating the technique of a specialized surgical procedure, a peer is an individual who is well-trained and competent in that specific surgical specialty. The Medical Executive Committee shall determine the degree of subject matter expertise required on a case-by-case basis.

~~25.~~27. The term "**PEER REVIEW**" shall mean the evaluation of medical and healthcare services, including evaluation of the qualifications and professional conduct of professional healthcare practitioners and of patient care provided by those Practitioners. The Practitioner is evaluated based on generally recognized standards of care. The Medical Executive Committee conducts a peer review with input from one or more Practitioner colleagues (peers).

~~26.~~28. The term **"PHYSICIAN"** means an individual with an M.D., D.O. or equivalent degree currently licensed to practice medicine in the State of Texas.

~~27.~~29. The term **"PODIATRIST"** means an individual with a D.P.M. or equivalent degree licensed to practice podiatry by the State of Texas.

~~28.~~30. The term **"PRACTITIONER"** means, unless otherwise expressly limited, any Physician, Podiatrist or Dentist holding a current license to practice in the State of Texas.

~~29.~~31. The term **"RESIDENT/INTERN/HOUSESTAFF/FELLOW"** means an individual who, licensed as appropriate, is a graduate of a medical, dental, osteopathic, or podiatric school and who is appointed to the ASC's professional graduate training program and who participates in patient care under the direction of Medical Staff members who have Clinical Privileges for the services provided by the Housestaff.

~~30.~~32. The term **"SPECIAL NOTICE"** shall mean written notification sent by certified or registered mail, return receipt requested, or by personal or e-mail delivery with a receipt of delivery or attempted delivery obtained.

~~31.~~33. The term **"STATE"** shall mean the State of Texas.

~~32.~~34. The term **"STATE BOARD"** shall mean, as applicable, the Texas Medical Board, the State Board of Dental Examiners, the State Board of Podiatric Examiners, or such other licensing board that may license individuals who have clinical privileges at the ASC.

ARTICLE I — NAME

The name of this organization governed by these Bylaws shall be The Ambulatory Surgical Center (ASC) at LBJ (hereinafter referred to as the "ASC").

ARTICLE II — PURPOSE

The purposes of this organization are:

1. To operate a licensed, certified, and accredited ambulatory surgery center;
2. To provide the best possible care for all patients admitted to or treated in any of the facilities, departments, or services of the ASC;
3. To provide the community with a facility in which medical and surgical procedures can be safely carried out on a short-stay basis;
4. To ensure a high level of professional performance of all Medical Staff members authorized to practice in the ASC through appropriate delineation of the clinical privileges that each Medical Staff member may exercise (see Article VII) and through an ongoing review and evaluation of each Medical Staff member's performance;
5. To provide an appropriate educational setting for Medical Staff members that will maintain medical and scientific standards that will lead to continuous advancement in professional knowledge and skill;
6. To initiate and maintain ASC Medical Staff Bylaws for self-governance of the Medical Staff;
7. To provide a means for communication and conflict resolution regarding issues that are of concern to the Medical Staff and the ASC.

ARTICLE III — MEDICAL STAFF MEMBERSHIP

Section 1. Nature of Medical Staff Membership

Membership on the Medical Staff of the ASC is a privilege which shall be extended, without discrimination as to race, sex, religion, disability, national origin, or age only to professionally competent individuals who continuously meet the qualifications, standards and requirements set forth in these Bylaws, and does not in any way imply or preclude employment status by Harris Health. Membership on the Medical Staff shall confer only such clinical privileges as have been granted by the Governing Body in accordance with these Bylaws.

Section 2. Scope

Only Practitioners qualified to practice in the following specialties are to be granted membership on the Medical Staff of the ASC:

- Anesthesiology;
- General Surgery;
- Obstetrics and Gynecology;

- Ophthalmology;
- Oral Maxillofacial Surgery;
- Orthopedic Surgery;
- Otorhinolaryngology;
- Plastic Surgery; and
- Urology.

Section 3. Qualifications for Membership

a. Only individuals who have no health problems that could affect his or her ability to perform the privileges requested and can document their background, experience, training and demonstrated competence, their adherence to the ethics of their profession, their good reputation, and their ability to work with others so as to assure the Medical Staff and ASC Governing Body that patients treated by them will be given a high quality of medical care, shall be qualified for membership on the Medical Staff.

b. Only individuals who have and continue to maintain current unrestricted admitting privileges, in Good Standing, at Harris Health.

c. Only individuals who are Board Certified or Board Eligible in his or her specialty practice area.

d. Only individuals who have current licenses and certificates. Medical Staff members must have unrestricted licenses and certificates, with no past adverse licensure actions(s) (e.g., probation, suspension, revocation). Past adverse licensure action(s) do not include action(s) taken for administrative reasons, such as failure to timely pay licensure fees. Required licenses and certificates include:

    - State of Texas license to practice medicine, osteopathy, podiatry, or dentistry;
    - United States Registration Certificates (DEA), with exceptions approved by the Credentials Committee;
    - National Provider Identifier (NPI); and
    - Professional liability insurance covering the exercise of all requested privileges, except for Physicians employed by Harris Health, whose liability is governed by the Texas Tort Claims Act.

e. Only Practitioners who have no record of denial, revocation, relinquishment or termination of appointment or clinical privileges at any other healthcare facility for reasons related to professional competence or conduct.

f. No Practitioner shall be entitled to membership on the Medical Staff or to the exercise of particular clinical privileges in the ASC merely by virtue of the fact that he or she is duly licensed to practice medicine, osteopathy, podiatry, or dentistry in this State or in any other state, or 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 another ambulatory surgical center.

g. Acceptance of membership on the Medical Staff shall constitute the staff member's agreement that he or she will strictly abide with all provisions of these ASC Medical Staff Bylaws.

h. The Practitioner will remain in Good Standing so long as he or she is a member of the Medical Staff.

i. The Practitioner is required to be eligible to participate in federal and/or State healthcare programs. The Practitioner may not currently be an Ineligible Person and shall not become an Ineligible Person during any term of membership. The Practitioner must also have no record of conviction of Medicare, Medicaid or insurance fraud and abuse.

- A Practitioner is required to disclose immediately any debarment, exclusion, or other event that makes the person an Ineligible Person.
- An Ineligible Person is immediately disqualified for membership to the Medical Staff or the granting of clinical privileges or practice prerogatives.

j. A Practitioner who does not meet one or more of the qualifications for membership described above may request the Medical Director to waive one or more of the qualifications for membership. The Medical Director's determination not to waive one or more of the qualifications for membership is not a denial of the Practitioner's application for Medical Staff membership, is not reportable to the National Practitioner Databank, and does not entitle the Applicant to the fair hearing rights as described in Article IX of these Bylaws.

k. A Practitioner who does not meet one or more of the qualifications for membership described above may request special consideration by the Medical Executive Committee, and Governing Body to waive one or more of the qualifications for membership if the Practitioner is determined to be unusually qualified as set forth in this subsection.

In order to be deemed "unusually qualified," Practitioners applying under this exception must (i) receive written recommendations by the Medical Director (ii) document sufficient post-training experience in the applicant's primary field at the time of application, and (iii) be a recognized leader or innovator in his or her field, as evidenced by documented research, publications, and/or unique procedural ability not otherwise available or for which there is an unexpected and non-preventable shortage on the current Medical Staff. It is anticipated that approvals of applications under this exception will be rare and are subject to approval by the Medical Executive Committee and the Governing Body.

At the application for reappointment, the practitioner granted privileges under this section must submit a progress report. The Practitioner's progress report shall be confirmed by the Medical Director demonstrating the exception continues to be warranted by the ongoing exercise of the privileges for which the exception was granted.

A determination not to waive one or more of the qualifications for membership is not a denial of the Practitioner's application for Medical Staff membership, is not reportable to the National Practitioner Databank, and does not entitle the Applicant to the fair hearing rights as described in Article IX of these Bylaws.

Section 4. Basic Responsibilities of Medical Staff Membership

The following responsibilities shall govern the professional conduct of Medical Staff members and failure to meet these responsibilities shall be cause for suspension of privileges or dismissal from the Medical Staff:

a. The principal objective of the Medical Staff is to render service to humanity with full respect for the dignity of each person. Medical Staff members should merit the confidence of patients entrusted to their care, rendering to each a full measure of service, devotion and continuity of care. Medical Staff members are responsible for the quality of the medical care provided to patients.

b. Medical Staff members should strive continually to improve medical knowledge and skill, and should make available to their patients and colleagues the benefits of their professional qualifications.

c. Medical Staff members should observe all laws, uphold the dignity and honor of their profession and accept self-imposed disciplines. They should report without hesitation, illegal or unethical conduct by other Medical Staff members and self-report their own illegal or unethical conduct. Reports should be made to the Administrator or Medical Director, who will report the information to Medical Staff Services.

d. Medical Staff members should self-report any physical, behavioral or mental impairment that could affect his or her ability to perform his or her clinical privileges, or treatment for the impairment that occurs at any point during his or her Medical Staff membership. Reports should be made to the Administrator or Medical Director, who will report the information to Medical Staff Services.

e. In an emergency, Medical Staff members should render services to the best of their abilities. Having undertaken the care of a patient, a Medical Staff member may not neglect him or her.

f. Medical Staff members should not solicit patients.

g. Medical Staff members should not dispense of their services under terms or conditions that tend to interfere with or impair the free and complete exercise of their professional judgment and skill or tend to cause a deterioration of the quality of their care.

h. Medical Staff members should seek consultation upon request, in doubtful or difficult cases, or whenever it appears that the quality of service may be enhanced thereby.

i. Medical Staff members may not reveal the confidences entrusted to them in the course of professional attendance unless they are required to do so by law or unless it becomes necessary in order to protect the welfare of an individual or of the community.

k. Medical Staff members must abide by the ASC Medical Staff Bylaws, Rules and Regulations, and Medical Staff and applicable ASC and Harris Health policies and procedures.

l. Medical Staff members must participate cooperatively in quality review and peer evaluation activities, both as a committee member and in conjunction with evaluation of his or her own performance or professional qualifications.

m. Medical Staff members must prepare and complete medical records in a timely fashion for all patients to whom the member provides care in the ASC.

n. Medical Staff members are accountable to the Governing Body.

Section 5. Conditions and Duration of Appointment

a. Initial appointments and reappointments to the Medical Staff shall be made by the Governing Body. The Governing Body shall act on appointments, reappointments, or revocation of appointments after there has been a recommendation from the Medical Executive Committee.

b. Initial appointments shall be acted upon following submittal of a Completed Application.

c. All appointments to the Medical Staff shall be for a period of not more than three years.

d. Appointment or reappointment to the Medical Staff confers on the appointee only such clinical privileges as have been approved by the Governing Body.

e. Each application for Medical Staff appointment shall be signed by the applicant and shall contain the applicant's specific acknowledgement of a Medical Staff member's obligations to provide continuous care and supervision of their patients, to abide by the ASC Medical Staff Bylaws, Rules and Regulations, to accept committee assignments and to accept staff

assignments in the ASC. All Medical Staff members shall carry an appropriate level of professional liability insurance as determined by the Governing Body of the ASC.

f. Appointments and reappointments to the Medical Staff shall always conform to applicable State and Federal laws.

Section 6. Leave of Absence

a. Requesting a Leave of Absence. A Practitioner may submit a written request to Medical Staff Services for a leave of absence 30 days prior to the requested leave, unless related to a Medical Leave of Absence. Upon favorable recommendation by the Medical Director, the Medical Executive Committee may consider a voluntary leave of absence for up to one (1) year. An additional one (1) year may be granted for good cause in accordance with policy. During the period of the leave, the Practitioner shall not exercise clinical privileges at the ASC, and the Practitioner's rights and responsibilities shall be inactive. All medical records must be completed prior to granting a leave of absence unless circumstances would not make this feasible.

b. Termination of Leave. At least 45 days prior to the termination of the leave of absence, or at any earlier time, the Practitioner may request reinstatement of privileges by submitting a written notice to Medical Staff Services along with a summary of relevant activities during the leave. The Practitioner's request, activity summary and verification, if applicable, shall be presented to the Medical Director. The Medical Director will review the documentation and provide a recommendation to the Medical Executive Committee. Reactivation of membership and clinical privileges previously held shall be subject to quality review as determined by the Medical Executive Committee following recommendation by the Medical Director. If the practitioner is scheduled for reappointment during the approved leave, the practitioner's application for reappointment must be finalized in accordance with Article VII, Section 4 prior to the practitioner's return.

c. Failure to Request Reinstatement. Failure, without good cause, to request reinstatement shall be deemed a voluntary resignation from the Medical Staff and shall not give rise to the right to a fair hearing. A request for Medical Staff membership received from a practitioner subsequent to termination shall be submitted and processed in the manner specified for applications for initial appointments.

d. Medical Leave of Absence. Following recommendation by the Medical Director, the Medical Executive Committee shall determine the circumstances under which a particular practitioner shall be granted a leave of absence for the purpose of obtaining treatment for a medical condition or disability. Unless accompanied by a reportable restriction of privileges, the leave shall be deemed a voluntary medical leave of absence and will not be reported to the National Practitioner Data Bank.

e. Military Leave of Absence. Requests for leave of absence to fulfill military service obligations shall be granted upon appropriate notice to Medical Staff Services and will be provided to the Medical Executive Committee for information only.

