State of West Virginia
Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

# Solicitation

| NUMBER | PAGE |
|---|---|
| WEH13002 | 1 |

ADDRESS CORRESPONDENCE TO ATTENTION OF:
ROBERTA WAGNER
304-558-0067

VENDOR
RFQ COPY
TYPE NAME/ADDRESS HERE

SHIP TO
WELCH EMERGENCY HOSPITAL
454 MCDOWELL STREET

WELCH, WV
24801 348-3469

DATE PRINTED
03/05/2013

BID OPENING DATE: 04/04/2013 BID OPENING TIME 1:30PM

| LINE | QUANTITY | UOP | CAT. NO. | ITEM NUMBER | UNIT PRICE | AMOUNT |
|---|---|---|---|---|---|---|
| 0001 | 12 | MN | | 948-55 | | |
| | PHARMACY MANAGEMENT SERVICES | | | | | |
| | ****** THIS IS THE END OF RFQ WEH13002 ****** TOTAL: | | | | | |

| SIGNATURE | TELEPHONE | DATE |
|---|---|---|
| TITLE | FEIN | ADDRESS CHANGES TO BE NOTED ABOVE |

WHEN RESPONDING TO SOLICITATION, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

## INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. **REVIEW DOCUMENTS THOROUGHLY:** The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.

2. **MANDATORY TERMS:** The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

3. **PREBID MEETING:** The item identified below shall apply to this Solicitation.

   [ ✓ ] A pre-bid meeting will not be held prior to bid opening.

   [ ] A NON-MANDATORY PRE-BID meeting will be held at the following place and time:

   [ ] A MANDATORY PRE-BID meeting will be held at the following place and time:

   All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one person attending the pre-bid meeting may represent more than one Vendor.

   An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. The State will not accept any other form of proof or documentation to verify attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing. Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required

information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in, but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. **VENDOR QUESTION DEADLINE:** Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below in order to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are non-binding.

Question Submission Deadline: 3/19/2013

Submit Questions to:

Roberta Wagner
2019 Washington Street, East
P.O. Box 50130
Charleston, WV 25305
Fax: 304-558-4115
Email: roberta.a.wagner@wv.gov

5. **VERBAL COMMUNICATION:** Any verbal communication between the Vendor and any State personnel is not binding, including that made at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

6. **BID SUBMISSION:** All bids must be signed and delivered by the Vendor to the Purchasing Division at the address listed below on or before the date and time of the bid opening. Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason. The bid delivery address is:

Department of Administration, Purchasing Division
2019 Washington Street East
P.O. Box 50130,
Charleston, WV 25305-0130

The bid should contain the information listed below on the face of the envelope or the bid may not be considered:

SEALED BID
BUYER: _____
SOLICITATION NO.: _____
BID OPENING DATE: _____
BID OPENING TIME: _____
FAX NUMBER: _____

In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal plus [ ] convenience copies of each to the Purchasing Division at the address shown above. Additionally, the Vendor should identify the bid type as either a technical or cost proposal on the face of each bid envelope submitted in response to a request for proposal as follows:

BID TYPE: [ ] Technical
[ ✓ ] Cost

7. **BID OPENING:** Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when time stamped by the official Purchasing Division time clock.

| | |
|---|---|
| **Bid Opening Date and Time:** | 4/4/2013 at 1:30 pm |
| Bid Opening Location: | Department of Administration, Purchasing Division<br>2019 Washington Street East<br>P.O. Box 50130,<br>Charleston, WV 25305-0130 |

8. **ADDENDUM ACKNOWLEDGEMENT:** Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

9. **BID FORMATTING:** Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

## GENERAL TERMS AND CONDITIONS:

1. **CONTRACTUAL AGREEMENT:** Issuance of a Purchase Order signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. **DEFINITIONS:** As used in this Solicitation / Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation / Contract.

   2.1 **"Agency"** or **"Agencies"** means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

   2.2 **"Contract"** means the binding agreement that is entered into between the State and the Vendor to provide the goods and services requested in the Solicitation.

   2.3 **"Director"** means the Director of the West Virginia Department of Administration, Purchasing Division.

   2.4 **"Purchasing Division"** means the West Virginia Department of Administration, Purchasing Division.

   2.5 **"Purchase Order"** means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the successful bidder and Contract holder.

   2.6 **"Solicitation"** means the official solicitation published by the Purchasing Division and identified by number on the first page thereof.

   2.7 **"State"** means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

   2.8 **"Vendor"** or **"Vendors"** means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. **CONTRACT TERM; RENEWAL; EXTENSION:** The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

| ✓ | **Term Contract**

**Initial Contract Term:** This Contract becomes effective on award

and extends for a period of one (1) year(s).

**Renewal Term**: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal must be submitted to the Purchasing Division Director thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Renewal of this Contract is limited to two (2) successive one (1) year periods. Automatic renewal of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases. Attorney General approval may be required for vendor terms and conditions.

**Reasonable Time Extension**: At the sole discretion of the Purchasing Division Director, and with approval from the Attorney General's office (Attorney General approval is as to form only), this Contract may be extended for a reasonable time after the initial Contract term or after any renewal term as may be necessary to obtain a new contract or renew this Contract. Any reasonable time extension shall not exceed twelve (12) months. Vendor may avoid a reasonable time extension by providing the Purchasing Division Director with written notice of Vendor's desire to terminate this Contract 30 days prior to the expiration of the then current term. During any reasonable time extension period, the Vendor may terminate this Contract for any reason upon giving the Purchasing Division Director 30 days written notice. Automatic extension of this Contract is prohibited. Notwithstanding the foregoing, Purchasing Division approval is not required on agency delegated or exempt purchases, but Attorney General approval may be required.

| | **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

| | **One Time Purchase:** The term of this Contract shall run from the issuance of the Purchase Order until all of the goods contracted for have been delivered, but in no event shall this Contract extend for more than one fiscal year.

| | **Other:** See attached.

4. **NOTICE TO PROCEED:** Vendor shall begin performance of this Contract immediately upon receiving notice to proceed unless otherwise instructed by the Agency. Unless otherwise specified, the fully executed Purchase Order will be considered notice to proceed

5. **QUANTITIES:** The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

   | | **Open End Contract:** Quantities listed in this Solicitation are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

   |✓| **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

   | | **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

   | | **One Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

6. **PRICING:** The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification.

7. **EMERGENCY PURCHASES:** The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One Time Purchase contract.

8. **REQUIRED DOCUMENTS:** All of the items checked below must be provided to the Purchasing Division by the Vendor as specified below.

   |✓| **BID BOND:** All Vendors shall furnish a bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

[✓] **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of [100 %of the Contract value]. The performance bond must be issued and received by the Purchasing Division prior to Contract award. On construction contracts, the performance bond must be 100% of the Contract value.

[ ] **LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be issued and delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under $100,000. Personal or business checks are not acceptable.

[ ] **MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

[✓] **WORKERS' COMPENSATION INSURANCE:** The apparent successful Vendor shall have appropriate workers' compensation insurance and shall provide proof thereof upon request.

[✓] **INSURANCE:** The apparent successful Vendor shall furnish proof of the following insurance prior to Contract award:

[✓] **Commercial General Liability Insurance:**
[1,000,000.00] or more.

[ ] **Builders Risk Insurance:** builders risk – all risk insurance in an amount equal to 100% of the amount of the Contract.

[✓] Professional Liability Insurance $1,000,000.00 or more.

[ ]

[ ]

[ ]

[ ]

The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether or not that insurance requirement is listed above.

[✓] **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section entitled Licensing, of the General Terms and Conditions, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits prior to Contract award, in a form acceptable to the Purchasing Division.

| | |
|---|---|
| [✓] | State of WV Board of Pharmacy Registered Pharmacist License |
| [✓] | State of WV Board of Pharmacy Registered Pharmacy Technician Certificate |
| [ ] | |
| [ ] | |

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications prior to Contract award regardless of whether or not that requirement is listed above.

9. **LITIGATION BOND:** The Director reserves the right to require any Vendor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or $5,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Agency. All litigation bonds shall be made payable to the Purchasing Division. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Purchasing Division. Cashier's or certified checks will be deposited with and held by the State Treasurer's office. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.

10. **ALTERNATES:** Any model, brand, or specification listed herein establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

11. **EXCEPTIONS AND CLARIFICATIONS:** The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or

other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

12. **LIQUIDATED DAMAGES:** Vendor shall pay liquidated damages in the amount no greater than the amount of the contract for the value of the service VENDOR failed to provide as set forth in the VENDOR's contract pricing. This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy.

13. **ACCEPTANCE/REJECTION:** The State may accept or reject any bid in whole, or in part. Vendor's signature on its bid signifies acceptance of the terms and conditions contained in the Solicitation and Vendor agrees to be bound by the terms of the Contract, as reflected in the Purchase Order, upon receipt.

14. **REGISTRATION:** Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the $125 fee if applicable.

15. **COMMUNICATION LIMITATIONS:** In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

16. **FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

17. **PAYMENT:** Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears, to the Agency at the address on the face of the purchase order labeled "Invoice To."

18. **UNIT PRICE:** Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

19. **DELIVERY:** All quotations are considered freight on board destination ("F.O.B. destination") unless alternate shipping terms are clearly identified in the bid. Vendor's listing of shipping terms that contradict the shipping terms expressly required by this Solicitation may result in bid disqualification.

20. **INTEREST:** Interest attributable to late payment will only be permitted if authorized by the West Virginia Code. Presently, there is no provision in the law for interest on late payments.

21. **PREFERENCE:** Vendor Preference may only be granted upon written request and only in accordance with the West Virginia Code § 5A-3-37 and the West Virginia Code of State Rules. A Resident Vendor Certification form has been attached hereto to allow Vendor to apply for the preference. Vendor's

failure to submit the Resident Vendor Certification form with its bid will result in denial of Vendor Preference. Vendor Preference does not apply to construction projects.

22. **SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES:** For any solicitations publicly advertised for bid on or after July 1, 2012, in accordance with West Virginia Code §5A-3-37(a)(7) and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to submission of its bid to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

23. **TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

24. **CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-7.16.2.

25. **WAIVER OF MINOR IRREGULARITIES:** The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.

26. **TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.

27. **APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

28. **COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendors acknowledge that they have reviewed, understand, and will comply with all applicable law.

29. **PREVAILING WAGE:** On any contract for the construction of a public improvement, Vendor and any subcontractors utilized by Vendor shall pay a rate or rates of wages which shall not be less than the fair minimum rate or rates of wages (prevailing wage), as established by the West Virginia Division of Labor under West Virginia Code §§ 21-5A-1 et seq. and available at http://www.sos.wv.gov/administrative-law/wagerates/Pages/default.aspx. Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage

requirements are applicable. The required contract provisions contained in West Virginia Code of State Rules § 42-7-3 are specifically incorporated herein by reference.

30. **ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

31. **MODIFICATIONS:** This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary, no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). **No Change shall be implemented by the Vendor until such time as the Vendor receives an approved written change order from the Purchasing Division.**

32. **WAIVER:** The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

33. **SUBSEQUENT FORMS:** The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

34. **ASSIGNMENT**: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments. Notwithstanding the foregoing, Purchasing Division approval may or may not be required on certain agency delegated or exempt purchases.

35. **WARRANTY**: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

36. **STATE EMPLOYEES:** State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

37. **BANKRUPTCY**: In the event the Vendor files for bankruptcy protection, the State of West Virginia may deem this Contract null and void, and terminate this Contract without notice.

38. **HIPAA BUSINESS ASSOCIATE ADDENDUM**: The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at **http://www.state.wv.us/admin/purchase/vrc/hipaa.html** and is hereby made part of the agreement provided that the Agency meets the definition of a Covered entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the Vendor.

39. **CONFIDENTIALITY**: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in http://www.state.wv.us/admin/purchase/privacy/default.html.

40. **DISCLOSURE:** Vendor's response to the Solicitation and the resulting Contract are considered public documents and will be disclosed to the public in accordance with the laws, rules, and policies governing the West Virginia Purchasing Division. Those laws include, but are not limited to, the Freedom of Information Act found in West Virginia Code § 29B-1-1 et seq.

    If a Vendor considers any part of its bid to be exempt from public disclosure, Vendor must so indicate by specifically identifying the exempt information, identifying the exemption that applies, providing a detailed justification for the exemption, segregating the exempt information from the general bid information, and submitting the exempt information as part of its bid but in a segregated and clearly identifiable format. Failure to comply with the foregoing requirements will result in public disclosure of the Vendor's bid without further notice. A Vendor's act of marking all or nearly all of its bid as exempt is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor's act of marking a bid or any part thereof as "confidential" or "proprietary" is not sufficient to avoid disclosure and WILL NOT BE HONORED. In addition, a legend or other statement indicating that all or substantially all of the bid is exempt from disclosure is not sufficient to avoid disclosure and WILL NOT BE HONORED. Vendor will be required to defend any claimed exemption for nondiclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Vendor must indemnify the State for any costs incurred related to any exemptions claimed by Vendor. Any questions regarding the applicability of the various public records laws should be addressed to your own legal counsel prior to bid submission.

41. **LICENSING:** In accordance with West Virginia Code of State Rules §148-1-6.1.7, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

**42. ANTITRUST:** In submitting a bid to, signing a contract with, or accepting a Purchase Order from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

**43. VENDOR CERTIFICATIONS:** By signing its bid or entering into this Contract, Vendor certifies (1) that its bid was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid for the same material, supplies, equipment or services; (2) that its bid is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this RFQ in its entirety; understands the requirements, terms and conditions, and other information contained herein. Vendor's signature on its bid also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

The individual signing this bid on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

**44. PURCHASING CARD ACCEPTANCE:** The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, to process payment for goods and services. The Vendor must accept the State of West Virginia's Purchasing Card for payment of all orders under this Contract unless the box below is checked.

[ ] Vendor is not required to accept the State of West Virginia's Purchasing Card as payment for all goods and services.

**45. VENDOR RELATIONSHIP:** The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, *etc.* and the filing of all necessary documents, forms and returns pertinent to all of the foregoing. Vendor shall hold harmless the

State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

**46. INDEMNIFICATION:** The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

**47. PURCHASING AFFIDAVIT:** In accordance with West Virginia Code § 5A-3-10a, all Vendors are required to sign, notarize, and submit the Purchasing Affidavit stating that neither the Vendor nor a related party owe a debt to the State in excess of $1,000. The affidavit must be submitted prior to award, but should be submitted with the Vendor's bid. A copy of the Purchasing Affidavit is included herewith.

**48. ADDITIONAL AGENCY AND LOCAL GOVERNMENT USE:** This Contract may be utilized by and extends to other agencies, spending units, and political subdivisions of the State of West Virginia; county, municipal, and other local government bodies; and school districts ("Other Government Entities"). This Contract shall be extended to the aforementioned Other Government Entities on the same prices, terms, and conditions as those offered and agreed to in this Contract. If the Vendor does not wish to extend the prices, terms, and conditions of its bid and subsequent contract to the Other Government Entities, the Vendor must clearly indicate such refusal in its bid. A refusal to extend this Contract to the Other Government Entities shall not impact or influence the award of this Contract in any manner.

**49. CONFLICT OF INTEREST:** Vendor, its officers or members or employees, shall not presently have or acquire any interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

**50. REPORTS:** Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

[ ] Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

[ ] Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.requisitions@wv.gov.

51. **BACKGROUND CHECK:** In accordance with W. Va. Code § 15-2D-3, the Director of the Division of Protective Services shall require any service provider whose employees are regularly employed on the grounds or in the buildings of the Capitol complex or who have access to sensitive or critical information to submit to a fingerprint-based state and federal background inquiry through the state repository. The service provider is responsible for any costs associated with the fingerprint-based state and federal background inquiry.

After the contract for such services has been approved, but before any such employees are permitted to be on the grounds or in the buildings of the Capitol complex or have access to sensitive or critical information, the service provider shall submit a list of all persons who will be physically present and working at the Capitol complex to the Director of the Division of Protective Services for purposes of verifying compliance with this provision.

The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check.

Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

52. **PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS:** Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.

b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open heath, basic oxygen, electric furnace, Bessemer or other steel making process.