Section 7. Duty to Self-Disclose

Medical Staff members have an affirmative, continuing duty to self-disclose, upon becoming aware, the following items to Medical Staff Services promptly, and in no event later than the time frames stated in each subsection below. Notification may occur in writing, including via email, or via oral communication to the Director of Medical Staff Services and Harris Health

Credentialing Office at medicalstaffservices2@harrishealth.org provided that any oral notification is confirmed in writing via email.

a. **State Licensing Board Actions –** Medical Staff members must self-disclose any suspension, limitation or placement of a condition on the member's professional license by the Texas licensing board within **twenty-four (24) hours** of becoming aware of the licensure action. *This does not include investigations by the state licensing board unless the investigations involve issues that require self-disclosure pursuant to the Bylaws.*

b. **Other Licensing or Certification Actions** – Medical Staff members must self-disclose any suspension, limitation or placement of a condition on the member's other required licenses or certifications, including but not limited to medical license, DEA license, Board certification depending on specialty, ACLS certification or other such licensure or certification related to the practice of medicine within **twenty-four (24) hours** of becoming aware of the licensing or certification action. *This does not include investigations by the state licensing board unless the investigations involve issues that require self-disclosure pursuant to the Bylaws.*

c. **Criminal Charges, Indictment, Conviction, or Plea** – Medical Staff members must self-disclose any felony criminal charge, indictment, conviction, or guilty or nolo contendere plea, or a lesser criminal charge, indictment, conviction, or guilty or nolo contendere plea for allegations involving substance abuse, minors, assault, battery, fraud, dishonestly, moral turpitude, or the delivery of health care services no more than **twenty-four (24) hours** after becoming aware of the action.

d. **Lawsuits and Settlements** - Medical Staff members must self-disclose within **thirty (30)** days after having actual knowledge of:

(1) The filing or service of a lawsuit based on a health care liability claim wherein the Medical Staff member is named as a defendant or the Medical Staff member's behavior, actions, inactions and/or performance that is in any way the basis of any of the allegations; or

(2) A settlement of a health care liability claim or lawsuit; or

(3) A dismissal of a lawsuit or judgment rendered in a lawsuit based on a health care liability claim.

e. **Health Matter** – Health Matter as defined by these Bylaws is any physical, mental, or other condition that could adversely affect a Practitioner's or APP's ability to practice safely and competently. This applies to potential Health Matters impacting the reporting Medical Staff member or potential Health Matter impacting other Medical Staff members.

(1) Medical Staff members must self-disclose any potential Health Matter no more than **seventy-two (72) hours** of becoming aware of the potential Health Matter and in accordance with the Medical Staff Health policy. See the Medical Staff Health Policy 7.43, Section II A. and B.

(2) If the Health Matter involves a Practitioner or APP who is currently providing patient care or is expected to imminently provide patient care self-disclosure must occur **immediately.** *Examples include alcohol or substance use or treatment for substance use disorder, stroke.*

f. **Inappropriate Conduct** - Inappropriate Conduct as defined by these Bylaws is behavior that adversely affects the healthcare team's ability to work effectively and/or has a negative effect on the communication and collaboration necessary for quality and safe patient care. *Examples include abusive language, demeaning comments or physical or aggressive behavior.*

(1) Medical Staff members must self-disclose any Inappropriate Conduct no more than **seventy-two (72) hours** of becoming aware of the Inappropriate Conduct, and in accordance with the Medical Staff Professionalism policy.

(2) If the Inappropriate Conduct has the potential to result in harm to others, self-disclosure must occur **immediately.** This applies to Inappropriate Conduct impacting the reporting Medical Staff member or Inappropriate Conduct impacting other Medical Staff members.

g. **Cessation of Employment** – Medical Staff members must self-disclose their own cessation of employment with Baylor College of Medicine, The University of Texas Health Science Center at Houston, Harris Health, or any other entity contracted to provide clinical care at Harris Health, within **seventy-two (72) hours** of the date of the cessation.

h. **Leave of Absence** – Medical Staff members must self-disclose their own leave of absence with Baylor College of Medicine, The University of Texas Health Science Center at Houston, Harris Health, or any other entity contracted to provide clinical care at Harris Health, **30 days** or as soon as reasonably possible prior to the requested leave of absence, unless related to Medical Leave of Absence. See the Medical Staff Bylaws Article III, Section 6.

i. **Ineligible Person** – Medical Staff members must self-disclose if they become an Ineligible Person, as that term is defined in these Bylaws, within **seventy-two (72) hours** of receiving notice.

ARTICLE IV — CATEGORIES OF THE MEDICAL STAFF

Section 1. The Active Staff

a. Qualifications. The Active staff shall consist of members who:

(1) Meet the general qualifications for membership set forth in Article III, Section 3;

(2) Meet the minimum case requirement by performing at least (50) cases during the prior (12) month period and performing at least one hundred and fifty (150) cases within the prior three (3) year appointment period; and

(3) Hold faculty appointments from Baylor College of Medicine or The University of Texas Health Science Center at Houston or are employed by Harris Health or are Contract Practitioners.

b. Prerogatives. Except as otherwise provided, the prerogatives of an Active staff member shall be:

(1) Exercise of all clinical privileges that are granted to the member pursuant to Article VII;

(2) Attend and vote on matters which are presented at general and special meetings of the Medical Staff or any meeting of any specialty or committee of the ASC of which such person is a member;

(3) Participate in Medical Staff Satisfaction surveys;

(4) Hold any office for which the member is qualified; and

(5) Serve as a voting member on any committee to which such person is duly appointed or elected.

c. Reclassification. Failure of an Active Staff member to meet the requirements of Article IV, Section 1(a) at the time of reappointment shall result in reclassification as Affiliate Staff.

Section 2. The Affiliate Staff

a. Qualifications. The Affiliate Staff shall consist of members who:

(1) Meet the general qualifications for membership set forth in Article III, Section 3;

b. Meet the minimum case requirement by performing the number of cases by surgical service:

(1) General Surgery - at least ten (10) cases during the prior (12) month period for initial and performing at least thirty (30) cases within the prior three (3) year reappointment period;

(2) Gynecology - at least ten (10) cases during the prior (12) month period for initial and performing at least thirty (30) cases within the prior three (3) year reappointment period;

(3) Ophthalmology - at least ten (10) cases during the prior (12) month period for initial and performing at least thirty (30) cases within the prior three (3) year reappointment period;

(4) Oral Maxillofacial- at least five (5) cases during the prior (12) month period for initial and performing at least fifteen (15) cases within the prior three (3) year reappointment period;

(5) Orthopedics - at least ten (10) cases during the prior (12) month period for initial and performing at least thirty (30) cases within the prior three (3) year reappointment period;

(6) Otolaryngology - at least five (5) cases during the prior (12) month period for initial and performing at least fifteen (15) cases within the prior three (3) year reappointment period;

(7) Plastics - at least ten (10) cases during the prior (12) month period for initial and performing at least thirty (30) cases within the prior three (3) year reappointment period; and

(8) Urology - at least ten (10) cases during the prior (12) month period for initial and performing at least thirty (30) cases within the prior three (3) year reappointment period.

(9) Hold faculty appointments from Baylor College of Medicine or The University of Texas Health Science Center at Houston or are employed by Harris Health or are Contract Practitioners.

c. Prerogatives. Except as otherwise provided, the prerogatives of an Active staff member shall be:

(1) Exercise of all clinical privileges that are granted to the member pursuant to Article VII; and

(2) Attend, in a non-voting capacity, general and special meetings of the Medical Staff or any meeting of any specialty or committee of the ASC of which such person is a member.

Section 3. The Provisional Staff

a. All Practitioners and APPs who have been granted an initial appointment to the Medical Staff will be assigned to the Provisional Staff for a three (3) month period during the first year of his or her initial appointment. During the provisional period, the Practitioner or APP must perform or assist with at least ten (10) cases. At the end of the provisional period, the Medical Executive Committee will determine if they will or will not recommend placing the individual in the Active or Affiliate category of Medical Staff.

b. Membership on the Provisional Staff is probationary and does not create any right or expectation on the part of any such Practitioner or APP of continued membership on the Medical Staff or of advancement to any other category of Medical Staff.

c. The probationary period may be extended by the Medical Executive Committee for a period not to exceed twelve (12) months after the initial appointment of privileges.

d. The Medical Executive Committee and Governing Body may require that a Practitioner be placed in this category of Medical Staff at any time, such as when privileges are granted between appointments or when privileges are granted for new procedures.

ARTICLE V — INTERNS, RESIDENTS, AND FELLOWS (HOUSESTAFF)

Housestaff are not members of the Medical Staff. Housestaff shall not be eligible for independent clinical privileges or Medical Staff membership, and shall not be entitled to any of the rights, privileges, or to the hearing or appeals rights under these Bylaws. Housestaff shall be credentialed by the sponsoring medical school or training program in accordance with provisions in a written affiliation agreement between the ASC and the school or program; credentialing information shall be made available to the ASC upon request and as needed by the Medical Staff in making any training assignments and in performance of their supervisory function. In compliance with federal laws, the ASC shall not submit a query to the National Practitioner Data Bank prior to permitting Housestaff to provide services at ASC. All interns, residents, and fellows will be required to obtain

a Texas Medical Board training license, if not otherwise licensed in Texas, and a National Provider Identifier (NPI), prior to beginning training at the ASC. Verification of this licensure will be accomplished through the Graduate Medical Education Offices at the respective Accreditation Council for Graduate Medical Education sponsoring institutions. Housestaff may render patient care services at ASC only pursuant to and limited by the following:

a. Applicable provisions of the professional licensure requirements of this State;

b. A written affiliation agreement between the ASC and the sponsoring medical school or training program; such agreement shall identify the individual or entity responsible for providing professional liability insurance coverage for a Housestaff Practitioner.

c. The protocols established by the Medical Executive Committee, in conjunction with the sponsoring medical school or training program regarding the scope of a Housestaff authority, mechanisms for the direction and supervision of Housestaff, and other conditions imposed upon Housestaff by the ASC.

d. While functioning in the ASC, Housestaff shall abide by all provisions of state and Federal law, rules and regulations; requirements of Accrediting Bodies; the ASC Medical Staff Bylaws, Rules and Regulations; and ASC and Medical Staff policies and procedures.

e. Housestaff may perform only those services set forth in the training protocols developed by the applicable training program to the extent that such services do not exceed or conflict with the Rules and Regulations of the Medical Staff or ASC policies, and to the extent approved by the Governing Body.

f. Housestaff shall be responsible and accountable at all times to an assigned member of the Medical Staff and shall be under the supervision and direction of that member of the Medical Staff. Housestaff may be invited or required to attend meetings of the Medical Staff, Medical Staff Services, Sections, or Committees, but shall have no voting rights.

g. The ASC will promptly notify Baylor College of Medicine or The University of Texas Health Science Center at Houston (sponsoring institutions) Graduate Medical Education (GME) Offices when or if the ASC becomes aware of potentially inappropriate action taken by Housestaff. Upon notification of such a request, the sponsoring institution will promptly investigate the inappropriate actions. The ASC will cooperate and consult with the sponsoring institution and will permit the sponsoring institution reasonable time to conduct its investigation prior to the ASC taking any adverse action against the Housestaff member, except as otherwise provided in this Section. Regardless, after consultation with the Medical Director and/or Program Director, Harris Health's CEO may in his or her sole discretion determine that the Housestaff member not continue his or her training at the ASC until the investigation is complete. At the conclusion of the sponsoring institution's investigation, the sponsoring institution will notify the ASC of the results of the investigation and proposed corrective or rehabilitative action, or reason(s) for inaction. If Harris Health's CEO is not satisfied with the sponsoring institution's investigation, proposed corrective or rehabilitative action, or reason(s) for inaction, and a mutually agreed resolution cannot be reached, Harris Health's CEO will notify the ASC's Governing Body and the ASC's Governing Body may, in its sole discretion, remove the Housestaff member's ability to continue his or her training at the ASC.

h. If a sponsoring institution requests to reinstate a Housestaff member who was previously removed from the ASC, the sponsoring institution will notify the ASC of the circumstances that warrant reinstatement. Harris Health's CEO will consult with the sponsoring institution that made the request, as well as with the Medical Director and the ASC's Governing Body. If Harris Health's CEO does not agree with the sponsoring institution's

request to reinstate, Harris Health's CEO will notify the ASC's Governing Body and the ASC's Governing Body may, in its sole discretion, deny the request to reinstate.

i. Nothing in these Bylaws shall be interpreted to entitle Housestaff to the fair hearing rights as described in Article IX of these Bylaws.

ARTICLE VI — ADVANCED PRACTICE PROFESSIONALS

Section 1. Membership

Advanced Practice Professionals are not members of the Medical Staff, but provide clinical services to ASC patients.

Section 2. Qualifications

APPs include those non-Medical Staff members whose license or certificate permits, and the ASC authorizes, the individual provision of patient care services without direction or supervision within the scope of the APP's individually delineated clinical privileges. APPs must:

(1) Meet all applicable standards related to licensure, training and education, clinical competence and health status as described in these Bylaws, Medical Staff Rules and Regulations, and Medical Staff and ASC policies and procedures;

(2) Be assessed, credentialed, and monitored through existing ASC credentialing, quality assessment, and performance improvement functions;

(3) Maintain an active and current credential file and hold delineated clinical privileges approved by the Medical Executive Committee and Governing Body;

(4) Complete all proctoring requirements as may be established by the Medical Executive Committee; and

(5) Not admit patients or assume primary patient care responsibilities.

APPs include those categories of individuals identified in the Definitions Section of these Bylaws.

Section 3. Prerogatives

a. By virtue of their training, experience and professional licensure, APPs are allowed by the ASC to function within the scope of their licensure and delineated clinical privileges but may not admit patients. All APPs shall be under the supervision of a sponsoring physician, who is member of the Medical Staff and has clinical privileges in the same surgical specialty as the APP, who is responsible for delineating the applicant's clinical privileges. If the sponsoring physician's Medical Staff membership is terminated, then the APP's ability to perform clinical services shall be suspended for a period of up to ninety (90) days or until an alternative supervising physician can be secured. If the suspension lasts longer than ninety (90) days or if there is any change in the APP's privileges, then the APP shall complete the initial application procedure. Each APP must notify Medical Staff Services immediately upon loss of required sponsorship or supervision.

b. APPs holding clinical privileges shall have their privileges or practice prerogatives reviewed and approved through the same mechanism described in Article VII of these Bylaws unless otherwise determined by the Medical Executive Committee.

c. The clinical privileges and/or practice prerogatives which may be granted to specific APPs shall be defined by the Medical Staff. Such prerogatives may include:

(1) The provision of specific patient care services pursuant to established protocols, either independently or under the supervision or direction of a physician or other

member of the Medical Staff. The provision of such patient care services must be consistent with the APP's licensure or certification and delineated clinical privileges or job description;

(2) Participation by request on Medical Staff and/or administrative committees or teams; and

(3) Attendance by request at Medical Staff and/or administrative meetings.

d. Participating in quality assessment and performance improvement activities as requested by the Quality Review Council, Medical Executive Committee, or any other committee of the Medical Staff or Governing Body. Failure of an APP to participate in quality assessment or performance improvement activities when requested by the Medical Staff or Governing Body shall result in responsive action, including the possible revocation or suspension of all privileges or practice prerogatives.

Section 4. Review

Nothing in these Bylaws shall be interpreted to entitle APPs to the fair hearing rights as described in Article IX of these Bylaws. An APP shall, however, have the right to challenge any action that would adversely affect the APP's ability to provide patient care services in the ASC. Under such circumstances, the following procedures shall apply:

(1) Notice. Special Notice of the adverse recommendation or action and the right to a hearing shall be promptly given to the APP subject to the adverse recommendation or action. The notice shall state that the APP has thirty (30) days in which to request a hearing. If the APP does not request a hearing within thirty (30) days, the APP shall have waived the right to a hearing.

(2) Hearing Panel. The Medical Director shall appoint a hearing panel that will include at least three members. The panel members shall include the Medical Director, another member of the Medical Staff, and if possible, a peer of the APP, except that any peer review of a nurse shall meet the panel requirements of the Texas Nursing Practice Act. None of the panel members shall have had a role in the adverse recommendation or action.

(3) Rights. The APP subject to the adverse recommendation or action shall have the right to present information but cannot have legal representation or call witnesses.

(4) Hearing Panel Determination. Following presentation of information and panel deliberation, the panel shall make a determination:

i. A determination favorable to the APP shall be reported in writing to the body making the adverse recommendation or action.

ii. A determination adverse to the APP shall result in notice to the APP of a right to appeal the decision to the Chairperson of the Governing Body.

(5) Final Decision. The decision of the Chairperson of the Governing Body shall be the final appeal and represent the final action in the matter.

ARTICLE VII – PROCEDURE FOR APPOINTMENT AND REAPPOINTMENT

Section 1. Burden of Producing Information

In connection with all applications for appointment, reappointment, advancement, or transfer, the applicant shall have the burden of producing sufficient information of clinical and professional performance to permit an adequate evaluation of the applicant's qualifications and suitability for the clinical privileges and staff category requested, to resolve any reasonable doubts about these matters, and to satisfy any request for such information. Failure of a Practitioner to produce required information related to an authorized Medical Staff peer review, quality assessment, performance improvement, or credentialing activity in a timely manner shall result in automatic suspension of all clinical privileges until such time as the required information has been provided. Initial applicants who fail to produce all appropriate information and/or documents as requested may withdraw their application prior to review by the Medical Executive Committee.

Section 2. Application for Appointment

a. All applications for appointment to the Medical Staff shall be signed by the applicant, and shall be submitted on a form prescribed by the State of Texas. The application shall include the following detailed information:

- evidence of current licensure;
- evidence of current Board Certification or current Board Eligible status;
- evidence of current United States Registration Certificates (DEA);
- evidence of current National Provider Identifier (NPI);
- evidence of appropriate professional liability insurance, as determined by the Governing Body;
- privileges requested;
- Evidence of appropriate Basic Life Support (BLS), except for those board certified or board eligible in Anesthesiology (ACLS is required);
- relevant training and/or experience;
- current competence;
- physical and mental health status attestation;
- previously successful or currently pending challenges to any licensure or registration (state or district, Drug Enforcement Administration);
- voluntary or involuntary relinquishment of any licensure or registration (state or district, Drug Enforcement Administration);
- voluntary or involuntary termination of Medical Staff membership or voluntary or involuntary decrease of privileges at any other hospital or institution;
- suspension or revocation of membership in any local, state or national medical society;
- suspension or revocation of license to practice any profession in any jurisdiction
- any claims, lawsuits, settlements, or judgments against the applicant in a professional liability action, including consent to the release of information from the present and past malpractice insurance carrier(s);
- loss of clinical privileges;

- a clear, legible copy of a government-issued photo identification, e.g., valid driver's license or passport;
- three professional peer references; and
- evidence of continuing medical education satisfactory to the Medical Executive Committee.

b. The applicant shall have the burden of producing adequate information for a proper evaluation of their competence, character, ethics, and other qualifications, and for resolving any doubts about such qualifications.

c. Upon the receipt of a Completed Application, Medical Staff Services shall verify the applicant's information on behalf of the Medical Executive Committee. Harris Health, on pursuant to the Letter of Agreement with the ASC, shall consult primary sources of information about the applicant's credentials. It is the applicant's responsibility to resolve any problems Harris Health may have in obtaining information from primary sources. Verifications of licensure, controlled substances registrations (state and federal), specialty board certification or eligibility, and professional liability claims history, query of the National Practitioner Data Bank, and queries to ensure the applicant is not an Ineligible Person shall be completed. Verification may be made by a letter or computer printout obtained from the primary source, verbally, if documented, or electronically if transmitted directly from the primary source to Harris Health. For new applicants, information about the applicant's membership status and/or work history shall be obtained from all organizations where the applicant currently has membership or privileges and/or is employed, and where the applicant has held membership or has been granted clinical privileges and/or has been employed during the previous five years. Associated details on the credentialing process are set forth in Harris Health's Credentialing Procedures Manual.

d. The application and verifications shall be forwarded to Medical Staff Services for review. After review by Medical Staff Services for completeness, the application and all supporting materials shall be transmitted to the Medical Executive Committee for evaluation.

e. By applying for appointment to the Medical Staff, applicants thereby signify their willingness to appear for interviews in regard to the application; authorize the ASC to consult with members of Medical Staffs of other health care organizations with which the applicant has been associated and with others, including past and present malpractice insurance carriers, who may have information bearing on the applicant's competence, character and ethical qualification; consent to Harris Health and the ASC's inspection of all records and documents that, in the opinion of the Medical Executive Committee, may be material to an evaluation of professional qualifications and competence to carry out the clinical privileges requested, as well as moral and ethical qualifications for staff membership; releases from any liability all representatives of the ASC, Harris Health and its Medical Staff for their acts performed in good faith and without malice in connection with evaluation of the applicant and his or her credentials; and releases from any liability all individuals and organizations who provide information to Harris Health and the ASC in good faith and without malice concerning the applicant's competence, ethics, character and other qualifications for staff appointment and clinical privileges, including otherwise privileged or confidential information.

f. Each applicant shall sign and return a statement that he or she has received and read the ASC Medical Staff Bylaws and that he or she agrees to be bound by the terms thereof relating to consideration of the application and, if the applicant is appointed, to all terms thereof.

Section 3. Appointment Process

a. Medical Staff Services shall transmit Completed Applications to the Medical Executive Committee at its next regularly scheduled meeting following completion of verifications tasks and receipt of all relevant materials.

b. Within one hundred and twenty days (120) days after receipt of the Completed Application, the Medical Executive Committee shall report its review and recommendation to the Governing Body. Prior to making this report, the Medical Executive Committee shall examine the evidence of the character, professional competence, physical and mental health status, qualifications and ethical standing of the applicant and shall determine, through information contained in references given by the applicant, and from any other sources available to the committee, whether the applicant has established and meets all of the necessary qualifications for the category of staff membership and the clinical privileges requested.

c. Within sixty (60) days of receipt of the recommendation from the Medical Executive Committee, the Governing Body shall determine whether to accept or reject the recommendation. The Governing Body may only make a decision contrary to the recommendation of the Medical Executive Committee if the applicant meets all of the requirements for Medical Staff membership and the Medical Executive Committee's recommendation is unreasonable or not based on sound judgment. If the Governing Body makes a decision contrary to the recommendation of the Medical Executive Committee, the Governing Body must document its rationale for doing so.

d. A decision by the Governing Body to accept a recommendation resulting in an applicant's appointment to the Medical Staff shall be considered a final action. Within twenty (20) days of the Governing Body's final action, the ASC shall provide notice of all appointments approved by the Governing Body by Special Notice to each new Medical Staff member. All such notices shall include a delineation of approved privileges and appointment dates.

e. The time periods specified in Section 3(b) and (c) above are for guidance only and do not create any right for the applicant to have his or her application processed within those time periods.

f. When the recommendation of the Governing Body is adverse to the applicant, either in respect to appointment or clinical privileges, the Medical Director shall notify the applicant by Special Notice within fifteen (15) days, as described in Article IX of these Bylaws. No such adverse recommendation shall be forwarded to the Governing Body until after the applicant has exercised his or her right to a hearing as provided in Article IX of these Bylaws. If the applicant fails to act within thirty (30) days of receipt of the Special Notice, the applicant will have waived his or her right to a hearing as provided in Article IX of these Bylaws.

g. If, after the Medical Executive Committee has considered the report and recommendations of the hearing committee and the hearing record, the Medical Executive Committee's reconsidered recommendation is favorable to the applicant, it shall be processed in accordance with subparagraph "b" of this section. If such recommendation continues to be adverse, the Medical Director shall promptly so notify the applicant by Special Notice. The Medical Director shall so forward such recommendation and documentation to the Governing Body.

h. The Governing Body shall send notice of its final decision regarding any such review under Article IX of these Bylaws through the Medical Director to the applicant.

Section 4. Reappointment Process

a. It is the responsibility of Active and Affiliate members and Advanced Practice Professionals to request reappointment to the Medical Staff in accordance with the "Reappointment and Renewal of Clinical Privileges Procedure" in the Credentialing Procedures Manual. Reappointment to the Medical Staff shall be based on the applicant's maintaining qualifications for Medical Staff membership, as described in Section 2 of this Article, current competence, and consideration of the results of quality assessment activities as determined by the Medical Executive Committee. Failure to submit a completed reappointment application form with required supporting documentation no less than sixty (60) days prior to the expiration of the Practitioner's then current appointment shall constitute a resignation from the Medical Staff and all privileges will terminate upon expiration of said appointment. Such termination shall not give rise to the right to a hearing pursuant to Article IX of these Bylaws.

Reappointment shall occur every three (3) years. Medical Staff Services will transmit the necessary reapplication materials to the Practitioner not less than 120 days prior to the expiration date of their then current appointment.

All claims, lawsuits, settlements, or judgments against the applicant in a professional liability action, either final or pending, since the last appointment or reappointment must be reported.

b. Each recommendation concerning the reappointment of a staff member and the clinical privileges to be granted upon reappointment shall take into consideration the following characteristics:

- the practitioner's ASC-specific case record, including measures employed in the ASC's quality assurance/performance improvement program, including but not limited to emergency transfers to hospitals, post-surgical infection rates, other surgical complications, etc.
- professional competence and clinical judgment in the treatment of patients;
- ethics and conduct;
- relations with other Medical Staff members;
- general attitude toward patients, the ASC, and the public;
- documented physical and mental health status;
- evidence of continuing medical education that is related, at least in part, to the Practitioner or APP's clinical privileges;
- previously successful or currently pending challenges to any licensure or registration (state or district, Drug Enforcement Administration);
- voluntary or involuntary relinquishment of such licensure or registration;
- voluntary or involuntary termination of Medical Staff membership; and
- voluntary or involuntary decrease of privileges at any other hospital.

c. Thereafter, the procedure provided in Sections 2 and 3 this Article relating to recommendations on applications for initial appointment shall be followed.

d. Members of the Medical Staff shall maintain current licensure and certifications, as described in Article III, Section 3 of these Bylaws. Members of the Medical Staff must notify the ASC whenever their license to practice in any jurisdiction has been voluntarily/involuntarily limited, suspended, revoked, denied, or subjected to probationary conditions, or when proceedings toward any of those ends have been instituted. Those without current licensure

and certifications will be subject to loss of privileges as described in Article VIII, Sections 3 and 4 of these Bylaws.

e. The appointment of any Practitioner who fails to submit an application for reappointment or who loses faculty appointment at Baylor College of Medicine and/or The University of Texas Health Science Center at Houston or ceases to be employed by or have a contractual relationship with the ASC shall automatically expire at the end of his or her faculty appointment or employment. A Practitioner whose appointment has expired must submit a new application, which shall be processed without preference as an application for initial appointment.

f. When the final action has been taken, the Medical Director shall give written notice of the reappointment decision to the Practitioner.

Section 5. Application for Clinical Privileges

Every initial application for staff appointment to the Medical Staff and each reappointment application must contain a request for the specific clinical privileges desired by the applicant. The evaluation of such request shall be based upon the applicant's education, clinical training, experience, current competence, references, judgment, and other relevant information. The applicant shall have the burden of establishing his or her qualifications and competency to be granted the clinical privileges requested.

Section 6. Clinical Privileges

a. Every Medical Staff member practicing within the ASC by virtue of Medical Staff membership or otherwise, shall, in connection with such practice, exercise only those clinical privileges specifically approved, ratified, and affirmed to him or her by the Governing Body.

b. Clinical privileges will be limited to those activities deemed the responsibility of the specialty area to which the applicant is appointed.

Section 7. Privileges in More Than One Specialty

Practitioners or APPs may be awarded clinical privileges in one or more specialty in accordance with their education, training, experience, and demonstrated competence.

Section 8. Temporary Privileges

There are only two circumstances in which temporary privileges may be granted. Each circumstance has different criteria for granting privileges.