The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:

a. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total

contract cost or two thousand five hundred dollars ($2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or

**b.** The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

**53. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL:** In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars ($50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products.

This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of WVDHHR/BHHF/Welch Community Hospital to establish a contract for a vendor to provide Pharmacy Management Services, to administer, manage and operate the Pharmacy for Welch Community Hospital (WCH).

2. **DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.

   **2.1 "Contract Services"** means Pharmacy Management Services provider, to administer, manage and operate the pharmacy within Welch Community Hospital.

   **2.2 "Pricing Page"** means the pages upon which Vendor should list its proposed price for the Contract Services. The Pricing Page is either included on the last page of this RFQ or attached hereto as Exhibit A.

   **2.3 "RFQ"** means the official request for quotation published by the Purchasing Division and identified as WEH13002.

3. **QUALIFICATIONS:** Vendor shall have the following minimum qualifications:

   **3.1.** Vendor shall obtain all federal and state requirements regarding licensing and certification of pharmacy management and staffing.

   **3.2.** Vendor shall provide upon request verification of a minimum of three years' experience of pharmacy management and staffing.

4. **MANDATORY REQUIREMENTS:**

   **4.1 Mandatory Contract Services Requirements and Deliverables:** Contract Services must meet or exceed the mandatory requirements listed below.

   **4.1.1** The vendor must quote the providing of Pharmacy Management Services; to administer, manage, and operate the pharmacy of Welch Community Hospital, to include but not limited to the following services:

   **4.1.2** Must provide qualified personnel in appropriate numbers to provide coverage of Welch Community Hospital's pharmacy during the hours of 8:00 am till 5:00 pm Monday through Friday, 8:00 am till 12:00 pm on

Saturday and Sunday with the remaining hours being covered by pharmacists being on call.

**4.1.3** Must provide seven day per week coverage of a duly licensed and qualified Pharmacist and Support Staff. Current staffing is two (2) full time Pharmacists, and three (3) full time pharmacy technicians; however, staffing is at the discretion of the successful vendor provided that adequate coverage is provided and all pharmacy staff must be provided by the successful vendor. All pharmacy staff must be licensed by the WV Board of Pharmacy. Successful Vendor must provide verification of State of West Virginia Board of Pharmacy Registered Pharmacist License and State of West Virginia Board of Pharmacy Registered Pharmacy Technician Certificate for each employee upon award. Vendor must comply with all regulations as established by the WV Health Care Authority, http://www.hca.wv.gov/policyandplanning/Pages/StateHealthPlan.aspx , WV State Board of Pharmacy, http://www.wvbop.com/index.php?option=com_content&view=article&id=54&Itemid=84 , and Welch Community Hospital (see attachment) rules and regulations.

**4.1.4** Vendor must oversee the provision of quality pharmacy services by promoting consistency, continuity and safety.

**4.1.5** Vendor must provide management of pharmacy inventory, in accordance with West Virginia Department of Health and Human Resources and State of West Virginia Purchasing Policies and Procedures.
http://intranet.wvdhhr.org/Policies/1201%20Procurement.pdf
http://intranet.wvdhhr.org/purchasing/Construction.aspx
http://www.state.wv.us/admin/purchase/Handbook/default.html

**4.1.6** Vendor must provide management of the Pharmacy Sterile Preparations Program that includes all large volume IV additives, hyperalientations, and piggybacks. The vendor must follow all regulations in accordance with Federal Regulation USP <797>: http://www.pbm.va.gov/LinksAndOtherResources/USP%20797%20Pharmaceutical%20Compounding%20-%20Sterile%20Compounding.pdf. Vendor must provide qualified personnel to compound sterile preparations.

**4.1.7** Vendor must administer the drug interaction program to assure that pharmacy profiles are maintained to support a defined drug interaction program and review individual patient drug therapy for incompatibilities, age related doses and minimum and maximum daily doses.

**4.1.8** Must provide emergency coverage of the Pharmacy during hours when not in operation. (See item 4.1.2. above for hours.)

**4.1.9** Must oversee all pharmacy personnel to insure adequate and competent coverage.

**4.1.10** Must maintain drug inventories to assure the availability of quality pharmaceuticals at reasonable costs in a timely and effective manner. The facility pays for all medication ordered. Pharmacy Management is not responsible for paying for medications nor do they receive any revenue from medications.

**4.1.11** Technicians must be nationally certified by Pharmacy Technician Certification Board.

**4.1.12** Must provide continuing education and consultation to nurses, physicians and other health professionals relating to new pharmaceutical developments and clinical and drug informational services.

**4.1.13** Must have the ability to operate and function within the Facility's integrated CPOE (Computerized Physician Order Entry) system. The Facility utilizes Open Vista, developed by the U.S. Department of Veterans Affairs, as their electronic health record. The pharmacist shall verify and finish orders within the system to work in BCMA (Bar Code Medication Administration). The Facility provides both hardware and software programs. The Pharmacist shall assist the State in maintaining the shared master drug file (The shared drug file is utilized by all State Facilities). The Facility utilizes the National Drug File (NDF) Support Group whom updates and maintains the drug-drug interaction file in Open Vista.

**4.1.14** Must provide or advise the hospital administration regarding equipment that may be needed in order to provide for the efficient and timely delivery of pharmacy services.

**4.1.15** Must ensure that all medications are "in date" and available when needed.

**4.1.16** Must provide and assist hospital in developing policies and procedures individually tailored to meet the pharmacy requirements of WCH.

**4.1.17** Must implement and update, in conjunction with medical staff, on a continuing basis, a formulary system that assures that duplication of medication inventory is minimized and aid in selection of the most appropriate, cost effective drugs.

**4.1.18** The Facility utilizes bar code technology (Bar Code Medication Administration) in administering medication. All drugs must be unit-dosed with attached bar codes. The pharmacist shall be responsible for scanning all new drugs purchased into the system.

**4.1.19** Shall enter patient charges into the hospital's accounting system for floor stock utilized, as identified by the charging individual. Must minimize lost charges from floor stock.

**4.1.20** Must permit the Department's authorized representatives and designees to have free access to the pharmacy and to observe and inspect its operation at any time, with or without notice, as deemed necessary by the representatives and to cooperate with the representatives by sharing all facility records, including financial and other relevant information upon request. The vendor must ensure maintenance of all records deemed necessary by the Department for proper monitoring and auditing of its performance under the contract.

**4.1.21** Must permit the Department to perform evaluations of the vendor's proper monitoring and auditing of its performance under the contract.

**4.1.22** Must permit the Department to perform evaluations of the vendor's performance of the terms of the contract, and make its findings known to the contractor and to any third parties as deemed appropriate by the Department.

**4.1.23** Must immediately notify the Department of any matters alleging liability of the facility, pharmacy or staff.

**4.1.24** Must submit periodic reports to the WCH Administration/Department regarding management of the pharmacy in accordance with procedures and established by the WCH Administration/Department.

**4.1.25** Must assure that all hospital records, medical records, financial and other reports and records are maintained on conformity with applicable federal and state regulations and established industry standards.

**4.1.26** Must confer with and assist the Department in evaluating the pharmacy services and in long range planning in order to meet the healthcare needs of WCH's patients.

**4.1.27** The pharmacy does not provide any outpatient services (such as employee prescriptions, discharge prescriptions, clinic support) at the current time.

**4.1.28** Must serve on WCH and Pharmacy Committee as appropriate.

**4.1.29** Must provide Clinical Pharmacy Services, including but not limited to: formulary, management, tabulated antibiotic, econotherapeutic information to the Medical Staff, dose and serum concentration reviews with dosing recommendations.

**4.1.30** Must integrate contract staff into hospital operations and must participate with Total Quality Management and other Quality Management activities that may be implemented as required.

**4.1.31** Must place orders for drugs from the Agency-Wide Drug Contract via automated ordering system.

**4.1.32** Must provide ongoing medical staff education utilizing newsletters, on-site in-services and medical information obtained from company resources. (Accredited medical/pharmacy school may also be utilized.)

## 5. CONTRACT AWARD:

**5.1 Contract Award:** The Contract is intended to provide Agency with a purchase price for the Contract Services. The Contract shall be awarded to the Vendor that provides the Contract Services meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

**5.2 Pricing Page:** Vendor should complete the Pricing Page by completing the Pricing Page included within this solicitation. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

Notwithstanding the foregoing, the Purchasing Division may correct errors as it deems appropriate. Vendor should type or electronically enter the information into the Pricing Page to prevent errors in the evaluation.

6. **PERFORMANCE:** Vendor and Agency shall agree upon a schedule for performance of Contract Services and Contract Services Deliverables, unless such a schedule is already included herein by Agency. In the event that this Contract is designated as an open-end contract, Vendor shall perform in accordance with the release orders that may be issued against this Contract.

7. **PAYMENT:** Agency shall *pay monthly fee as shown on the Pricing Pages, for all Contract Services performed and accepted* under this Contract. Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

8. **TRAVEL:** Vendor shall be responsible for all mileage and travel costs, including travel time, associated with performance of this Contract. Any anticipated mileage or travel costs may be included in the flat fee or hourly rate listed on Vendor's bid, but such costs will not be paid by the Agency separately.

9. **FACILITIES ACCESS:** Performance of Contract Services may require access cards and/or keys to gain entrance to Agency's facilities. In the event that access cards and/or keys are required:

**9.1.** Vendor must identify principal service personnel which will be issued access cards and/or keys to perform service.

**9.2.** Vendor will be responsible for controlling cards and keys and will pay replacement fee, if the cards or keys become lost or stolen.

**9.3.** Vendor shall notify Agency immediately of any lost, stolen, or missing card or key.

**9.4.** Anyone performing under this Contract will be subject to Agency's security protocol and procedures.

**9.5.** Vendor shall inform all staff of Agency's security protocol and procedures.

**10. VENDOR DEFAULT:**

**10.1.** The following shall be considered a vendor default under this Contract.

**10.1.1.** Failure to perform Contract Services in accordance with the requirements contained herein.

**10.1.2.** Failure to comply with other specifications and requirements contained herein.

**10.1.3.** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.

**10.1.4.** Failure to remedy deficient performance upon request.

**10.2.** The following remedies shall be available to Agency upon default.

**10.2.1.** Cancellation of the Contract.
**10.2.2.** Cancellation of one or more release orders issued under this Contract.
**10.2.3.** Any other remedies available in law or equity.

## 11. MISCELLANEOUS:

**11.1. Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

**Contract Manager:** _____
**Telephone Number:** _____
**Fax Number:** _____
**Email Address:** _____

| Description | Monthly Fee | Annual Cost= 12 x Monthly Fee |
|---|---|---|
| 1. Total Salaries and Benefits | | |
| 2. Computerized Pharmacy System | | |
| 3. Other Expenses | | |
| Monthly Total Not to Exceed | | |
| Total Annual Operating Expense | | |

Award will be made to the vendor meeting all of the specifications and having the lowest Total Annual Operating Expense.

Vendor Name (Printed) Vendor Address

Vendor Authorized Representative Signature Date

E-mail: Telephone#: Fax#:

# WELCH COMMUNITY HOSPITAL

# MEDICAL STAFF BYLAWS RULES & REGULATIONS

Adopted by the Medical Staff 4/18/02
Revision 7/26/02
Revision 8/29/02
Revision 4/22/04
Revision 4/27/05
Revision 10/04/06
Revision 5/30/07
Revision 6/19/07
Revision 9/28/10

# TABLE OF CONTENTS

# ARTICLE I
## MEMBERSHIP

Section 1 Membership on the Medical Staff of Welch Community Hospital is a privilege which shall be extended only to professionally competent graduates of professional schools meeting the minimum personal and professional qualifications prescribed in the Medical Staff Bylaws and the Policy on Appointment, Reappointment and Clinical Privileges. The practice of each physician must be based on the scientific principles of allopathic and osteopathic medicines.

Section 2 Qualifications for Membership

2.1 Only physicians, dentists, chiropractors, podiatrists and allied health professionals (i.e., Nurse Practitioners, Physician Assistants, Certified Nurse Anesthetist, etc.) licensed to practice in the State of West Virginia, who are graduates of a recognized medical, osteopathic, dental, chiropractic school or allied health professional program and who 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, with sufficient adequacy to assure the Medical Staff and the governing body that any patient treated by them in the Hospital will be given a high quality of medical and/or dental care, shall be qualified for membership on the Medical Staff. An applicant for membership need not be at the time of application licensed to practice in the State of West Virginia, but such licensure must be established prior to a grant of membership. No physician, dentist, chiropractor or allied health professional shall be entitled to membership on the Medical Staff or to the exercise of particular clinical privileges in the Hospital merely by virtue of the fact that they are duly licensed to practice medicine or dentistry in this or any other state, or that they are a member of any professional organization, or that they have had in the past, or now have such privileges at another hospital.

2.2 The principles of ethics as adopted by the American Medical Association, the American Osteopathic Association, and the American Dental Association and the requirements of the Joint Commission on Accreditation of Hospitals shall govern the professional conduct of the members of the Medical Staff. Specifically, all members of the Medical Staff shall pledge themselves that they will not receive from or pay to another physician or dentist, either directly or indirectly, any part of a fee received for professional services.

2.3 It is the responsibility of the applicant to assure that any and all forms and applications and that all applicable sections of the forms submitted by the applicant are completed in their entirety and without alteration or changes. Failure to abide by this subsection negates the application for membership and/or privileges until corrected.

Section 3 Conditions and Duration of Appointment

3.1 For the purposes of the bylaws, the Medical Staff year commences on the first day of July and ends on the thirtieth day of June of each year.

3.2 Initial appointments and reappointments to the Medical Staff shall be made by the Board, also known as the Governing Body. The Board may act on appointments, reappointments, or revocations thereof after recommendation of the Executive Committee If an applicant for reappointment has not had his application acted upon by the end of the staff year, his privileges shall be temporarily continued on the same basis as their current appointment until final action is taken on the application, for a period not to exceed two years at a time.

3.3 All initial appointments shall be provisional for a period of one year. Reappointments shall be for a period of up to two years.

3.4 Appointments to the Medical Staff shall confer on the appointee only such privileges granted by the Board as provided in these Bylaws.

3.5 Temporary privileges may be granted to persons not members of the Medical Staff for not more than three months. Such temporary privileges may be extended so as not to exceed a total of twelve months. It should be noted that any and all practitioners that apply for privileges and/or are granted privileges under this subsection shall not be entitled to the procedural rights afforded under Article XV, of the Policy On Hearings because their request for affiliate privileges are refused or because all or any portion of their privileges are terminated, suspended, limited or revoked; or for any other reason, whatsoever.

3.6. Affiliate Privileges may be granted to persons not members of the medical staff for a one year period. Initial appointments and reappointments to the Medical Staff under this subsection shall be made by the Board. The Board shall act on appointments, reappointments, or revocations thereof only after recommendation of the Executive Committee as provided in the Bylaws. There is no limitation to the number of times a practitioner may apply and receive one year appointments. The purpose of this category is to provide Locums Tenens providers an opportunity to be credentialed with this Medical Staff. It should be noted that any and all practitioners that apply for privileges under this subsection shall not be entitled to the procedural rights afforded under Article XV, of the Policy On Hearings because their request for affiliate privileges are refused or because all or any portion of their privileges are terminated, suspended, limited or revoked; or for any other reason, whatsoever.

# ARTICLE II

## MEDICAL STAFF CATEGORIES

Section 1 Categories of the Medical Staff

All appointments to the medical staff shall be made by the Board and shall be to one of the following categories of the staff. All appointees shall be assigned to a specific department, but shall be eligible for clinical privileges in other departments as applied for and recommended pursuant to these bylaws and approved by the Board.

Section 2 Active Category

Qualifications:

The Active Category shall consist of those physicians, dentists, chiropractors, podiatrists and allied health professionals who have served on the Associate Staff for at least one year and who attend, admit or are involved in the treatment of patients at the hospital.

Responsibilities:

Each appointee to the Active Category shall:

(a) Assume all the functions and responsibilities of appointment to the Active Category, including, where appropriate, care for unassigned patients, emergency service care, consultation and teaching assignments.

(b) Attend medical staff meetings.