In all cases, temporary privileges shall only persist until the meeting of the Governing Body at which the application for Medical Staff membership is to be considered (not to exceed 120 days from the date temporary privileges are granted by the Medical Executive Committee).

a. **New Applicants:** Following receipt of a Clean Application from a new applicant, the Medical Executive Committee may, upon the basis of information then available, which may reasonably be relied upon as to the competence and ethical standing of the applicant, grant temporary Clinical Privileges to the applicant; but in exercising such privileges, the applicant shall act under the supervision of the Medical Director.

b. **Important Patient Care Need**: The Medical Executive Committee shall also have the authority to grant temporary Clinical Privileges to an applicant upon documentation of an important patient care need. In this case, Medical Staff Services shall verify the applicant's education, licensure, current competence, two (2) peer references (including current competence), NPDB, and OIG Exclusion Lists. An applicant is not required to have a Clean

Application in order for the Medical Executive Committee to grant temporary Clinical Privileges based on an important patient care need, so long as the Medical Executive Committee considers the information available about the applicant prior to approval.

Examples of important patient care need may include, but are not limited to: (a) the patient care volume exceeds the level that can be handled by currently privileged Practitioners and APPs; or (b) a currently privileged Practitioner or APP has an unexpected absence.

c. Note: New Applicants include individuals applying for clinical privileges for the first time, an individual currently holding clinical privileges who is requesting one or more additional privileges, and an individual who is in the reappointment process and is requesting one or more additional privileges.

d. Termination. Temporary clinical privileges may be terminated at any time by the Medical Director.

e. Neither termination of temporary clinical privileges nor failure to grant them shall constitute a Final Hearing Review Action and neither is an Adverse Recommendation or Action.

Section 9. Emergency Clinical Privileges

In the case of an emergency, any current Medical Staff member, to the degree permitted by his or her license and regardless of service or staff status, shall be permitted and assisted to do everything possible to save the life of a patient using the appropriate resources of the ASC, including the calling for any consultation necessary or desirable. For the purpose of this section, an "emergency" is defined as a condition in which a patient is in immediate danger of serious permanent harm or loss of life, and any delay in administering treatment could add to that danger.

Section 10. Confidentiality of the Credentials File

A Medical Staff member or other individual exercising clinical privileges shall be granted access to his or her own credentials file, subject to the following provisions:

a. A request for access must be submitted in writing to the Chairperson of the Medical Executive Committee.

b. The individual may review, and receive a copy of, only those documents provided by or addressed personally to the individual. All other information, including peer review committee findings, letters of reference, proctoring reports, complaints, and other documents shall not be disclosed.

c. The review by the individual shall take place in Medical Staff Services during normal work hours with an officer or designee of the Medical Staff present.

ARTICLE VIII - CORRECTIVE ACTION

Section 1. Procedure

a. Whenever the activities, professional conduct or health status of any Medical Staff member are considered to be lower than the standards or aims of the Medical Staff or to be disruptive to the operations of the ASC, corrective action against such Medical Staff member may be requested by the Medical Director or by the Governing Body. All such requests shall be in writing, shall be made to the Medical Executive Committee, and shall be supported by reference to the specific activities or conduct, which constitute the grounds for the request. The Medical Director or designee must meet with the member to discuss the issues that are the basis for the request either prior to submission or no later than 72 hours after receipt of

a copy of the request. In the event that the member who is the subject of the request for corrective action is the Medical Director, another voting member of the Medical Executive Committee must conduct the meeting. The party conducting the meeting shall send a letter to the staff member immediately following the meeting, confirming that the meeting was held and the matters discussed. The letter must be sent to the staff member via Special Notice procedures with a copy to Medical Staff Services.

b. Whenever the corrective action could be a reduction or suspension of clinical privileges, the Chairperson of the Medical Executive Committee shall immediately appoint an ad hoc committee to investigate the matter.

c. Within thirty (30) days after the ad hoc committee's receipt of the request for corrective action, it shall make a report of its investigation to the Medical Executive Committee. If in the reasonable view of the Medical Executive Committee more than thirty (30) days is needed to complete the investigation, the Medical Executive Committee shall grant an extension to the ad hoc committee. Prior to the making of a report, the Medical Staff member against whom corrective action has been requested shall have an opportunity for an interview with the ad hoc investigating committee. At such interview, the Medical Staff member shall be informed that the meeting shall not constitute a hearing, shall be preliminary in nature, and none of the procedural rules provided in these Bylaws with respect to hearing shall apply thereto. A record of such interview shall be made by the ad hoc committee and included with its report to the Chairperson of the Medical Executive Committee.

d. Within thirty (30) days following the receipt of the report of the ad hoc investigating committee, the Medical Executive Committee shall take action upon the request. If the corrective action could involve a reduction or suspension of clinical privileges, or a suspension or expulsion from the Medical Staff, the affected Medical Staff member shall be permitted to make an appearance before the Medical Executive Committee prior to its taking action on such request, and none of the procedural rules provided in these Bylaws with respect to hearings shall apply thereto. A record of such appearance shall be made by the Medical Executive Committee.

e. The Medical Executive Committee shall take such action as deemed justified as a result of these investigations.

f. Any recommendations by the Medical Executive Committee to the Governing Body for reduction or revocation of clinical privileges, or expulsion from the Medical Staff shall entitle the affected Medical Staff member to the procedural rights provided in Article IX.

g. Any final adverse action taken after the procedural rights provided in Article IX have been exhausted (1) that adversely affects the Clinical Privileges of a Physician for a period longer than 14 days must be reported in writing to the Texas Medical Board; and (2) that adversely affects the Clinical Privileges of a Practitioner for a period lasting longer than 30 days must be reported to the National Practitioner Data Bank.

h. All decisions resulting from investigations of a Medical Staff member in a medical administrative position shall be reviewed by the Governing Body following the process as outlined in Article IX.

i. When the Medical Executive Committee or Governing Body has reason to question the physical and/or mental status of a Medical Staff member, the latter shall be required to submit an evaluation of their physical and/or mental health status by a physician or physicians acceptable to the Medical Executive Committee and the affected physician as a prerequisite to further consideration of: (1) their application for appointment or reappointment, (2) their

exercise of previously granted privileges, or (3) their maintenance of a Medical Staff appointment.

Section 2. Summary Suspension

Whenever there is a reasonable belief that a Member's conduct or condition requires that immediate action be taken to protect life or to reduce the likelihood of injury or damage to the health or safety of patients, workforce members, or others, summary action must be taken as to all or any portion of the Member's clinical privileges, and such action shall become effective immediately upon imposition.

The Chairperson of the Medical Executive Committee, the Medical Executive Committee itself, the Medical Director, Harris Health's Chief Executive Officer, or the Governing Body shall have the authority, whenever action must be taken immediately in the best interest of patient care at the ASC, to suspend summarily all or any portion of the clinical privileges of a Medical Staff member, and such summary suspension shall become effective immediately upon imposition.

The Medical Staff member must be immediately notified by Special Notice from the Medical Director. A suspended member's patients in the ASC must be assigned to another member by the applicable specialty, considering the wishes of the patient, where feasible, in choosing a substitute practitioner.

As soon as possible, but within ten (10) working days after a summary suspension is imposed, the Medical Executive Committee shall convene to review and consider the action taken. In its sole discretion, the Medical Executive Committee may provide the member the opportunity to meet with the Medical Executive Committee, which may recommend modification, continuation or termination of the terms of the suspension. A Medical Executive Committee recommendation to continue the extension or to take any other adverse action as defined in Article IX entitles the Medical Staff member, upon timely and proper request, to the procedural rights contained in Article IX.

Section 3. Automatic Suspension

Occurrence of any of the following shall result in an automatic suspension as detailed. An automatic suspension is not considered a final action or an adverse recommendation or action but may be considered in any investigation or proceeding pursuant to Article IX of these Bylaws.

(1) Suspension, limitation or placement of a condition on a member's professional license by the state licensing board shall result in automatic suspension of the member's privileges until the Medical Executive Committee can assess whether the suspension, limitation, or condition will be adopted by the medical staff. As soon as possible, but no later than the tenth (10^{th}) working day after the automatic suspension, the Medical Executive Committee shall convene to review and consider appropriate action.

(2) Indictment of a member for a felony or indictment of any other criminal charges involving substance abuse, minors, assault, battery, fraud, dishonesty, moral turpitude, or the delivery of health care services shall result in automatic suspension of the member's privileges. As soon as possible, but no later than the tenth (10^{th}) working day after the automatic suspension, the Medical Executive Committee shall convene to review and consider appropriate action.

(3) Failure of the member to maintain current required licensure and certifications, as described in Article III, Section 3, shall result in automatic suspension of the member's privileges for up to thirty (30) days. The member's privileges will be reinstated once Medical Staff Services has confirmed that the issue has been resolved to the satisfaction of the Chair of the Medical Executive Committee, or designee. The Chair shall make a report

of all such actions at the next regularly scheduled meeting of the Medical Executive Committee and the Medical Executive Committee shall ratify or modify the actions as appropriate. Failure to satisfy this requirement in thirty (30) days will result in a voluntary resignation of the member's privileges and require the submission of an initial credentialing application, which will be processed without preference. In certain circumstances, the Medical Executive Committee may approve an exception to this requirement.

Section 4. Administrative Suspension

Occurrence of any of the following shall result in an administrative suspension as detailed below. An administrative suspension is not considered a final action or an adverse recommendation or action and therefore, is not reportable or required to be disclosed in subsequent credentialing applications, but an administrative suspension may be considered in any investigation or proceeding pursuant to Article IX of these Bylaws. Failure to satisfy requirements listed below in thirty (30) days after the administrative suspension will result in a voluntary resignation of the member's privileges and require the submission of an initial credentialing application, which will be processed without preference. In certain circumstances, the Medical Director or designee, based on a recommendation from the Medical Executive Committee, may approve an exception to this requirement.

(1) A member's delinquency in completion of medical records shall result in administrative suspension of the member's privileges and medical staff membership until Medical Staff Services has confirmed that the issue has been resolved to the satisfaction of the Chair of the Medical Executive Committee, or designee. The Chair shall make a report of all such resolutions at the next regularly scheduled meeting of the Medical Executive Committee and the Medical Executive Committee shall ratify or modify the resolution as appropriate.

(2) A member's failure to complete mandatory education, as outlined in Harris Health Policy 7.41, *Medical Staff, Trainee, and Student Orientation and Annual Education*, shall result in administrative suspension of the member's privileges and medical staff membership for up to thirty (30) days. The member's privileges will be reinstated once Medical Staff Services has confirmed that the issue has been resolved to the satisfaction of the Medical Director, or designee. The Medical Director shall make a report of all such actions at the next regularly scheduled meeting of the Medical Executive Committee and Medical Executive Committee shall ratify or modify the actions as appropriate.

Section 5. Automatic Termination

Occurrence of any of the following shall result in an automatic termination as detailed. An Automatic termination is not considered an adverse recommendation or action but may be considered in any investigation or proceeding pursuant to Article IX of these Bylaws.

(1) Revocation of a physician's professional license by the Texas Medical Board shall cause all the member's clinical privileges and the medical staff membership to automatically terminate.

(2) Conviction of or a guilty or nolo contendere plea to (including deferred adjudication) for a felony or conviction of or a guilty or nolo contendere plea to any other criminal charges involving substance abuse, minors, assault, battery, fraud, dishonesty, moral turpitude, or the delivery of health care services by a member shall result in automatic termination of the member's privileges and medical staff membership.

(3) A member's privileges and staff membership shall automatically terminate if the member becomes an Ineligible Person as that term is defined in these Bylaws.

(4) Loss of employment with Baylor College of Medicine, the University of Texas Health Science Center at Houston, Harris Health, or another entity contracted to provide clinical care at the ASC shall result in automatic termination of the Practitioner's privileges and staff membership. However, if the loss of employment is related to the member's professional competence or conduct, such action is considered an adverse action under Article IX, Section 1.

(5) The privileges and medical staff membership of a member who is suspended four times in a twelve (12) month period for delinquency in completion of medical records shall automatically terminate upon the first day of the fourth suspension within twelve months.

(6) The privileges and medical staff membership of a member who remains suspended for six (6) continuous weeks for delinquency in completion of medical records shall automatically terminate upon the last day of the sixth week of continuous suspension.

(7) Failure to notify the Medical Staff Services of the occurrence of any of the events listed in Article VIII, Section 3 shall result in automatic termination of a member's privileges and medical staff membership.

a. Notice

The member must be immediately notified by Special Notice from the Medical Director.

Section 6. Medical Administrative Positions

A Medical Staff member shall not lose staff privileges if his or her medical administrative position is terminated without following the hearing and appellate procedures as outlined in Article IX.