(c) Serve on medical staff committees, as assigned.

(d) Participate in quality assessment and monitoring activities including evaluating provisional appointees, as assigned by department or committee chairpersons.

(e) Center a majority of his or her hospital practice at this hospital.

Prerogatives:

Active Staff appointees shall be entitled to vote and hold office

Section 3 Associate Category

Qualifications:

The Associate Category shall consist of physicians, dentists, chiropractors, podiatrists and allied health professionals who will be considered for advancement to the Active Staff, provided that they center a major portion of their hospital work in this hospital and meet all other requirements of the Active Category. They must attend, admit or be involved in the treatment of at least 5 patients per year at the hospital.

Responsibilities:

Each appointee to the Associate Category shall:

(a) Assume all the functions and responsibilities of appointment to the Active Category, including, where appropriate, care for unassigned patients, emergency service care, consultation and teaching assignments.

(b) Attend medical meetings.

(c) Serve on medical staff committees, and may serve as chairpersons.

(d) Participate in quality assessment and monitoring activities as assigned by department or committee chairpersons.

Section 4 Affiliate Category
Qualifications:

The Affiliate Category shall consist of physicians, dentists, chiropractors, podiatrists and allied health professionals of demonstrated competence qualified for staff appointments, who:

a) Are not eligible for appointment to the Active Category because they intend to and during each appointment year they do attend, admit or are involved in the care of fewer than 12 patients per year at the hospital.

b) Or wish to have a time-limited appointment to the Medical Staff in order to work as a Locums Tenens provider.

Section 5 Referral Category

Qualifications:

The Referral Category shall consist of those physicians, dentists, chiropractors, podiatrists and allied health professionals who do not have a hospital practice,

but who wish to be associated with the medical staff for purposes of continuing education, collegial association and/or to establish and maintain a referral network.

Prerogatives:

Referral Category appointees shall be entitled to attend meetings, may serve on committees as assigned, but may not vote or hold office.

# ARTICLE III

## OFFICERS

Section 1 Officers of the Medical Staff

The Officers of the Medical Staff shall be:

1. Chief of Staff (appointed)

2. Assistant Chief of Staff (elected)

Section 2 Qualifications of Officers

Officers of the Medical Staff must be members of the Active Medical Staff at the time of nomination and election and must remain members in good standing during their term of office. Failure to maintain such status shall immediately create a vacancy in the office involved.

Section 3 Election of Officers

1. Officers (except Chief of Staff) shall be elected at the annual meeting of the Medical Staff. Only members of the Active Medical Staff shall be eligible to vote.

2. The Nominating Committee shall consist of three members of the Active Medical Staff appointed by the Chief of Staff.

3. Nominations may also be made from the floor at the time of the annual meeting.

Section 4 Term of Office

All officers shall serve a one year term from election date or until a successor is elected. Such officers shall take office on the first day of the Medical Staff year.

Section 5 Vacancies in Office

Vacancies in office during the Medical Staff year shall be filled by the Executive Committee of the Medical Staff. If there is a vacancy in the office of the Chief of Staff, such vacancy shall be filled by the Assistant Chief of Staff until a successor is appointed by Welch Community Hospital and the WV Department of Health and Human Resources.
If the Assistant Chief of Staff resigns, the Chief of Staff may appoint to fulfill the remainder of the term.

Section 6 Duties of Officers

A. Chief of Staff:

The Chief of Staff shall serve as the Chief Administrative Officer of the Medical Staff to:

1. Act in all matters of concern within the hospital;

2. Call, preside at, and be responsible for agenda of all general meetings of the Medical Staff;

3. Serve on the Medical Staff Executive Committee;

4. Serve as ex officio member of all other Medical Staff committees;

5. Be responsible for the enforcement of Medical Staff Bylaws, Rules and Regulations, for implementation of sanctions where these are indicated, and for the Medical Staff's compliance with procedural safeguards in all instances where corrective action has been requested against a physician;

6. Appoint committee members to all standing, special, and multi-disciplinary Medical Staff committees except the Executive Committee;

7. Represent views, policies, needs and grievances of the Medical Staff to the Welch Community Hospital Chief Executive Officer and Department of Health;

8. Receive and interpret the policies of the Welch Community Hospital Chief Executive Officer and Department of Health and Human Resources to the Medical Staff and report to the Chief Executive Officer on the performance and maintenance of quality with respect to the Medical Staff's delegated responsibility to provide medical care;

9. Be the spokesman for the Medical Staff in its external professional and public relations;

B. Assistant Chief of Staff

The Assistant Chief of Staff shall perform such duties as shall be delegated by the Chief of Staff.

# ARTICLE IV

## MEDICAL STAFF COMMITTEES

Section 1 Composition and Appointment

Composition:

Medical staff committees established to perform one or more of the staff functions required by the bylaws shall consist of appointees to the active and associate categories and may include, where appropriate, allied health professionals and representatives from hospital management, nursing, medical records, pharmaceutical, or social services, and such other departments as are appropriate to the function(s) to be discharged. All medical staff committees are expected to meet monthly or more often as needed but no less often than ten times per year, unless otherwise stated.

Appointment:
Except as otherwise provided, members of each committee shall be appointed yearly by the Chief of Staff, in consultation with the Chief Executive Officer. The Chief Executive Officer and the Chief of Staff or their respective designees shall be members, ex officio, without vote, of all committees.

Section 2 Chairpersons
Appointment:
All committee chairpersons, unless otherwise provided for in these bylaws, will be appointed by the Chief of Staff. All such appointments will be subject to final approval by the Board. All chairpersons shall be selected based on the criteria set forth in these bylaws.

Term and Removal:
Initial appointments of committee chairpersons shall be for a period of one year, after which a chairperson may be reappointed.

Section 3 Terms and Vacancies
There is no limit to the number of one-year terms committee members may serve. All appointed members may be removed and vacancies filled at the discretion of the Chief of Staff.

Section 4 Executive Committee
Composition:
(a) The Chief of Staff shall serve as Chairman of the Executive Committee. The committee shall be composed of the following persons, each of whom shall have the right to vote unless otherwise indicated:
President of Staff (Chief of Staff)
Vice-President of Staff

Immediate Past President of Staff
Chief of Each Department
Chairman of QA Committee (non-voting member).
And, others as appointed by the Chief of Staff.

(b) The Chairperson of the Board and the Chief Executive Officer may attend meetings of the Executive Committee and participate in its discussions, but without vote.

Meetings:

The Medical Executive Committee shall meet monthly, or more often, at the discretion of the Chief of Staff but no less often than ten times per calendar year.

Duties:

The duties of the Executive Committee shall be:

(a) to represent and to act on behalf of the medical staff in all matters, without requirement of subsequent approval by the staff, subject only to any limitations imposed by these bylaws;
(b) to coordinate the activities and general policies of the various departments;
(c) to receive and to act upon committee reports as specified in these bylaws, and to make recommendations concerning them to the Chief Executive Officer and the Board;
(d) to implement policies of the hospital that affect the medical staff;
(e) to provide liaison among the medical staff, the Chief Executive Officer and the Board.
(f) to keep the medical staff abreast of applicable accreditation and regulatory requirements affecting the hospital;
(g) to enforce hospital and medical staff rules in the best interest of patient care and of the hospital, with regard to all persons who hold appointment to the medical staff;
(h) to refer situations involving questions of the clinical competence, patient care and treatment, case management, or inappropriate behavior of any medical staff appointee to the Credentials Committee for appropriate action;
(i) to be responsible to the Board for the implementation of the hospital's quality assessment plan as it affects the medical staff;

(j) to review the bylaws, policies, rules and regulations, and associated documents of the medical staff at least once a year and to recommend such changes as may be necessary or desirable.

Meetings, Reports and Recommendations:

The Executive Committee shall meet at least once each month or more often if necessary but no less often than ten times per calendar year. The Secretary will maintain reports of all meetings, which shall include the minutes of the various committees and departments of the staff. Copies of all Executive Committee minutes and reports shall be transmitted to the Chief Executive Officer routinely as prepared. Recommendations of the Executive Committee shall be transmitted to the Board with a copy to the Chief Executive Officer. The Chairperson of the Executive Committee shall be available to meet with the Board or its applicable committee on all recommendations that the Executive Committee may make.

Section 5 Credentials Committee

Composition:

The Credentials Committee shall consist of the Chief of Staff and a representative from the departments of Internal Medicine, Pediatrics, Surgery, Emergency Room, and OB/GYN. The Chief of Staff shall serve as chairperson. The members of the committee shall be appointed by the Chief of the Medical Staff.

Duties:

The duties of the Credentials Committee shall be to:

(a) review the credentials of all applicants for medical staff appointment, reappointment, and clinical privileges, to make investigations of and interview such applicants as may be necessary, and to make a report of its findings and recommendations;

(b) review the credentials of all applicants who request to practice at the hospital as allied health professionals, to make investigations of and interview such applicants as may be necessary, and to make a report of its findings and recommendations;

(c) review, as questions arise, all information available regarding the clinical competence and behavior of persons currently appointed to the medical staff and of those practicing as allied health professionals and, as a result of such review, to make a report of its findings and recommendations.

(d) annually review and recommend amendments to the Policy On Appointment, Reappointment and Clinical Privileges.

Meetings, Reports and Recommendations:

The Credentials Committee shall meet biannually unless meetings are called on an emergency basis to do credentialing. The committee shall maintain a permanent record of its proceedings and actions, and shall report its recommendations to the Executive Committee, the Chief Executive Officer and the Board. The Chairperson of the Credentials Committee shall be available to meet with the Board or its applicable committee on all recommendations that the Credentials Committee may make.

Section 6 Quality Assurance Committee:

The Medical Executive Committee will function as the Quality Assurance Committee.

The duties of the Committee are to perform the primary peer review functions of the clinical departments of the medical staff. The committee shall identify important aspects of care for patients treated at the hospital. It shall determine indicators which shall be used to monitor the quality and appropriateness of important aspects of care, and it shall also evaluate the quality and appropriateness of care delivered to patients treated at the hospital, whether inpatient or outpatients.

This committee shall identify general areas of potential risk in the clinical aspects of patient care and safety. It shall develop criteria for identifying specific cases with potential risk in clinical aspects of patient care and safety, and evaluation of these cases. After problems have been identified, the committee shall oversee correction of the problems and it shall design programs to reduce the risk in clinical aspects of patient care and safety.

Section 7 Tissue and Surgical Case Review Committee

This committee shall consist of members appointed by the Chief of Staff, including but not limited to a representative from General Surgery, Obstetrics and Gynecology, General Medicine, and Pathology. The committee shall be chaired by a different physician, to be voted on for a one-year term. The chair shall be rotated between physicians from Surgery, Pathology and Gynecology.

The duties of this committee shall be to study all operative cases, whether or not a specimen was removed, and to report recommendations to the Executive Committee. The report shall include the agreement or disagreement between pre-operative and post-operative diagnoses, and reports by the Pathologist and all the tissue removed at operations. The committee shall also serve to review the utilization of blood and blood components as well as transfusion reactions.

This committee shall meet at least once a month, but no less often than ten times per calendar year and shall maintain permanent records of its proceedings

and activities. It shall submit to the Executive Committee a report, which includes recommendations to be made a part of the permanent record.

ARTICLE V

MEETINGS

Section 1 The Annual Meeting

The annual meeting of the staff shall be held in May. The retiring officers and committees shall report for the year. Officers for the ensuing year shall be elected. The newly elected officers shall assume their duties on the first day of July.

Section 2 Regular Meeting:

Regular meetings of the entire Medical Staff shall be held once a year.

Section 3 Special Meetings:

Special meetings of the Medical Staff may be called at any time by the Chief of Staff and/or the Hospital Chief Executive Officer at the request of the Governing Board, or a written request of any three (3) members of the Active Medical Staff. At any special meeting, the business transacted shall be confined to that stated in the notice calling the meeting. The medical staff coordinator will contact the offices of all staff members notifying them of the meeting.

Section 4 Agenda:

The suggested agenda at any regular meeting shall be:

(a) Call to order

(b) Approval of the minutes of the last regular meeting and all special meetings held in the interim

(c) Chief Executive Officer's Report

(d) Old Business

(e) New Business

(f) Report of standing and special committees.

The agenda at special meetings shall be:

(a) Reading of the notice calling the meeting

(b) Transaction of the business for which the meeting was called

(c) Adjournment

Section 5 Conduct of Meetings:

All meetings, other than the hearings provided for in Article XV, shall be conducted according to the Parliamentary Principles of Robert's Rules of Order.

ARTICLE VI

GENERAL RESPONSIBILITY OF MEDICAL STAFF APPOINTMENT

Section 1 General

As a general responsibility of medical staff appointment, each appointee agrees to participate in the following functions performed by departments, divisions, medical staff committees, medical staff officers or interdisciplinary hospital committees, as assigned by the Executive Committee of the Medical Staff and approved by the Board.

(a) Monitoring and evaluation of care provided in and development of clinical policies for special care areas, such as intensive or coronary care units, patient care support services, such as respiratory therapy, physical medicine and anesthesia, and emergency, outpatient, home care and other ambulatory care services.

(b) Coordination and performance of quality and appropriateness reviews including tissue, blood usage, antibiotic and drug usage, medical record and surgical case reviews.

(c) Coordination and performance of utilization review.

(d) Coordination and performance of credentials investigations and recommendations regarding staff appointment and grants of clinical privileges in specified services.

(e) Provision of continuing education opportunities responsive to quality activity findings, new state-of-the-art developments and other perceived needs.

(f) Supervision of the hospital's professional library services.

(g) Development and maintenance of drug utilization policies and surveillance of drug usage.

(h) Prevention, investigation and control of nosocomial infections and monitoring of the hospital's infection control program.

(i) Planning response to fire and other disasters.

(j) Direction of staff organizational activities, including periodic review and revision of medical staff officer and committee nominations, liaison with the Board and hospital management, and review and maintenance of hospital accreditation.

(k) Coordination of the care provided by appointees to the medical staff

with the care provided by the nursing and other hospital services.

Section 2 Departments of the Medical Staff:

The Medical Staff shall consist of the following two departments: Medicine and Surgery. The Executive Committee and the Board, by their joint actions, may create, eliminate, subdivide, further subdivide or combine departments.
The Department of Medicine shall include:

(a) Internal Medicine
(b) Pediatrics
(c) Family Practice

The Department of Surgery shall include:

(a) Surgery
(b) Pathology
(c) Radiology
(d) Anesthesia
(e) Dentistry
(f) OB/GYN
(g) Urology
(h) Emergency Medicine
(i) Podiatry

Section 3 Department Chairmen:

Each department of the Medical Staff shall have a Chairman. The Chairman shall be appointed by the Chief of Staff within a 30-day period when a vacancy arises. If a chairman is not elected, the position will be filled by the Chief of Staff. The Chairman will represent that department in its interaction with the Chief of Staff and the Board of Directors.

Section 4 Functions of Departments:

Each clinical department shall:

(a) Through the department chairman, recommend to the Credentials Committee written criteria for the assignment of clinical privileges that are consistent with and subject to the bylaws, policies, rules and regulations of the medical staff and hospital, and that include demonstrated competence, training and experience within the specialties covered by the department.

(b) Monitor and evaluate medical care provided by members of the department on a retrospective, concurrent and prospective basis. This monitoring and evaluation must at least include:

1. the routine collection of information about important aspects of patient care provided in the department and about the clinical

performance of its members; and

2. the periodic assessment of this information to identify opportunities to improve care and to identify important problems in patient care.

(c) Recommend, subject to approval and adoption by the Executive Committee and Board, objective criteria that reflect current knowledge and clinical experience to be used in the monitoring and evaluation of patient care.

(d) Document the actions taken to improve care and evaluate the effectiveness of such actions.

(e) If relevant to the specialties within the department, conduct a comprehensive review to examine justification of surgery performed, whether tissue was removed or not, and to evaluate the acceptability of the procedure chosen for the surgery, specifically considering the agreement or disagreement of the pre-operative and post-operative (including pathological) diagnoses. Written reports shall be maintained reflecting the results of all evaluations performed and actions taken.

(f) After each meeting, report to the appropriate utilization or quality assessment committee its analysis of patient care.

(g) Report to the Credentials Committee whenever further investigation and action is indicated, involving any individual member of the department. Copies of these reports shall be filed with the Executive Committee and the Chief Executive Officer.

# ARTICLE VII

## PROCEDURE FOR APPOINTMENT AND REAPPOINTMENT

Section 1 Membership on the Medical Staff of Welch Community Hospital is a privilege which shall be extended only to professionally competent physicians, dentists, chiropractors, and podiatrists who continuously meet the qualifications, standards and requirements set forth in these Bylaws. The practice of each physician must be based on the scientific principles of allopathic and osteopathic medicine.

1.1 The applicant shall have the responsibility of producing adequate information for proper evaluation of his competence, character, ethics, health and other qualifications, and for resolving any doubts about such qualifications. He shall supply information concerning any previous or currently pending challenge to licensure or registration, any malpractice claims made against him, and loss of membership in any professional organization or loss of medical staff membership or privileges at any other hospital. In order for the application form to be considered complete, the applicant will be required to sign this prescribed form, signifying agreement to abide by the Bylaws, Rules and Regulations of the Medical Staff. Furthermore, the application must contain the signatures of the hospital Chief of Staff and of the Chief Executive Officer.

1.2 No one will be granted membership to the medical staff or granted temporary or Affiliate privileges at the hospital until a complete application has been registered with hospital administration.

1.3 All completed applications for membership to the Medical Staff shall be submitted to the Credentials Committee for thorough evaluation.

Section 2 The Appointment Process

2.1 Within 30 days after receipt of the completed application for membership, the Credential Committee shall make a written report of it's investigation to the Executive Committee of the Medical Staff. Prior to making this report, the Credentials Committee shall examine the character, professional competence, qualifications, current licensure, and ethical standing of the applicant and shall determine, through information contained in references given by the applicant and from other sources available to the Committee, including an appraisal from the Clinical Department in which privileges are sought, whether the applicant has established and meets all of the necessary qualifications for the category of staff membership and the clinical privileges requested by him. The department in which the applicant seeks clinical privileges shall provide the Credentials Committee with specific written recommendations for delineating the applicant's clinical privileges, and these recommendations shall be made a part of the

report. Together with its report, the Credentials Committee shall transmit to the Executive Committee the complete application and its recommendations.

2.2 Action by the Executive Committee. At its next regular meeting after receipt of the application and the report and recommendation of the Credentials Committee, the Executive Committee shall determine whether to recommend to the Board that the applicant be appointed to the division of the Medical Staff for which application is made, that such applicant be refused appointment, or that applicant's application be deferred for further consideration. All recommendations to appointment must also specifically recommend the clinical privileges to be granted, which may be qualified by probationary conditions relating to such clinical privileges.

2.3 Favorable Executive Committee Recommendation. If the Executive Committee's recommendation is favorable to the applicant in respect to appointments and clinical privileges, such recommendation together with all supporting documentation, shall be transmitted within thirty days to the Hospital Board through the Chief of Staff.

2.4 Adverse Executive Committee Recommendations. If the Executive Committee's recommendation is adverse to the applicant in respect to either appointment or clinical privileges, the Chief of Staff shall communicate the recommendation of the Executive Committee within ten days, together with the reason or reasons given for such recommendation, to the applicant by certified mail, return receipt requested. Such communication shall inform the applicant of his right to a hearing as provided in Article XV of these Bylaws. No such adverse recommendation need be forwarded to the Board until after the applicant has been deemed to waive his right to a hearing as provided in Article XV of these Bylaws at which time such recommendation shall be transmitted to the Board. If the applicant exercises the right to a hearing as provided in Article XV of these Bylaws, the application for appointment and/or clinical privileges shall be processed in accordance with the provision of Article VII of these Bylaws. If the final recommendation is adverse, the applicant may again apply after a period of five years.

2.5 Board Action: Favorable and Non-Favorable Recommendation. At its next regular meeting after receipt of a favorable recommendation, the Board shall act on the matter. If the Board's decision is adverse to the practitioner in respect to either appointment or clinical privileges, the Chief of Staff, within ten days, shall communicate the decision of the Board, together with the reason or reasons given for such decision, to the applicant by certified mail, return receipt requested. Such communication shall inform the applicant of the right to a hearing as provided in Article XV of these Bylaws. If the applicant exercises the

right to a hearing as provided in Article XV of these Bylaws, the application for appointment and/or clinical privileges shall be processed in accordance with the provision of Article VIII of these Bylaws.

Section 3 Reappointment Process

The procedure provided in Section 2 of this Article relating to the initial appointment process shall be followed in the processing of applications for reappointment, except that in addition to the criteria noted in Subsection 1 of Section 2 of this Article, any recommendation made by the Credentials Committee shall also be based on consideration of the applicant's professional competence and clinical judgment in the treatment of patients, ethics and conduct, attendance at Medical Staff meetings and participation in staff affairs, compliance with the Hospital Bylaws and the Medical Staff Bylaws, Rules and Regulations, cooperation with hospital personnel, use of the Hospital's facilities for patients, relations with other practitioners, continuing satisfactory health, and general attitude toward patients, the Hospital, and the public.

ARTICLE VIII

CLINICAL PRIVILEGES

Section 1 Clinical Privileges Delineated

1.1 Every practitioner practicing at this Hospital by virtue of Medical Staff membership or otherwise, shall in connection with such practice be entitled to exercise only those clinical privileges specifically granted by the Hospital Board, except as provided in Section 2 of this Article of these Bylaws.

Each service shall submit to the Executive Committee for its approval a list of clinical privileges available to the members.

1.2 Every initial application for staff appointment 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, training, experience, demonstrated competence, references and other relevant information including an appraisal by the clinical department in which such privileges are sought. The applicant shall have the responsibility of establishing qualifications and competency in the clinical privileges requested. This evaluation shall be performed by the Credentials Committee of the Medical Staff and shall be submitted with the recommendations to the Executive Committee of the Medical Staff. When criteria have been accepted by the Medical Staff after recommendation by each clinical service, this evaluation, both for full members of each service and for Family Practitioners who work in them, shall be in accordance therewith. The request for privileges will be then handled in the same manner and with the same procedural safeguards as applications for membership are handled in Article I, including the right to a hearing and further review in accordance with the provisions of Article XV.

1.3 The application of each physician for clinical privileges shall be evaluated by the Chief of the appropriate service, and/or the Chief of Staff, who shall make recommendations concerning these privileges. Clinical privileges may be granted in accordance with the following criteria:

INTERNAL MEDICINE

A. Physicians with these privileges are expected to have training and/or experience and/or competence on a level commensurate with that provided by specialty training, such as in the broad field of Internal Medicine, although not necessarily at the level of the sub-specialists. Such physicians may act as consultants to others and may, in turn, be expected to request consultation when:

a) diagnosis and/or management remain in doubt over an unduly long period of time, especially in the presence of a life-threatening illness;

b) unexpected complications arise which are outside their level of competence;

c) specialized treatment or procedures are contemplated.

B. Unlimited privileges in specific fields may be granted to members having training, experience and competence on a level commensurate with that provided by sub-specialty training as required for certification by the various sub-specialty boards of Internal Medicine. They are qualified to act as consultants and should, in turn request consultation whenever needed.

OBSTETRICS AND GYNECOLOGY

A. Unlimited privileges may be granted to members having training, experience or competence on a level commensurate with that provided by specialty training and who have satisfactorily completed an acceptable OB-GYN residency program as required for certification by the American Board of Obstetrics and Gynecology.

B. Privileges limited to uncomplicated vaginal deliveries and episiotomy repair may be granted to those members who have: (a) completed a Family Practice residency; (b) can demonstrate evidence of experience or training, and can assure that they are currently competent to perform the procedure. These physicians must have consultation for complicated obstetrics.

PATHOLOGY

Unlimited privileges may be granted to members having training, experience, and competence on a level commensurate with that provided by specialty training, as required for certification by the American Board of Pathology.

PEDIATRICS

A. Unlimited privileges may be granted to members having training, experience, and competence on a level commensurate with that provided by specialty training, and who have satisfactorily completed the training program requisite for certification by the American Board of Pediatrics.

B. Limited privileges may be granted to family practitioners that have successfully completed a training program containing a suitable amount of Pediatric experience.

Their activities in the Department will be outlined in the "Delineation of Privileges" form in the same manner that activities are granted or restricted for other members of the medical staff.

RADIOLOGY

Unlimited privileges may be granted to members having training, experience, and competence on a level commensurate with that provided by specialty training, as required for certification by the American Board of Radiology. Areas of special competence shall be specifically listed, such as diagnostic radiology in all its fields, arteriography, etc.

SURGERY

Unlimited privileges may be granted to members having training, experience and competence on a level commensurate with that provided by specialty training, and who, except for those members holding such privileges as of January 1, 1977 have been certified by the American Board of Surgery or by the appropriate specialty board, or have fulfilled the requirements for eligibility for certification as defined in their criteria.

ORTHOPEDICS

Unlimited privileges may be granted to members having training, experience, and competence on a level commensurate with that provided by an approved residency program which makes them acceptable candidates for the Board examination of the American Board of Orthopedic Surgery.

FAMILY PRACTICE

Members of this section do not limit their practice to particular fields of medicine or surgery. They may devote particular attention to one or more special fields but may also attend to problems in other fields under the supervision of appropriate qualified specialists.

Three categories of privileges may be granted to members of the section according to their experience, training, and demonstrated competence. They shall be subject to the rules of the service and to those of other services under whose supervision they carry out their functions. Their activities in the department will be outlined in the Delineation of Privileges form in the same manner that activities are granted or restricted for other members of the Medical Staff.

Category I - Physicians with these privileges shall have adequate training to indicate current competence in procedures requested. They shall request consultation when indicated.

Category II - Physicians with these privileges shall have training and experience to indicate current competence in treatment of more serious problems than Category I. Such training may be evidenced by successful completion of an approved three-year Family Practice residency. They shall request consultation when indicated.

Category III - Physicians with these privileges shall have training indicative or additional postgraduate study that would enable them to perform more advanced or highly technical procedures, medical or surgical, usually achieved by specialty residency training or Board certification.

EMERGENCY DEPARTMENT

To ensure that all patients admitted to the Hospital on an emergency basis or treated in the Emergency Department receive appropriate medical care, regardless of financial status, the Medical Staff and Board of Welch Community Hospital have developed and staffed an area of the Hospital hereby designated as the Emergency Department. To ensure the quality of care and to provide for a smooth transition between pre-hospital and inpatient care, the Emergency Department shall develop on an ongoing basis, a well-defined plan for the administration of emergency care based on the needs of the community. These plans shall include:

A. Staffing: The Director of the Emergency Department shall make every effort to staff the area with physicians and nurses who have had formal training specifically designed for those actively involved in emergency care. Continuing medical education within the department and in coordination with Hospital, community, and nation-wide programs will be an integral part of maintaining quality care.

B. Facilities: The Emergency Department shall be designed and equipped to facilitate the safe and effective care of patients. an ongoing review of past, present, and future equipment needs and patient flow patterns, especially with regards to cost control, will allow optimal quality patient care with given resources.

C. Records: A medical record shall be maintained on every patient seeking emergency care. A control register shall adequately identify all persons seeking emergency care.

D. Quality Assurance: As part of the Hospital's quality assurance program, the quality and appropriateness of patient care provided by the Emergency Department will be monitored and evaluated with the resolution of problems identified.

1.4 Periodic redetermination of clinical privileges and the increase or curtailment of same, shall be based on demonstrated competence which shall be evaluated by a review of the applicant's updated credentials, direct observation by the active Medical Staff, review of reports of the Medical Records Committee, the Tissue Committee, and the Utilization Review Committee as provided in Article IV of these Bylaws, and consideration of the member's physical and mental capabilities. This evaluation shall be performed by the Credentials Committee of the Medical Staff and shall be submitted with recommendations to the Executive Committee of the Medical Staff. The redetermination of clinical privileges will be then handled in the same manner and with the same procedural safeguards as applications for membership are handled in Article VII, including the right to a hearing and further review in accordance with the provisions of Article XV.

Section 2 Temporary Privileges

2.1 The President of the Medical Staff, and the Chairman of the Credentials Committee, the Chief of the appropriate service or his designee, shall have the authority to grant temporary privileges to a practitioner who is not a member of the Medical Staff. Should there be failure of all three to agree, such temporary privileges shall be withheld pending timely investigation by the Credentials Committee. During any period of temporary privileges, the practitioner shall be under the direct supervision of the Chief of Staff and/or their designee. Temporary privileges may not be granted for more than three months but may be extended not to exceed a total of six months, not extending beyond the end of the Medical Staff year. A review of written credentials including references shall be considered before granting temporary privileges. Recognized specialists may be granted temporary privileges by the Chief of Staff, when consultation by the specialist is requested by a staff member.

2.2 Prior to granting of any temporary privileges except for consultation by a recognized specialist, the practitioner seeking temporary privileges must agree in writing that he will abide by the Bylaws, Rules and Regulations of the Medical Staff and the Bylaws of the Hospital Board.

Section 3 Emergency Privileges

3.1 In the case of emergency, any physician or dentist member, or any practitioner of the Medical Staff, to the degree permitted by their license and regardless of service or staff membership or lack of it, shall be permitted and assigned to do everything possible to save the life of a patient, using every facility of the hospital necessary, including the calling for any consultation necessary or desirable. When an emergency situation no longer exists, such physician or dentist must request the privileges necessary to continue to treat the patient. In the event such privileges are denied or they do not desire to request privileges, the patient shall be assigned to an appropriate member of the

Medical Staff who is on call for the service at the time unless they request an appropriate personal physician. For the purpose of this section, an "emergency" is defined as a condition in which serious permanent harm would result to a patient or in which the life of a patient is in immediate danger and any delay in administering treatment would add to that danger.

3.2 In the case of a Code Red (fire) or Code Yellow (disaster) hospital emergency, any hospital-based physician is empowered to discharge from the hospital any non-critical patient in order to vacate hospital beds which are necessary for the treatment of emergency victims. Prior notice of such a discharge will be given to the patient's attending physician if reasonably possible; every effort will be made to notify the patient's attending physician as soon after the discharge as possible. In case a hospital-based physician is not available, the authority to discharge non-critical patients in a hospital emergency shall next be delegated to any other physician member of the Medical Staff.

Section 4 Independent Health Professionals

4.1 Any independent health professional who wishes to provide his or her services within the hospital must apply for these special privileges.

4.2 Such application must be made to the Credentials Committee and must contain:

a) A request for the specific clinical privileges sought.
b) Documentation of the applicant's education, background, experience, training in a recognized institution, appropriate licensure, and demonstrated current competence, adherence to the ethics of their profession, good reputation, and ability to work with others with sufficient adequacy to assure the Medical Staff and the governing body that any patient served by them in the hospital will be given a high quality of care.

4.3 The applicant shall have the responsibility of establishing their qualifications and competence in the clinical privileges requested. The application shall be processed as any other application for privileges. Reapplication for privileges shall be required and shall be processed as any other application for privileges.

4.4 Special privileges may be granted to independent health professionals who:

a) Exercise judgment within their area of competence providing that a physician member of the Medical Staff shall have the ultimate responsibility of patient care;

b) Participate directly in the management of patients under the supervision or direction of a specific member of the Medical Staff;

c) Record progress notes on patients records and write orders as authorized by their licensure.

Section 5. Anesthesia Clearance

All patients requiring anesthesia must have a medical clearance performed within two weeks of the date of surgery by a physician who is currently on staff at Welch Community Hospital. For pediatric patients, a Family Practitioner or Pediatrician is recommended. This medical clearance can be done as an outpatient, providing a copy is available for review by the Anesthesiologist at the time of surgery and made part of the permanent chart. On the morning the procedure is scheduled, the practitioner should alert the consulting physician who performed the clearance that the procedure is being done that day.

## ARTICLE IX

## BOARD RESOLUTION REGARDING CONDUCT WITHIN THE HOSPITAL

Section 1 It is the policy of this hospital that all individuals within its facilities be treated courteously, respectfully, and with dignity. To that end, the hospital requires all individuals, employees, physicians, and other independent practitioners to conduct themselves in a professional and cooperative manner in the hospital.