ARTICLE IX — PROCEDURAL RIGHTS OF REVIEW

Section 1. Events Giving Rise to Hearing Rights

a. Actions or Recommended Actions

Subject to the exceptions set forth in Section 1.c of this Article IX, the following actions or recommended actions, if deemed adverse under Section 1.b below, entitle the member (for purposes of Article IX, the term "member" shall include an applicant to the Medical Staff whose application for Medical Staff appointment and clinical privileges has been denied) to a hearing upon timely and proper request as provided in Section 4:

(1) Denial of initial Medical Staff appointment;

(2) Denial of reappointment;

(3) Suspension of appointment, provided that summary suspension entitles the member to request a hearing only as specified in this section;

(4) Revocation of appointment;

(5) Special limitation of the right to admit patients not related to standard administrative or Medical Staff policies within the ASC;

(6) Denial or restriction of requested clinical privileges;

(7) Reduction in clinical privileges;

(8) Suspension of clinical privileges, provided that summary suspension entitles the member to request a hearing only as specified in this section,

(9) Revocation of clinical privileges;

(10) Individual application of, or individual changes in, mandatory consultation or supervision requirement; or

(11) Summary suspension of appointment or clinical privileges, if the recommendation of the Medical Executive Committee or action by the Governing Body is to continue the suspension or to take other action which would entitle the member to request a hearing under Section 4, provided that if the Medical Executive Committee initiates an investigation of the member in accordance with Article VIII, no hearing rights shall accrue until the Medical Executive Committee had acted upon the report of the ad hoc committee.

b. When Deemed Adverse

Except as provided below, any action or recommended action listed in Section 1.a above is deemed adverse to the member only when it has been:

(1) recommended by the Medical Executive Committee; or

(2) taken by the Governing Body under circumstances where no prior right to request a hearing exists.

c. Exceptions to Hearing Rights

(1) Certain Actions or Recommended Actions: Notwithstanding any provision in these ASC Medical Staff Bylaws, or in the Credentialing Procedures Manual to the contrary, the following actions or recommended actions do not entitle the member to a hearing:

(a) the issuance of a verbal warning or formal letter of reprimand;

(b) the imposition of a monitoring or consultation requirement as a condition attached to the exercise of clinical privileges during a provisional period;

(c) the imposition of a probationary period involving review of cases;

(d) the imposition of a requirement for a proctor to be present at procedures performed by the member, provided that there is no requirement for the proctor to grant approval prior to provision of care;

(e) the removal of a Practitioner from a medical administrative office within the hospital unless a contract or employment arrangement provides otherwise; and

(f) any other action or recommended action not listed in Section 1.a above.

(2) Other Situations: An action or recommended action listed in Section 1.a above does not entitle the applicant or member to a hearing when it is:

(a) voluntarily imposed or accepted by the Practitioner;

(b) automatic pursuant to any provision of these ASC Medical Staff Bylaws and related manuals;

(c) taken or recommended with respect to temporary privileges, unless the action must be reported to the National Practitioner Data Bank.

Section 2. Notice of Adverse Action

a. The ASC shall, within fifteen (15) days of receiving written notice of an adverse action or recommended action under Section 1.a, give the Practitioner Special Notice thereof. The notice shall:

(1) advise the Practitioner of the nature of and reasons for the proposed action and of his or her right to mediation or a hearing upon timely and proper request pursuant to Section 3 and/or Section 4 of this Article IX;

(2) specify that the Practitioner has thirty (30) days after receiving the notice within which to submit a request for mediation or a hearing and that the request must satisfy the conditions of Section 3 and/or Section 4;

(3) state that failure to request mediation or a hearing within that time period and in the proper manner constitutes a waiver of rights to mediation or a hearing and to an appellate review on the matter that is the subject of the notice;

(4) state that any higher authority required or permitted under this Article IX to act on the matter following a waiver is not bound by the adverse action or recommended action that the Practitioner has accepted by virtue of the waiver but may take whatever action, whether more or less severe, it deems warranted by the circumstances;

(5) state that upon receipt of his mediation or hearing request, the Practitioner will be notified of the date, time, and place of the hearing, and the grounds upon which the adverse recommendation or action is based; and

(6) provide a brief summary of the rights the Practitioner would have at a hearing, as set forth in Sections 12-14 of this Article.

Section 3. Request for Mediation

a. Within ten (10) days of receipt of the notice of adverse recommendations giving rise to hearing rights, an affected member may file a written request for mediation. The request must be delivered by Special Notice to the Medical Director and state the reason the member believes mediation is desirable. If a hearing has already been scheduled, mediation must be completed prior to the date of the hearing. If no hearing has been scheduled, the mediation must take place within 45 days of receipt of the request.

Under no circumstances will a hearing be delayed beyond the originally scheduled date unless both parties agree to a continuance to a date certain.

b. The mediator shall be selected by the Chairperson of the Medical Executive Committee and must have the qualifications required by state law and experience in medical staff privileging and disputes.

c. The fee of the mediator shall be shared equally among the parties.

d. An individual shall be appointed by the Chairperson of the Medical Executive Committee to participate in the mediation and represent the Medical Executive Committee. The affected member and the representative of the Medical Executive Committee may each be accompanied in the mediation by counsel of their choice.

e. Under no circumstances may the mediation delay the filing of any report required by law, or result in an agreement to take any action not permitted by law. No agreement arising out of the mediation may permit or require the Medical Executive Committee, the Governing Body, or the ASC to violate any legal requirement, accreditation requirement or any requirement of the ASC Medical Staff Bylaws.

f. If no resolution is reached through the mediation, a hearing must be scheduled no later than forty-five (45) days following the mediation, unless otherwise agreed by the parties.

Section 4. Request for Hearing

The Practitioner shall have thirty (30) days after receiving the above notice to file a written request for a hearing. The request must be delivered to the Medical Director by Special Notice.

Section 5. Waiver by Failure to Request a Hearing

A member who fails to request a hearing within the time and in the manner specified in Section 4 above waives his or her right to any hearing and appellate review to which he or she might otherwise have been entitled. Such waiver shall apply only to the matters that were the basis for the adverse action or recommended action triggering the Section 2 notice. The Medical Director shall as soon as reasonably and practicably send the member Special Notice of each action taken under any of the following Sections and shall notify the Chairperson of the Medical Executive Committee of each such action. The effect of a waiver is as follows:

a. Adverse Action by the Governing Body

A waiver constitutes acceptance of the adverse action, which immediately becomes the final decision of the Governing Body.

b. Adverse Recommendation by the Medical Executive Committee

A waiver constitutes acceptance of the adverse recommendation, which becomes effective immediately and remains so pending the decision of the Governing Body. The Governing Body shall consider the adverse recommendation as soon as practicable following the waiver but at least at its next regularly scheduled meeting. Its action has the following effect:

(1) If the Governing Body's action accords in all respects with the Medical Executive Committee recommendation, the Governing Body decision becomes effective immediately.

(2) If, on the basis of the same information and material considered by the Medical Executive Committee in formulating its recommendation, the Governing Body proposes a more severe adverse action, the member shall be entitled to a hearing.

Section 6. Additional Information Obtained Following Waiver

When, in considering an adverse Medical Executive Committee recommendation transmitted to it under Section 5.b of this Article IX, the Governing Body acquires or is informed of additional relevant information not available to or considered by the Medical Executive Committee, the Governing Body shall refer the matter back to the Medical Executive Committee for reconsideration within a set time limit. If the source of the additional information referred to in this Section is the member or an individual or group functioning, directly or indirectly, on his or her behalf, the provisions of this Section shall not apply unless the member demonstrates to the satisfaction of the Medical Executive Committee that the information was not reasonably discoverable in time for presentation to and consideration by the party taking the initial adverse action.

a. If the Medical Executive Committee's recommendation following reconsideration is unchanged, the Governing Body shall act on the matter as provided in Section 5.b. of this Article IX.

b. If the Medical Executive Committee's recommendation following reconsideration is still adverse but is more severe than the action originally recommended, it is deemed a new adverse recommendation under Section 1.a of this Article IX and the matter proceeds as such.

c. A favorable Medical Executive Committee recommendation following reconsideration shall be forwarded as soon as reasonably practicable to the Governing Body by the Medical Director. The effect of the Governing Body action is as follows:

    (1) Favorable: Favorable Governing Body action on a favorable Medical Executive Committee recommendation becomes effective immediately.

    (2) Adverse: If the Governing Body's action is adverse, the member shall be entitled to a hearing.

Section 7. Notice of Time and Place for Hearing

The Medical Director shall deliver a timely and proper request for a hearing to the Chair of the Medical Executive Committee or Chairperson of the Governing Body, depending on whose recommendation or action prompted the hearing request. The Chairperson of the Medical Executive Committee or the Chairperson of the Governing Body, as appropriate, shall then schedule a hearing. Hearings held by the Governing Body or any committee of the Governing Body under this Article IX of the ASC Medical Staff Bylaws will be closed meetings pursuant to Chapter 151 of the Texas Occupations Code and Section 161.032 of the Texas Health & Safety Code. The hearing date shall be set for as soon as practicable after the Medical Director received the request but, in any event, no more than forty-five (45) days thereafter. The Medical Director shall send the member Special Notice of the time, place, and date of the hearing, and the identity of the hearing committee members or hearing officer not less than thirty (30) days from the date of the hearing. The notice provided to the member shall contain a list of the witnesses, if any, expected to testify at the hearing on behalf of the Medical Executive Committee or Governing Body, whichever is appropriate. The member must provide a list of the witnesses expected to testify on his behalf within ten (10) days of this notice. If the member is under suspension, he or she may request that the hearing be held not later than twenty (20) days after the Medical Director has received the hearing request. The Medical Director may grant the member's request after consultation with the Chairperson of the Medical Executive Committee or Chairperson of the Governing Body. If the member does not in good faith cooperate in scheduling a hearing date, and as a result, a hearing has not been scheduled within ninety (90) days from the date of the first

proposal for a hearing date by the Medical Executive Committee or Chairperson of the Governing Body, the member shall be deemed to have waived the member's right to a hearing in accordance with Article IX, Section 5, unless both parties agree to a delayed hearing date.

The notice of hearing shall contain a concise statement of the member's alleged acts or omissions, a list by number of the specific or representative patient records in question, and/or the other reasons or subject matter forming the basis for the adverse action which is the subject of the hearing.

Section 8. Appointment of Hearing Committee or Hearing Officer

a. By Medical Staff

A hearing occasioned by an adverse Medical Executive Committee recommendation shall be conducted by a hearing committee appointed by the Chairperson of the Medical Executive Committee and composed of at least three (3) members of the Medical Staff. The Chairperson of the Medical Executive Committee shall designate one of the appointees as Chairperson of the committee.

b. By the Governing Body

A hearing occasioned by an adverse action of the Governing Body shall be conducted by a hearing committee appointed by the Chairperson of the Governing Body and composed of at least three (3) persons, including at least two (2) medical staff members when feasible. The Chairperson of the Governing Body shall designate one appointee as Chairperson of the committee.

c. Service on Hearing Committee

An individual shall not be disqualified from serving on a hearing committee merely because he or she has heard the case or has knowledge of the facts involved or what he or she supposes the facts to be. Any member of the Hearing Committee shall not be in direct economic competition with the member involved. Direct economic competition may not be shown based solely on the member's medical school affiliation. Within ten (10) days of receipt of the Notice of Hearing, the member under review may submit a written challenge to a member of the hearing panel, specifying the manner in which the hearing committee member is deemed to be disqualified along with supporting facts and circumstances. The Medical Executive Committee or Governing Body, as appropriate, shall consider and rule on the challenge.

d. Hearing Officer in Lieu of Hearing Committee

Subject to the approval of the Governing Body, the Medical Executive Committee may determine that the hearing will be conducted in front of a hearing officer to be appointed by the Medical Executive Committee. This officer shall not be in direct economic competition with the member involved. The term "hearing officer" as used in this Section 8.d shall be used to refer to a hearing officer who is appointed in lieu of a Hearing Committee and shall not refer to an appointed presiding officer of a Hearing Committee, provided, however, that a presiding officer still may be appointed. The decision of a Hearing Officer appointed in lieu of a Hearing Committee shall have the same force and effect as a decision by the Hearing Committee.

Section 9. Final List of Witnesses

The witness lists required in Section 7 of this Article IX shall be amended as soon as possible by the appropriate party when additional witnesses are identified. The final list of witnesses must be submitted to the Presiding Officer and exchanged by the member and the Medical Executive Committee or the Governing Body, as appropriate, no later than seven (7) days prior to the hearing. Failure of a party to comply with this requirement shall constitute good cause for the Presiding Officer to grant a continuance or otherwise limit the testimony of witnesses not disclosed within the required timeframe.

Section 10. Documents

All documents the parties plan to introduce into evidence at the hearing must be submitted to the Presiding Officer and exchanged by the member and the Medical Executive Committee or the Governing Body, as appropriate, no later than seven (7) days prior to the hearing. Failure of a party to comply with this requirement shall constitute good cause for the Presiding Officer to grant a continuance or otherwise limit the introduction into evidence of documents not produced within the required timeframe.

Section 11. Personal Presence

The personal presence of the member is required throughout the hearing, unless the member's presence is excused for any specified time by the hearing committee. The presence of the member's representative does not substitute for the personal presence of the member. A member who fails, without good cause, to be present throughout the hearing unless excused or who fails to proceed at the hearing in accordance with Article IX of these ASC Medical Staff Bylaws shall be deemed to have waived his or her rights in the same manner and with the same consequence as provided in Sections 4 and 5 of this Article IX, if applicable.

Section 12. Presiding Officer

The hearing officer, if appointed pursuant to Article IX Section 37 of these ASC Medical Staff Bylaws, or if not appointed, the hearing committee Chairperson, shall be the presiding officer. The presiding officer shall maintain decorum and assure that all participants have a reasonable opportunity to present relevant evidence. He or she shall determine the order of procedure during the hearing and make all rulings on matters of procedure and the admissibility of evidence. The presiding officer shall not act as a prosecuting officer or as an advocate to any party to the hearing. If a hearing officer is appointed, he or she shall not be entitled to vote. If the Chairperson of the hearing committee serves as the presiding officer, he or she shall be entitled to vote.

Section 13. Representation

The member may be represented at the hearing by a member of the Medical Staff in good standing, a member of his or her local professional society, or an attorney of his or her choice. The Medical Executive Committee or Governing Body, depending on whose recommendation or action prompted the hearing, shall designate a medical staff member to support its recommendation or action and, in addition, may appoint an attorney to represent it.

Section 14. Rights of Parties

During the hearing, each party shall have the following rights, which shall be exercised in a manner so as to permit the hearing to proceed efficiently and expeditiously:

(1) provide an opening statement no longer than 5 minutes each;
(2) call and examine witnesses;

(3) introduce exhibits;
(4) cross-examine any witness on any matter relevant to the issues;
(5) impeach any witness; and
(6) rebut any evidence.