If an employee fails to conduct himself or herself in the required manner, the matter shall be addressed in accordance with hospital employment policies. If a physician or other independent practitioner fails to conduct himself or herself appropriately, the matter shall be addressed in accordance with the appropriate following policy.

Section 2 HOSPITAL POLICY REGARDING DISRUPTIVE CONDUCT

2.1 Documentation of disruptive conduct is critical since it is ordinarily not one incident that justifies disciplinary action, but rather a pattern of conduct. That documentation shall include:

(a) the date and time of the questionable behavior;

(b) if the behavior affected or involved a patient in any way, the medical record number of the patient;

(c) the circumstances which precipitated the situation;

(d) a description of the questionable behavior limited to factual, objective language;

(e) the consequences, if any, of the disruptive behavior as it relates to patient care or hospital operations;

(f) record of any action taken to remedy the situation including date, time, place, action, and name(s) of those intervening.

2.2 The report shall be submitted to the Chief of Staff and then forwarded to the Chief Executive Officer and the Chief of Staff.

2. 3 If the single incident warrants a discussion with the offending physician, the Chief of Staff shall initiate that and emphasize that such conduct is inappropriate.

2.4 If it appears to the Chief Executive Officer and/or the Chief of Staff that a pattern of disruptive behavior is developing, one or both shall discuss the matter informally with the physician.

(a) The initial approach should be collegial and designed to be helpful to the physician.

(b) Emphasize that if the behavior continues, more formal action will be taken to stop it.

(c) Informal meetings shall be documented.

(d) A follow-up note to the physician shall state that the physician is required to behave professionally and cooperatively.

2.5 If such behavior continues, the Board chairperson or one acting on the chairperson's behalf shall meet with and advise the physician that such conduct is intolerable and must stop. This meeting is not a discussion, but rather, constitutes the physician's final warning. It shall be followed with a letter reiterating the warning. That letter becomes a part of the physician's permanent file.

2.6 A single additional incident shall result in initiation of formal disciplinary action pursuant to the hospital or medical staff bylaws or Policy on Appointment, Reappointment and Clinical Privileges. Summary suspension may be appropriate pending this process. The Medical Staff Executive Committee shall be fully apprised of the previous warnings issued to the physician so it is willing to take whatever action is necessary to terminate the unacceptable conduct.

## ARTICLE X

## HOSPITAL POLICY REGARDING SEXUAL HARASSMENT

The federal Equal Employment Opportunity Commission has declared that sexual harassment constitutes illegal discrimination under Title VII of the Civil Rights Act of 1964. It is and has been the policy of this hospital that sexual harassment of or by employees, patients, medical staff appointees, and others have no place and will not be tolerated in this hospital.

Therefore, the Board restates its policy that sexual harassment will not be tolerated and hereby directs the Chief Executive Officer to take the appropriate measures to communicate the Board's intent, as expressed in this policy, to employees, patients, medical staff appointees, and others. In addition, the Board directs the Chief Executive Officer to ensure that patients, employees, medical staff appointees, and others have access to a reporting and resolution procedure to ensure that prompt and appropriate action is taken in response to all complaints.

This is policy, adopted in its entirety by the Welch Community Hospital by-laws, is the

*West Virginia Division of Personnel's*

# PROHIBITED WORKPLACE HARASSMENT INTERPRETIVE BULLETIN

**I. PURPOSE:** It is the intent of the State of West Virginia to provide a work environment where illegal harassment based on sex (with or without sexual conduct), race, color, religion, national origin, ancestry, age, disability, and protected activity (i.e., opposition to prohibited discrimination or participation in the complaint process) or status explicitly defined as protected under applicable State and federal law as well as non-discriminatory hostile workplace harassment is prohibited.

## II. STANDARDS:

A. Employees have the right to be free from illegal and non-discriminatory hostile workplace harassment on the job, and the State has the moral and legal obligation to ensure that such harassment does not occur and that effective means of redress are available to employees.

B. Illegal harassment is prohibited by State and federal anti-discrimination laws where such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. Though non-discriminatory hostile workplace harassment may not violate existing discrimination laws, such behavior can result in a tort claim of intentional infliction of emotional distress. As such, illegal and non-discriminatory hostile workplace harassment are prohibited in the workplace. This prohibition applies to employees while engaged in any work-/service-related activity which includes performance of agency business. Further, the prohibition applies to independent contractors and volunteers while engaged in any work-/service-related activity in a workplace owned, leased, or operated by a public agency or entity.

C. Illegal and non-discriminatory hostile workplace harassment will not be tolerated within the workplace and will result in appropriate disciplinary action, up to and including dismissal.

## III. DEFINITIONS

A. Appointing Authority: The executive or administrative head of a unit of State government who is authorized by statute to appoint employees in the classified or classified-exempt service.

B. Complainant: Person alleging discriminatory conduct or an administrator who becomes aware of alleged discriminatory conduct within the workplace.

C. Employee: Any person who lawfully occupies a permanent or temporary position with the State, or any affiliated political subdivision, and who is paid a wage or salary including, but not limited to, executive, administrative, classified, non-classified, exempt, seasonal and temporary employees, and employees of county health departments affiliated with the West Virginia Division of Personnel. For the purpose of this document, "employee" shall also include authorized students and interns performing services for an employer under direct supervision irrespective of receipt of wages.

D. Employer: The State or any affiliated political subdivision including, but not limited to, executive, administrative, classified, non-classified, exempt, and county health departments affiliated with the West Virginia Division of Personnel.

E. Equal Employment Opportunity (EEO) Coordinator/Counselor: The agency employee selected by an appointing authority to be trained to advise employees and management concerning proper EEO procedures.

F. Hostile Environment: Harassment in which a work environment is created where an employee is subject to unwelcome verbal or physical sexual behavior and/or illegal mistreatment that is either severe or pervasive and unreasonably interferes with an individual's work performance.

G. Illegal Harassment: Harassment based on sex (with or without sexual conduct), race, color, religion, national origin, ancestry, age, disability, and protected activity (i.e., opposition to prohibited discrimination or participation in the complaint process), or status explicitly defined as protected

under applicable State and federal law.

H. Independent Contractor: Any entity or person responsible for the performance of work under a contract.

I. Nondiscriminatory Hostile Workplace Harassment: Verbal, non-verbal or physical conduct not discriminatory in nature that is so atrocious, intolerable, and so extreme and outrageous as to exceed bounds of decency and which creates fear, intimidates, ostracizes, psychologically or physically threatens, embarrasses, ridicules, or in some other way unreasonably over burdens or precludes an employee(s) from reasonably performing her or his work.

J. Quid Pro Quo (this for that; something for something): Sexual harassment in which the satisfaction of a sexual demand is used as the basis of an employment decision.

K. Respondent: Person accused of discriminatory conduct.

L. Sexual Harassment: A type of illegal harassment which involves any unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal, written, or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment.
2. Submission to or rejection of such conduct is used as the basis for personnel actions affecting an employee.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

M. State EEO Director: The individual appointed by the Governor and authorized by Executive Order to direct all aspects of the statewide EEO Program.

N. Volunteer: Any authorized individual directly engaged in the performance of services for a State employer without promise, expectation, or receipt of compensation.

O. Workplace: A work site where service or work is performed in connection with an independent contractor's, volunteer's, or employee's public employment or service including sites of social functions and conferences. The workplace includes, but is not limited to, facilities, property, buildings, offices, structures, automobiles, trucks, trailers, other vehicles, and parking areas provided by the State, even if not owned, leased, or operated by the State.

P. Work-/service-related Activity: Includes, but is not limited to, conducting work/service, representing the State or the agency, receiving awards, speaking as a State or agency representative, and participating in receptions when invited as a result of State employment/service.

## IV. INTERPRETIVE MATERIAL

A. Management is potentially liable for acts of illegal harassment in the workplace. Liability for such acts lies with the employer, unless it can be demonstrated that the employer took immediate and appropriate corrective action. Employees may also be held personally liable for illegal harassment.

B. Illegal harassment includes words, conduct, or action, usually repeated or persistent, directed at a specific person which annoys, alarms, or causes substantial emotional distress in that person and serves no legitimate purpose and is prohibited by State and federal anti-discrimination laws.

C. There are two legally recognized types of sexual harassment: Quid Pro Quo Sexual Harassment, and Hostile Work Environment Sexual Harassment. Such harassment involves verbal and/or physical conduct which includes, but is not limited to:

1. Sexually-explicit or implicit propositions;
2. Improper questions about an employee's private life;
3. Sexually discriminatory ridicule, insults, jokes, or drawings;
4. Undesired, intentional touching such as embracing, patting, or pinching;
5. Remarks directed against one's sex as a class or group;
6. Threat of rape, or attempted or actual sexual assault;
7. Repeated sexually-explicit or implicit comments or obscene and suggestive remarks that are objectionable or discomfiting to the employee;
8. Offers of employment benefits in exchange for sexual favors, or threats or reprisals for negative

responses to sexual advances; and/or

9. Sexual harassment by a supervisor of an employee of the same sex.

D. While a hostile work environment, which is based on an individual's protected class status under the Civil Rights Act of 1964 (e.g., sex, race, national origin, religion) is illegal, a hostile work environment that lacks a discriminatory intent can also subject an employer to liability for the infliction of emotional distress. This is true when a supervisor, within the scope of employment, caused, contributed to, or acquiesced in the intentional or reckless infliction of emotional distress upon an employee, as such conduct is attributed to the employer, and the employer is liable for the damages that result.

E. Non-discriminatory hostile workplace harassment consists of unreasonable or outrageous behavior that deliberately causes extreme physical and/or emotional distress. Such conduct involves the repeated unwelcome mistreatment of one or more employees often involving a combination of intimidation, humiliation, and sabotage of performance which may include, but is not limited to:

1. Unwarranted constant and destructive criticism;
2. Singling out and isolating, ignoring, ostracizing, etc.;
3. Persistently demeaning, patronizing, belittling, and ridiculing;
4. Threatening, shouting at, and humiliating particularly in front of others; and/or
5. Bullying.

## V. COMPLAINT AND INVESTIGATION

A. It is important to note that nondiscriminatory hostile work environment claims are not within the jurisdiction of the EEO office. Employees must address such complaints through their manager/ supervisor, the West Virginia Education and State Employees Grievance Procedure, or litigation. Complaints regarding illegal harassment shall be handled in accordance with the following procedures. All information shall be held in strictest confidence and shall be disclosed only to appropriate individuals on a need-to-know basis to investigate and resolve the matter.

B. While an individual alleging illegal harassment has a duty to promptly report the incident or complaint to the agency's EEO Coordinator/Counselor or his or her immediate supervisor, the individual also has the right to file such complaints with the West Virginia Human Rights Commission and/or the United States Equal Employment Opportunity Commission (EEOC).

1. The complaint must be received by the Human Rights Commission within 365 days from the date of the cause of harm.
2. A charge must be filed with EEOC within 180 days from the date of the alleged violation, in order to protect the charging party's rights.

a. This 180-day filing deadline is extended to 300 days if the charge also is covered by a State or local anti-discrimination law.

b. For ADEA charges, only State laws extend the filing limit to 300 days.

c. These time limits do not apply to claims under the Equal Pay Act, because under that Act persons do not have to first file a charge with EEOC in order to have the right to go to court.

3. The EEO Coordinator/Counselor or the immediate supervisor shall immediately notify the State EEO Office and the appointing authority of the complaint or charge.

C. The appointing authority shall acknowledge in writing to the Complainant, the receipt of his or her complaint of alleged illegal harassment within five working days of such receipt.

D. The appointing authority or designee shall thoroughly investigate valid claims of illegal harassment. The State EEO Office may be consulted when an agency needs direction on proper investigative procedures. It is recommended that an investigative team of two, one female and one male, be chosen to ensure valid results as well as to establish a comfort level for all involved parties. The appointing authority shall notify the Complainant, Respondent, and State EEO Director, in writing, of the appointment of the investigators should a formal investigation become necessary.

E. To obtain all relevant information, the appointing authority or designee shall promptly interview the Complainant, witnesses, and the Respondent. An investigation shall be conducted and a confidential written report made to the appointing authority with a copy to the State EEO Director within 45 calendar days of the date of the investigator appointment letter(s).

F. Should the investigators determine that they are unable to complete the investigation within 45 calendar days, they must promptly request an extension in writing from the State EEO Director. The request must state the reason(s) for the requested extension. The investigators shall immediately notify the Complainant and Respondent of the extension if granted.

G. The investigator or the investigative team shall prepare the report of the investigation after considering:

1. The validity of the complaint.
2. An assessment of the credibility of the individuals involved.
3. Any previous complaints resulting in an adverse action against the Respondent.
4. Statements of all individuals with information relevant to the alleged incident and complaint.
5. Any other relevant information which may prove or disprove the allegations contained in the complaint.

H. The appointing authority shall review the written report of the findings and render a decision within 15 calendar days of receipt of investigative results. While the Complainant must be informed that appropriate action was taken, the employer may not disclose the specific details of any disciplinary action taken against the Respondent. The severity of any disciplinary action will be determined by the seriousness of the offense and may include, but is not limited to, the following:

1. A verbal warning documented in writing and placed in an administrative file.
2. A written reprimand that is placed in the employee's agency personnel file.
3. An employee transfer.
4. Suspension, demotion, and/or dismissal.

I. Should the appointing authority determine that he or she is unable to render a decision within 15 calendar days, he or she must promptly request an extension in writing from the State EEO Director. The request must state the reason(s) for the requested extension. The appointing authority shall immediately notify the Complainant and Respondent of the extension if granted.

J. In the case of a complaint validated by an appropriate investigation, the appointing authority shall periodically check with the Complainant to ensure that the illegal harassment has stopped and that no retaliation has occurred.

K. Complainants determined to have intentionally filed a false report may be subject to disciplinary action up to and including dismissal.

## VI. RESPONSIBILITIES

A. Employees have a responsibility to refrain from all forms of harassment, to promptly report allegations of illegal harassment, and to fully cooperate in any authorized investigation.

B. Appointing authorities have the responsibility for:

1. Monitoring the work environment to ensure that it is free of illegal harassment.
2. Investigating complaints of illegal harassment in accordance with this policy.
3. Ensuring that complainants, falsely accused individuals and/or persons interviewed regarding complaints suffer no adverse impact or reprisals.
4. Ensuring that confidentiality is maintained by keeping all information regarding a complaint of illegal harassment in a separate, confidential file with access restricted to appropriate individuals on a need-to-know basis. The investigative report is maintained by the EEO Coordinator.
5. Ensuring that all supervisory personnel attend scheduled training on the Prohibited Workplace Harassment Interpretive Bulletin.
6. Ensuring that all required reports are provided to the State Equal Employment Opportunity Office.
7. Posting the Prohibited Workplace Harassment Interpretive Bulletin at conspicuous locations throughout the agency.
8. Communicating this bulletin to all employees through inclusion in the orientation process of all new employees, and by making it readily available at all work locations.

## VII. REFERENCES

A. FEDERAL

1. U.S. Const., amend. XIV.
2. Executive Order 11246 of 1965, As Amended.
3. 8 U.S.C. 1324 et seq. (Immigration Reform and Control Act of 1986).
4. 29 U.S.C. 206(d) et seq. (Equal Pay Act of 1963).
5. 29 U.S.C. § 621, et seq. (Age Discrimination in Employment Act of 1967, as amended).
6. 29 U.S.C. 701 et seq. (Rehabilitation Act of 1973).
7. 29 U.S.C. 791 et seq. (Rehabilitation Act of 1992).
8. 29 U.S.C.§ 2601 et seq. (Family and Medical Leave Act of 1993).
9. 38 U.S.C. §§ 4301 et seq. (Uniform Services Employment and Re-employment Rights Act).
10. 42 U.S.C. 1981 et seq. (Civil Rights Act of 1991).
11. 42 U.S.C. 12101 et seq. (Americans with Disabilities Act of 1990).
12. 42 U.S.C. 2000 et seq. (Pregnancy Discrimination Act of 1978).
13. 42 U.S.C. 2000d-2000d-7. (Civil Rights Remedies Equalization Act of 1986).
14. 42 U.S.C. 2000e et seq. (Title VII of the U.S. Civil Rights Act of 1964, as amended).
15. 29 C. F. R. 1600-1699 (EEOC Uniform Guidelines).

B. STATE

1. West Virginia Code, 5-11-9, Unlawful Discriminatory Practices (West Virginia Human Rights Act).
2. West Virginia Code, 5-15-7 (White Cane Law)
3. West Virginia Code, 21-3-19 (Discrimination for use of tobacco products prohibited)
4. West Virginia Code, 21-5-17 (Employers prohibited from discharging employees for time lost as volunteer firemen or emergency medical service attendant.
5. West Virginia Code, 21-5-18 (Employers prohibited from discharging employees for time lost as emergency medical service personnel)
6. West Virginia Code, 21-5E-1 (Equal Pay for Equal Work for State Employees)
7. West Virginia Code, 23-5A-3 (Termination of Injured Employee Prohibited; re-employment of injured employees)
8. West Virginia Code, 52-3-1 (Discrimination for Jury Service)
9. West Virginia Equal Employment Opportunity Office Procedure for Handling EEO Complaints - Revised - September 16, 2005.
10. West Virginia Equal Employment Opportunity Office Guidelines for Conducting EEO Complaint Investigations - Revised September 19, 2005.

C. CASE LAW

1. Meritor Savings Bank v. Vinson, 477 U.S. 57, 106 S. Ct. 2399 (1986)
2. Burlington Industries, Inc. v. Ellerth, 524 U.S. 742, 118 S. Ct. 2257 (1998)
3. Faragher v. City of Boca Raton, 524 U.S. 775, 118 S. Ct 2275 (1998)
4. Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75, 118 S. Ct. 998 (1998)
5. National Railroad Passenger Corp. v. Morgan, 536 U.S. 101, 122 S.Ct. 2061, 153 L.Ed.2d 106 (2002)
6. Ross v. Douglas County, Nebraska, 234 F.3d 391 (8th Cir. 2000)
7. Travis v. ALCON Laboratories, Inc., 202 W. Va. 369, 5045.E.2d 419 (1998)
8. Price Waterhouse v. Hopkins, 490 US 228 (1989)
9. Harris v. Forklift Systems, Inc., 510 US 17 (1993)
10. Rogers v. City of Chicago, 320 F.3d 748 (7th Cir, 2003)
11. Mattson v. Caterpillar, Inc., 359 F.3d 885, 888 (7th Cir, 2004)
12. Pennsylvania State Police v. Suders, 542 US 129 (2004)
13. Harvill v. Westward Communications, L.L.C., ET AL, 433 F.3d 428 (5th Cir, 2005)
14. Burlington Northern & Santa Fe Railway v. White, 364 F. 3d 789 (6th Cir, 2006)

ARTICLE XII

HOSPITAL POLICY REGARDING IMPAIRED PHYSICIANS

Section 1 Report and Investigation

If any individual working in the hospital has a reasonable suspicion that a physician appointed to the medical staff is impaired, the following steps should be taken:

1. An oral or, preferably, a written report shall be given to the Chief Executive Officer or the Chief of Staff. The report shall include a description of the incident(s) that led to the belief that the physician may be impaired. The report must be factual. The individual making the report does not need to have proof of the impairment, but must state the facts leading to the suspicions.

2. If, after discussing the incident(s) with the individual who filed the report, the Chief Executive Officer or Chief of Staff believes there is enough information to warrant an investigation, the Chief Executive Officer shall direct that an investigation be instituted and a report thereof be rendered by:

   (a) the Chief of Staff; or

   (b) a standing committee of the medical staff; or

   (c) an outside consultant; or

   (d) another individual or individuals appropriate under the circumstances.

   If, after the investigation, it is found that sufficient evidence exists that the physician is impaired, the Chief Executive Officer shall meet personally with that physician or designate another appropriate individual to do so.

3. The physician should be told that the results of an investigation indicate that the physician suffers from an impairment that affects his or her practice. The physician should not be told who filed the report, and does not need to be told the specific incidents contained in the report.

4. Depending upon the severity of the problem, and the nature of the impairment, the hospital has the following options:

(a) require the physician to undertake a rehabilitation program as a condition of continued appointment and clinical Privileges;

(b) impose appropriate restrictions on the physician's practice;

(c) immediately suspend the physician's privileges in the hospital until rehabilitation has been accomplished if the physician does not agree to discontinue practice voluntarily.

5. If the matter cannot be handled internally, or jeopardizes the safety of the physician or others, the hospital shall seek the advice of hospital counsel to determine whether any conduct must be reported to law enforcement authorities or other governmental agencies and what further steps must be taken.

6. The original report and a description of the actions taken by the Chief Executive Officer or Chief of Staff should be included in the physician's personnel file. If the investigation reveals that there is no merit to the report, the report should be destroyed. If the investigation reveals that there may be some merit to the report, but not enough to warrant immediate action, the report shall be included in a confidential portion of the physician's personnel file and the physician's activities and practice shall be monitored until it can be established that there is, or is not, an impairment problem.

7. The Chief Executive Officer or Chief of Staff shall inform the individual who filed the report that follow-up action was taken.

8. Throughout this process, all parties should avoid speculation, conclusions, gossip, and any discussions of this matter with anyone outside those described in this policy.

9. In the event of any apparent or actual conflict between this policy and the bylaws, rules and regulations, or other policies of the hospital or its medical staff, including the due process sections of those bylaws and policies, the provisions of this policy shall control.

Section 2 <u>Rehabilitation</u>

10. Hospital and medical staff leadership should assist the physician in locating a suitable rehabilitation program. A physician shall not be reinstated until it is established, to the hospital's satisfaction, that the physician has successfully completed a program in which the hospital has confidence.

11. Upon sufficient proof that a physician who has been found to be suffering an impairment, has successfully completed a rehabilitation program, the hospital, in its discretion, may consider that physician for reinstatement to the medical staff.
12. In considering an impaired physician for reinstatement, the hospital and its medical staff leadership must consider patient care interests paramount.
13. The hospital must first obtain a letter from the physician director of the rehabilitation program where the physician was treated. The physician must authorize the release of this information. That letter shall state:
(a) whether the physician is participating in the program;

(b) whether the physician is in compliance with all of the terms of the program;

(c) Whether the physician attends AA meetings regularly (if appropriate);

(d) to what extent the physician's behavior and conduct are monitored;

(e) whether, in the opinion of those doctors, the physician is rehabilitated;

(f) whether an after care program has been recommended to the physician and, if so, a description of the after care program; and

(g) whether, in his or her opinion, the physician is capable of resuming medical practice and providing continuous, competent care to patients.

14. The physician must inform the hospital of the name and address of his or her primary care physician, and must authorize that physician to provide the hospital with information regarding his or her condition and treatment. The hospital has the right to require an opinion from other physician consultants of its choice.

15. From the primary care physician the hospital needs to know the precise nature of the physician's condition, and the course of treatment as well as the answers to the questions posed above in (13)(e) and (g).

16. Assuming all of the information received indicates that the physician is rehabilitated and capable of resuming care of patients, the hospital must take the following additional precautions when restoring clinical privileges:

(a) the physician must identify two physicians who are willing to assume responsibility for the care of his or her patients in the event of

his or her inability or unavailability

(b) the physician shall be required to obtain periodic reports for the hospital from his or her primary physician for a period of time specified by the Chief Executive Officer and the Chief of Staff stating that the physician is continuing treatment or therapy, as appropriate, and that his or her ability to treat and care for patients in the hospital is not impaired.

17. The physician's exercise of clinical privileges in the hospital shall be monitored by the department chairperson or by a physician appointed by the department chairperson. The nature of that monitoring shall be determined by the Credentials Committee after its review of all of the circumstances.

18. The physician must agree to submit to an alcohol or drug screening test (if appropriate to the impairment) at the request of a member of hospital management, or the Chief of Staff at any time requested or if it is suspected that the physician may be under the influence of drugs or alcohol.

19. All requests for information concerning the impaired physician shall be forwarded to the Chief Executive Officer for response.

20. Any and all expenses related to the diagnosis and/or treatment of the provider's substance abuse (i.e., rehab, after care on-going therapy, alcohol or drug screening, etc.) shall be paid for completely by the provider in question.

ARTICLE XIII

POLICY AND PROCEDURE ON INVESTIGATIONS

Section 1 Grounds for Action:

Whenever, on the basis of information and belief, the Chief of Staff, the chairperson of a clinical department, the chairperson or a majority of any medical staff committee, the Chairperson of the Board or the Chief Executive Officer has cause to question:

(a) the clinical competence of any medical staff appointee;

(b) the care or treatment of a patient or patients or the management of a case by any medical staff appointee;

(c) the known or suspected violation by any medical staff appointee of applicable ethical standards or the bylaws, policies, rules or regulations of the hospital or its Board or medical staff; or

(d) behavior or conduct on the part of any medical staff appointee that is considered lower than the standards of the hospital or disruptive of the orderly operation of the hospital or its medical staff, including the inability of the appointee to work harmoniously with others;

A written request for an investigation of the matter shall be addressed to the Credentials Committee [Executive Committee] making specific reference to the activity or conduct which gave rise to the request.

Section 2 Investigative Procedure:

The Credentials Committee shall meet as soon after receiving the request as practicable and if, in the opinion of the Credentials Committee:

(a) the request for investigation contains information sufficient to warrant a recommendation, the Credentials Committee, at its discretion, shall make such a recommendation, with or without a personal interview with the appointee; or

(b) the request for investigation does not at that point contain information sufficient to warrant a recommendation, the Credentials Committee shall immediately investigate the matter, appoint a subcommittee to do so, or, if it is deemed necessary, appoint an Investigating Committee.

(1) This Investigating Committee shall consist of three persons, any of whom may or may not hold appointments to the medical staff. This committee shall not include partners, associates or relatives of the affected individual or of any members of the Credentials Committee.

(2) The Credentials Committee, its subcommittee or the Investigating Committee, if used, shall have available to them the full resources of the medical staff and the hospital to aid in their work, as well as the authority to use outside consultants as required.

(3) The individual with respect to whom an investigation has been requested shall have an opportunity to meet with the Investigating Committee before it makes its report. At this meeting (but not, as a matter of right, in advance of it) the individual shall be informed of the general nature of the evidence supporting the investigation requested and shall be invited to discuss, explain or refute it. This interview shall not constitute a hearing, and none of the procedural rules provided in these bylaws with respect to hearings shall apply. A summary of such interview shall be made by the Investigating Committee and included with its report to the Credentials Committee.

(4) Upon completion of the investigation, the Investigating Committee (or the Credentialing Committee, as appropriate) shall submit a written report of their findings and recommendations to Credentials Committee. for their review. The Credentials Committee may accept, modify or reject the recommendation it receives from an Investigating Committee when reporting to the Medical Executive Committee. Nevertheless, a copy of the Investigating Committee's written report will be filed with the Medical Executive Committee for their review prior to the Medical Executive Committee making any decision or recommendations to the Board.

ARTICLE XIV

POLICY ON PHYSICIAN SUSPENSION

Section 1 Grounds for Summary Suspension:

(a) The Chief of Staff, the chairperson of a clinical department, the Chief Executive Officer, or his or her designee, or the Chairperson of the Board shall each have the authority to summarily suspend all or any portion of the clinical privileges of a medical staff appointee or other individual whenever such action is in the best interest of patient care or safety or the continued effective operation of the hospital or whenever such individual has violated the bylaws, rules, regulations and policies of the hospital or medical staff. Such suspension shall not imply any final finding of responsibility for the situation that caused the suspension.

(b) Such summary suspension shall become effective immediately upon imposition, shall immediately be reported in writing to the Chief Executive Officer, or his or her designee and the Chief of Staff, and shall remain in effect unless or until modified by the Chief Executive Officer or the Board.

Section 2 Credentials Committee Procedure:

Any person who exercises his or her authority to summarily suspend clinical privileges shall immediately report the action to the Chief of Staff or the Chairperson of the Credentials Committee to take further action in the matter. At that point the Committee shall take such further action as is required in the manner specified in the Article of these bylaws [this policy] dealing with investigations. The summary suspension shall remain in force after the appropriate committee takes responsibility unless and until modified by that committee or Chief Executive Officer, or until the matter that required the suspension is finally resolved.

Section 3 Care of Suspended Individual's Patients

Immediately upon the imposition of a summary suspension, the Chief of Staff shall assign to another individual with appropriate clinical privileges, responsibility for care of the suspended individual's patients still in the hospital at the time of such suspension until such time as they are discharged. The wishes of the patient shall be considered by the department chairperson in the selection of a substitute. It shall be the duty of the Chief of Staff, to cooperate with the Chief Executive Officer in enforcing all suspensions.

ARTICLE XV

POLICY ON HEARINGS

Section 1 Notice of Recommendations:

A. Adverse Medical Executive Committee Recommendations: If the Medical Executive Committee recommends that an applicant or practitioner's ("practitioner") appointment to medical staff, changes in staff status or clinical privileges be denied, reduced, restricted, suspended, or revoked, the Chief Executive Officer and/or Chief of Staff shall communicate the recommendation of the Executive Committee within ten days, together with the reason or reasons given for such recommendation, to the practitioner by certified mail, return receipt requested. Such communication shall inform the practitioner of her/her right to a hearing as provided in this Article, except for good causes shown. No such adverse recommendation need be forwarded to the Governing Body until after the practitioner has been deemed to waive the right to a hearing, at which time such recommendation shall be transmitted to the Governing Body. If the practitioner exercises the right to a hearing, the effective date of the Governing Body action on this matter shall be based in accordance with this Article.

B. Pended Adverse Governing Body Action: At its next regular meeting after receipt of a favorable Medical Executive Committee recommendation, the Governing Body shall act on the matter. If the Governing Body decision is adverse to the practitioner in respect to either appointment, change in staff status or clinical privileges, it shall be pended. The Chief Executive Officer shall communicate the decision of the Governing Body within ten days, together with the reason or reasons given for the decision, to the practitioner by certified mail, return receipt requested. Such communication shall inform the practitioner of the right to a hearing. If the practitioner exercises the right to a hearing, the effective date of the Governing Body action shall be determined in accordance with this Article, except for good cause shown.

C. Any and all practitioners that apply for privileges under either Temporary Privileges or Affiliate Privileges shall not be entitled to the procedural rights afforded under Article XV, of the Policy On Hearings because their request for affiliate privileges are refused or because all or any portion of their privileges are terminated, suspended, limited or revoked; or for any other reason, what so ever.

Section 2 Request for Hearing:

A. The practitioner shall have thirty (30) days following the date of the receipt of such notice within which to request a hearing. Said request shall be made by written notice to the Chief Executive Officer, by certified

mail, return receipt requested, and shall include the reasons for such request, i.e. whether the Executive Committee or Governing Body did not provide due process to the practitioner, or the adverse decision was arbitrary, capricious or not supported by substantial evidence. In the event the practitioner does not request a hearing within the time and in the manner hereinabove set forth, that individual shall be deemed to have waived the right to such hearing and to have accepted the action involved, and such action shall thereupon become effective immediately upon final Governing Body action.

B. By requesting a hearing, the practitioner:
   1. specifically authorizes all persons with any information relating to the assessment of his or her qualifications or to any alleged deficiencies to provide such information to the Hearing Officer, Appellate Panel and/or the Governing Body directly or through the Administrator;
   2. uses his/her best efforts to cause, and assumes the burden or causing, all such information to be presented, including the execution by him/her of any and all specific written requests and releases; and
   3. specifically releases from liability all individuals and organizations who submit information or consider and/or take action upon such information in good faith and without malice.

Section 3 Notice of Hearing and Statement of Reasons:

A. The Chief Executive Officer shall schedule the hearing and shall give written notice, certified mail, return receipt requested, to the practitioner. The notice shall include:

(1) the time, place and date of the hearing;

(2) a proposed list of witnesses who will give testimony or evidence in support of the adverse decision to the practitioner;

(3) the name of the Hearing Officer if known; and

(4) a statement by the Medical Executive Committee or the Governing Body of the specific reasons for the recommendation as well as the list of patient records and information supporting the recommendation. This statement, and the list of supporting patient record numbers and other information it contains, may be amended or added to at any time, even during the hearing, so long as the additional material is relevant to the adverse action against the practitioner and that there is sufficient time to study this additional information and rebut it.