If the member does not testify in his or her own behalf, he or she may be called and examined as if under cross-examination.

Section 15. Procedure and Evidence

The hearing need not be conducted strictly according to rules of law relating to the examination of witnesses or presentation of evidence. In the discretion of the presiding officer, any relevant matter upon which responsible persons customarily rely in the conduct of serious affairs may be considered, regardless of the admissibility of such evidence in a court of law. Each party shall be entitled, prior to, during, or at the close of the hearing, to submit memoranda concerning any issue of law or fact, and those memoranda shall become part of the hearing record. Written memoranda, if any, must be presented to the presiding officer, and a copy must be provided to the other party. The hearing committee may ask questions of the witnesses, call additional witnesses, or request documentary evidence if it deems it is appropriate.

Section 16. Official Notice

In reaching a decision, the hearing committee may take official notice, either before or after submission of the matter for decision, of any generally accepted technical or scientific matter relating to the issues under consideration and of any facts that may be judicially noticed by the courts of the State of Texas. Participants in the hearing shall be informed of the matters to be noticed and those matters shall be noted in the hearing record. Either party shall have the opportunity to request that a matter be officially noticed and to refute the officially noticed matters by written or oral presentation of authority, in a manner to be determined by the hearing committee. Reasonable additional time shall be granted, if requested, to present written rebuttal of any evidence admitted on official notice.

Section 17. Burden of Proof

The body whose adverse action or recommended action occasioned the hearing shall have the burden of coming forward with evidence in support thereof. Thereafter, the member shall have the burden of coming forward with evidence and proving by clear and convincing evidence that the adverse action or recommended action lacks any substantial factual basis or is otherwise arbitrary, unreasonable, or capricious.

Section 18. Hearing Record

A court reporter shall be used to record the hearing, although those giving testimony need not be sworn by said reporter. The court reporter shall transcribe the hearing and submit a written copy to the presiding officer within 10 business days after adjournment of the hearing for his/her review. The presiding officer shall return any noted corrections to the court reporter within 7 days. The member may within ten days after the hearing's adjournment also request a copy of the hearing report upon payment of any reasonable costs associated with the preparation of said report and in such event may review the hearing report and return any noted corrections to the court reporter within 7 days. If the member fails to request a copy of the hearing report or if the hearing report is not returned in 7 days, the right to make any changes is waived.

Section 19. Postponement

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

Section 20. Presence of Hearing Committee Members and Vote

A majority of the hearing committee must be present throughout the hearing and deliberations. If a committee member is absent from any part of the hearing or deliberations, the presiding officer, in his or her discretion, may rule that such member may not participate further in the hearing or deliberations or in the decision of the hearing committee.

Section 21. Recesses and Adjournment

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

Section 22. Hearing Committee Report

Within twenty (20) days after adjournment of the hearing, the hearing committee shall make a written report of its findings and recommendations with such reference to the hearing record and other considered documentation as it deems appropriate. The hearing committee shall forward the report to the body whose adverse action or recommended action occasioned the hearing. The member shall also be given a copy of the report by Special Notice. The hearing record and other documentation shall be transmitted to the Medical Staff Office for safekeeping as official records and minutes of the Medical Staff and shall be made available for review by any party between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, excluding holidays.

Section 23. Action on Hearing Committee Report

Within thirty (30) days after receiving the hearing committee report, the body whose adverse action or recommended action occasioned the hearing shall consider said report and affirm, modify, or reverse its action or recommended action. It shall transmit the result to the Medical Director.

Section 24. Notice and Effect of Result

a. Notice

As soon as is reasonably practicable, the Medical Director shall send a copy of the result to the member by Special Notice and to the Chairperson of the Medical Executive Committee.

b. Effect of Favorable Result

(1) Adopted by the Governing Body: If the Governing Body's determination is favorable to the member, it shall become effective immediately.

(2) Adopted by the Medical Executive Committee: If the Medical Executive Committee result is favorable to the member, the Medical Director shall, as soon as is reasonably practicable, forward it to the Governing Body which may adopt or reject the result in whole or in part, or refer the matter back to the Medical Executive Committee for further reconsideration. Any referral back shall state the reasons, set a time limit within which a subsequent recommendation must be made, and may include a directive for an additional hearing. After receiving a subsequent recommendation and any

new evidence, the Governing Body shall take action. Favorable action by the Governing Body shall become effective immediately.

c. Effect of Adverse Result

If the hearing results in an adverse recommendation, the member shall receive Special Notice of his or her right to request appellate review.

Section 25. Request for Appellate Review

A member shall have thirty (30) days after receiving Special Notice of an adverse result to file a written request for an appellate review. The request must be delivered to the Medical Director by Special Notice.

Section 26. Waiver by Failure to Request Appellate Review

A member who fails to request an appellate review within the time and in the manner specified in Section 24 of this Article IX shall have waived any right to a review. The waiver has the same force and effect as provided in Sections 5 and 6 of this Article IX, if applicable.

Section 27. Notice of Time and Place for Appellate Review

The Medical Director shall deliver a timely and proper request for appellate review to the Chairperson of the Governing Body. As soon as practicable, said Chairperson shall schedule an appellate review to commence not less than thirty (30) days nor more than sixty (60) days after the Medical Director received the request. If the member is under suspension, he or she may request that the appellate review be held not later than twenty (20) days after the Medical Director has received the appellate review request. The Medical Director may grant the member's request after consultation with the Chairperson of the Medical Executive Committee or Governing Body. At least thirty (30) days prior to the appellate review, the Medical Director shall send the member Special Notice of the time, place, and date of the review. The time for appellate review may be extended by the Chairperson of the Governing Body for good cause.

Section 28. Appellate Review Body

The appellate review may be conducted by the Governing Body. The Chairperson of the Governing Body will appoint a committee consisting of three (3) to nine (9) members of the Governing Body to hear the appeal, including at least one (1) physician. The Chairperson shall designate one of the members as Chairperson.

Section 29. Nature of Proceedings

The proceedings by the review body are a review based upon the hearing record, the hearing committee's report, all subsequent results and actions, the written statements, if any, provided below, and any other material that may be presented and accepted. The presiding officer shall direct the Medical Staff Office to make the hearing record and hearing committee report available at the appellate review for use by any party. The review body shall determine whether the foregoing evidence demonstrates that the member has met the applicable burden of proof as required under Section 16 of this Article IX.

Section 30. Written Statements

The member may submit a written statement detailing the findings of fact, conclusions, and procedural matters with which he or she disagrees and his or her reasons. This written statement may cover any matters raised at any step in the hearing process. The statement shall be submitted to the appellate review body and to the group whose adverse action or recommended action occasioned the review through the Medical Director at least five (5) days prior to the scheduled

date of the review, except if the time limit is waived by the review body or its presiding officer. A similar statement may be submitted by the body whose adverse action or recommended action occasioned the review, and if submitted, the Medical Director shall provide a copy to the member and to the appellate review body at least ten (10) days prior to the scheduled date of the appellate review.

Section 31. Presiding Officer

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

Section 32. Oral Statement

The appellate review body, in its sole discretion, may allow the parties or their representatives to personally appear and make oral statements in favor of their positions. Any party or representative appearing shall be required to answer questions put by any member of the review body.

Section 33. Consideration of New or Additional Matters

New or additional matters or evidence not raised or presented during the original hearing or in the hearing report and not otherwise reflected in the record may be introduced at the appellate review only at the discretion of the review body and only if the party requesting consideration of the matter or evidence demonstrates to the satisfaction of the review body that it could not have been discovered in time for the initial hearing. The requesting party shall provide, through the Medical Director, a written, substantive description of the matter or evidence to the appellate review body and the other party prior to its being introduced at the review. Any such new or additional matters or evidence shall be subject to the same rights of cross-examination, impeachment, and rebuttal provided at the hearing pursuant to Section 13 of this Article IX.

Section 34. Powers

The appellate review body has all the powers granted to the hearing committee, and any additional powers that are reasonably appropriate to or necessary for the discharge of its responsibilities.

Section 35. Presence of Members and Vote

A majority of the members of the review body must be present throughout the appellate review and deliberations. If a member is absent from any part of the proceedings, the presiding officer of the appellate review may, in his discretion, rule that said member shall not be permitted to participate further in the review or deliberations or in the decision of the review body.

Section 36. Recesses and Adjournments

The review body may recess and reconvene the proceedings without Special Notice for the convenience of the participants or for the purpose of obtaining new or additional evidence or consultation. At the conclusion of the oral statements, if allowed, the appellate review shall be adjourned. The review body shall then, at a time convenient to itself, conduct its deliberations outside the presence of the parties.

Section 37. Action Taken

Within thirty (30) days after adjournment pursuant to Section 21 of this Article IX, the review body shall prepare its report and conclusion with the result as provided below. The Medical Director shall send notice of each action taken under Section 22 of this Article IX below to the

Chairperson of the Medical Executive Committee for transmittal to the appropriate Staff authorities and to the member by Special Notice.

a. Governing Body Decision

(1) Within fifteen (15) days after adjournment, appellate review body shall make its decision, including a statement of the basis of the decision. The appellate review body may decide:

(a) that the adverse recommendation be affirmed; that the adverse recommendation be denied;

(b) that the matter be the subject of further hearing or other appropriate procedures within a specified time period; or

(c) that modification of the adverse recommendation be made so that it is no longer unreasonable, arbitrary, capricious, or discriminatory.

If the appellate review body finds that the procedures were substantially complied with and that the adverse recommendation which is the subject of the appeal was not unreasonable, arbitrary, capricious, discriminatory, or lacking in basis, it shall affirm the adverse recommendation in its decision.

(2) A majority vote of the members of the appellate review body authorized to vote is required for an adverse decision.

(3) The decision of the appellate review body on behalf of the Governing Body shall be effective upon the date of such decision, unless reversed or modified by the Governing Body within thirty (30) days.

(4) A copy of the appellate review body's decision shall be sent to the member by Special Notice within five (5) days following its decision.

Section 38. Hearing Officer Appointment and Duties

The use of a hearing officer to preside at the evidentiary hearing is optional and is to be determined by, and the actual officer if any to be used is to be selected by the Chairperson of the Medical Executive Committee in conjunction with the Medical Director. A hearing officer may or may not be an attorney at law, but must be experienced in and recognized for conducting Medical Staff hearings in an orderly, efficient, and non-partisan manner.

Section 39. Number of Hearings and Reviews

Notwithstanding any other provision of these ASC Medical Staff Bylaws, no member shall be entitled as a right to more than one evidentiary hearing and appellate review with respect to the subject matter that is the basis of the adverse action or recommended action giving use to the right.

Section 40. Release

By requesting a hearing or appellate review under this Article IX, a member agrees to be bound by the provisions of Article VIII of these ASC Medical Staff Bylaws.

ARTICLE X – MEDICAL DIRECTOR

Section 1. Appointment

The Medical Director shall be appointed and approved by the ASC Governing Body. The Medical Director appointment may be cancelled by either the Governing Body or the Medical Director by providing thirty (30) days written notice to either party. The Medical Director shall perform the duties assigned by the ASC's Governing Body and by the Governing Body Bylaws and the ASC Medical Staff Bylaws.

Section 2. Responsibilities

The Medical Director is invested with the following duties and prerogatives:

1. Call and preside over Quality Improvement (QI) meetings.
2. Facilitate adherence of the Medical Staff of the ASC to the ASC Bylaws.
3. Be chief spokesperson and enunciator of policy for the Medical Staff.
4. Monitor adherence to policies with respect to patient rights.
5. Assist the Administrator in arranging for an appropriately trained, professional staff capable of providing safe, efficient, quality patient care.
6. Assist the Administrator in developing a structure that clearly delineates the authority and responsibility of the Medical Staff within the organization.
7. Take the initiative in developing, on behalf of the Medical Staff, appropriate policies and procedures for the safe, effective conduct of business and provision of patient care; and review all clinical policies and procedures of the ASC. The Medical Director shall be specifically authorized to approve (after consultation with the appropriate QI specialty representatives) and implement policies and procedures (subject to such subsequent QI review and ASC Governing Body ratification).
8. Take the initiative in developing, on behalf of the Medical Staff, Quality Improvement, Risk Management, and Peer Review programs in accordance with applicable standards.
9. Advise the Administrator in arranging for ancillary services including laboratory, radiology, and pathology services.
10. Carry out all other duties specifically entrusted to him/her by the QI, ASC Governing Body or any other provision of these Bylaws.

ARTICLE XI — COMMITTEES

The Governing Body, or Medical Director with the approval of the Governing Body, may establish such committees as are necessary to fulfill the functions of the ASC. Membership of the Medical Executive Committee and other committees established under this Article of the Bylaws will be by appointment of the Governing Body, with the advice of the Medical Director, unless otherwise specified.

Unless otherwise specified in these Bylaws or at the time of selection or appointment of a Committee, non-medical staff members of a committee shall serve in an ex-officio capacity without a vote.

Committees of the Medical Staff described in the ASC Medical Staff Bylaws all function as "medical committees" and/or "medical peer review committees" pursuant to state law. Each committee's records and proceedings are, therefore, confidential, legally privileged, and protected from discovery under certain circumstances.

The function that the committee performs determines the protected status of its activities. Information is protected by the privilege if it is sought out or brought to the attention of the medical committee and/or medical peer review committee for purposes of an investigation, review, or other deliberative proceeding. Medical peer review activities include the evaluation of medical and health care services, including the evaluation of the qualifications of professional health care practitioners and of patient care provided by those practitioners. These review activities include evaluating the merits of complaints involving health-care practitioners, and determinations or

recommendations regarding those complaints. The medical peer review privilege applies to records and proceedings of the committee, and oral and written communications made to a medical peer review committee when engaged in medical peer review activities. Medical committee activities also include the evaluation of medical and health care services. The medical committee privilege protection extends to the minutes of meetings, correspondence between committee members relating to the deliberative process, and any final committee product, such as any recommendation or determination.