B. The hearing shall begin as soon as practicable, but no sooner than thirty (30)days after the notice of the hearing unless an earlier hearing date

has been specifically agreed to in writing by the parties.

Section 4 Practitioner Witness List:

The practitioner requesting the hearing shall provide a written list of the names and addresses of the individuals expected to offer testimony or evidence on the affected individual's behalf within ten (10) days after receiving notice of the hearing. Each witness list shall include a brief summary of the nature of the anticipated testimony. The witness list of either party may, in the discretion of the Hearing Officer, be supplemented or amended at any time during the course of the hearing, provided that notice of the change is given to the other party. The Hearing Officer shall have the authority to limit the number of witnesses as set forth in Section 5 of this Part.

Section 5 Hearing Officer:

A. When a hearing is requested, the Chief Executive Officer, in consultation with the Chief of Staff, shall appoint a Hearing Officer to preside over the hearing.

B. The Hearing Officer shall not be any individual who is in direct economic competition with the affected person or any such individual who is professionally associated with or related to the affected individual. The Hearing Officer may utilize legal counsel who has not participated in the case.

C. The Hearing Officer shall:

1. act to insure that all participants in the hearing have a reasonable opportunity to be heard and to present oral and documentary evidence subject to reasonable limits on the number of witnesses and duration of direct and cross examination, applicable to both sides, as may be necessary to avoid cumulative or irrelevant testimony or to prevent abuse of the hearing process;

2. maintain decorum throughout the hearing;

3. determine the order or procedure throughout the hearing.

4. have the authority and discretion, in accordance with this policy, to make rulings on all questions which pertain to matters of procedure and to the admissibility of evidence;

5. act in such a way that all information reasonable relevant to adverse action against the practitioner is considered.

D. Any party may challenge the Hearing Officer as unable to decide fairly on the matters raised at the hearing by mailing a written challenge to the Chief Executive Officer, certified mail, return receipt requested. If the Chief Executive Officer, in consultation with the Chief of Staff,

determines that the challenge has merit, he/she shall appoint a replacement Hearing Officer.

Section 6 Pre-Hearing Discovery:

A. There is no right to pre-hearing discovery. The practitioner shall be entitled, upon request, to the following, subject to a stipulation signed by both parties that such documents shall be maintained as confidential and shall not be disclosed or used for any purpose outside of the hearing.

(1) copies of or reasonable access to all patient medical records referred to in the Statement of Reasons, at his or her expense;

(2) reports of experts relied upon by the Executive Committee or Governing Body;

(3) copies of redacted relevant committee or department minutes (such provision does not constitute a waiver of the state peer review protection statute); and

(4) copies of any other documents relied upon by the Executive Committee or Governing Body.

B. Prior to the hearing, on dates set by the Hearing Officer or agreed upon by counsel for both sides, each party shall provide the other party with a list of proposed exhibits. All objections to documents or witnesses to the extent then reasonably known, shall be submitted in writing in advance of the hearing. The Hearing Officer shall not entertain subsequent objections unless the party offering the objection demonstrates good cause.

C. There shall be no contact by the practitioner with hospital employees appearing on the hospital's witness list concerning the subject matter of the hearing, unless specifically agreed upon by counsel.

Section 7 Failure to Appear:

Failure, without good cause, of the practitioner to personally appear and proceed at such a hearing shall be deemed to constitute voluntary acceptance of the recommendations or actions pending, which shall then become final and effective upon final Governing Board action.

Section 8 Record of Hearing:

The Hearing Officer shall maintain a record of the hearing by a reporter present to make a recording of the proceedings. The cost of such reporter shall be borne by the hospital, but copies of the transcript shall be provided to the

practitioner at his/her expense. The Hearing Officer may, but shall not be required to, order that oral evidence shall be taken only on oath or affirmation administered by any person entitled to notarize documents in this State.

Section 9 Rights of Both Sides:

At a hearing, the practitioner and the Medical Executive Committee or Governing Body, shall have the following rights, subject to reasonable limits determined by the Hearing Officer:

(A) representation by counsel, at their own expense. Both sides shall notify the other of the name of that counsel at least ten (10) days prior to the date of the hearing;

(B) to call and examine witnesses to the extent available;

(C) to introduce exhibits;

(D) to cross-examine any witness on any matter relevant to the issues and to rebut any evidence; and

(E) to submit a written statement at the close of the hearing.

Section 10 Admissibility of Evidence:

The hearing shall not be conducted strictly according to the rules of law relating to the examination of witnesses or presentation of evidence. Hearsay evidence shall not be excluded merely because it constitutes hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law. Each party shall have the right to submit a memorandum of points and authorities, and the Hearing Officer may request such a memorandum to be filed, following the close of the hearing. The Hearing Officer may interrogate the witnesses, call additional witnesses or request documentary evidence if he/she deems it appropriate.

Section 11 Official Notice:

The Hearing Officer shall have the discretion to take official notice of any matters, either technical or scientific, relating to the issues under consideration that could have been judicially noticed by the courts of this State. Participants in the hearing shall be informed of the matters to be officially noticed and such matters shall be noted in the record of the hearing. Either party shall have the opportunity to request that a matter be officially noticed or to refute the noticed matter by authority. Reasonable additional time shall be granted, if requested, to present written rebuttal of any evidence admitted on official notice.

Section 12 Postponements and Extensions:

Postponements and extensions of time beyond any time limit required for hearings may be requested by anyone but shall be permitted only by the Hearing Officer on a showing of good cause.

Section 13 Burden of Proof:

The Executive Committee or Governing Body, shall first come forward with evidence in support of its recommendation. Thereafter, the burden shall shift to the practitioner or applicant to come forward with evidence.

Section 14 Adjournment and Conclusion:

The Hearing Officer may adjourn the hearing and reconvene the same at the convenience without special notice. Upon conclusion of the presentation of oral and written evidence, the hearing shall be closed.

Section 15 Recommendation and Report of the Hearing Officer:

A. Within twenty (20) days after final adjournment of the hearing, the Hearing Officer shall render a recommendation, accompanied by a report, which shall contain a concise statement of the reasons justifying the recommendation made and shall deliver such report to the Chief Executive Officer, along with the entire record and all other documentation. The Hearing Officer may recommend confirmation, modification, or reversal of the adverse actions of the Medical Executive Committee or Governing Body. The adverse actions should be affirmed unless the practitioner or applicant has proved that such action was arbitrary, capricious or not supported by substantial evidence.

B. The recommendation of the Hearing Officer shall be based on the evidence produced at the hearing. This evidence may consist of the following:

(1) oral testimony of witnesses;

(2) memorandum of points and authorities presented in connection with the hearing;

(3) any information regarding the practitioner, so long as that information has been admitted into evidence at the hearing and the practitioner had the opportunity to comment on and, by other evidence, refute it;

(4) any and all applications, references, and accompanying documents;

(5) other documented evidence, including medical records; and

(f) any other evidence that has been admitted.

Section 16 Notice of Hearing Officer Report:

Upon receipt, the Chief Executive Officer shall forward the Hearing Officer's Report, along with all supporting documentation to the Governing Body and Medical Executive Committee. The Chief Executive Officer shall also send a copy of the Report, certified mail, return-receipt requested, to the practitioner, and advise the practitioner of his right to request Appellate Review.

Section 17 Time for Appeal:

Within ten (10) days after notice of the Hearing Officer's Report, either party may request an appellate review. The request shall be in writing, and shall be delivered to the Chief Executive Officer either in person or by certified mail, return receipt requested. The request shall include a brief statement of the reasons for appeal. If such appellate review is not requested within ten (10) days as provided herein, both parties shall be deemed to have accepted the recommendation involved and it shall thereupon become final and effective upon final Governing Body action.

Section 18 Grounds for Appeal:

The grounds for appeal shall be that:

A. there was substantial failure to comply with the Medical Staff Bylaws in the matter which was the subject of the hearing so as to deny due process of a fair hearing;

B. the recommendations were made arbitrarily, capriciously or with prejudice; or

C. the recommendations were not supported by substantial evidence.

Section 19 Time, Place and Notice:

Whenever an appeal is requested as set forth in the preceding sections, the Chairperson of the Board shall, within ten (10) days after receipt of such request, schedule and arrange for an appellate review. The practitioner shall be given notice of the time, place and date of the appellate review. The date shall be not less than ten (10) days, nor more than thirty (30) days from the date of receipt of the request for appellate review; provided, however, that when a request for administrative appeal is from an appointee who is under a suspension then in effect, the administrative appeal shall be held as soon as the arrangements may reasonably be made and not more than fourteen (14) days from the date of receipt of the request. The time may be extended by the Chairperson of the Governing Body for good cause.

Section 20 Nature of Appellate Review:

A. The Chairperson of the Governing Body, in consultation with the Chief Executive Officer and Chief of Staff, shall appoint an Appellate Panel composed of not less than three (3) persons, none of whom are associated with or in direct economic competition with the practitioner. One of the Appellate Panel members shall be designated as Chairperson. Any party may challenge any Panel Member(s) as unable to decide fairly on the matters raised on appeal by filing a written request to the Chief Executive Officer, certified mail, return receipt requested. If the Chairperson of the Governing Body, in consultation with the Chief Executive Officer and the Chief of Staff, determines that the challenge has merit, he/she shall replace the Panel Member(s).

B. The Appellate Panel may accept additional oral or written evidence subject to the same rights of cross-examination or rebuttal provided at the Hearing. Such additional evidence shall be accepted only if the party seeking to admit it can demonstrate that it had no opportunity to present it previously.

C. Each party or legal representative shall have the right to present a written statement in support of its position on appellate review, and in its sole discretion, the Appellate Panel may allow each party or its representative to appear personally and make oral argument.

D. After the Appellate Review, the Appellate Panel shall have a reasonable time to discuss the matter outside the presence of affected parties.

E. The Appellate Panel shall make its recommendations to the Governing Body no later than ten (10) days after it completes its Appellate Review. Such recommendations be based upon the record below, and further evidence during appellate review, and the written statements of the parties. It may uphold, reject or modify the Hearing Officer's recommendations or remand the matter for further action.

Section 21 Final Decision of the Governing Body:

A. Within ten (10) days after receipt of the Review Panel's recommendation, the Governing Body shall render a final decision in writing, and the Chief Executive Officer shall deliver copies thereof to the practitioner and to the Medical Executive Committee and Appellate Panel.

B. The Governing Body may affirm, modify or reverse the recommendation of the Appellate Panel or, in its discretion, refer the matter for further review and recommendation.

Section 22 Further Review:

Except where the matter is referred for further action and recommendation, the final decision of the Governing Body following the appeal shall be effective immediately and shall not be subject to further review.

Section 23 Right to One Appeal Only:

No applicant or practitioner shall be entitled as a matter of right to more than one (1) appellate review on any single matter that may be the subject of an appeal. In the event that the Governing Body ultimately determines to deny initial Medical Staff appointment or reappointment to an applicant, or to revoke or terminate the Medical Staff appointment and/or clinical privileges of a current appointee, that individual may not apply within five (5) years for Medical Staff appointment or for those clinical privileges at this hospital unless the Governing Body provides otherwise.

Section 24 Reporting:

(A) Each and every time the Governing Body makes a final decision which reduces, restricts, suspends, revokes, denies, or fails to renew the clinical privileges of any applicant or practitioner for longer than thirty (30) days, or accepts the surrender of clinical privileges of a practitioner while the practitioner is under an investigation by the Credentials Committee, Executive Committee, or Governing Body relating to possible incompetence or improper professional conduct or in return for not conducting such an investigation or proceeding, the Chief Executive Officer of the Hospital, or designee shall report to the entity described and referred to in the Health Care Quality Improvement Act of 1986, 42 USCA, Section 11101, et seq in accordance with the requirements thereof.

(B) The Chief Executive Officer of the Hospital, or designee, shall also report such decision to the West Virginia Board of Medical Examiners pursuant to the West Virginia Medical Practice Act, West Virginia Code, §30-3-14, as amended.

ARTICLE XVI

RULES AND REGULATIONS

The Active Medical and Dental Staff shall adopt such rules and regulations as may be necessary for the proper conduct of its work. Such rules and regulations may be amended at any regular or called meeting by a majority vote of the Medical Executive Committee. Such amendments shall become effective when approved by the hospital's Governing Body.

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## ARTICLE XVII

## AMENDMENTS

These Bylaws may be amended and adopted by a majority vote of the Medical Executive Committee. Amendments will be enacted following a majority vote of the Governing Body.

The Governing Body has the right and authority to make amendments to the Bylaws without prior approval or recommendation from the Medical Executive Committee.

## ARTICLE XVIII

## ADOPTION

These Bylaws, together with the appended Rules and Regulations, when adopted at a regular meeting of the Medical staff, shall replace any previous Bylaws, Rules and Regulations and shall become effective when approved by the Hospital Board. These Bylaws shall be then construed as part of the Rules and Regulations promulgated by the Board for the administration, operation, and maintenance of the Hospital.

WELCH COMMUNITY HOSPITAL
MEDICAL/PRACTITIONER STAFF

RULES AND REGULATIONS

1. Medical-administrative policies shall be formulated by conference between the Chief of the clinical service, the Chief of Staff and the Chief Executive Officer.

2. The hospital shall admit patients suffering from all types of diseases except for those patients with a primary psychiatric diagnosis or violently disturbed, or having contagious diseases which the Hospital cannot properly isolate.

3. Physicians admitting private patients shall be held responsible for giving such information as may be necessary to assure the protection of other patients from those who are a source of danger from any cause.

4. Except in emergency, patients admitted to the hospital must be given a provisional diagnosis at the time of admittance, which must be written on the records by the physician within 24 hours after admission, and in all cases before surgery.

5. Each member of the Courtesy Medical and Dental Staff, not a resident in the city or immediate vicinity shall name in his application for staff membership, a member of the medical staff who is a resident in the city, who may be called to attend patients in emergency. In absence of this information, and after a reasonable effort has been made to locate the attending physician, the attending physician on service at that time will be called.

6. It shall be the duty of each physician or his physician designee to attend each patient admitted to his care at least once each day.

7. The attending physician is responsible for the preparation of a complete medical record for each patient which shall contain identification data and consent forms, history of the patient, report of the physical examination, diagnostic and therapeutic orders, observations, reports of actions and findings and conclusions.

   a) <u>Identification Data and Consent Forms:</u>
   This shall contain such items as the patient's name, address, age, and next of kin, as well as other identifying data and consents, when obtainable, as deemed necessary by the Hospital's Administration and Medical Staff.

   b) <u>History and Physical:</u>
   A complete history and physical examination for all cases shall be dictated or written within 24 hours after admission, and no longer than seven days prior to admission, by the attending physician.

Readmission: When a patient is readmitted within 15 days for the same or related problem, an interval physical exam reflecting any changes may be used. A copy of the original H&P must be included in the chart.
Surgical: For surgical cases without general anesthesia, a more brief note shall be adequate.
Infants, children or adolescent patients are individually assessed for psychosocial needs, development aspects, immunizations, family or guardian expectations and involvement for treatment.

c) Diagnostic and Therapeutic Orders:
These shall include those written by authorized residents and individuals granted clinical
privileges. (Also see Rules & Regulations, No. 6)

d) Observations:
These reports shall include progress notes by authorized residents and individuals who have been granted clinical privileges. Progress notes by the Medical and Dental Staff shall be written no less frequently than every day.

Consultation reports should contain a written opinion by the consultant, based on an examination of the patient and his record.

e) Reports of Actions and Findings:

These reports shall include such items as reports of pathology and clinical laboratory examinations, radiology examinations, medical and surgical treatment, and any other diagnostic or therapeutic procedures. Surgeons are to record and authenticate a preoperative diagnosis prior to surgery. Operative reports are to be prepared by the attending surgeon or by the appropriate resident immediately after surgery.

They are to contain a description of the findings, the technique used, the tissue removed or altered, and the postoperative diagnosis.

f) Conclusions:

These shall include the provisional diagnosis, primary and secondary final diagnosis, discharge summary, and the autopsy report. The discharge summary shall be completed by the attending physician within the time frame established for the completion of the chart.

8. Surgical operations shall be performed only with the consent of the patient or his legal representative, except in emergencies. It is the responsibility of each physician to provide and obtain appropriate documentation of informed consent in all cases prior to proceeding with any procedure that requires consent.

9. When a history and physical examination or an adequate admission note is not recorded before the time stated for operation, the operation shall be canceled unless the attending physician states in writing that such delay would constitute a hazard to the patient. Such cases will be reviewed by the Chief of Staff.

10. All operations performed shall be fully described by the operating surgeon or the appropriate resident within 24 hours after completion of operation. This report, signed or countersigned by the attending surgeon, shall include pre- and post-operative diagnosis and name of procedure performed. All specimens removed at operation shall be sent to the Hospital Pathologist who shall make such examination and report as he may consider necessary to arrive at a pathological diagnosis.

A. All specimens removed at surgery are to be sent to the Department of Pathology with the exception of:

1. Cataracts
2. Orthopedic appliances
3. Foreign bodies, to include bullets which for legal reasons are given directly in chain of custody to law enforcement representatives
4. Therapeutic radioactive sources
5. Prepuce from newborn
6. Grossly normal, single placenta
7. Teeth, provided the number, including fragments, is recorded in the medical record
8. Traumatically injured member that has been amputated and which examination for either medical or legal reasons is not deemed necessary
9. Cartilage and bone removed during septoplasty and rhinoplasty
10. Normal skin and subcutaneous fat removed in the course of cosmetic or reconstructive surgery
11. Rib removed to facilitate surgical exposure
12. Cutaneous surgical scars

B. All other specimens will be sent to the Laboratory and examined by a Pathologist. Unless otherwise indicated, certain specimens may receive gross examination only. These include:

1. Tonsils and adenoids, under age 16
2. Hernia sac
3. Adult prepuce
4. Vaginal mucosa, from A & P repair
5. Varicose veins
6. Normal femoral head
7. Semilunar cartilage

11. Timed and STAT Tests

TIMED TESTS

A timed test is one that is requested when the results must be known at a specific time. Commonly this may be 7:00 AM, 4:00 PM, or 7:00 PM. Every effort will be made to collect these within 30 minutes of the requested time. For individual patients with multiple orders, effort should be made to schedule collection of all tests at the same time.

STAT TESTS

A STAT test has priority over all other laboratory tests. Accordingly, it should be ordered only when, in the judgment of the physician, the result of this test will significantly influence his treatment. Sometimes it may be appropriate to, "draw stat-do-routine". STAT requests are collected as soon as possible after the order is received.

12. All medicines shall be furnished by the Hospital Pharmacy. As far as possible, the use of proprietary remedies shall be avoided, and if such are ordered for private patients by the attending physician, they will be secured by the Hospital Pharmacy.

13. Patients shall be discharged only on the written order of the attending physician, except that dictated orders of discharge may be permitted if the attending physician has seen the patient within the prior 24 hours and the attending physician dates and countersigns the order at his next visit to the hospital.

14. All original records are the property of the hospital and shall not be removed from the hospital except by court order, subpoena, or statute. In cases or readmission of a patient, all previous records shall be available for the use of the attending physician. This shall apply whether the patient be staff or private, and whether he be attended by the same physician or another.

15. All orders from physicians and other credentialed practitioners will be appropriately dated and timed.

16. All verbal orders shall be signed, dated and timed by the attending physician within 24 hours.

a) Medical records shall be considered delinquent if one of the following conditions exists:

1. The Face sheet and/or Discharge summary (where applicable) are not completed by the attending physician within seven (7) days after being placed in physician's box and marked complete.

2. All other medical records that are not completed by the attending physician or resident within seven (7) days after they have been placed in physician's box and marked complete.

b) After a medical record has become delinquent under 1 or 2 above, the responsible physician shall be notified. The Medical Records Department will send a note of the delinquency, and impending suspension, to the physician or resident whose medical records have not been completed. Suspension will occur when record has not been completed within a total of fourteen (14) days. The responsible physician shall be given a list of his/her delinquent charts every week. Physicians who have been attending out-of-town meetings, on vacation, or have suffered a documented confining illness during the 14-day period shall be granted an extension equal to the time away.

c) Suspensions for delinquent records shall include suspension of all professional privileges except for care of patients in the hospital or scheduled for admission prior to such suspensions.

d) A list of suspension shall be automatically and routinely compiled by the Medical Records Department and posted in the Registration Department, Emergency Department, and wherever else the needs of the staff and hospital require as determined by the Executive Committee.

e) Reinstatement of admitting privileges shall be accomplished only after the chart deficiencies have been corrected.

f) Should privileges be suspended for a total of thirty (30) days during a calendar year, the practitioner must appear before the Executive Committee personally, at which time privileges may be suspended, reduced or reinstated.

17. In addition to the records noted above, the admitting and attending physician is responsible for the completion of all records as are required under West Virginia law.

18. When a patient upon admission is known or suspected of having had a criminal abortion, she or her representative shall be required to sign a statement certifying that neither any employee of the hospital, nor the attending physician was directly or indirectly responsible for her condition at the time of her admission.

19. Male or female sterilization procedures may not be performed upon any minor, or mentally incompetent person, or any other person suffering from similar disability which would affect his or her ability to enter into a valid contractual agreement, except such sterilization may be performed pursuant to a valid court

order and upon the written consent of the person legally responsible for the patient. Male or female sterilization procedures may be performed upon any other person upon his or her request: Provided, that such request is made in writing by such person and that at the time of such request a full and reasonable medical explanation is given by the physician to such person as to the meaning and consequences of such operation. No physician is required to perform or participate in a sterilization procedure. This regulation is expressly based on West Virginia code Section 16-11-1 and its continued validity is dependent thereon. The regulation is in addition to the consultation requirements of regulation 17(a).

20. Except in emergency, consultation with another qualified physician shall be required in:

a. Operations performed for the sole purpose of sterilization on both male and female patients where there is a medical indication for such procedure. Those cases in which sterilization is performed solely at the request of the patient, and in which no medical indication exists, do not require consultation.

b. Major surgical cases in which the patient is not a good risk.

c. All cases admitted to the ICU and CCU whose primary physician has less than unlimited privileges for the problems encountered must have a consultant.

An approved consultation includes examination of the patient and the record with a written opinion signed by the consultant on regular consultation forms. When operative procedures are involved, the consultation note, except in emergency, shall be recorded prior to operation.

21. Medical staff discussions at service meetings held as provided for under these Rules and Regulations shall constitute a thorough review and analysis of the clinical work done in the hospital, including deaths, unimproved cases, infections, complications, errors in diagnosis, results of treatment from among selected cases in the hospital at the time of the meeting, selected cases discharged since the last meeting, and analysis of clinical reports from each department and reports of committees of the Active Medical Staff.

22. In the Emergency Department the following procedures are within the scope of clinical privileges delineated for Physicians and Physician Assistants (as authorized by the West Virginia Medical Practice Act ' 30-3-16) who provide emergency care and services in the Emergency Department:

a. Control of major external hemorrhage

b. Primary care and closure of wounds
c. Administration of parenteral drugs, fluids, and blood
d. Immobilization of fractures
e. Cardiopulmonary resuscitation
   1. Emergency steps
   2. Definitive therapy
f. Management of life-threatening cardiac dysrhythmias
g. Endotracheal intubation and ventilation
h. Tracheostomy
i. Control of respiration
j. Decompression of pleural or pericardial space
k. Treatment of poisonings, including gastric lavage

The following procedures are to be avoided or not performed in the Emergency Department. These procedures are listed because:

a) The procedure should be done under ideal conditions such as in surgery

b) The procedure would take an undue amount of time to perform, thereby tying up stretcher space or room in the Emergency Department

c) The procedure requires an assistant or two for the physician, thereby tying up the Emergency Department personnel

d) The Emergency Department does not have the facilities to perform such procedures

PROCEDURES

1. Enemas
2. Reduction of open or compound fractures
3. Insertion of Kirschner wires
4. Tendon repairs
5. Reduction of nasal fractures
6. Incision and drainage of infected wounds such as pilonidal cysts, perirectal abscess, etc.
7. Any elective procedure such as removal of moles, biopsies, etc. (these should be done in the Outpatient Department)
8. Any procedure that involves a prolonged amount of time and/or personnel
9. Any procedure by a physician who has not been authorized by his hospital staff privileges
10. Any procedure requiring general anesthesia

The final decision or authority as to whether a procedure should be done in the Emergency Department or not is given to the Emergency physician on duty.

23. In compliance with 42 CFR 489.20, the Medical Staff recognizes and agrees to abide by the Emergency Medical Treatment and Labor Act (EMTALA):

a. All patients presenting themselves to the hospital (on hospital property) for emergency medical care will receive a medical screening exam (MSE) regardless of the patient's ability to pay. The screening exam must be appropriate to the patient's medical complaints and sufficient to determine whether the patient has an emergency medical condition (EMC).

b. The MSE must be performed by the physician on duty, mid-level practitioner, on-call physician, or other qualified medical personnel (QMP). Such qualified medical personnel should include only the following categories of persons when acting within the scope of their training and protocols:

1) Doctor of Medicine (M.D.)
2) Doctor of Osteopathy (D.O.)
3) Obstetrical nurse with demonstrated competencies in aspects of labor assessment as evidenced by:
- Correctly interprets fetal heart rate pattern, including baseline heart rate, variability, and any periodic or non-periodic changes present.
- Correctly assesses cervical dilatation and effacement.
- Correctly assesses fetal station and presentation.
- Correctly assesses contraction frequency, duration, and intensity
- Correctly assesses membrane status by sterile speculum exam. with collection of fluid for nitrazine and fern testing and visual assessment for presence of amniotic fluid.

c. If the patient has an EMC, or if a pregnant woman presents in labor, the hospital will treat or stabilize the patient. The patient will not be transferred to another facility unless the patient's condition is stabilized, or it is in the patient's best interest to be transferred due to the hospital's inability to provide the needed services or level of care.

## 24. ON-CALL PHYSICIANS

### PARTICIPATION IN THE ON-CALL ROSTER

Welch Community Hospital (WCH) shall maintain an on-call roster to ensure that the Emergency Department (ED) is prospectively aware of which physicians are available to provide further evaluation and/or treatment necessary to stabilize an individual with an EMC. Each member of the Staff assigned to the on-call roster agrees that, when he/she is the designated practitioner on call, he/she will accept responsibility during the time specified by the published schedule for providing care to any unassigned patient in the ED referred to the service for which he/she is providing on-call coverage.

#### a. SCHEDULING

On a monthly basis, the Chief Operating Officer (COO) or their designee of the physician vendor will assign active members of the hospital's contracted Medical Staff to the ED on-call schedule, within the scope of their privileges, for the following month. This schedule will be submitted to the Medical Staff Secretary for typing. Non- contracted Medical Staff members (Obstetrical Physicians) will submit a monthly ED on-call schedule to the Medical Staff Secretary for typing. The monthly call schedules will be typed by the Medical Staff Secretary and distributed to the active Medical Staff (contracted and non- contracted) no later than the day preceding the effective date of the call schedule. Individual physician names are to be identified on the schedule.

#### b. CHANGES TO CALL SCHEDULE AFTER DISTRIBUTION

Practitioners requesting changes to the call schedule after its distribution shall be responsible for obtaining substitute coverage of similar clinical scope (i.e. Pediatrician must seek another Pediatrician to take call, Obstetrician must seek another Obstetrician to take call, etc.) for the period of the physician's inability to take call. The practitioner effecting the change must notify both the physician vendor COO and the Medical Staff Secretary. The Medical Staff Secretary will update and distribute revised ED on-call schedules within twenty-four hours of the requested revision.

#### c. EMERGENCY CHANGES

In the event a practitioner scheduled for call experiences an emergency beyond his/her control that will prevent him/her from fulfilling the on-call physician obligations, whenever possible, it will be his/her responsibility to obtain substitute coverage of similar clinical scope for the period of the physician's inability to take call. If this is not possible, due to the emergency situation, the practitioner is to contact the physician vendor COO. The physician vendor COO will make every attempt to obtain necessary coverage. In the event coverage cannot be secured, the physician vendor COO will contact the hospital CEO (or his designee) of the need for diversion.

d. RESPONSE TO CALL

On-call physicians are expected to respond in a timely manner after the initial call from the ED. The on-call physician will be available at all times while on call and capable of responding by telephone within fifteen minutes and, when necessary, in person within thirty minutes. When the ED physician requests that the on-call physician examine the patient, the on-call physician MUST physically come to the hospital.

e. FAILURE TO COMPLY WITH ON-CALL RESPONSIBILITIES

In the event a practitioner fails to comply with his/her responsibilities as defined in these Rules and Regulations, the Chief of Staff will be contacted. The Chief of Staff shall advise the practitioner, both verbally and in writing, that due to the serious nature of the occurrence, refusal to comply with these Rules and Regulations will be referred to the Medical Executive Committee for appropriate action. Alleged refusal to comply with on-call responsibilities as defined in these Rules and Regulations shall result in referral to the Medical Executive Committee for investigation and recommendations for corrective action. The Medical Executive Committee may refer the complaint to an appropriate committee/department for investigation and recommendation. However, it is the responsibility of the Medical Executive Committee to ensure that investigations are completed, and the results reported, in a timely manner. The results of any investigation, including recommendations by a Medical Staff committee, a department, or the Medical Executive Committee shall be reported to the Chief Executive Officer. Any corrective actions taken against a practitioner for violations of these Rules and Regulations shall be in accordance with the Bylaws of the Medical Staff.

f. DISTRIBUTION LIST

The monthly call schedule shall be typed by the Medical Staff Secretary and distributed in a timely fashion to the following:

- Each Physician
- Chief Nursing Officer
- Emergency Department
- Admissions Department
- Nursing Supervisors
- Corresponding Nursing Units

25. The Medical Staff shall attempt to secure autopsies in all deaths, particularly in case of unusual deaths and cases of medico-legal and educational interest, unless otherwise provided by law.

Whether an autopsy is performed within or outside the hospital, the gross and microscopic reports are made part of the patient's completed medical record.

Due to limited space, autopsies are not performed at this facility. Arrangements for autopsies are made at another facility.

26. All Welch Community Hospital physicians recognize and accept the need for Organ Donations and agree to fully cooperate and work with all parties involved to facilitate organ donation, to include families of patients and the staff of Organ Procurement Organizations.

27. All Welch Community Hospital physicians recognize and accept the need for end of life care and agree to fully cooperate and work with all parties involved to facilitate such care, to include families of patients and the staff of Hospice and Respite Organizations.

28. All Welch Community Hospital physicians recognize and accept the need to comply with HIPAA and agree to fully abide by this Act and to fully cooperate and work with all parties involved to facilitate such compliance.

# CERTIFICATION AND SIGNATURE PAGE

By signing below, I certify that I have reviewed this Solicitation in its entirety; understand the requirements, terms and conditions, and other information contained herein; that I am submitting this bid or proposal for review and consideration; that I am authorized by the bidder to execute this bid or any documents related thereto on bidder's behalf; that I am authorized to bind the bidder in a contractual relationship; and that to the best of my knowledge, the bidder has properly registered with any State agency that may require registration.

_____
(Company)

_____
(Authorized Signature)

_____
(Representative Name, Title)

_____
(Phone Number) (Fax Number)

_____
(Date)

**ADDENDUM ACKNOWLEDGEMENT FORM**
**SOLICITATION NO.:** WEH13002

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**
(Check the box next to each addendum received)

| | |
|---|---|
| [ ] Addendum No. 1 | [ ] Addendum No. 6 |
| [ ] Addendum No. 2 | [ ] Addendum No. 7 |
| [ ] Addendum No. 3 | [ ] Addendum No. 8 |
| [ ] Addendum No. 4 | [ ] Addendum No. 9 |
| [ ] Addendum No. 5 | [ ] Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

_____
Company

_____
Authorized Signature

_____
Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.