In order to protect the confidential nature of the quality and peer review activities conducted by the committee, the committee's records and proceedings must be used only in the exercise of proper medical committee and/or medical peer review functions to be protected as described herein. Therefore, committee meetings must be limited to only the committee members and invited guests who need to attend the meetings. The committee must meet in executive session when discussing and evaluating the qualifications and professional conduct of professional health care practitioners and patient care provided by those practitioners. At the beginning of each meeting, the committee members and invited guests must be advised that the records and proceedings must be held in strict confidence and not used or disclosed other than in committee meetings, without prior approval from the Chair of the committee. Documents prepared by or considered by committee in the committee meetings must clearly indicate that they are not to be copied, are solely for use by the committee, and are privileged and confidential.

The records and proceedings of the ASC departments ***that support*** the quality and peer review functions of a committee, such as the Patient Safety/Risk Management and Quality Program departments are also confidential, legally privileged, and protected from discovery, if the records are prepared by or at the direction of the committee, and are not kept in the ordinary course of business. Routine administrative records prepared by the ASC in the ordinary course of business are not legally privileged or protected from discovery. Documents that are gratuitously submitted to the committee, or which have been created without committee impetus and purpose, are also not protected.

Section 1. The Medical Executive Committee

a. Membership
All Active Medical Staff members are eligible for membership on the Medical Executive Committee. The Medical Director shall act as the Chair of the Medical Executive Committee.

b. Voting Members

The Medical Executive Committee shall consist of five (5) members of the Active Medical Staff, including the Medical Director. There shall be no more than one (1) committee member per specialty and there must be a committee member from anesthesiology.

c. Election of Voting Members

Voting members of the Medical Executive Committee will be elected every two (2) years. Nominations and voting will occur at the beginning of the first Medical Executive Committee meeting of the new term. In the event a voting member is unable to complete his or her term, a special election will occur at the next Medical Executive Committee to fill the position.

d. Ex-officio Non-Voting Members:

(1) The Administrator of the ASC at LBJ.

e. Invited Guests

At the request of a committee member, non-voting guests may attend meetings of the Medical Executive Committee.

Duties

(1) Report to the Governing Body on all evaluation, monitoring and recommendations regarding the appropriateness and quality of health care services rendered to the patients at the ASC;

(2) Review, investigate, and make recommendations on matters relating to the professional competence and conduct of Practitioners and APPs, including the merits of complaints and appropriate corrective action;

(3) Represent and act on behalf of the Medical Staff and APPs between meetings, subject to such limitations imposed by these Bylaws;

(4) Coordinate the activities of and initiate and implement general policies applicable to the Medical Staff;

(5) Receive and act upon committee reports;

(6) Act as the liaison between the Medical Staff and the Governing Body;

(7) Periodically review all information available concerning the performance and clinical competence of Practitioners and APPs with clinical privileges and make recommendations for reappointment or changes in clinical privileges;

(8) Take all reasonable steps to ensure professional, ethical conduct and competent clinical performance on the part of the Practitioners and APPs with clinical privileges in the ASC;

(9) Review credentials of all applicants to the Medical Staff, as well as APPs, make recommendations on initial appointment and reappointment to the medical staff, and delineate clinical privileges;

(10) Perform appropriate functions related to quality assessment and improvement, medical records, surgery, infection control and antibiotic usage, tissue review, medical staff utilization, pharmacy and therapeutics, anesthesiology, and other such functions; and

(11) Perform other duties as requested by the Governing Body.

(12) Monitor and determine that system issues that are identified as part of professional practice evaluation activities are successfully resolved;

(13) Work with Service Chiefs to disseminate educational lessons learned from the review of cases pursuant to the Professional Practice Evaluation (PPE) Policy, either through peer learning sessions in the Service or through some other mechanism

(14) Educating the ASC Medical Staff and other ASC staff regarding illness and impairment recognition issues specific to Practitioners and APPs;

(15) Encouraging self-reporting by Practitioners and APPs and referral by other members of the ASC Medical Staff

(16) Determining the best avenue of referral to care for a Practitioner or APP;

(17) Monitoring the progress of an affected Practitioner or APP until the rehabilitation process is complete

(18) Reporting to the ASC Medical Director or their designee, instances when there is evidence that a Practitioner or APP represents a clear and imminent danger to self, others, or patients.

ARTICLE XII— IMMUNITY FROM LIABILITY

The following shall be express conditions to any Medical Staff member's application for clinical privileges within the ASC at LBJ:

Condition 1.

Any act, communication, report, recommendation, or disclosure, with respect to any such Medical Staff member performed, or made in good faith and without malice, for the purpose of achieving and maintaining quality patient care in this or any other health care facility, shall be privileged and immune from liability to the fullest extent permitted by law.

Condition 2.

All such privileges and immunities shall extend to members of The ASC at LBJ's Medical Staff and of its Governing Body, its other Practitioners, its Medical Director and his or her representatives, the Administrator of the ASC at LBJ, and to third parties who supply information to any of the foregoing authorized to receive, release, or act upon the same. For the purpose of this Article XVII, the term "third parties" means both individuals and organizations who provide information to an authorized representative of the Governing Body or of the Medical Staff.

Condition 3.

There shall be, to the fullest extent permitted by law, absolute immunity from civil liability arising from any such act, communication, report, recommendation, or disclosure, even where the information involved would otherwise be deemed privileged.

Condition 4.

All such immunity shall apply to all acts, communications, reports, recommendations, or disclosures performed or made in connection with this or any other health care institution's activities, including, but not limited to:

a. Applications for appointment or clinical privileges;
b. Periodic reappraisals for reappointment or clinical privileges;
c. Corrective action, including summary suspension;
d. Hearings and appellate reviews;
e. Medical care evaluations;
f. Utilization reviews; and
g. Other ASC, department, service or committee activities related to quality patient care and inter-professional conduct.

Condition 5.

The acts, communications, reports, recommendations and disclosures referred to in this Article XII may relate to a Medical Staff member's professional qualifications, ethics, or any other matter that might directly or indirectly have an effect on patient care.

Condition 6.

Each Medical Staff member shall, upon request of the ASC at LBJ, execute a release in favor of the entities identified in the Second paragraph of this Section and consistent with the provisions of this Article XII.

ARTICLE X111 — CONFLICTS OF INTEREST

Section 1. Definitions

Conflicts of Interest – A conflict of interest potentially exists when a Medical Staff member, or a relative, has direct or indirect interests, including financial and personal interests, or business transactions or professional activities, that may compromise or appear to compromise: (1) the Medical Staff member's clinical judgment; (2) the delivery of patient care; or (3) the Medical Staff member's ability to fulfill his or her Medical Staff obligations.

Section 2. Compliance

Medical Staff members must comply with the Conflict of Interest policies of their affiliated organization (e.g., Baylor College of Medicine, The University of Texas Health Science Center at Houston, or Harris Health for Contract Practitioners and Medical Staff members employed by Harris Health).

Section 3. Disclosure of Potential Conflict of Interest

a. A Medical Staff member shall have a duty to disclose any conflict of interest when such interest is relevant to a matter of action (including a recommendation to Harris Health Administration or the Governing Body) being considered by a committee, department or other body of the Medical Staff. In a Medical Staff member's dealings with and on behalf of the ASC, the Medical Staff member shall be held to a strict rule of honest and fair dealing with the ASC. The Medical Staff member shall not use his or her position, or knowledge gained there from, so that a conflict might arise between the interests of the ASC and those of the Medical Staff member.

b. As a matter of procedure, the Chairperson of the Medical Staff committee or other body designated to consider a matter that may lead to the provision of items, services, or facilities to the ASC by a third party or the establishment of a business relationship between a third party and the ASC shall inquire, prior to any discussion of the matter, whether any Medical Staff member has a conflict of interest. The existence of a potential conflict of interest on the part of any committee member may be called to the attention of the committee Chairperson by any Medical Staff member with knowledge of the matter.

c. Any Medical Staff member with a conflict of interest on any matter should not vote or use his or her personal influence regarding the matter, and he or she should not be counted in determining the quorum for the body taking action or making a recommendation to the Governing Body. The minutes of that meeting should reflect that a disclosure was made, the abstention from voting, and the quorum situation.

d. The foregoing requirements should not be construed as preventing the Medical Staff member from briefly stating his or her position in the matter, nor from answering pertinent questions by the Governing Body or other Medical Staff members since his or her knowledge may be of great assistance.

ARTICLE XIV — RULES AND REGULATIONS

The Medical Staff shall adopt such Rules and Regulations as may be necessary to implement more specifically the general principles found within these Bylaws, subject to the approval of the Governing Body. These shall relate to the proper conduct of Medical Staff organizational activities, as well as embody the level of practice that is to be required of each Practitioner in the ASC. Such Rules and Regulations shall be a part of these Bylaws, except that they may be amended or repealed without previous notice at any general Medical Staff meeting, or by the Medical Executive Committee or at any special Medical Staff meeting on notice, provided a quorum is present. A two-thirds affirmative

vote of those present shall be required for amendment or repeal. Such changes shall become effective when approved by the Governing Body.

If the voting members of the Medical Staff propose to adopt a rule, regulation, or policy, or an amendment thereto, they shall communicate the proposal to the Medical Executive Committee prior to submission of the proposal to the Governing Body. If the Medical Executive Committee proposes to adopt a rule or regulation, or an amendment thereto, it first communicates the proposal to the Medical Staff. When the Medical Executive Committee proposes a policy or an amendment thereto, it shall thereafter report the change to the Medical Staff.

If the Medical Executive Committee or Medical Director identifies an urgent need for amendment to Rules and Regulations to comply with laws or regulations, the Medical Executive Committee may provisionally adopt, and the Governing Body may provisionally approve, an urgent amendment without prior notification of the Medical Staff. In such cases, the Medical Staff shall be immediately notified by the Medical Executive Committee. The Medical Staff shall have the opportunity for retrospective review of and comment on the provisional amendment. If there is no conflict between the Medical Staff and the Medical Executive Committee, the provisional amendment shall remain in place. If there is conflict over the provisional amendment, the process for resolving conflict between the Medical Staff and the Medical Executive Committee shall be implemented. If necessary, a revised amendment may be submitted to the Governing Body for action.

If there is a conflict between these Bylaws and the Rules and Regulations, the Bylaws shall prevail.

ARTICLE XV— PHYSICIAN/PRACTITIONER HEALTH ISSUES POLICY

The Medical Staff shall adopt such Physician/Practitioner Health Issues. Policy as may be necessary to implement more specifically the general principles found within these Bylaws, subject to the approval of the Governing Body. These shall relate to the proper conduct of Medical Staff organizational activities, as well as embody the level of practice that is to be required of each Practitioner in the ASC. Such Physician/Practitioner Health Issues Policy shall be a part of these Bylaws, except that the Policy may be amended or repealed without previous notice at any general meeting of Medical Staff, or by the Medical Executive Committee or at any special Medical Staff meeting on notice, provided a quorum is present. A two-thirds affirmative vote of those present shall be required for amendment or repeal. Such changes shall become effective when approved by the Governing Body.

ARTICLE XVI — CREDENTIALING POLICIES AND PROCEDURES

The Medical Staff shall adopt a Medical Staff Credentialing Procedures Manual as may be necessary to implement more specifically the general principles found within these Bylaws, subject to the approval of the Governing Body. These shall relate to the proper conduct of Medical Staff organizational activities, as well as embody the level of practice that is to be required of each Practitioner in the ASC. Such Medical Staff Credentialing Procedures Manual shall be a part of these Bylaws, except that the Manual may be amended or repealed without previous notice at any general meeting of Medical Staff, or by the Medical Executive Committee or at any special Medical Staff meeting on notice, provided a quorum is present. A majority vote of those present shall be required for amendment or repeal. Such changes shall become effective when approved by the Governing Body.

ARTICLE XVII — AMENDMENTS

Section 1. Amendment Process

a. Amendment(s) to the Bylaws may be proposed at any meeting of the Medical Executive Committee.

b. All proposed amendments to the Bylaws approved by the Medical Executive Committee shall be submitted to the members of the Active Medical Staff for approval. The proposed amendment(s) to be adopted shall require a majority vote of the Active Medical Staff voting on the proposed amendment. Proposed Bylaws may be voted on at any regular or special meeting of the Medical Staff or submitted to the members of the Active Medical Staff for vote by written or electronic ballot, as approved by the Medical Executive Committee. Notice of such regular or special meeting shall be made at least fifteen (15) days in advance and shall include the Bylaws amendment(s) to be voted upon.

c. Bylaws Amendment(s) approved by the Medical Executive Committee and the Medical Staff shall be forwarded to the Governing Body, which shall approve, disapprove or approve with modifications. If the Governing Body modifies any Bylaw amendments approved by the Medical Executive Committee and the Medical Staff, such amendments, as modified, shall be returned to the Medical Executive Committee, which may accept or reject the modifications. If the Medical Executive Committee accepts the modifications, the amendment shall be submitted to the members of the Active Medical Staff for approval or disapproval as described in Section (b) above. If the Medical Executive Committee rejects the modification, the amendment shall be submitted again to the Governing Body, which may either approve or disapprove the amendment. Any disputes regarding proposed bylaws amendments shall be referred to the Joint Conference Committee for discussion and further recommendation to the Medical Executive Committee and the Governing Body.

d. Bylaws Amendments may also be proposed to the Governing Body by the Medical Staff by majority vote of the members of the Active Medical Staff voting on the proposed amendment. Proposed Bylaws shall be brought before the Active Medical Staff by petition signed by 20% of the members of the Active Staff. Any such proposed Bylaw amendment shall be submitted to the Medical Executive Committee for review and comment before it is submitted to the voting members of the Active Medical Staff. Any Bylaw amendment approved by a majority of the Active Medical Staff shall be presented to the Governing Body for final action along with any comments from the Medical Executive Committee.

e. These Bylaws, and all amendments thereto, shall be effective when approved by the Governing Body, unless otherwise stated in the Bylaw provision or amendment approved by the Governing Body, and shall apply to all pending matters to the extent practical, unless the Governing Body directs otherwise.

f. These Bylaws shall not be unilaterally amended by the Governing Body or the Medical Staff.

Section 2. Editorial Amendments

Notwithstanding Section 1 of this Article XVIII, the Medical Staff Services shall have the authority to make non-substantive editorial changes to the Bylaws and to correct any typographical, formatting, and inadvertent errors.

Section 3. Review Process

These Bylaws shall be reviewed at least annually and amendments made according to the described amendment procedure.

ARTICLE XVIII — PARLIAMENTARY PROCEDURES

Where these Bylaws do not conflict, *Robert's Rules of Order* shall be used in the conduct of Medical Staff meetings.

ARTICLE XIX — CONFLICT MANAGEMENT

A conflict management process shall be developed and implemented when a conflict arises between the Medical Executive Committee and Medical Staff on issues including, but not limited to, proposals to adopt provisions of, or amendments to, the Rules and Regulations or these Bylaws. The conflict management process shall include a meeting between the involved parties as early as possible to identify the conflict, gathering information about the conflict, working with all parties to manage and, to the extent possible, resolve the conflict, and ultimately protect patient safety and quality of care. As necessary, the Medical Director shall appoint an individual to act as mediator between the groups in an effort to resolve the conflict. The Governing Body shall have the ultimate discretion to determine an effective resolution to any conflict between the Medical Staff and the Medical Executive Committee, should the parties not be able to come to a resolution. The Governing Body shall regularly review whether the process is effective at managing conflict and shall revise the process as necessary.

ARTICLE XX - ADOPTION

These Bylaws shall be adopted at any regular or special meeting of the Active Staff, shall replace any previous Bylaws, and shall become effective when approved by the Governing Body of The Ambulatory Surgical Center (ASC) at LBJ.

Accepted and adopted by the Medical Director and Chair of the Medical Executive Committee of the Ambulatory Surgical Center (ASC) at LBJ and the ASC Governing Body on.

APPROVED BY THE MEDICAL DIRECTOR AND CHAIR OF THE MEDICAL EXECUTIVE COMMITTEE OF THE AMBULATORY SURGICAL CENTER (ASC) AT LBJ:

~~Scott Perry~~Mackenzie Jacoby, MD
Medical Director, Chair of Medical Executive Committee ASC at LBJ

APPROVED BY THE GOVERNING BODY OF THE AMBULATORY SURGICAL CENTER (ASC) AT LBJ:

Libby Viera Bland, ACP
Chair, ASC Governing Body

BOARD OF TRUSTEES

Ambulatory Surgical Center at LBJ Governing Body

HARRISHEALTH

Wednesday, November 11, 2026

Consideration of Approval of Changes to the ASC Otolaryngology Privileges

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A request was made to revise the ASC Otolaryngology Privileges to include surgery of the face/eyelid.

The Medical Executive Committee has approved the revisions to the ASC Otolaryngology Privileges and requests the approval of the ASC Governing Body.

Privilege Requested	Please check the privilege(s) requested	MEC Chair Approval Date
Amputation external ear CO2 A.R.C. laser ablation of tumor (larynx/pharynx/oral cavity) *		
Endoscopic sinus surgery		
Excision/destruction nasal lesion		
Excision lesion external auditory canal		
Excision parotid tumor		
Excision thyrogloddal duct/cyst/sinus		
Excision tumor neck soft tissue		
Cartilage graft ear		
Cartilage graft nasal		
Incision tympanic membrane		
Laryngoscopy, bronchoscopy, esophagoscopy with or without intervention		
Myringoplasty		
Myringotomy w/wo tubes		
Palatoplasty		
Parathyroidectomy		
Reconstruct external auditory canal		
Remove foreign body auditory canal		
Repair nasal vestibule		
Resection nasal turbinates		
Rhinoplasty major/minor		
Septoplasty		
Stapedectomy/Stapedotomy		
Surgery of the face/eyelid		
Thyroidectomy		
Tympanoplasty w/wo mastoidectomy, w/wo ossicle reconstruction		
Tonsillectomy & adenoidectomy		

BOARD OF TRUSTEES

Ambulatory Surgical Center at LBJ Governing Body

HARRISHEALTH

Wednesday, November 11, 2026

Consideration of Approval of a New Policy for the ASC

Attached for review is a new policy, ASC-P-6020: Surgical Smoke Safety, for the Ambulatory Surgical Center at LBJ.

Surgical Smoke Safety

The Ambulatory Surgical Center at LBJ

Policy Number	ASC-P-6020	**Version**	
Policy Owner		**Effective Date**	
Executive Owner		**Next Review**	

TITLE: SURGICAL SMOKE SAFETY

PURPOSE: To provide guidance to perioperative personnel for creating an environment that reduces the exposure of patients and personnel to surgical smoke. The expected outcome is that the patient and perioperative team members are free from signs and symptoms of chemical, particulate, and biohazardous injury

POLICY STATEMENT:

It is the policy of The Ambulatory Surgical Center at LBJ, Harris Health System, that when surgical smoke (e.g., plume, aerosols, laser-generated airborne contaminants) is generated by surgical energy devices (e.g., electrosurgical units, lasers, ultrasonic scalpels/dissectors) during operative or other invasive procedures, all surgical smoke will be captured and filtered through the use of smoke evacuation devices or in-line surgical smoke filters positioned on suction lines.

DEFINITIONS

Surgical smoke: The vaporous and gaseous by-product of burning organic material created as a result of the destruction of tissue by lasers, electrosurgical units, ultrasonic devices, powered instruments, and other heat-producing surgical tools. Surgical smoke can contain toxic gases and vapors such as benzene, hydrogen cyanide, formaldehyde, and bioaerosols; dead and live cellular material including blood fragments; and viruses. At high concentrations, surgical smoke causes ocular and upper respiratory tract irritation in health care workers and creates obstructive visual problems for the surgeon. Surgical smoke has unpleasant odors and has been shown to have mutagenic potential. Synonyms: surgical plume, laser-generated airborne contaminants.

Ultra-low particulate air (ULPA) filter: A filter that demonstrates an overall particulate efficiency of not less than 99.999%. Manufacturers report filtering efficiencies based on standardized validation and testing procedures; therefore, reported filtering qualities (ie, particulate efficiency, most penetrating particle size) may vary slightly. Synonym: ultra-low penetration air filter.

SURGICAL PROCEDURES

The perioperative RN in collaboration with the surgical team will assess each surgical procedure that requires the use of surgical energy devices that could produce surgical smoke and will select a smoke evacuation system and supplies to evacuate and filter the surgical smoke.

All surgical smoke will be removed and filtered using a smoke evacuation system during operative and other invasive procedures that generate surgical smoke.

(1) A smoke evacuation unit with an ultra-low particulate air [ULPA] filter and activated carbon filter will be used.

(2) The smoke capture device (eg, wand, tubing) will be positioned as close to the surgical site as necessary to effectively collect the surgical smoke.

Surgical Smoke Safety

The Ambulatory Surgical Center at LBJ

Policy Number	ASC-P-6020	Version	
Policy Owner		Effective Date	
Executive Owner		Next Review	

(a) The smoke evacuator will be activated at all times when surgical smoke is produced during the procedure.

(3) Surgical smoke will be evacuated and filtered with a surgical smoke management system during minimally invasive procedures.

(4) The smoke evacuation device will have ULPA filtration capability.

(5) Unfiltered surgical smoke will not be released into the OR during minimally invasive procedures.

(6) Standard precautions will be used to handle used smoke evacuator filters, tubing, and wands as potentially infectious waste and to dispose of these items as biohazardous waste.

Respiratory protection (ie, a fit-tested N95 filtering face piece respirator) may be used as secondary protection against residual surgical smoke.

(7) A fit-tested surgical N95 filtering face piece respirator will be worn in conjunction with smoke evacuation and filtration during surgical smoke-generating procedures involving tissue that contains HPV.

(8) A fit-tested surgical N95 filtering face piece respirator may be worn in conjunction with smoke evacuation and filtration during smoke-generating procedures involving the liver.

(9) A sign will be posted at the OR entrance to notify OR team members that respiratory protection is being used as secondary protection from surgical smoke.

(10) Any injury, malfunction, or failure of a smoke evacuation device that may affect patient or personnel safety shall be reported and documented in accordance with the ASC's policy ASC-P-5003 using the designated occurrence reporting system.

Competency

(11) Perioperative personnel who participate in procedures during which surgical smoke is produced will receive education and complete competency verification on the principles and processes for reducing surgical smoke and use of smoke evacuation equipment.

REFERENCES/BIBLIOGRAPHY:

Guideline for surgical smoke safety. In: Guidelines for Perioperative Practice. Denver, CO: AORN, Inc; 2022.

Incident Reporting ASC-P-5003

OFFICE OF PRIMARY RESPONSIBILITY:

The Ambulatory Surgical Center (ASC) at LBJ

Surgical Smoke Safety

The Ambulatory Surgical Center at LBJ

Policy Number	ASC-P-6020	**Version**	
Policy Owner		**Effective Date**	
Executive Owner		**Next Review**	

REVIEW/REVISION HISTORY:

Effective Date	Version # (If Applicable)	Review/ Revision Date (Indicate Reviewed or Revised)	Approved by:

BOARD OF TRUSTEES

Ambulatory Surgical Center at LBJ Governing Body

HARRISHEALTH

Wednesday, November 11, 2026

Consideration of Approval of the Amended ASC Scope of Services

HARRISHEALTH SYSTEM

Page Number: 1 of 3

Effective Date: 11/4/26

Nursing Services Department

The Ambulatory Surgical Center at LBJ

Scope of Services

Title: The Ambulatory Surgical Center (ASC) at LBJ

Scope of Care	The Ambulatory Surgical Center (ASC) at LBJ Hospital provides high-quality, patient-centered surgical care in an outpatient setting. The ASC includes 5 operating rooms designed to support a wide range of elective surgical procedures. The nursing staff delivers care during the preoperative, intraoperative, and postoperative phases; all collaboration is aimed at ensuring continuity and safety.
Patient Population Served	The ASC serves pediatric, adult, and geriatric patients who are scheduled for elective outpatient surgical or procedural interventions. Patients are discharged the same day following recovery.
Criteria for Admission	Patients are admitted based on scheduled, elective surgical procedures that are appropriate for an outpatient setting. Patients must meet pre-operative screening criteria to ensure they are medically stable for same-day surgery.
Procedures/Treatments Provided	Surgical specialties supported at the ASC include general surgery, orthopedics, ophthalmology, otorhinolaryngology (ENT), urology, gynecology, plastics, and oral maxillofacial surgery. Procedures are selected based on their suitability for outpatient care.
Hours of Operation	The ASC operates Monday through Friday, during scheduled daytime hours. Monday to Friday: 0600-1900
Leadership	The ASC is led by a Director of Nursing with operational responsibility 24/7 and has overall accountability for the strategic, operational, human resource, quality, and financial management of the service. The leadership team includes Nurse Managers (PACU/Pre-OP and Operating Room) and Charge Nurses who oversee daily operations, staffing, and clinical decision-making. The ASC reports to the Administrator, ASC at LBJ.
Unit Governance	Shared governance is based upon a Community of Practice model, led by a unit-based clinician board and facilitated by a member of the leadership team. The clinician board members are responsible for engaging specified groups of nurses in two-way dialogue concerning professional practice and patient care issues, resulting in shared decision making.

HARRISHEALTH SYSTEM

Nursing Services Department

The Ambulatory Surgical Center at LBJ

Scope of Services

Staffing Skill Mix/ Qualifications	Staffing is based on national benchmarks, patient acuity, and historical volume. The team includes registered nurses, certified surgical technologists, and unlicensed assistive personnel. All staff complete department-specific competencies during orientation and annually. New graduate nurses participate in a structured residency program. Health Unit Coordinators provide clerical support. Interpreter services are available in-person and via dual-handset or portable devices to support patients with limited English proficiency.
Students	The ASC supports the Harris Health mission to educate future healthcare professionals. Nursing and surgical technologist students from local institutions complete clinical rotations under the guidance of experienced preceptors.
Approved Certifications	Certification is strongly encouraged. Recognized certifications include, but are not limited: 1. Certified Nurse Operating Room (CNOR) 2. Certified Surgical Technologist (CST) through AST or NBSTSA 3. Certified Ambulatory Perianesthesia Nurse (CAPA). 4. Certified Post Anesthesia Nurse (CPAN). 5. Nurse Executive and Nurse Executive Advanced – Board Certified (NE-BC and NEA-BC) 6. Certified Anesthesia Technician (Cer.A.T) 7. Certified Registered Central Service Technician (CRCST) 8. Certified Instrument Specialist (CIS) 9. Certified Endoscope Reprocessor (CER)
Plan for Modifying Staffing to Meet Patient or Process Needs	Staffing adjustments are made based on surgical volume and patient acuity. Options include voluntary overtime, use of the Nursing Registry, and leadership support in clinical roles. Shift huddles are conducted to assess and optimize staffing resources.
Assessment and Reassessment Practices and Timeframes	Patients are assessed in the Pre-Operative Holding Area prior to surgery. Continuous reassessment is performed throughout the procedure by the surgical and anesthesia teams to ensure patient safety and optimal outcomes.

HARRISHEALTH SYSTEM **Nursing Services Department** **The Ambulatory Surgical Center at LBJ** **Scope of Services**	Page Number: 3 of 3 Effective Date: 11/4/26

REVIEW/REVISION HISTORY:

Effective Date	Version # (If Applicable)	Review/ Revision Date (Indicate Reviewed or Revised)	Approved by: