

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lea Harrington Circuit Court Judge

Case No 2010-CP 10-3410

Dr Cynthia Holmes, M D

Appellant,

v

East Cooper Community Hospital, Inc ,
Tenet HealthSystem Medical, Inc ,

Respondents

RECEIVED

MA 26 2012

SC Court of Appeals

RECORD ON APPEAL

Vol 2 of 3

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SECTION 11 – MEDICAL/SURGICAL/PCU (MED/SURG/PCU) COMMITTEE

A Composition The Med/Surg Committee shall be a standing committee of the Medical Staff and shall consist of at least one medical staff member of the active medical staff, the Director of Med/Surg and a Head Charge nurse. The Chairman of the Committee shall be a standing member of the Medical Executive Committee. The nursing staff will be ex-officio members and shall not vote. Other appropriate personnel can be appointed as deemed necessary by the Chairman of the Med/Surg Committee.

B Responsibilities, Duties, and Authority The committee shall be responsible for

- 1 enhancing the quality of care on the general Med/Surg floors,
- 2 assisting administration in planning programs of care for the continued growth of the Med/Surg unit,
- 3 making recommendations for patient flow and interacting with the other clinical departments in matters that affect the operations of the Med/Surg unit,
- 4 identifying the patient care needs and promoting the attainment of patient care goals,
- 5 serving as a liaison between the nursing staff, medical staff, and administration and
- 6 making recommendations to the Medical Executive Committee on any area of quality control issues or recommendations for the improvement in hospital services

B Meetings The Med/Surg Committee shall meet as often as necessary to accomplish its function.

SECTION 12 – PATIENT SAFETY COMMITTEE

A Composition The Patient Safety Committee shall be a standing committee of the Medical Staff and shall consist of the Chief of Staff and an appointed active medical staff member as designated by the COS, the Patient Safety Officer. One of the physician members shall serve as Chairperson of the committee. The Committee shall call upon other physicians and staff members to participate in Committee meetings that relate to their department.

B Responsibilities, Duties, and Authority The committee shall be responsible for

- 1 Providing a systematic, coordinated and continuous approach to maintenance and improvement of patient safety,
- 2 developing a confidential system to track near misses, adverse events,

- 3 sentinel events, patients, physician and staff,
- 4 assemble relevant patient safety data from internal and external sources,
- 5 The assembled information will be relayed to the MEC and Board of Directors,
- 6 conduct proactive risk assessment of a high-risk process identified in the JCAHO Sentinel Event Alert or as identified by the Committee,
- 7 monitor and track Occurrence reports,
- 8 survey patients, family members medical staff and other staff regarding their opinions, needs and perceptions of the risks to patients,
- 9 notify patient and family, when appropriate, about outcomes of care, including unanticipated outcomes, and shall assure them that appropriate clinical measures are taken to respond to the unanticipated outcome
- C Meetings The Patient Safety shall meet quarterly or as often as necessary to accomplish its function

SECTION 13 -PEER-REVIEW COMMITTEE

A Composition The Peer Review Committee is a standing committee of the Medical Staff and shall consist of the Chief of Staff or Designee to Chair the Committee, Chairman Department of Medicine or Designee, Chairman Department of Surgery or Designee, Chairman Department of OB/GYN or Designee, Chairman Department of Pediatrics or Designee, Chairman Department of Family Medicine or Designee, Member At Large appointed by Chief of Staff and the Chief Medical Officer who is an ex-officio adviser and nonvoting member

B Responsibilities, Duties, and Authority The committee shall

- 1 Conduct fair, meaningful, and comprehensive peer review by assessing data measuring physician performance with respect to the following (a) medical assessment and treatment of patients, (b) medication use and management, (c) operative and other invasive procedures, (d) resuscitation and its outcomes, and (e) the appropriateness of clinical practice patterns
- 2 Assess aspects of physician behavior as it relates to appropriate medical management of patients and staff relationships
- 3 Assess departures from the usual utilization practices

C Processes

1 Conduct individual case reviews where performance is questioned as a result of measurement and assessment activities An initial screening review will be done by either the clinical department or the Chief Medical Officer The body doing the initial screening review will be determined by the individual clinical department Charts reviewed by the Chief Medical Officer which need further review will be referred to the appropriate clinical department Charts deemed by the clinical

department to need still further review will be referred to the Peer Review Committee. The Chief Medical Officer may do an independent screening review on any charts initially screened by a clinical department.

2. The clinical department may consult a specialty reviewer which is either inside or outside the hospital's Medical Staff if needed to conduct individual case reviews.

3. Provide for participation in the review process by the individual whose performances are being reviewed.

4. Collect and maintain individual practitioner data for tracking trends to enhance education, patient safety, and quality improvement.

5. Report composite data to MEC, Governing Board of the Hospital, and clinical departments as indicated.

6. Provide individual practitioner data to the Credentials Committee for use in the reappointment process.

7. Refer Appropriate Cases to the Clinical Department, MEC, Governing Board or other entities to consider disciplinary action.

D Meetings

1. To be held monthly or as indicated by the need for prompt case review.

2. Contingency meetings can be called at any time by the Chairman of the Peer Review Committee with sufficient notice to deal with individual problems that are time sensitive.

ARTICLE XII **MEETINGS**

SECTION 1 – QUARTERLY MEDICAL STAFF MEETINGS

A Regular Meeting Medical Staff meetings shall be held on a quarterly basis. The agenda shall include cumulative reports by staff officers and by committee and department chairman for the review and evaluation of the work done. Elections for staff office will be held at this meeting. The Chief of Staff shall preside at all general meetings of the Medical Staff.

B Order of Business and Agenda The order of business and agenda of the Quarterly Medical Staff meeting will be determined by the Chief of Staff.

C Special Meeting Special meeting of the Medical Staff may be called at any time by the Chief of Staff or at the written request of the Administrator, Governing Body, the MEC, or at least one-fourth (1/4) of the active staff members. The Chief of Staff shall call a special meeting within seven (7) days of his written request.

- 1 Written or printed notice stating the place, day and hour of any special meeting of the medical staff shall be delivered. Either personally or by mail, to each member of the active staff not less than five (5) nor more than ten (10) days before the date of such meeting, by or at the direction of the Chief of Staff. If mailed, the notice of the meeting shall be deemed delivered when deposited, postage prepaid, in the United States mail, addressed to each staff member at his address as it appears in the records of the Hospital. Notice may also be sent to members of other Medical Staff groups who have so requested. If a Medical Staff member is present at the time a specific meeting is called, this shall constitute a waiver of notice of such meeting, and
- 2 No business shall be transacted at any special meeting except that stated in the notice calling the meeting.

SECTION 2 – COMMITTEE AND DEPARTMENT MEETINGS

A Medical staff committees, department, and clinical services may, by resolution, provide the time for holding regular meetings and no notice other than such resolution shall then be required. Departments shall meet at least quarterly. Committees shall meet as required by these Bylaws.

B A special meeting of any committee or department may be called by or at the request of the chairman or chief thereof, by the Chief of Staff, or by one-third (1/3) of the group's current members. No business shall be transacted at any special meeting except that stated in the meeting notice.

C Notice of Meetings (Committee or Department)

- 1 Notice of regular meetings may be given orally or written.
- 2 For any special meeting or any regular meeting not held pursuant to resolution, written or oral notice stating the place, day and hour of the meeting shall be given to each member not less than five (5) days before the time such meeting. If mailed, the notice of the meeting shall be deemed delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the hospital, with postage prepaid.
- 3 The attendance of the Medical Staff member at the time a specific meeting is called, shall constitute a waiver of notice to such meeting.

SECTION 3 – QUORUM

A General Staff Meeting (Regular or Special, Committee Meetings or Departmental Meetings)

1 The presence of ten percent (10%) of the voting members of the Medical Staff at any regular or special meeting shall constitute a quorum for the purpose of transaction of any business including amendment to the Bylaws, Rules and Regulations and the election of staff officers. A simple majority of those voting members who cast votes will be required to make decisions for the medical staff.

2 In the event that a quorum is not present at any regular or special meeting, those members present may meet as a sub-committee of the whole. Any action taken by those present, acting as a sub-committee of the whole, shall be referred for ratification purposes to the next regular or special meeting called for that purpose at which a quorum is present.

B Committee or Department Meeting

One half (1/2) of the voting members of a committee or department, but not less than two (2) members, shall constitute a quorum at any meeting.

SECTION 4 – MANNER OF ACTION

A Except as otherwise specified in these Bylaws, the action of majority of the members present and voting at a meeting at which a quorum is present shall be the action of the group.

B Action may be taken without a meeting of a committee or department by writing setting forth the action so taken and signed and dated by a majority of the members entitled to vote.

SECTION 5 – MEETING MINUTES

Minutes of all meetings shall be prepared by the coordinator of the meeting and shall include a record of attendance and the vote taken on each matter. The minutes shall record a brief discussion of all problems discussed, indicating any recommendation made and forwarded, conclusions reached, and actions taken. The minutes shall be signed by the presiding officer, approved by the attendees, and forwarded to the MEC. A permanent file of the minutes of each meeting (and actions taken without an actual meeting) shall be maintained.

SECTION 6 – ATTENDANCE REQUIREMENT

A **Regular Attendance** Each member of the active staff shall be required to attend the following

- 1 At least fifty percent (50%) of the Quarterly Medical Staff meetings
- 2 Attendance at departmental meetings is determined by each department
Attendance at departmental meetings is required for a member of the medical staff when one of the member's cases is being reviewed or when the member is assigned to review cases of his peers

B **Absence from Meeting**

A member who is compelled to be absent from the required number of Quarterly Medical Staff meetings or attendance at required departmental meetings shall provide promptly in writing or verbally to the Medical Staff Coordinator the reason for such absence

Failure of an active member to attend the required number of Quarterly Medical Staff meetings or peer review assignments, unless excused as described above for just cause, shall automatically place the member on the provisional active staff for a period of one year

The meeting attendance record of each practitioner shall be maintained and made a part of the performance profile section of his credentials file

C **Special Attendance Requirement**

1 A practitioner whose patient's clinical course of treatment is scheduled for discussion at a meeting shall be so notified in writing by the Chairman or the Medical Staff Coordinator, at least ten (10) days prior to the meeting. The notification shall indicate the time and place of the meeting, a statement of the issue(s) involved, and whenever apparent or suspect deviation from standard clinical practice is involved, and the fact that the Practitioner's appearance is mandatory

2 Failure of a practitioner to attend any meeting with respect to which he was given notice that his attendance was mandatory, shall, unless excused by the MEC upon a showing of good cause, result in an automatic suspension of all or such portion of the practitioner's clinical privileges as the MEC may direct pursuant to Article VII of these Bylaws. Such suspension shall remain in effect until the matter is resolved by subsequent action of the MEC or of the Governing Body, if necessary, pursuant to Article VII. In all other cases if the practitioner shall make a timely request for postponement supported by an adequate excuse that his absence will be unavoidable, such presentation may be postponed by the Chief of Staff, or by the MEC if the Chief of Staff is involved, until not later than

the next committee or department meeting. Otherwise the pertinent clinical information available shall be presented and discussed as scheduled.

SECTION 7 – NONVOTING EX - OFFICIO MEMBERS

Individuals serving under these Bylaws, as nonvoting ex officio members of a committee shall, unless otherwise specified, have all other right and privileges of regular members, except they shall not be counted in determining the existence of a quorum.

SECTION 8 – MEETING AS A COMMITTEE –OF-THE-WHOLE

Notwithstanding any other provision of these Bylaws, whenever the Medical staff or a department or committee meets, it shall be considered to be meeting as a committee of the whole medical staff or department, respectively.

SECTION 9 – CONDUCT OF MEETING

All meetings shall follow an acceptable form of parliamentary procedure, such as Robert's Rules of Order, in the conduct of meeting business.

ARTICLE XIII

CONFIDENTIALITY/IMMUNITY FROM LIABILITY

SECTION 1 – CONFIDENTIALITY OF INFORMATION

A General Records and proceedings of all medical staff committees having the responsibility of the evaluation and improvement of quality of care and performance in this hospital, and including information regarding any member or applicant to the medical staff or for clinical privileges or practice prerogatives, shall be confidential, subject to release only in accordance with policies of the Medical Staff and privileged to the fullest extent permitted by law.

B Agreement to maintain confidentiality All individuals participating in or attending such committees or otherwise entitled to access such information shall keep all of the proceedings, minutes, discussions and documents related to any peer review, clinical performance or quality management matter confidential and subject to disclosure only in accordance with policies of the Medical Staff.

C Breach of confidentiality Inasmuch as effective peer review, credentialing and quality/performance management activities must be based on free and candid discussions, any breach of confidentiality of the discussions, deliberations or records of any medical staff meeting, department or committee is outside appropriate standards of conduct for this medical staff and will be deemed disruptive to the operation of the hospital and as having an adverse impact on the quality of patient care. Such breach or threatened breach

shall subject the individual to disciplinary action under the Medical Staff Bylaws, Rules and Regulations and applicable hospital policies

D In all matters relating to patients care and communications, standards set forth by HIPAA shall be adhered to and enforced

SECTION 2 - PRIVILEGES/IMMUNITY

A **Privileges** Any act, communication, report, recommendation, or disclosure with respect to any applicant or member of the Medical Staff, committee member, or practice prerogatives performed or made for the purpose of assessing patient care or achieving and maintaining quality patient care in this or any other health care facility shall be privileged to the fullest extent permitted by law

B **Application** Such privileges shall extend to all individuals participating in the process of assessing patient care or achieving and maintaining quality patient care and practitioner performance including, but not limited to, members of the Medical Staff or Governing Body, Specified Professional Personnel, the Administrator and designees and to third parties who supply information to any of the individuals or committees authorized to receive, release or act upon such information For the purpose of this Article the term, "third parties" mean both individuals and organizations from which information has been requested and/or received by an authorized representative of a health care facility, its Governing Body, the Medical Staff, or any committee or component thereof

C **Immunity** Immunity from civil liability for any act, communication, report, recommendation or disclosure shall be upheld to the fullest extent permitted by law

SECTION 3 - RELEASES

All applicants and members of the medical staff shall execute a release of liability and of confidential information pursuant to these Bylaws

ARTICLE XIV

AMENDMENT AND ADOPTION OF BYLAWS

SECTION 1- MEDICAL STAFF RESPONSIBILITY

The Medical Staff (through its Bylaws Committee and the MEC) shall have the initial responsibility to formulate, adopt and recommend to the Governing Body, Medical Staff Bylaws and amendments thereto which shall be effective when approved by the Governing Body Such responsibility shall be exercised in good faith and in a reasonable, timely and responsible manner, reflecting the interests of providing patient care of the generally recognized professional level of quality and efficiency and of maintaining a

harmony of purpose and effort with the Governing Body and with the community Neither Body may unilaterally amend the Medical Staff Bylaws Written notification of Bylaw changes shall be made available to the Medical Staff and other Licensed Independent Practitioner

SECTION 2- METHODOLOGY

Medical Staff Bylaws must be adopted amended or repealed by the following process

- A the affirmative vote of the majority of the Bylaws, Rules and Regulations Committee,
- B the affirmative vote of the MEC,
- C the affirmative vote of the Medical Staff members eligible to vote on this matter by written ballot or by action at a meeting at which a quorum is present, requiring a two-third vote, and
- D the approval of the Governing Body, which shall not be unreasonably withheld

ARTICLE XV

RULES AND REGULATIONS

SECTION 1- MEDICAL STAFF RULES AND REGULATIONS

The Medical Staff shall adopt such rules and regulations as may be necessary to implement more specifically the general principles found within these Bylaws The rules and regulations shall relate to the proper conduct of the Medical Staff organizational activities and will embody the specific standards and level of practice that are required of each medical staff member and other designated individuals who exercise clinical privileges or provide designated patient care services in the hospital Such rules and regulations may be amended or repealed at any regular meeting of the Medical Executive Committee at which a quorum is present, by two-thirds (2/3) vote of the voting members present Any such changes in the rules and regulations shall not become effective until approved by the Governing Body Neither Body may unilaterally amend the Rules and Regulations Written notification of Rules and Regulations changes shall be made available to the Medical Staff and other Licensed Independent Practitioners

SECTION 2 - DEPARTMENTAL RULES AND REGULATIONS

Each department may establish through these Bylaws a set of rules and regulations, which will become effective upon approval of the MEC and the Governing Body Departmental rules and regulations shall be consistent with these Bylaws, with the Medical Staff Rules and Regulations, and with established Hospital policies, and will

include standards of performance for department members

SECTION 3 - RELATIONSHIP TO BYLAWS

In the event there is a discrepancy between the Bylaws and any Rules and Regulations, the Bylaws shall supersede the Rules and Regulations

ARTICLE XVI

HIPAA PRIVACY RULE COMPLIANCE

SECTION 1 - COMMITMENT TO PRIVACY RULE COMPLIANCE

The use and disclosure of health information is governed in part, by the Standards for Privacy of Individually Identifiable Health Information adopted by the U S Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996, as it may be amended from time to time (the "privacy Rule") Medical Staff members and Specified Professional Personnel authorized to provide services at the Hospital shall protect the privacy of patients' health information as required by the Privacy Rule, other applicable law and the Hospital's privacy policies and procedures Further, the Medical Staff and Specified Professional Personnel are committed to protecting the privacy of patient health information in a manner that reasonably minimizes disruption to quality patient care

SECTION 2 - ORGANIZED HEALTH CARE ARRANGEMENT

The Privacy Rule permits multiple health care providers that are Covered Entities (as defined in the Privacy Rule) and provide health care in a clinically integrated care setting, such as the hospital setting, to declare themselves an "organized health care arrangement" (OHCA) Organized health care arrangement status generally permits its health care provider's participants to use and disclose health information for purposes of treatment, payment and health care operations activities of the arrangement As such, it protects patient privacy while minimizing disruption to quality patient care Accordingly, the Hospital has organized an organized health care arrangement to facilitate the appropriate sharing of health information in the Hospital between and among the Hospital, its workforce members and business associates, Medical Staff members and Specified Professional Personnel authorized to provide services at the Hospital (the "Hospital OHCA")

SECTION 3- AGREEMENT TO PARTICIPATE IN OHCA

By applying for an exercising clinical privileges at the Hospital, each Medical Staff member and Specified Professional Personnel with service authorization agrees to participate in the Hospital OHCA

SECTION 4 - JOINT NOTICE OF PRIVACY PRACTICES

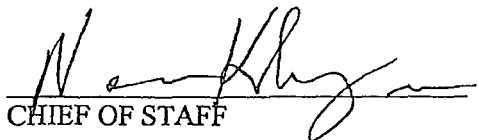
A The Privacy Rule requires a direct treatment provider who is a Covered Entity to deliver a notice of privacy practices to a patient no later than the provider's first date of service of the patient. Health care providers who participate in an organized health care arrangement may comply with this requirement by a joint notice. The implementation of a joint notice streamlines compliance with the Privacy Rule. Accordingly, with respect to Protected Health Information (as defined in the Privacy Rule) created or received by a Medical Staff member or an Specified Professional Personnel in connection with his or her provision of services in the Hospital, the Medical Staff member or Specified Professional Personnel provider agrees to abide by the terms of the joint Notice of Privacy Practices of the Hospital OHCA then in effect unless the Medical Staff member or Specified Professional Personnel provider has delivered a written notice to the Hospital specifying that he/she has opted out of the joint Notice of Privacy Practices. If a Medical Staff member or Specified Professional Personnel provider opts out, he/she shall reference the Hospital OHCA in their individual Notice of Privacy Practices.

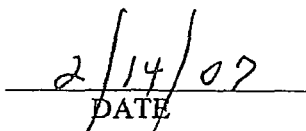
B The Hospital may revise the Hospital OHCA's joint Notice of Privacy Practices, in its reasonable discretion, upon thirty days notice of a revision (with a copy of the revised joint notice) to the Medical Executive Committee (unless the compliance date of a law necessitates a shorter notice period). If the Medical Executive Committee does not object to the revised joint Notice of Privacy Practices before the expiration of the notice period, it shall become effective and binding upon Medical Staff members and Specified Professional Personnel providers with serve authorization upon expiration of the notice period.

SECTION 5 - CORRECTIVE ACTION

Whenever a Medical Staff member or Specified Professional Personnel provider with service authorization uses or discloses health information in a manner inconsistent with the Privacy Rule, other applicable law, the Hospital's privacy policies and procedures or the Hospital OHCA's joint Notice of Privacy Practices, such use or disclosure will be deemed disruptive to the operations of the Hospital and contrary to these Medical Staff Bylaws, Rules and Regulations and Hospital policies. If the Medical Executive Committee determines that such an inconsistent use or disclosure has occurred, it may undertake such corrective action as it deems appropriate in accordance with these Medical Staff Bylaws, Rule and Regulations.

These Medical Staff Bylaws were updated for printing on


CHIEF OF STAFF


DATE


PRESIDENT/CEO


DATE


CHAIRMAN OF THE BOARD


DATE

East Cooper Regional Medical Center

TeneT

Medical Staff Office
1200 Johnnie Dodds Boulevard
Mt Pleasant SC 29464
(843) 881-4350 Phone
(843) 375-5238 Fax

MEDICAL STAFF REAPPOINTMENT APPLICATION

Please check one of the following

☒ I wish to be reappointed to the Medical Staff of East Cooper Regional Medical Center

☐ I do not wish to be reappointed

If you have checked the second statement, do not continue Sign below and fax IMMEDIATELY to (843) 375-5238

Cynthia E Holmes, MD
Applicant Signature Cynthia E Holmes, MD

10/7/06
Date

In order to process your reappointment to the Medical Staff we ask that you provide the following information. A non refundable \$25.00 reappointment fee must accompany this application. If your application is not received within thirty (30) days upon receipt, a late fee of \$100.00 will be charged for the continued processing of your application past the thirty (30) day deadline. If you have questions please contact the MSO or e mail me at Elena.giordano@tenethealth.com

Please return this form to the Medical Staff Office within 30 days of receipt

Below is your data currently stored in our database. Review carefully and mark any changes on this sheet.

PERSONAL IDENTIFICATION DATA

Name	Cynthia E Holmes, MD	Department	Surgery
Specialty	Ophthalmology	Present Status	Consulting
Please change my staff category to ☐ Active ☐ Courtesy ☐ Consulting ☒ Associate			
Last Reappointment Date	12/16/2004	Privileges Expire	12/16/2006

PRIMARY OFFICE ☒ No change since appointment or last reappointment

Primary Office

Primary Ofc Address PO Box 187 Sullivans Island SC 29482

(843)883 9030

Primary Ofc Phone

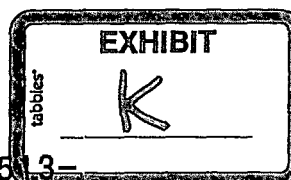
Primary Ofc Fax

Beeper

E mail

Office Manager

Direct Line or Extension



Cynthia E Holmes MD

East Cooper Regional Medical Center
TeneT

Page 2

HOME ADDRESS ☒ No change since appointment or last reappointment

Home Address 1611 Poe Ave Sullivans Island SC 29482 0187

(843)883 3010

Home Phone

Home Fax

Cell Phone

Spouse Name

All questions must be answered in full. All data provided must be sufficient to update your records since your last appointment or reappointment. The Chairman of the respective department may request additional information.

- 1 Please indicate an alternate physician on the ECRMC Medical Staff who will attend to your patients in an emergency situation during your absence.

Name DR BLUESTEIN Specialty OPH.

- 2 Has the nature of your medical practice changed since your last appointment to the Medical Staff? No ☒ Yes ☐

If Yes please explain

- 3 Since your last appointment to the Medical Staff has your license to practice medicine or your DEA registration been limited suspended revoked or any challenges pending either voluntarily or involuntarily? No ☒ Yes ☐

If Yes please explain

- 4 Is your license to practice medicine current? No ☐ Yes ☒

If No why

- 5 Since your last appointment to the Medical Staff have there been any medical problems or changes in your personal health status that would affect your ability to practice medicine in your specialty? No ☒ Yes ☐

If Yes please explain

- 6 Since your last appointment to the Medical Staff have you been suspended voluntarily or involuntarily refused or denied membership at any hospital outpatient treatment / surgical center or other clinical facility? No ☒ Yes ☐

If Yes please explain

- 7 Have your clinical privileges at any hospital been voluntarily or involuntarily reduced limited suspended revoked or not renewed? No ☒ Yes ☐

If Yes please explain

- 8 Please indicate any disciplinary action imposed by hospitals professional societies or licensing bodies (a separate piece of paper may be used)

DATE	NATURE OF VIOLATION	ACTION TAKEN

- 9 Do you have Professional Liability Insurance coverage in the minimum amount of One Million / Three Million Dollars (\$1 000 000 / \$3 000 000) or comparable coverage? No ☐ Yes ☒

Cynthia E. Holmes MD

The information below must be filled in completely with a current copy attached

Present Insurance Carrier SC Joint Underwriting Association

Level of Coverage \$200/\$600K Policy No JB016624 Expiration Date 01/24/2007

- 10 Have you been named as a defendant in any medical or professional malpractice claim lawsuit or medical liability litigation or do you have any cases pending since your last reappointment? No ☒ Yes ☐

If yes please explain on separate paper and attach to application

- 11 Have you voluntarily or involuntarily been terminated of medical staff membership had limitations reductions or loss of clinical privileges at any hospital? No ☒ Yes ☐

If Yes please explain

- 12 Have you ever been suspended sanctioned or otherwise restricted from participating in any private federal or state health insurance program (ie HMO PPO Medicare and / or Medicaid)? No ☒ Yes ☐

If Yes please explain

- 13 Have you ever been the subject of an investigation by any private federal or state agency concerning your participation in any private federal or state health insurance program (ie HMO PPO Medicare Medicaid)? No ☒ Yes ☐

If Yes please explain

- 14 Have you participated in continuing education activities as required by the South Carolina State Licensing Board and relating at least in part to the privileges requested? No ☐ Yes ☒

Please sign the enclosed attestation sheet. It is not necessary to send certificates A random audit will be performed and you may be asked to supply the appropriate documentation

- 15 Are you currently Board Certified in your specialty? No ☒ Yes ☐

In what?

Please send a copy of current board certification Board certification must be recognized by the American Board of Medical Specialties ABMS If recertification is a requirement for your boards please submit recertification dates All medical staff appointed after February 1 2004 must maintain board recertification if their respective board requires recertification)

If no please provide the following information regarding Board Certification examinations during the past two years

Date of Attempt	Type Taken Oral or Written
Specialty Board Name	Results

I fully understand that any significant misstatement or omissions from this Reappointment Application constitute cause for denial of reappointment or causes for summary dismissal from the Medical Staff All information submitted by me in this Reappointment Application is true to the best of my knowledge

I understand my responsibilities and agree to comply with the Medical Bylaws / Rules and Regulations / Policies I understand it is my responsibility to acknowledge any changes to the Medical Staff Bylaws Rules and Regulations which is posted in the main physician lounge medical staff newsletter and announced at Quarterly Medical Staff meetings

Applicant Signature Cynthia E Holmes, MD

10/7/06
Date

Cynthia E Holmes, MD

Healthcare Practitioner's Use of Signature Stamp / Electronic Signature

JCAHO requires that all healthcare practitioners utilizing signature stamps or electronic signature maintain a current letter on file that documents that they will be the only person utilizing the stamp or electronic signature and its use will not be delegated to anyone else

Please complete the statement at the bottom of this form appropriately depending on whether you will or will not be utilizing a signature stamp or electronic signature. If you have not utilized a signature stamp or electronic signature in the past please note

- 1 The stamp is used to authenticate entries in the medical record
- 2 You are responsible for obtaining the signature stamp
- 3 It is recommended that the stamp be designed with your name printed underneath the signature to ensure legibility

Please check one of the following

☒ No, I do not intend to use a signature stamp or electronic signature

 12/7/06
Applicant Name Cynthia E Holmes, MD Date

☐ Yes I intend to use a signature stamp and / or electronic signature (Complete the paragraph below)

I _____, am the only individual having access to and using the below individual signature stamp and/or electronic signature. No one else has my authorization to use this stamp/signature in the medical record. This stamp/signature will be my authentication of any report progress note, order or any other testing or interpretation I may document in the medical record. This statement will be in effect until the expiration of my current appointment period, at which time I will be given the opportunity to renew this letter.

Signature Stamp Impression	Date
Print or type name on signature stamp	

Cynthia E Holmes MD

Physician CME Attestation Form

Physician's Name Cynthia E Holmes, MD

Specialty Ophthalmology

Current Appointment Period 12/16/2004 through 12/16/2006

I attest that I have completed 40 hours AMA Category I CME specific to my specialty in the two years since my last appointment / reappointment to the medical staff at East Cooper Regional Medical Center. I will provide documentation of specific certificates and hours upon request by the Medical Staff.

A percentage of appointment and reappointment forms will be reviewed each cycle to corroborate attested CME hours. Those physicians whose forms are reviewed will be required to present copies of CME certificates and hours earned. If a physician cannot provide documentation of the hours to which he attested, he will lose staff privileges on the grounds of falsification of their application / reappointment process.

100+ HRS. - [Signature] 10/7/06
Applicant Signature Cynthia E Holmes, MD Date

Please return this completed form to the Medical Staff Office
with your reappointment application

Cynthia E Holmes MD

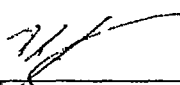
RELEASE of INFORMATION

Provider's Name Cynthia E Holmes, MD

To facilitate the evaluation of my qualifications for staff reappointment and Clinical privileges, I hereby give my consent and authorize East Cooper Regional Medical Center to

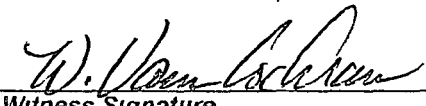
- 1 Consult with any and all members of medical staffs on other hospitals with which I have been associated
- 2 Consult with others who may have information bearing on my competence, character, and ethical qualifications
- 3 Inspect such records as shall be material to an evaluation of my professional qualifications

I hereby release and hold harmless from liability for information furnished and for statements made in good faith and without malice all individuals who submit information at the request of East Cooper Regional Medical Center I waive my right to review the information submitted


Applicant Signature Cynthia E Holmes, MD

10/18/06
Date

(SIGNATURE MUST BE WITNESSED BELOW OR THIS FORM WILL BE RETURNED)


Witness Signature

W VAN CICHRA
- Print Name

10/18/06
Date

Cynthia E Holmes MD

PEER REFERENCES

At the time of reappointment, three (3) peer recommendations are required. Name three (3) medical or health care professionals who have firsthand, personal knowledge of your current clinical abilities, ethical character, health status, and ability to work cooperatively with others and who will provide specific written comments on these matters upon request from hospital representatives. The named individuals must have acquired the requisite knowledge through recent observation of your professional practice over a reasonable period of time.

Please do not use the references listed on your previous application – which we have listed below (if available).

Previous References:
Musc OB/GYN

List 3 new references.

1. Reference Name / Title	Phone Number	FAX Number
DR. DURST	883 3176	883 3459
Address		
306 STATION 22 1/2		
City	State	Country
SULLIVAN ISLAND, SC		
		Postal Code
		29482
Nature of contact with you (eg, Partner, Peer, Director)		
PEER		

2. Reference Name / Title	Phone Number	FAX Number
DR MAJESKI	884 7991	849-7874
Address		
900 BOWMAN RD		
City	State	Country
MT PLEASANT, SC		
		Postal Code
		29464
Nature of contact with you (eg, Partner, Peer, Director)		
PEER		

3. Reference Name / Title	Phone Number	FAX Number
DR BOTELHO	884 1777	
Address		
929 BOWMAN RD		
City	State	Country
MT PLEASANT, SC		
		Postal Code
		29464
Nature of contact with you (eg, Partner, Peer, Director)		
PEER		

Cynthia E Holmes, MD

Hospital Affiliations

Please list all current hospital affiliations, excluding ECRMC

Hospital	Staff Category

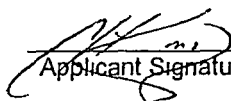
Please return this form along with the physician's reappointment application

Cynthia E Holmes, MD



I understand that

- (a) in exercising clinical privileges granted I am constrained by each hospital's Medical Staff Bylaws, Rules & Regulations and
- (b) any restriction on the clinical privileges granted to me is waived in an emergency situation and in such situation my actions are governed by the applicable section of each hospital's Medical Staff Bylaws


Applicant Signature

Date 10/7/06

Department Chairman

Date 11/20/2006

6/8/04

Cynthia E Holmes, MD

East Cooper Regional
Medical Center

TENET

NAME Cynthia E Holmes, MD

**OPHTHALMOLOGY SURGERY
DELINEATION OF PRIVILEGES**

Minimum threshold criteria to apply for ophthalmology privileges

- 1 **Education** MD or DO
- 2 **Minimum formal training** Successful completion of an ACGME/AOA accredited residency training program in ophthalmology program
- 3 **Board Certification** Must be achieved within 5 years of residency/fellowship training or as noted by their respective board Acceptable board certification in only through the ABMS
- 4 **Required previous experience** Applicants must be able to demonstrate that they have provided surgical ophthalmology treatment to at least 25 ophthalmologic surgical procedures in the past 24 months
- 5 **References** Letters of reference must come from the residency and/or fellowship director or the Chief of Ophthalmology in which the applicant has successfully completed training and/or the applicant has been affiliated with for the last two years Two letters must come from an anesthesiologist and primary care physician who have known the applicant at least two years and are acquainted with the applicant's current professional status medical practice and involvement in the field of ophthalmology
- 6 **Reappointment** Demonstrates that one has maintained competence by showing evidence that they have managed at least 25 patients in the past 24 months

The above minimum threshold criteria must be met in order to request core privileges

	REQUESTED	APPROVED	COMMENTS

CORE PRIVILEGES FOR OPHTHALMOLOGY SURGERY

Core privileges include admission work up diagnosis and the performance of surgical procedures on patients of all ages presenting with illnesses injuries and disorders of the eye including its related structures and visual pathways These privileges include the provision of consultation as well as the ordering of diagnostic studies and procedures related to the ophthalmologic problems The use of CO₂ YAG and KTP laser as trained in residency

#6
ABOVE

Special procedures that are not routinely part of training and require additional documentation of competency, training and experience

SPECIAL PROCEDURES

Penetrating keratoplasty			
Lamellar keratoplasty			
Radial keratoplasty			
Epikeratophakia			
Placement of external radiotherapeutic sources			
Other – If the condition/privilege you are interested in is not included on this form please provide a separate written request and appropriate documentation of training and/or experience			

Cynthia E Holmes MD

C Holmes, M D.

PO Box 187
306 Station 22 1/2
Sullivans Island SC 29482-0187

Phone 843 883 3176

Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 73 y/o WF presents with decreased visual acuity OD. Past ocular history is negative for glaucoma. Past medical history (PMH) is positive for hypertension (htn) and negative for diabetes mellitus (DM). Past surgical history (PSH) is positive for hysterectomy in 1986. Family history (FH) is negative for diabetes and positive for hypertension. She is on Lotral, HCTZ, Clarinex, Aerobid, Nasocort, and NSAIDs PRN. She is allergic to PCN and mycins. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/50 OD and 20/25 OS. Best corrected visual acuity (BCVA) OD was 20/50.

On external exam, there was dermatochalasis bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 3:50 PM: 16 mm Hg OD (right eye) and 13 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OS greater than OD. The vitreous was clear. There was A-V nicking OU consistent with hypertension. Otherwise, the disc and macula were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. The patient has elected to have cataract extraction by phacoemulsification and is scheduled for pre-operative A-scan measurements in order to determine the appropriate lens power for the artificial lens implant. Thereafter, elective surgery will be scheduled in coordination with her primary care physician.

C. Holmes, M D

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Dx Posterior Capsular Opacification OD and Visually Significant Nuclear Sclerotic
Cataract OS

This 67 y/o WF presents with decreased visual acuity OD. Past ocular history (POH) is significant for cataract extraction OD approximately 18 months earlier. Past medical history is negative for hypertension and diabetes mellitus and positive for hypercholesterolemia, arthritis of the hands and feet, and hypothyroidism. She is on Thyroxin, Lipitor, and NSAIDs PRN. She is allergic to Neosporin.

On exam, the patient's distance visual acuity with correction was 20/40 OD and 20/50 OS. The patient's best corrected visual acuity was 20/40 OD and 20/50 OS.

On external exam, there was dermatochalasis bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. There was superficial punctate keratitis (SPK) OU consistent with dry eye syndrome. Otherwise, the cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 4:40 PM: 11 mm Hg OD (right eye) and 10 mm Hg OS (left eye).

On dilated fundus exam, there was a well-centered posterior chamber intraocular lens with 2+ posterior capsular opacification OD. There was a visually significant nuclear sclerotic cataract OS. There were vitreous floaters consistent with benign vitreous degeneration OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with dry eye syndrome, posterior capsular opacification OD, and visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. Dry eye syndrome will be treated conservatively with preservative-free lubricants OU QID, hs, and PRN. The patient will be seen in follow-up for response to therapy, monitoring comfort, and visual acuity as superficial punctate keratitis can degrade vision. If there is no improvement, prescription eye medications such as cyclosporine, NSAID, and other ophthalmic drops will be considered. Absent visual improvement, posterior capsular opacification is treated with YAG laser capsulotomy. After maximizing visual acuity OD, cataract extraction by phacoemulsification OS will be considered.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 59 y/o WM presents with decreased visual acuity OD. Past medical history (PMH) is positive for hypertension (htn) and negative for diabetes mellitus (DM). He is on Hyzaar and Perostat. Past surgical history (PSH) is positive for remote appendectomy. He is allergic to PCN.

On exam, the patient's distance visual acuity (VA) with correction was 20/100 OD and 20/30 OS. Best corrected visual acuity (BCVA) OD was 20/60 and 20/30 OS.

On external exam, there was dermatochalasis bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 12:30 PM: 19 mm Hg OD (right eye) and 17 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OD greater than OS. The vitreous was clear. The optic nerve cup-to-disc ratio was within normal limits. There was A-V nicking OU consistent with hypertension. There were mild retinal pigment epithelial (RPE) changes at the macula OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. Pre-operative A-scan measurements were obtained in order to determine the appropriate lens power for the artificial lens implant. In coordination with the patient's primary care physician, cataract surgery was scheduled. The patient had successful cataract extraction by phacoemulsification with improved visual acuity OD.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 72 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma but positive for trauma OD secondary to a BB gun accident as a child. Past medical history (PMH) is negative for hypertension (htn) and diabetes mellitus and positive for hypercholesterolemia. Past surgical history (PSH) is negative. Family history is positive for hypertension and negative for diabetes mellitus. He is on Lipitor and NSAIDs PRN. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/50 OD and 20/50 OS. There was no improvement with manifest refraction.

On external exam, there was dermatochalasis bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. There was a 10 degree area of iris dialysis at 12 00 OD. There was no apparent phacodonesis OD. The intraocular pressure (IOP) was normal OU at 11 45 am: 19 mm Hg OD (right eye) and 18 mm Hg OS (left eye).

On dilated fundus exam, there was a traumatic cataract OD with posterior subcapsular changes superiorly. There were nuclear sclerotic lens changes OU. The vitreous was clear OU. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for heme, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant traumatic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. Traumatic cataracts require careful attention to lens zonules with possible dehiscence in order to avoid complications at surgery. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OD after pre-operative A-scan measurements to determine the appropriate lens power for artificial lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 81 y/o WF presents with decreased visual acuity OS. Past ocular history is negative for glaucoma but positive for posterior subcapsular cataract extraction OD X 5 years. Past medical history (PMH) is positive for hypertension (htn) and hypercholesterolemia but negative for diabetes mellitus. Past surgical history (PSH) is positive for hysterectomy X years. Family history is positive for hypertension and diabetes mellitus. She is on Lipitor, Hyzaar, and Fossamax. She has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/25 OD and 20/60 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 11:10 am: 17 mm Hg OD (right eye) and 18 mm Hg OS (left eye).

On dilated fundus exam, there was a well-centered posterior chamber intraocular lens OD, there was a nuclear sclerotic cataract OS. The vitreous was clear OU. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient has elected to have cataract extraction by phacoemulsification OS after pre-operative A-scan measurements to determine the appropriate lens power for artificial lens implant.

C Holmes, M D

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 70 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma and eye trauma but positive for cataract extraction OD X 3 years. Past medical history (PMH) is positive for hypercholesterolemia but negative for diabetes mellitus and hypertension (htn). Past surgical history (PSH) is positive for hernia repair. Family history is negative for hypertension and diabetes mellitus. He is on Lipitor. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/25 OD and 20/80 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 2:05 PM: 14 mm Hg OD (right eye) and 15 mm Hg OS (left eye).

On dilated fundus exam, there was a well-centered posterior chamber intraocular lens OD, there was a nuclear sclerotic cataract OS. The vitreous was clear OU. There were peripapillary myopic crescents OU, otherwise the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, there was a 1 disc-diameter chororetinal nevus located at the temporal peripheral retina. Otherwise, peripheral fundus exam was negative for holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with artificial lens implant based upon pre-operative A-scan measurements.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 76 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma but positive for Presumed Ocular Histoplasmosis Syndrome (POHS). Past medical history (PMH) is negative for diabetes mellitus but positive for hypertension and Parkinson's Disease. Past surgical history (PSH) is positive for appendectomy and cholecystectomy. Family history is positive for hypertension and negative for diabetes mellitus. He is on Tenormin, Carbidopa, Levodopa, and Sinemet. He is allergic to Penicillin (PCN). Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/40 OD and 20/50- OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 9:10 am: 12 mm Hg OD (right eye) and 11 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OU. The vitreous was clear OU. There was inactive peripapillary histoplasmosis, chorioretinal atrophy OU, as well as peripheral lesions. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient has elected to have cataract extraction by phacoemulsification OS after pre-operative A-scan measurements to determine the appropriate correction for the artificial lens implant.

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Dx Visually significant Nuclear Sclerotic Cataract (NSC) OS

This 76 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma but positive for rosacea. Past medical history (PMH) is positive for hypertension (htn) but negative for diabetes mellitus. Family history is positive for hypertension and diabetes mellitus. He is on HCTZ, Dapsone per Dermatology, and NSAIDs PRN. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/40 OD and 20/50 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). There was blepharitis OU. There was trace injection of the conjunctiva OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, there was trace non-specific hyperemia (NSH) of the conjunctiva OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 10:30 am: 10 mm Hg OD (right eye) and 10 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OU. The vitreous was clear OU. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for heme, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient has elected to have cataract extraction by phacoemulsification OS after pre-operative A-scan measurements to determine the appropriate intraocular lens implant.

C. Holmes, MD

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 79 y/o WM presents with decreased visual acuity OS. Past ocular history is positive for glaucoma and rosacea. Past medical history (PMH) is positive for hypertension (htn), non-insulin dependent diabetes mellitus (NIDDM), rosacea, and hypercholesterolemia. Past surgical history (PSH) is positive for carotid endarterectomy after presenting here with amaurosis fugax in 2000. Family history is positive for hypertension and diabetes mellitus. He is on HCTZ, Hytrin, an oral hyperglycemic agent, Zocor, and topical agents per Dermatology. He is on Xalatan ophthalmic drops OU q day. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/40 OD and 20/60 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). There was blepharitis OU. There was trace injection of the conjunctiva OU. The pupils were equally round and reactive to light. Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, there was trace non-specific hyperemia (NSH) of the conjunctiva OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 10:45 am: 14 mm Hg OD (right eye) and 17 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OU. The vitreous was clear OU. The optic nerve cup-to-disc ratio was enlarged OU, consistent with glaucoma. Otherwise, the macula and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS after pre-operative A-scan measurements to determine the appropriate intraocular lens implant.

C Holmes, MD

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Dx Visually significant Nuclear Sclerotic Cataract (NSC) OS

This 66 y/o WF presents with decreased visual acuity OS. Past ocular history is positive for glaucoma. Past medical history (PMH) is positive for hypercholesterolemia but negative for diabetes mellitus and hypertension (htn). Past surgical history (PSH) is positive for remote tonsillectomy. Family history is unknown due to adoption. She is on Crestor and Actonel. She has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/40 OD and 20/50 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 11:15 am: 19 mm Hg OD (right eye) and 18 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OU. The vitreous was clear OU. There were peripapillary myopic crescents OU. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with artificial lens implant based upon pre-operative A-scan measurements.

C. Holmes, M D

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 55 y/o WF presents with decreased visual acuity OS. Past ocular history is negative for glaucoma and eye trauma. Past medical history (PMH) is negative for diabetes mellitus and hypertension (htn). Past surgical history (PSH) is positive for hysterectomy X years. Family history is negative for hypertension and diabetes mellitus. She is on prescription medications. She is allergic to Codeine (rash). Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/20 OD and 20/100 OS. With manifest refraction, best-corrected visual acuity (BCVA) was 20/50 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 4:45 PM: 16 mm Hg OD (right eye) and 18 mm Hg OS (left eye).

On dilated fundus exam, there was a nuclear sclerotic cataract (NSC) OS greater than OD. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for heme, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract (NSC) OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with artificial lens implant.

C. Holmes, M D

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 64 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma and eye trauma. Past medical history (PMH) is negative for diabetes mellitus and hypertension (htn) and positive for COPD. Family history is negative for diabetes mellitus and positive for hypertension. He is on Flovent, Albuterol, Coumadin, Prilosec, Neurotin, Lexapro, and Ambien. He is allergic to Cephalosporins. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/60 OD and 20/40 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 10:30 am: 20 mm Hg OD (right eye) and 20 mm Hg OS (left eye).

On dilated fundus exam, there was a nuclear sclerotic cataract (NSC) OD greater than OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract (NSC) OD. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OD with posterior chamber artificial lens implant.

C Holmes, M D

PO Box 187
306 Station 22 1/2
Sullivan's Island, SC 29482 0187

Phone 843 883 3176

Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 76 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma and eye trauma but positive for possible mild amblyopia OD and uneventful cataract extraction by phacoemulsification OS. Past medical history (PMH) is negative for diabetes mellitus and hypertension (htn). Family history is negative for hypertension and diabetes mellitus. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/50 OD and 20/25 OS. There was no improvement with manifest refraction OD.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal.

On dilated fundus exam, there was nuclear sclerotic cataract (NSC) OD and a well-centered posterior chamber intraocular lens implant OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract (NSC) OD. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OD with posterior chamber artificial lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 79 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma and eye trauma and positive for uncomplicated cataract extraction by phacoemulsification OS. Past medical history (PMH) is negative for diabetes mellitus and hypertension (htn). Family history is positive for hypertension and diabetes mellitus. He is on no prescription medications. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/40 OD and 20/25 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU.

On dilated fundus exam, there was nuclear sclerotic cataract (NSC) OD and a well-centered posterior chamber intraocular lens OS. The vitreous was clear OU. There were mild retinal pigment epithelial changes at the macula OU. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract (NSC) OD. The patient received patient education regarding diagnosis, treatment, and prognosis. The patient elected to have cataract extraction by phacoemulsification OD with posterior chamber artificial lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 74 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma and but positive for high myopia OU and retinal detachment (RD) repair OS X 14 years and recent cataract extraction OS. Past medical history (PMH) is positive for insulin-dependent diabetes mellitus (IDDM), hypertension (htn), and hypercholesterolemia. Family history is positive for glaucoma, hypertension and diabetes mellitus. He is on Insulin Lipitor, Niaspan, Norvasc Hydrochlorothiazide (HCTZ) and Coreg. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam the patient's best-corrected distance visual acuity (BCVA) was 20/60 OD and 20/100 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU with conjunctival scarring temporally OS secondary to RD surgery. The pupils were equally round and reactive to light. Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam the conjunctiva was quiet OU with conjunctival scarring temporally OS. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 9-10 AM. 11 mm Hg OD (right eye) and 15 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OD with a well-centered posterior chamber intraocular lens implant OS. The vitreous was clear OU. There was background diabetic retinopathy (BDR) OU. There were peripapillary myopic crescents OU. There were retinal pigment epithelial (RPE) changes at the macula OU consistent with myopic degeneration. Otherwise the disc, macula and vessels were within normal limits OU. By indirect ophthalmoscopy peripheral fundus exam was negative for holes, tears or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OD. The patient received patient education regarding diagnosis, treatment and prognosis. Due to the patient's history of retinal detachment OS and high myopia a retinal consult was obtained in order to evaluate and treat any retinal pathology prior to cataract extraction. In coordination with the patient's primary care physician the patient elected to have cataract extraction by phacoemulsification OD with posterior chamber artificial lens implant based upon pre-operative A-scan measurements.

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Dx Visually Significant Posterior Subcapsular Cataract (PSC) OD

This 55 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma and positive for cataract extraction OS. Past medical history (PMH) is negative for diabetes mellitus and positive for hypertension (htn) and hypercholesterolemia. Family history is positive for hypertension and negative for diabetes mellitus. He is on Vytorin, Hydrochlorothiazide (HCTZ), and Nasonex. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/40 OD and 20/25 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU.

On dilated fundus exam, there was posterior subcapsular cataract OD and a well-centered posterior chamber intraocular lens implant OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant posterior subcapsular cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OD with artificial lens implant based upon pre-operative A-scan measurements.

C Holmes, MD

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 76 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma but positive for rosacea and positive for cataract extraction OS. Past medical history (PMH) is positive for hypertension (htn) but negative for diabetes mellitus. Family history is positive for hypertension and diabetes mellitus. He is on HCTZ, Dapsone per Dermatology and NSAIDs PRN. He has NKDA. Review of Systems (ROS) is non contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/40 OD and 20/20 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). There was blepharitis OU. There was trace injection of the conjunctiva OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, there was trace non specific hyperemia (NSH) of the conjunctiva OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU.

On dilated fundus exam, there was nuclear sclerotic cataract OD and a well-centered posterior chamber intraocular lens implant (PCIOL) OS. The vitreous was clear OU. Otherwise the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for heme, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient has elected to have cataract extraction by phacoemulsification OD after pre-operative A-scan measurements to determine the appropriate intraocular lens implant.

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Dx Visually Significant Posterior Subcapsular Cataract (PSC) and Nuclear Sclerotic
Cataract OS

This 70 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma. Past medical history (PMH) is negative for diabetes mellitus and positive for hypertension (htn). Family history is positive for glaucoma and hypertension and negative for diabetes mellitus. He is on Lotensin, Digoxin, Lasix, and Zyrtec. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/40 OD and 20/70 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 11:20 AM: 13 mm Hg OD (right eye) and 15 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OU and posterior subcapsular cataract OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for holes, tears, or masses OU.

In summary, the patient was diagnosed with nuclear sclerotic cataract OU and visually significant posterior subcapsular cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with artificial lens implant based upon pre-operative A-scan measurements.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 74 y/o WM presents with decreased visual acuity OD. Past ocular history is positive for glaucoma suspect status with thick corneas. Past medical history (PMH) is positive for hypertension (htn) and non-insulin dependent diabetes mellitus (NIDDM). Family history is positive for hypertension and diabetes mellitus. He is on HCTZ, Lipitor, and Glucophage. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/60 OD and 20/40 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 10 20 AM. 21 mm Hg OD and 20 mm Hg OS.

On dilated fundus exam, there was nuclear sclerotic cataract OD greater than OS. The vitreous was clear OU. The disc was mildly asymmetric, OD greater than OS. Otherwise the macula and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OD after pre-operative A scan measurements to determine the appropriate intraocular lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract OD

This 71 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma and positive for uncomplicated cataract surgery OS. Past medical history (PMH) is negative for diabetes mellitus and positive for hypertension (htn). Family history is positive for glaucoma and hypertension and negative for diabetes mellitus. He is on Lotensin, Digoxin, Lasix, and Zyrtec. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/40 OD and 20/20 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 9:25 AM: 13 mm Hg OD (right eye) and 11 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OD and a well-centered posterior chamber intraocular lens implant (PCIOL) OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with nuclear sclerotic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient had cataract extraction by phacoemulsification OD with artificial lens implant based upon pre-operative A-scan measurements.

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Dx Visually Significant Posterior Subcapsular Cataract (PSC) OS

This 55 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma. Past medical history (PMH) is negative for diabetes mellitus and positive for hypertension (htn) and hypercholesterolemia. Family history is positive for hypertension and negative for diabetes mellitus. He is on Vytorin, Hydrochlorothiazide (HCTZ) and Nasonex. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/30 OD and 20/50 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 9:40 AM: 12 mm Hg OD (right eye) and 12 mm Hg OS (left eye).

On dilated fundus exam, there were early lens changes OD and posterior subcapsular cataract OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant posterior subcapsular cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with artificial lens implant based upon pre-operative A-scan measurements.

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Dx Visually Significant Posterior Subcapsular and Nuclear Sclerotic Cataract (NSC)
 OS

This 74 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma and but positive for high myopia OU and retinal detachment (RD) repair OS X 14 years. Past medical history (PMH) is positive for insulin-dependent diabetes mellitus (IDDM), hypertension (htn), and hypercholesterolemia. Family history is positive for glaucoma, hypertension, and diabetes mellitus. He is on Insulin, Lipitor, Niaspan, Norvasc, Hydrochlorothiazide (HCTZ), and Coreg. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/60 OD and 20/100 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU with conjunctival scarring temporally OS secondary to RD surgery. The pupils were equally round and reactive to light. Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU with conjunctival scarring temporally OS. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 9-10 AM: 11 mm Hg OD (right eye) and 15 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OU with posterior subcapsular cataract OS. The vitreous was clear OU. There was background diabetic retinopathy (BDR) OU. There were peripapillary myopic crescents OU. There were retinal pigment epithelial (RPE) changes at the macula OU consistent with myopic degeneration. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant posterior subcapsular and nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. Due to the patient's history of retinal detachment OS and high myopia, a retinal consult was obtained in order to evaluate and treat any retinal pathology prior to cataract extraction. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with posterior chamber artificial lens implant based upon pre-operative A-scan measurements.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 74 y/o WM presents with decreased visual acuity OS. Past ocular history is positive for glaucoma suspect status with thick corneas and uncomplicated cataract extraction OS. Past medical history (PMH) is positive for hypertension (htn) and non insulin dependent diabetes mellitus (NIDDM). Family history is positive for hypertension and diabetes mellitus. He is on HCTZ, Lipitor, and Glucophage. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/60 OD and 20/25 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU.

On dilated fundus exam, there was nuclear sclerotic cataract OS. There was a well-centered posterior chamber intraocular lens OD. The vitreous was clear OU. The disc was mildly asymmetric OD greater than OS. Otherwise, the macula and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS after pre-operative A-scan measurements to determine the appropriate intraocular lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 76 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma and eye trauma but positive for possible mild amblyopia OD. Past medical history (PMH) is negative for diabetes mellitus and hypertension (htn). Family history is negative for hypertension and diabetes mellitus. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/50 OD and 20/70 OS. There was no improvement with manifest refraction OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 3:30 PM: 14 mm Hg OD (right eye) and 12 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract (NSC) OS greater than OD. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract (NSC) OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with posterior chamber artificial lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 64 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma and eye trauma and positive for uncomplicated cataract extraction by phacoemulsification OD. Past medical history (PMH) is negative for diabetes mellitus and hypertension (htn) and positive for COPD. Family history is negative for diabetes mellitus and positive for hypertension. He is on Flovent, Albuterol, Coumadin, Prilosec, Neurotin, Lexapro, and Ambien. He is allergic to Cephalosporins. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/25 OD and 20/40 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU.

On dilated fundus exam, there was a well-centered posterior chamber intraocular lens implant OD and nuclear sclerotic cataract (NSC) OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract (NSC) OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with posterior chamber artificial lens implant.

 East Cooper
Regional Medical Center

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December 20, 2006

VIA CERTIFIED MAIL, R/R/R, Article # 7005 1160 0005 4451 8797

Cynthia Holmes M D
P O Box 187
Sullivans Island, SC 29482

Dear Dr Holmes

Your application for reappointment to the Medical Staff of East Cooper Regional Medical Center has been received and processed. Please be informed that the Medical Executive Committee (MEC) has recommended to the Governing Body that your application for associate status and surgical privileges be denied based upon inadequate documentation of current clinical competency. Under the Medical Staff Bylaws every applicant has the burden of producing adequate information for a proper evaluation of his or her current clinical competence to practice in the area of requested privileges. Also under the Medical Staff Bylaws the Hospital is required to confirm an applicant's current clinical competence. The MEC believes that the documentation of management of patients submitted with your application is inadequate to show clinical competency for the privileges requested in that the information is not dated, does not contain identifying patient information, was not compiled in a hospital or accredited surgical facility setting, and does not demonstrate your ability to competently perform the surgical procedures requested. Further, according to our records, you have not admitted or surgically treated any patients at East Cooper Regional Medical Center since 1998 and therefore, there are no in house records by which to evaluate your current clinical competency. The MEC, however, has determined that your application meets the requirements of consulting staff status and has recommended to the Governing Body that you be reappointed to the consulting Medical Staff.

Please be advised that pursuant to Article VIII of the Medical Staff Bylaws you have the right to request a hearing to appeal the action recommended by the MEC regarding the denial of associate status and surgical privileges. Accordingly, this letter will serve as a Notice of Adverse Recommendation. A request for hearing must be made in writing and received by me as Administrator of East Cooper Regional Medical Center, within thirty (30) days of your receipt of this Notice. You have the right to representation by an attorney or other person of your choice should you request a hearing. Any request for legal representation must be made at the time a hearing request is made. Your hearing rights under the Medical Staff Bylaws also include the right to voir dire and challenge the impartiality of the Medical Review Committee (MRC) members or Hearing Officer presiding over the hearing, be provided with all information made available to the MRC, call and examine witnesses on relevant evidence, cross examine

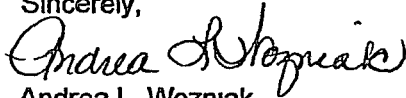


Cynthia Holmes MD
Page Two
December 20, 2006

witnesses, present evidence that tends to impeach any witness subject to the limitations set forth in the Medical Staff Bylaws, and submit a written statement at the close of the presentation of evidence

Failure to request a hearing within the time frame and manner set forth above shall be deemed an acceptance of the recommendation of the MEC and a waiver of hearing and appellate rights under the Medical Staff Bylaws. If the action recommended by the MEC is formally adopted by the Governing Body, the action may be reported to the National Practitioner Data Bank if so required by law. By copy of this letter, the Notice of Adverse Recommendation has been forwarded to the Governing Body for its information.

Sincerely,



Andrea L. Wozniak
Chief Executive Officer

cc Board of Directors, East Cooper Regional Medical Center

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CONFIDENTIAL PEER REVIEW INFORMATION

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

In The Matter of

Cynthia Holmes, M D

Petitioner

) BEFORE THE GOVERNING BODY OF
) EAST COOPER REGIONAL MEDICAL
) CENTER

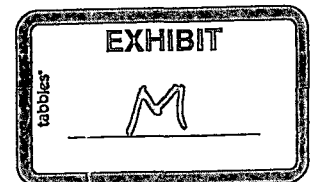
FINAL DECISION OF THE GOVERNING BODY

This matter is before the Governing Body pursuant to the Notice of Request for Appellate Review by Cynthia Holmes, MD dated August 10, 2007 of the report and recommendation of the Medical Review Committee ("MRC") adopting the recommendation of the Medical Executive Committee ("MEC") Pursuant to Dr Holmes' request this matter was set for an appellate review meeting on September 19, 2007 in accordance with notice of the hearing officer dated September 4, 2007

On or about September 17, 2007, the MEC submitted a written brief in support of its position on appeal in accordance with Article VIII, § 6 E 3 of the Medical Staff Bylaws, Rules and Regulations of East Cooper Regional Medical Center. No additional issues or evidence were submitted by Dr. Holmes in accordance with the bylaws and as requested in the communication dated September 4, 2007 providing notice of the hearing. As noticed, on September 19, 2007 at 6:00 p.m., the appellate review meeting was conducted with no parties presenting additional issues, evidence or requesting to appear.

The Governing Body has the authority to affirm, reverse, or modify the decision of the MRC only if the appellant demonstrates 1) substantial and prejudicial failure of the MRC or the MEC to comply with the Medical Staff Bylaws or to afford due process or a fair hearing, 2) the action of recommendation that prompted the hearing, or any substantial part was arbitrary or

certified mail 10/17/07 (original)
and document (copy) 10/17/07



capricious or the MRC's decision or any substantial part was clearly contrary to the weight of the evidence, and 3) the MRC's decision was clearly contrary to the weight of the evidence

In support of her position, Dr Holmes provides a recitation of objections without substantiating the basis of the MEC or MRC's decisions as being arbitrary, capricious, or clearly contrary to the weight of the evidence or specificity as to the allegations of denial of due process. The mere recitation of objections without factual support fails to provide this body with clear and objective evidence to modify or reverse the decision of the MRC.

Dr Holmes broadly indicates "that Tenet and its CEO failed and refused to provide the properly authorized bylaws to all parties as required under the bylaws." There is no specific recitation as to which purported bylaws substantiate her basis of a differing outcome or which provisions would clearly and convincingly provide alternative relief. Similarly, Dr Holmes contends that a decision and report was not made and sent within the specified time period under the bylaws and is thereby waived. Again, there is no specific indication as to which bylaw the allegation is referencing or how any alleged delay prejudicially effected the decision. Other issues include substantial and prejudicial failure of the Credentialing Committee, MEC, and MRC to comply with the bylaws. There again is no specific reference as to which bylaws would provide a differing result.

The Governing Body has considered the report and recommendation and transcript of the hearing from the prior meeting of the MRC and finds that extraordinary steps were undertaken to provide Dr Holmes with a fair hearing that afforded substantial due process. The Governing Body further finds that adequate and reasonable notification of the hearing was provided by the Medical Review Committee and Hospital Administration and that Notice to Dr Holmes of the hearing and bylaws were adequately provided in accordance with Article 8, § 1 B of the bylaws. The Notice of Hearing and statement of charges and a copy of the bylaws were mailed to Dr

Holmes, via registered mail on February 23, 2007. Therefore, she was deemed to have received the notification on or before February 28, 2007 and well within thirty days in advance of the April 4, 2007 hearing. She was, thus, provided not only adequate notice of the hearing, but also full opportunity to prepare for the review. Dr. Holmes also called a witness, Dr. John Langley, during her trial. She verbally communicated during the hearing that she had no desire to call other witnesses.

Dr. Holmes makes another bold assertion that the witnesses did not provide truthful testimony under oath. She has provided no affidavits, new evidence, or other basis for making such accusations of perjury. Likewise, she has failed to specify which portion of the testimony is materially false so that consideration of its impact upon the decision can be objectively evaluated.

Similar to the claim concerning the failure to receive adequate notice of the hearing, Dr. Holmes alleges failure to have received a witness list. During the MRC hearing, evidence was introduced that Dr. Khoury provided a witness list by letter dated February 22, 2006 as well as a supplemental copy of the exhibits by letter dated March 16, 2007.

Further allegations concern a belief that the hearing officer failed and refused to follow the bylaws. Again, this is a statement without any factual or evidentiary support. There is no reference to specific bylaws that Dr. Holmes contends should apply or which bylaws were not followed in a manner that denies due process.

Finally, Dr. Holmes attaches an eight page letter dated July 17, 1998 as further basis for her appeal. There are no evidentiary or factual assertions as to how or why any of the alleged issues raised in 1998 apply to the current credentialing decision. This ground for appeal was not raised in the earlier presentations nor is there any manner to determine its relevancy to the matters before the Governing Body.

The medical staff is responsible for the quality and appropriateness of patient care rendered by all Practitioners and Specified Professional Personnel authorized to provide patient care services. This responsibility is assumed, subject to the ultimate authority of the hospital's governing body, and the best interest of the patient are better protected by a concerted effort of all involved. The Practitioners of the hospital are organized in conformity with the bylaws and the medical staff rules and regulations. The medical staff is mandated to provide quality and appropriate professional performance in ethical conduct and strive for achievable quality patient care efficiently delivered and maintained consistent with the available resources, to the degree reasonably possible as determined by the state of the healing or resources locally available. Dr Holmes failed to provide adequate documentation to support a change from consulting status to associate status with surgical privileges for ophthalmology surgery. Dr Holmes failed to demonstrate surgical ophthalmology treatment to at least twenty-five ophthalmological surgical patients or procedures in the past twenty-four months. The patient care records do not support her application and are inadequate. The records presented do not provide an opportunity for legitimate, independent peer review verification, and lack the necessary details to provide the ability to further investigate the method and specific manner of surgical procedures performed. Dr Holmes has failed to provide sufficient documentation or greater evidence to support the reversal of the prudent recommendations of the MEC and MRC.

THEREFORE, the Governing Body hereby provides its final decision that the report and recommendation of the Medical Review Committee and the Medical Executive Committee be affirmed. Pursuant to the Medical Staff Bylaws, Rules and Regulations of East Cooper Regional Medical Center, this decision shall be effective immediately and not subject to further hearing or appeal. A copy of this final decision shall be delivered to Dr Holmes by certified mail and first

' class postage to the address listed within her appellate request Copies shall also be provided to the hospital administrator via hand delivery

 10/12/07
James B Bagwell, III
Chairman of the Board

Charleston, South Carolina
~~September~~ 12 2007
October

East Cooper Regional Medical Center

Medical Staff Office
1200 Johnnie Dodds Boulevard
Mt Pleasant SC 29464
(843) 881 4350 Phone
(843) 375-5238 Fax

MEDICAL STAFF REAPPOINTMENT APPLICATION

Please check one of the following

- ☒ I wish to be reappointed to the Medical Staff of East Cooper Regional Medical Center
☐ I do not wish to be reappointed

If you have checked the second statement, do not continue Sign below and fax IMMEDIATELY to (843) 375-5238

Applicant Signature Cynthia E Holmes, MD

Date

In order to process your reappointment to the Medical Staff, we ask that you provide the following information. A non-refundable \$25.00 reappointment fee must accompany this application. If your application is not received within thirty (30) days upon receipt, a late fee of \$100.00 will be charged for the continued processing of your application past the thirty (30) day deadline. If you have questions please contact the MSO or e mail me at Elena.giordano@tenethealth.com

Please return this form to the Medical Staff Office within 30 days of receipt

Below is your data currently stored in our database. Review carefully and mark any changes on this sheet

PERSONAL IDENTIFICATION DATA

Name	Cynthia E Holmes, MD	Department	Surgery
Specialty	Ophthalmology	Present Status	Consulting
PLEASE CHANGE MY STAFF CATEGORY TO		☐ Active	☐ Courtesy ☐ Consulting ☒ Associate
Last Reappointment Date	12/13/2006	Privileges Expire	12/13/2008

PRIMARY OFFICE

☒ No change since appointment or last reappointment

Practice Name C. HOLMES, MD

Primary Office 306 STATION 22 1/2, SE, SC 29482 0187

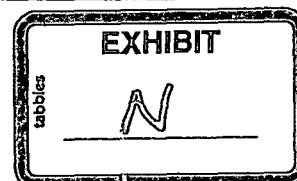
Primary Address PO Box 187 Sullivans Island SC 29482
883 3176

AN) (843)883 9030 728 2733
Primary Ofc Phone Primary Ofc Fax Beeper E-mail

MRS MARY FLETCHER
Office Manager

883 3176 EXT 6
Direct Line or Extension

NPI 1023222734
Cynthia E Holmes, MD



East Cooper Regional Medical Center

HOME ADDRESS	☐ No change since appointment or last reappointment

Home Address 1611 Poe Ave Sullivans Island SC 29482-0187

(843)883-3010
 Home Phone _____ Home Fax _____ Cell Phone _____ Spouse Name _____

All questions must be answered in full All data provided must be sufficient to update your records since your last appointment or reappointment The Chairman of the respective department may request additional information

- 1 Please indicate an alternate physician on the ECRMC Medical Staff who will attend to your patients in an emergency situation during your absence

Name Dr. BLUESTEIN Specialty OPHTHO

- 2 Has the nature of your medical practice changed since your last appointment to the Medical Staff? No ☒ Yes ☐

If Yes please explain

- 3 CURRENT LICENSURE (Please list each state in which you are currently licensed and attach a copy of each)

State <u>SC</u>	License No <u>16132</u>	Issued	Expires <u>9/30/09</u>
State	License No	Issued	Expires
State	License No	Issued	Expires

Since your last appointment to the Medical Staff has your license to practice medicine or your DEA registration been limited suspended revoked or any challenges pending either voluntarily or involuntarily?

No ☒ Yes ☐

If Yes please explain

- 4 Is your license to practice medicine current? No ☐ Yes ☒

If No why

- 5 Since your last appointment to the Medical Staff have there been any medical problems or changes in your personal health status that would affect your ability to practice medicine in your specialty? No ☒ Yes ☐

If Yes please explain

- 6 Since your last appointment to the Medical Staff have you been suspended voluntarily or involuntarily refused or denied membership at any hospital outpatient treatment / surgical center or other clinical facility? No ☒ Yes ☐

If Yes please explain

- 7 Have your clinical privileges at any hospital been voluntarily or involuntarily reduced limited suspended revoked or not renewed? No ☒ Yes ☐

If Yes please explain

- 8 Please indicate any disciplinary action imposed by hospitals professional societies or licensing bodies (a separate piece of paper may be used)

DATE	NATURE OF VIOLATION	ACTION TAKEN

- 9 Do you have Professional Liability Insurance coverage in the minimum amount of One Million / Three Million Dollars (\$1 000 000 / \$3 000 000) or comparable coverage? No ☐ Yes ☒

Cynthia E Holmes, MD

East Cooper Regional Medical Center

The information below must be filled in completely with a current copy attached

Present Insurance Carrier South Carolina Medical Malpractice Liability Insur

Level of Coverage Unlimited Policy No 11220 Expiration Date 01/24/2008

10 Have you been named as a defendant in any medical or professional malpractice claim lawsuit or medical liability litigation or do you have any cases **pending** since your last reappointment? No ☒ Yes ☐

If yes, please explain on separate paper and attach to application

11 Have you voluntarily or involuntarily been terminated of medical staff membership had limitations reductions or loss of clinical privileges at any hospital? No ☒ Yes ☐

If Yes please explain

12 Have you ever been suspended sanctioned or otherwise restricted from participating in any private federal or state health insurance program (ie HMO PPO Medicare and / or Medicaid)? No ☒ Yes ☐

If Yes please explain

13 Have you ever been the subject of an investigation by any private federal or state agency concerning your participation in any private federal or state health insurance program (ie HMO PPO Medicare Medicaid)? No ☒ Yes ☐

If Yes please explain

14 Have you participated in continuing education activities as required by the South Carolina State Licensing Board and relating at least in part to the privileges requested? No ☐ Yes ☒

Please sign the enclosed attestation sheet It is not necessary to send certificates A random audit will be performed and you may be asked to supply the appropriate documentation

15 Are you currently Board Certified in your specialty? BOARD ELIGIBLE No ☐ Yes ☐

In what?

Please send a copy of current board certification Board certification must be recognized by the American Board of Medical Specialties ABMS If recertification is a requirement for your boards please submit recertification dates All medical staff appointed after February 1 2004, must maintain board recertification if their respective board requires recertification)

If no please provide the following information regarding Board Certification examinations during the past two years

Date of Attempt	Type Taken Oral or Written
Specialty Board Name	Results

I fully understand that any significant misstatement or omissions from this Reappointment Application constitute cause for denial of reappointment or causes for summary dismissal from the Medical Staff All information submitted by me in this Reappointment Application is true to the best of my knowledge

I understand my responsibilities and agree to comply with the Medical Bylaws / Rules and Regulations / Policies I understand it is my responsibility to acknowledge any changes to the Medical Staff Bylaws Rules and Regulations which is posted in the main physician lounge medical staff newsletter and announced at Quarterly Medical Staff meetings

 Cynthia E Holmes, MD

10/30/08 Date

Cynthia E Holmes, MD

Center

Use of Signature Stamp / Electronic Signature

Utilizing signature stamps or electronic signature maintain a current
only person utilizing the stamp or electronic signature and its use will

Use this form appropriately, depending on whether you will or will not be
If you have not utilized a signature stamp or electronic signature in

entries in the medical record

Use signature stamp

Use designed with your name printed underneath the

Use signature stamp or electronic signature

Date

Use signature stamp and / or electronic signature (Complete the

Use only individual having access to and using the below
signature No one else has my authorization to use this
signature stamp/signature will be my authentication of any report,
interpretation I may document in the medical record This
signature stamp is my current appointment period at which time I will be given

	Date
signature stamp	

East Cooper Regional Medical Center

Healthcare Practitioner's Use of Signature Stamp / Electronic Signature

JCAHO requires that all healthcare practitioners utilizing signature stamps or electronic signature maintain a current letter on file that documents that they will be the only person utilizing the stamp or electronic signature and its use will not be delegated to anyone else

Please complete the statement at the bottom of this form appropriately depending on whether you will or will not be utilizing a signature stamp or electronic signature. If you have not utilized a signature stamp or electronic signature in the past please note

- 1 The stamp is used to authenticate entries in the medical record
- 2 You are responsible for obtaining the signature stamp
- 3 It is recommended that the stamp be designed with your name printed underneath the signature to ensure legibility

Please check one of the following

☒ **No, I do not intend to use a signature stamp or electronic signature**

 _____
Applicant Name **Cynthia E Holmes, MD** _____ Date **10/30/06**

☐ **Yes I intend to use a signature stamp and / or electronic signature (Complete the paragraph below)**

I, _____, am the only individual having access to and using the below individual signature stamp and/or electronic signature. No one else has my authorization to use this stamp/signature in the medical record. This stamp/signature will be my authentication of any report, progress note, order, or any other testing or interpretation I may document in the medical record. This statement will be in effect until the expiration of my current appointment period at which time I will be given the opportunity to renew this letter.

Signature Stamp Impression	Date
Print or type name on signature stamp	

Cynthia E Holmes, MD

East Cooper Regional Medical Center

Physician CME Attestation Form

Physician's Name Cynthia E Holmes, MD

Specialty Ophthalmology

Current Appointment Period 12/13/2006 through 12/13/2008

I attest that I have completed 40 hours AMA Category I CME, specific to my specialty in the two years since my last appointment / reappointment to the medical staff at East Cooper Regional Medical Center. I will provide documentation of specific certificates and hours upon request by the Medical Staff.

A percentage of appointment and reappointment forms will be reviewed each cycle to corroborate attested CME hours. Those physicians whose forms are reviewed will be required to present copies of CME certificates and hours earned. If a physician cannot provide documentation of the hours to which he attested, he will lose staff privileges on the grounds of falsification of their application / reappointment process.


Applicant Signature Cynthia E Holmes, MD

12/30/08
Date

**Please return this completed form to the Medical Staff Office
with your reappointment application**

Cynthia E Holmes MD

East Cooper Regional Medical Center

Physician CME Attestation Form

Physician's Name Cynthia E Holmes, MD

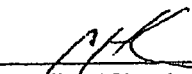
Specialty Ophthalmology

Current Appointment Period 12/13/2006 through 12/13/2008

MORE THAN 90 HOURS

I attest that I have completed ⁴⁰ hours AMA, Category I CME specific to my specialty in the two years since my last appointment / reappointment to the medical staff at East Cooper Regional Medical Center I will provide documentation of specific certificates and hours upon request by the Medical Staff

A percentage of appointment and reappointment forms will be reviewed each cycle to corroborate attested CME hours Those physicians whose forms are reviewed will be required to present copies of CME certificates and hours earned If a physician cannot provide documentation of the hours to which he attested, he will lose staff privileges on the grounds of falsification of their application / reappointment process


Applicant Signature Cynthia E Holmes, MD

12/30/08
Date

**Please return this completed form to the Medical Staff Office
with your reappointment application**

Cynthia E Holmes, MD

East Cooper Regional Medical Center

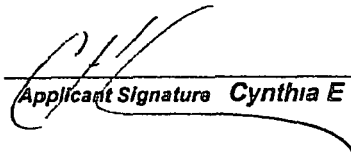
RELEASE of INFORMATION

Provider's Name Cynthia E Holmes, MD

To facilitate the evaluation of my qualifications for staff reappointment and Clinical privileges, I hereby give my consent and authorize East Cooper Regional Medical Center to

- 1 Consult with any and all members of medical staffs on other hospitals with which I have been associated
- 2 Consult with others who may have information bearing on my competence, character, and ethical qualifications
- 3 Inspect such records as shall be material to an evaluation of my professional qualifications

I hereby release and hold harmless from liability for information furnished and for statements made in good faith and without malice, all individuals who submit information at the request of East Cooper Regional Medical Center

 _____ Date 10/30/08
Applicant Signature Cynthia E Holmes, MD

(SIGNATURE MUST BE WITNESSED BELOW OR THIS FORM WILL BE RETURNED)

 _____ Date 10/30/08
Witness Signature T Gardner - Print Name

Cynthia E Holmes MD

East Cooper Regional Medical Center

PEER REFERENCES

At the time of reappointment three (3) peer recommendations are required Name three (3) medical or health care professionals who have firsthand personal knowledge of your current clinical abilities ethical character, health status and ability to work cooperatively with others and who will provide specific written comments on these matters upon request from hospital representatives The named individuals must have acquired the requisite knowledge through recent observation of your professional practice over a reasonable period of time

List 3 new references

1 Reference Name / Title	Phone Number	FAX Number
GEORGE DURST, MD	883 3176	883 3459
Address		
306 STATION 22 1/2		
City	State	Country
SI	SC	USA
Postal Code		
29482		
Nature of contact with you (eg Partner <u>Peer</u> Director)		

2 Reference Name / Title	Phone Number	FAX Number
ETTALEAH BLUESTEIN, MD	849 3600	769 7870
Address		
2145 HENRY TECKLENBURG DR		
City	State	Country
CNAD	SC	USA
Postal Code		
29414		
Nature of contact with you (eg Partner <u>Peer</u> Director)		

3 Reference Name / Title	Phone Number	FAX Number
JENNIFER PULLANO, MD	971 9900	971 9870
Address		
246 MATHIS FERRY RD		
City	State	Country
MT PL	SC	USA
Postal Code		
29464		
Nature of contact with you (eg Partner <u>Peer</u> Director)		



Hospital Affiliations

Please list all current hospital affiliations, excluding ECRMC

Hospital	Staff Category

Please return this form along with the physician's reappointment application

**** Dr Holmes did not submit this form *****
Ellie Giordano Credentialing Coordinator Medical Staff Services ECRMC
Printed by Ellie Giordano on 11/24/2008

East Cooper Regional Medical Center DELINEATION OF PRIVILEGES

SPECIALTY: Ophthalmology

NAME C. Holmes - SEE ATTACHED

Please print ADDITIONAL TRAINING AND EXPERIENCE.

☐ Initial

☐ Change in Privileges

☒ Renewal of Privileges

Date 10/30/08

To be eligible to request these clinical privileges, the applicant must meet the following threshold criteria

Basic Education	MD or DO
Minimum formal training	Successful completion of an ACGME/AOA accredited residency training program in ophthalmology
Board Certification	Must be achieved within 5 years of residency/fellowship training or as noted by the respective board Acceptable board certification is only through the ABMS or AOA
Required Previous Experience	Applicants must demonstrate that they have performed at least 24 ophthalmologic surgical procedures in the past 12 months in a hospital or surgical outpatient setting Recent residency or fellowship training experience may be applicable Proctorship may be requested if applicant cannot demonstrate minimum number of cases
Clinical Reference	Letters of reference must come from the residency and/or fellowship director or the Chief of Service in which the applicant has successfully completed training and/or the applicant has been affiliated with for the last two years
Reappointment	Applicants must demonstrate that they have performed at least 48 ophthalmologic surgical procedures in the past 24 month in a hospital or surgical outpatient setting

Applicant Place a check in the (R) column for each privilege requested

(R)	CORE PRIVILEGES - OPHTHALMOLOGY
☐	Core privileges include admission, work up, diagnosis, and the performance of surgical procedures on patients of all ages presenting with illnesses, injuries, and disorders of the eye, including its related structures and visual pathways These privileges include the provision of consultation as well as the ordering of diagnostic studies and procedures related to the ophthalmologic problems as well as the use of CO2, YAG and KTP laser as trained in residency
☐	REMOVAL FROM CORE The following procedures are "deselected" from the core listing above Applicant and/or MEC must document reasons for "deselection" _____ _____ _____

Special procedures are not routinely part of training and require additional documentation of competency, training and experience

(R)	SPECIAL PROCEDURES
☐	Moderate sedation
☐	Penetrating keratoplasty
☐	Lamellar keratoplasty
☐	Radial keratoplasty
☐	Epikeratophakia
☐	Placement of external radiotherapeutic sources
	Additional Privileges If the condition/privilege you are interested in is not included on this form, please provide a separate written request and appropriate documentation of training and/or experience

I certify that I meet the minimum threshold criteria to request the above privileges and have provided documentation to support my eligibility to request each group of procedures requested I understand that in making this request, I am bound by the applicable Bylaws and/or policies of the Hospital and Medical staff

Applicant's Signature

10/30/08
Date

NOTE In the case of an emergency any individual who has been granted clinical privileges is permitted to do everything possible within the scope of license to save a patient's life or to save a patient from serious harm regardless of staff status or privileges granted

OPHTHALMOLOGY

<u>1</u>		<u>Class O</u>	<u>1</u>	<u>2</u>	<u>Class IV</u>
		<u>Life-threatening emergency.</u> At the time of a clinical emergency any practitioner may render whatever care he believes to be indicated			Vitreous surgery
					Corneal transplant surgery
					Neuro Ophthalmology surgery
<u>✓</u>	<u>1</u>	<u>Class I</u>	<u>1</u>	<u>2</u>	<u>Retinal surgery (including lasers)</u>
	<u>2</u>	— Vision acuity screening			<u>Glaucoma surgery</u>
		— Tonometry/Tonography			<u>Pediatric Ophthalmology</u>
		— Optical measurement (1 & 2, pupillary distance, near point of convergence, accommodation)			<u>Electrophysiologic studies</u>
		— Color vision testing			
		— Surgical assisting with ophthalmologist			
		— External eye examination			
		— Fundus examination of posterior pole			
		— Treatment of uncomplicated conjunctivitis			
		— Removal of foreign bodies on cornea or conjunctiva			
		— Treatment of corneal abrasions			
		— Eye irrigation			
		— Order x-rays to rule out retained foreign body or fracture			
<u>✓</u>	<u>1</u>	<u>Class II</u>			
	<u>2</u>	— Refraction, manifest			
		— Orthoptic exercises			
		— Visual field testing			
		— Contact lens fitting			
		— Contact lens modifications			
<u>✓</u>	<u>1</u>	<u>Class III</u>			
	<u>2</u>	— Treatment of all ophthalmic conditions			
		— Treatment of neoplasms of orbit, eye and adnexa			
		— Intra and extraocular surgery			

East Cooper Regional Medical Center

Physician CME Attestation Form

Physician's Name Cynthia E Holmes, MD

Specialty Ophthalmology

Current Appointment Period 12/13/2006

through 12/13/2008

more than 90 hours

I attest that I have completed ⁴⁰ hours AMA Category I CME, specific to my specialty in the two years since my last appointment / reappointment to the medical staff at East Cooper Regional Medical Center. I will provide documentation of specific certificates and hours upon request by the Medical Staff.

A percentage of appointment and reappointment forms will be reviewed each cycle to corroborate attested CME hours. Those physicians whose forms are reviewed will be required to present copies of CME certificates and hours earned. If a physician cannot provide documentation of the hours to which he attested, he will lose staff privileges on the grounds of falsification of their application / reappointment process.

Cynthia E Holmes, MD
Applicant Signature Cynthia E Holmes, MD

12/30/08
Date

Please return this completed form to the Medical Staff Office
with your reappointment application

Cynthia E Holmes, MD

East Cooper Regional Medical Center

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

Confidential Protected from Disclosure Pursuant to S C Code Ann § 40 71 20 and other applicable legal privileges

BY U S Registered Mail, Return Receipt Requested

November 11, 2008

Cynthia Holmes, MD
PO Box 187
Sullivans Island, SC 29482

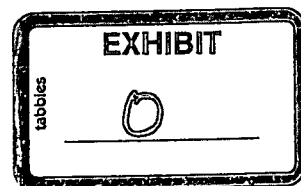
Dear Dr Holmes

We received your Medical Staff Reappointment Application on November 6 2008 The application is being returned to you because it is incomplete The Delineation of Privileges form must be completed as follows

- 1) To request Core Privileges, place an 'X' in the appropriate column
- 2) To request Special Procedures, place an 'X' in the appropriate column of the Special Procedures section If you would like to request privileges not listed in that section, list the procedures on a separate sheet of paper and attach it, along with documentation proving competency to perform the procedures, to the delineation of privileges sheet
- 3) DO NOT alter the Delineation of Privileges form in any way
- 4) DO NOT attach a copy of the old Clinical Privileges form to the current Delineation of Privileges form The old form is obsolete and is no longer recognized by the Medical Staff and cannot be used as a substitute for the current Delineation of Privileges form
- 5) If you are requesting associate staff status you must demonstrate that you have performed at least 48 ophthalmologic surgical procedures in the past 24 months in a hospital or surgical outpatient setting

The completed Delineation of Privileges form and documentation of having performed at least 48 ophthalmologic surgical procedures in the past 24 months must be received in the Medical Staff Office by November 13, 2008 **Failure to meet this deadline will constitute a failure to supply all required information within thirty (30) days prior to the expiration of the current appointment period and failure to respond in a timely manner to a request for information, and you will be deemed to have resigned from the medical staff**

Article V, Section 3 B of the Medical Staff Bylaws states in pertinent part [a] Practitioner who fails to supply all of the required information within thirty (30) days prior to the expiration of the current appointment period or respond in a timely manner to a request for information shall be



Cynthia Holmes, MD
Page Two
November 11, 2008

deemed to have resigned his Medical Staff membership, effective as of the date of the expiration of his current appointment. A Practitioner who is deemed to have resigned under this section shall not be entitled to the hearing and appeal rights under these Bylaws '.

Please contact me at (843) 375-5253 if you have any questions.

Very truly yours

A handwritten signature in cursive script, reading "Elaine B Meuli".

Elaine B. Meuli, CPMSM
Director, Medical Staff Services

Enc

 East Cooper
Regional Medical Center

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

Confidential Protected from disclosure pursuant to S C Code Ann §40-71 20 and other applicable legal privileges

By U S Registered Mail, Return Receipt Requested

December 19, 2008

Cynthia E Holmes M D
P O Box 187
Sullivans Island, SC 29482

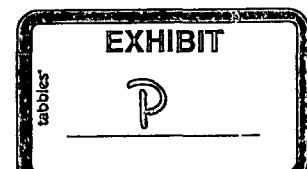
Re Voluntary Resignation from the Medical Staff

Dear Dr Holmes

The Board of Directors of East Cooper Regional Medical Center hereby informs you that your medical staff membership and clinical privileges are deemed to have been resigned voluntarily, effective as of December 14, 2008, the date of the expiration of your appointment to the medical staff for the period December 13, 2006 to December 13, 2008 This determination is made in accordance with Article V, Section 3 B of the Medical Staff Bylaws ("Bylaws") which states that

A Practitioner who fails to return the form or to supply all of the required information within thirty (30) days prior to the expiration of the current appointment period or respond in a timely manner to a request for information shall be deemed to have resigned his Medical Staff membership, effective as of the date of the expiration of his current appointment A Practitioner who is deemed to have resigned under this section shall not be entitled to the hearing and appeal rights under these Bylaws

Under the Bylaws, an application for reappointment is complete when the applicable medical staff department, Credentials Committee, Medical Executive Committee and the Board of Trustees determine that the application meets the requirements of the Bylaws, Rules and Regulations Bylaws, p 7 Your application for reappointment was determined to be incomplete because you failed to submit a current and complete delineation of privileges form and because there was no evidence of having performed at least 48 ophthalmologic surgical procedures in the past 24 months in a hospital or surgical setting although you were seeking associate staff status



Dr Cynthia Holmes
Page Two
December 19, 2008

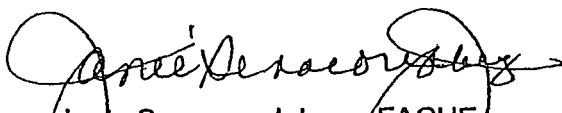
The Hospital sent you an application for reappointment on or about September 3, 2008 which the postal receipt shows you received on September 19, 2008. The Hospital received your application for reappointment on November 6, 2008. Ms Meuli, the Director of Medical Staff Services, called your office on November 12, 2008 to let you know that the reappointment application was incomplete and that she would be returning the application to you. She returned the application to your office that day by hand delivery. The returned application was accompanied by a letter that explained the reasons the application was incomplete and the need to submit the missing information to the Medical Staff Office by the following day, November 13, 2008.

When you called Ms Meuli on the evening of November 12, you informed her that unless the Hospital heard otherwise from you on the following day, November 13, 2008, it should consider the application submitted as received. On November 13, 2008 you delivered to Ms Meuli's office a revised application for reappointment. However, the only change to the application was to state and document that you had completed more than 90 hours of continuing medical education. The revised application for reappointment did not include a current and complete delineation of privileges form as requested, nor did it provide evidence of having performed at least 48 ophthalmologic surgical procedures in the past 24 months in a hospital or surgical setting.

Because the Bylaws deem failure to submit a completed application in timely fashion a voluntary resignation, hearing and appeal rights under Article VIII are not available.

The Board appreciates your interest in the Hospital.

Very truly yours,



Janie Sinacore-Jaberg, FACHE
Chief Executive Officer

Cc Credentials file

C Holmes, M.D

PO Box 187
Sullivans Island SC 29482 0187

January 6, 2009

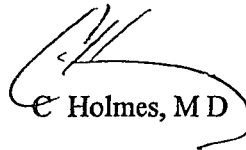
Certified Mail Return Receipt Requested

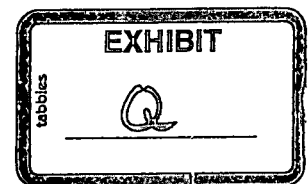
Ms J Sinacore-Jaberg
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Dear Madam

I am writing to provide notice of appeal, request for hearing, and reservation of counsel

Sincerely,


C Holmes, M D



STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) C A 2010-CP-10-3410

DR CYNTHIA HOLMES, M D ,)
Plaintiff,)

Vs)

EAST COOPER COMMUNITY)
HOSPITAL, INC TENETHEALTH)
SYSTEM MEDICAL, INC ,)
Defendants)

PLAINTIFF'S ANSWER TO DEFENDANT'S
COUNTER-CLAIMS and MOTIONS
TO DISMISS PURSUANT TO RULE 12(b)(6)
RULE 12(c), 12(f) SCRPC

FILED
2010 OCT 18 PM 2:56
CLERK OF COURT
J. ARISTRONG

The Plaintiff, by and through her undersigned counsel, hereby answers the counterclaims asserted by Defendant in it's Answer. Herein, Plaintiff also moves for the dismissal of counterclaims pursuant to Rules 12(b)(6) and 12(c), and to strike a portion of the Answer pursuant to Rule 12(f) of the South Carolina Rules of Civil Procedure. Memoianda concerning those specific motions will be filed separately.

ANSWER TO DEFENDANT'S THIRTEENTH DEFENSE AND FIRST COUNTERCLAIM - ABUSE OF PROCESS

- 1 As to Paragraph 58 of the Defendant's Answer and Counterclaims, Plaintiff denies those factual allegations which are inconsistent with her initial complaint in this matter, and alleges that paragraphs 11 through 46, whether accurate or not, are irrelevant to the pleading process and should be stricken.
- 2 Plaintiff denies the allegations set forth in paragraph 59 of the Defendant's Answer and Counterclaim.
- 3 Plaintiff denies the allegations set forth in paragraph 60 of the Defendant's Answer and Counterclaim.

4 Plaintiff denies the allegations set forth in paragraph 61 of the Defendant's Answer and Counterclaim

5 Plaintiff denies the allegations set forth in paragraph 62 of the Defendant's Answer and Counterclaim

ANSWER TO DEFENDANT'S FOURTEENTH DEFENSE AND SECOND COUNTERCLAIM - MALICIOUS PROSECUTION - MOTION TO DISMISS PURSUANT TO RULE 12(b)(6) and RULE 12(c) SCRPC

6 As to Paragraph 63 of the Defendant's Answer and Counterclaims, Plaintiff denies those factual allegations which are inconsistent with her initial complaint in this matter, and alleges that paragraphs 11 through 46, whether accurate or not, are irrelevant to the pleading process and should be stricken

8 Plaintiff denies the allegations set forth in paragraph 64 of the Defendant's Answer and Counterclaim

9 Plaintiff denies the allegations set forth in paragraph 65 of the Defendant's Answer and Counterclaim

10 The Plaintiff asserts, by way of Defense and by way of a motion to dismiss under Rule 12(b)(6) and Rule 12(c) of the South Carolina Rules of Civil Procedure, that Defendant has failed to set forth facts sufficient to constitute a cause of action for Malicious prosecution under applicable South Carolina law and that this action should therefore be stricken and dismissed¹

ANSWER TO DEFENDANT'S FIFTEENTH DEFENSE AND THIRD COUNTERCLAIM, AND MOTION PURSUANT TO THE SOUTH CAROLINA FRIVOLOUS PROCEEDINGS SANCTIONS ACT, CODIFIED AT SECTION 15-36-10 OF THE SOUTH CAROLINA CODE - AND PLAINTIFF'S MOTION TO DISMISS PURSUANT TO RULES 12(b)(6) and RULE 12(c) SCRPC

- 11 As to Paragraph 66 of the Defendant's Answer and Counterclaims, Plaintiff denies those factual allegations which are inconsistent with her initial complaint in this matter, and alleges that paragraphs 11 through 46, whether accurate or not, are irrelevant to the pleading process and should be stricken
- 12 Plaintiff denies the allegations set forth in paragraph 67 of the Defendant's Answer and Counterclaim
- 13 The Plaintiff asserts, by way of Defense and by way of a motion to dismiss under Rule 12(b)(6) and Rule 12(c) of the South Carolina Rules of Civil Procedure, that Defendant has failed to set forth facts sufficient to constitute a cause of action for a motion for sanctions under applicable South Carolina law and that this action should therefore be stricken and dismissed

**PLAINTIFF'S MOTION TO STRIKE PORTIONS OF THE DEFENDANT'S
ANSWER PURSUANT TO RULE 12(f), SCRPC**

- 14 Paragraphs 11 through 46 of the Defendant's Answer and Counterclaims are immaterial to the pleadings in this case, and are impertinent or scandalous, as contemplated within Rule 12(f) of the South Carolina Rules of Civil Procedure, and should be stricken pursuant to Rule 12(f) from the Answer Plaintiff hereby so moves

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays for an award of damages against the Defendants, jointly and severally, and as specifically set forth in the Complaint Plaintiff also requests that the Court dismiss the Defendant's counterclaims in their entirety, and that the Court

issue an Order requiring the Defendant to amend the Answer to remove paragraphs 11 through 46 pursuant to Rule 12(f), SCRCP



Chalmers C Johnson
S C Bar # 11583
523 So G Street, Apt # 402
Tacoma, WA 98405
(425) 999-0900
Counsel for the Plaintiff

October 10, 2010

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF CHARLESTON	)	COURT OF COMMON PLEAS
	)	
Cynthia Holmes, M D	)	
	)	
Plaintiff,	)	
	)	
vs	)	Case No 05-CP-10-5113
	)	Case No 10-CP-10-3410
East Cooper Community Hospital,	)	
Inc , Tenet HealthSystems Medical,	)	
Inc , John Grady, M D , and Paul	)	
Yantis,	)	
	)	
Defendants	)	

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned case was heard on December 16, 2010, before The Honorable R Markley Dennis, Jr in Courtroom 4C of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina, attended by Counsel, as follows

APPEARANCES

Chalmers Johnson, Esq (via telephone)
 Cynthia Collie Holmes, Esq
 P O Box 187
 Sullivans Island, SC 29482-0187
 Appearing for Plaintiff Cynthia Collie

Lindsey Yancey-Smith, Esq
 Chip McQueeney, Esq
 PRATT THOMAS EPTING & WALKER
 P O Drawer 22247
 Charleston, SC 29413
 Appearing for Defendant

DEBORAH GARRISON
Circuit Court Reporter - 9th Judicial Circuit
 Post Office Box 901
 Johns Island, South Carolina 29457
dGarrison@sccowis.org

1 CLERK Chalmers is attending by

2 phone I will get him on (the phone)

3 LINDSEY SMITH-YANCEY Which ones are
4 we doing?

5 THE COURT I don't know I'm just
6 accommodating the ---

7 LINDSEY SMITH-YANCEY As I understand
8 it, the ones that we have pending are
9 defendant's Motion to dismiss based on lack of
10 subject matter jurisdiction, *res judicata* and
11 judgment on the pleadings

12 THE COURT Okay

13 LINDSEY SMITH-YANCEY That is the
14 2010 case

15 THE COURT Okay

16 LINDSEY SMITH-YANCEY We have a
17 previous Motion on the '05 case which will
18 be handled *pro se* concerning enrolling the
19 judgment, sections of the judgement under the
20 name in which Dr Holmes holds real property

21 THE COURT Okay

22 LINDSEY SMITH-YANCEY That is
23 incorporated and we can handle those at the ---

24 THE COURT That's fine I'll hear
25 whatever has to be heard, that everybody is in

1 agreement to hear

2 CLERK (Attempts to contact Mr
3 Johnson via phone, answering machine answered
4 "Your call has been forwarded to an automated
5 voice message system At the tone, please
6 record your message When you are finished
7 recording, you may hang up or Press One for
8 more options To leave a call back number,
9 Press Five)

10 THE COURT Mr Johnson, this is
11 Judge Dennis I'm here in Charleston with all
12 parties and attorneys present We were
13 supposed to have had you attending by phone
14 We will try again in a few minutes Thank you

15 He is representing ---

16 LINDSEY SMITH-YANCEY He is
17 representing Dr Holmes in the 2010 action

18 THE COURT Okay, so -- we need to
19 have him present Dr Holmes, do you have a
20 number for him?

21 CYNTHIA COLLIE HOLMES I do
22 It's not the number that you just used

23 THE COURT Why don't you try him
24 and see if you -- do you have a cell phone with
25 you?

1 CYNTHIA COLLIE HOLMES I do not

2 THE COURT Do we have a cell phone
3 that she can use, see if it can be arranged
4 with that -- or give us another number

5 (BRIEF RECESS)

6 CLERK (Places conference call)

7 MR JOHNSON Chalmers

8 THE COURT Good morning, Mr

9 Johnson This is Judge Dennis How are you?

10 MR JOHNSON Good morning, Judge

11 Dennis Thanks for calling me

12 THE COURT Sure Glad to do it I
13 have Ms Smith-Yancey here, and Dr Holmes is
14 here as well We are on -- is it your Motion,
15 Ms Smith-Yancey?

16 LINDSEY SMITH-YANCEY It is

17 THE COURT All right Be happy to
18 hear from you

19 LINDSEY SMITH-YANCEY Thank you
20 May it please the Court Your Honor, as you
21 know, I am Lindsey Smith-Yancey and I represent
22 the defendant in the new lawsuit, the 2010
23 lawsuit

24 We have filed a Motion to dismiss this
25 lawsuit based on Rule 12(b)(1) for lack of

1 subject matter jurisdiction and we also move
2 for a dismissal based on the principles of res
3 *judicata* and collateral estoppel We have also
4 moved for a judgment on the pleadings

5 We have filed a pretty extensive
6 memorandum of law in support of -- and which
7 contains legal authorities -- our Motions I
8 would large rely on that

9 THE COURT It is incorporated in
10 the record of this proceeding for the purposes
11 of review

12 LINDSEY SMITH-YANCEY Thank you
13 Again, I will large rely on that because of
14 your familiarity of the longstanding
15 controversy between these parties

16 With the Court's indulgence, I would
17 like to highlight a couple of things pertinent
18 to this particular lawsuit

19 THE COURT Certainly Very well

20 LINDSEY SMITH-YANCEY This is
21 plaintiff's fourth breach of contract lawsuit
22 against East Cooper Hospital This particular
23 suit couches the breach of contract allegation
24 in terms of the settlement agreement reached by
25 the parties in 2002 concerning her 2000

1 lawsuit

2 THE COURT Okay

3 LINDSEY SMITH-YANCEY And that

4 settlement agreement is attached to our Answer

5 at pages twenty-one through page twenty-four

6 The pertinent terms that the Hospital is

7 alleged to have breached is, as follows

8 (reading)

9 "That Dr Holmes has been reappointed
10 to consulting status for a term of two years
11 Dr Holmes shall have the right to apply for a
12 change in status in accord with the bylaws "

13 In this new lawsuit, she alleges that
14 this settlement term was breached with respect
15 to her 2006 and 2008 reappointment process

16 Her last lawsuit, the third one, dealt
17 with her 2002 and 2004 reappointment processes,
18 in which she also alleged that the settlement
19 agreement had been breached and that her
20 appointment processes didn't follow the bylaws

21 So what we are getting is every two
22 years when she is up for reappointment and she
23 applies for surgical privileges and she cannot
24 produce evidence that she has current clinical
25 competency in these surgeries, she alleges that

1 the settlement agreement has been breached

2 You know, while this is couched in
3 terms of a breach of the settlement agreements,
4 really this is the same allegation that we have
5 been dealing with for the past ten years She
6 is asking this court to review the credential-
7 ing decisions of a private hospital

8 Respectfully, the court does not have
9 jurisdiction to do that This court cannot
10 make a determination of whether her
11 credentialing decisions were appropriate
12 without second-guessing the medical staff of
13 East Cooper Hospital The case law clearly
14 says that the court does not have jurisdiction
15 to do this

16 This same argument -- and what they
17 say is, 'Well, we are not really asking you to
18 secondguess the decision What we're asking
19 you to is to determine whether she was given
20 appropriate consideration in her reappointment
21 process

22 It is really the same thing They are
23 asking you look at the reappointment process
24 and to look at the bylaws and to see whether
25 they were followed

1 This is an argument that the court
2 rejected in the 2005 case, ruling that the
3 court did not have summary judgment
4 jurisdiction to review this

5 This Order, the summary judgment
6 Order, was upheld by the Court of Appeals and
7 by the South Carolina Supreme Court The same
8 reasoning in the 2005 case applies in this
9 case The court doesn't have subject matter
10 jurisdiction This was appropriate under
11 12(b)(1) and it's also appropriate under the
12 principles of *res judicata* and collateral
13 estoppel because we now have an Order, from
14 the court, saying that "the credentialing
15 controversy between these parties is not re-
16 viewable by this Court", and under those
17 doctrines of *res judicata* and collateral this
18 lawsuit should be dismissed

19 We also move for judgment on the
20 pleadings because, summary judgment and *res*
21 *judicata* arguments aside, the evidence --
22 the pleadings show that the Hospital is in
23 compliance with the settlement agreement

24 The case law in South Carolina shows
25 that you can consider and find as part of the

1 pleadings anything attached to the pleadings
2 So what we have done in our Answer is that we
3 have attached the pertinent portion of her 2006
4 and 2008 credentialing files and the bylaws
5 applicable to those processes

6 Briefly, in 2006 she applied for
7 privilege to perform surgery on the eye
8 Under the bylaws, she is required to prove
9 current clinical competence, meaning that she
10 has to show that she has performed these
11 surgeries correctly and that she is competent
12 The Hospital had no record of her -- inhouse
13 record -- of her performing surgery at this
14 facility since 1998 The only thing that she
15 submitted with her application, part of the
16 pleadings, were what appear to be office notes
17 on her letterhead This were not dated, they
18 had no patient identifying information and they
19 described office visits, not surgical
20 procedures These records were not compiled in
21 any type of independent facilities

22 The medical staff at East Cooper
23 Hospital found that was insufficient to prove
24 clinical competence and they wrote her and told
25 her that that was insufficient and gave her an

1 opportunity to produce evidence showing her
2 current clinical competency They told her,
3 "if you don't do, we are going to consider your
4 application as a request for reappointment to
5 the consulting staff " Typical of Dr Holmes,
6 she did not respond to this letter and they
7 reappointed her to the consulting staff

8 She requested an administrative
9 hearing, per the bylaws, and she was given one
10 She was given the right to have counsel, to
11 call witnesses, to submit evidence This took
12 an inordinate amount of time from the Hospital,
13 this hearing lasted hours I don't know
14 whether he is lying to her lawyer or whether he
15 has not done his due diligence but they
16 specifically contend in the lawsuit that she
17 was not afforded an administrative hearing, and
18 that's just not true The pleadings show
19 otherwise

20 With respect to her 2008 application,
21 she -- the application had been changed by the
22 medical staff to repair physicians who wanted
23 surgical privileges to fill out a form called
24 Delineation of Privileges Form On that form
25 they were to certify that they had performed a

1 certain number of procedures within a certain
2 number of months, for which they were
3 requesting privileges for She refused to fill
4 out that portion of portion of her application

5 She was written and she was told that
6 she needed to fill it out and that if she
7 didn't that her application would be deemed
8 incomplete and that it would be assumed that
9 she had -- had voluntarily resigned from the
10 medical staff She did respond

11 She was written a letter then saying
12 that she was no longer a member of the medical
13 staff

14 Under the bylaws, if you submit an
15 incomplete application, you don't get an
16 administrative hearing

17 So we believe that summary judgment --
18 I'm sorry -- that subject matter jurisdiction
19 and *res judicata* issues aside, the pleadings
20 show that we were in compliance with the bylaws
21 and with the settlement agreement and that
22 dismissal is appropriate on the pleadings

23 You know, I -- this is going to happen
24 every two years On behalf of my client, I am
25 asking again for the court's help in trying to

1 stop this It's abusive, it's frivolous and it
2 is a waste of everybody's time Thank you

3 THE COURT Thank you Mr Johnson?

4 MR JOHNSON Judge, first I would
5 address that the defendant argument sounds a
6 lot like a Motion for summary judgment, which I
7 don't think is appropriate at this time

8 I understand that they've attached a
9 lot of documents to their pleadings and are now
10 claiming that these documents that they've
11 attached to the pleadings should be considered
12 by the court without going into a Rule 56
13 Motion

14 But, honestly, I heard her argument
15 about the credibility of the witnesses and I
16 think that they are trying to submit that
17 that are misleading and argue the case on the
18 merits I would simply say to the court that
19 I think that's not appropriate at this time

20 As to the jurisdictional arguments, I
21 think that that is where we ought to focus I
22 just submitted a brief to the court -- Your
23 Honor, do you have a copy of it?

24 THE COURT I have the file, Mr
25 Johnson, and that's incorporated fully for

1 purposes of review as well

2 MR JOHNSON Thank you I
3 won't belabor the point by going into the legal
4 arguments that are set forth in the brief,
5 outlined in my brief

6 THE COURT Absolutely

7 MR JOHNSON Mainly it comes down
8 to this, Your Honor South Carolina law does
9 say that the court does not have jurisdiction
10 to consider the due process implications of a
11 private hospital's credentialing That makes
12 sense You can only go against a public
13 hospital and request due process

14 Private hospitals have the right to be
15 unfair to anybody that they want to be unfair
16 to My argument is that East Cooper Hospital
17 can do that, too They can write bylaws that
18 are unfair, deny due process, due process on an
19 individual level to any doctor that they want
20 to But -- except Dr Holmes

21 The reason that they can't deny
22 fairness to Dr Holmes is that they promised
23 that she would have access to that and that
24 makes her different than any other doctors
25 going through the credentialing process

1 If she was simply saying that she
2 wasn't treated fairly in the credentialing
3 process and not afforded due process, I would
4 agree that the case should be dismissed for
5 lack of jurisdiction but is not the claim here
6 The claim is that she has a special status as
7 afforded to her by a private agreement and that
8 private agreement was breached I do think that
9 the court has jurisdiction to consider that

10 THE COURT All right

11 MR JOHNSON The remainder of my
12 brief, I wasn't sure whether the defendant was
13 going to be present but -- I need a copy of any
14 memorandum from them Is there any specific
15 issue that you would like for me to address,
16 Judge?

17 THE COURT No Thank you very
18 much I think you've covered it, Chalmers
19 Thank you so much for your succinct argument,
20 as well I appreciate that

21 MR JOHNSON Thank you, Judge

22 THE COURT Do you wish to reply,
23 Ms Smith-Yancey?

24 LINDSEY SMITH-YANCEY Briefly, Your
25 Honor

1 THE COURT Sure

2 LINDSEY SMITH-YANCEY Thank you

3 The term that the Hospital is being accused
4 of breaching is that Dr Holmes shall have
5 the right to apply for a change in status in
6 accordance with the bylaws We allowed her
7 to apply and the information attached to the
8 pleadings shows that those applications were
9 considered and processed in accordance with
10 the bylaws That shows that we are not in
11 breach of the settlement agreement

12 THE COURT Well, let me just
13 respond in this fashion, I -- I appreciate
14 what you've done My concern, though, is
15 that -- I think the safest for everybody, for
16 review purposes is to have this matter
17 resolved not on a Motion on the pleadings but
18 on a Motion for summary judgment I just am
19 not -- I understand the jurisdictional issue
20 There are matters, though, that I -- I really
21 would have to rely on certain things outside
22 of the context of the pleadings I know that
23 you have incorporated them -- that's creative
24 lawyering, and I don't have any problem with
25 that I am just concerned insofar as

1 meeting the test for review for strict
2 judgment on the pleadings I am afraid that
3 we might run amok with that, and I'm not
4 comfortable with that

5 I don't quarrel with anything that
6 you've said I would remind everybody -- I
7 don't have to, we have very competent lawyers
8 involved in this, but if this is another
9 effort that really is nothing more than --
10 could be considered frivolous, though I am
11 not making that finding now, and I would not
12 hesitate, nor am I sure any other judge would
13 hesitate, to impose sanctions

14 So I -- I just remind everybody what
15 we're doing here because I think that it has
16 to be looked at in a real sense I think
17 that the there are things, Mr Johnson, -- no
18 disrespect to you, sir, but -- I understand
19 what you say but it sounds like that might be
20 creative lawyering, too, by using semantics
21 -- and I don't think that it is there
22 That's not for me to judge today

23 I agree with you that it would be a
24 mistake to grant this on the basis of the
25 pleadings So that's the reason that I am

Cynthia Holmes, M D v East Cooper Community Hospital et al 17
Case No 05 CP-10-5113
Hearing of December 16, 2010
Before The Honorable R Markley Dennis, Jr

1 denying it -- not anything about the merits
2 Thank you very much
3 MR JOHNSON Thank you, Your
4 Honor
5 THE COURT Happy Holidays, Mr
6 Johnson
7 LINDSEY SMITH-YANCEY We do have
8 that other matter
9 THE COURT Right Chalmers,
10 you're not involved in that, are you?
11 CLERK He's gone
12 THE COURT He is not, I don't
13 think Okay Dr Holmes?
14 CYNTHIA COLLIE HOLMES The
15 plaintiff has a Motion to dismiss the
16 defendant's Motion
17 THE COURT Yes
18 CYNTHIA COLLIE HOLMES So I am
19 here to ---
20 THE COURT Defendant's Motion for
21 ---
22 CYNTHIA COLLIE HOLMES To
23 enroll the judgment
24 THE COURT I'll be happy to -- if
25 you'all want to hear that, I will be happy to

3-8-11

STATE OF SOUTH CAROLINA	)	
	)	COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	
Cynthia Holmes, M D	)	
	)	
Plaintiff,	)	
	)	
vs	)	Case No 05-CP-10-5113
	)	
East Cooper Community Hospital,	)	
Inc , Tenet HealthSystems Medical,	)	
Inc , John Grady, M D , and Paul	)	
Yantis,	)	
	)	
Defendants	)	

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned case was heard on March 8, 2011, before The Honorable R Markley Dennis, Jr in Courtroom 4B of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina, attended by Counsel, as follows

APPEARANCES

Chalmers Johnson, Esq (via phone)
Cynthia Collie, Esq
P O Box 187
Sullivans Island, SC 29482-0187
Appearing for Plaintiff Cynthia Collie

Chip McQueeney, Esq
PRATT THOMAS EPTING & WALKER
P O Drawer 22247
Charleston, SC 29413
Appearing for Defendant

DEBORAH GARRISON
Circuit Court Reporter - 9th Judicial Circuit
Post Office Box 901
Johns Island, South Carolina 29457
dGarrison@sccourts.org

Cynthia Holmes, M D v East Cooper Community Hospital et al
Case No 05-CP-10-5113
Hearing of March 8, 2011
Before The Honorable R. Markley Dennis Jr

2

1 THE COURT Do we have the phone?
2 CLERK Yes
3 THE COURT We need to get Mr
4 Johnson on the phone The number that I have
5 is 425-999-0900
6 CLERK (Places conference call)
7 MR JOHNSON This is Chalmers
8 Johnson
9 THE COURT Good morning, Chambers
10 This is Markley Dennis How are you this
11 morning?
12 MR. JOHNSON- Morning, Judge,
13 doing fine, how are you'all?
14 THE COURT Fine Thank you I
15 have everyone here Mr McQueeney, this is
16 your Motion for reconsideration. I will be
17 happy to hear from you
18 MR. McQUEENEY: Yes, Your Honor
19 My name is Chip McQueeney. I represent the
20 defendants in this action, East Cooper
21 Community Hospital, Inc and Tenant Health
22 System Medical, Inc
23 Your Honor, I think is familiar with
24 this case The plaintiff, Dr Cynthia Holmes,
25 M.D., is here with us today and filed this

1 action against the defendants relating to the
2 denial of her medical staff privileges at East
3 Cooper Regional Medical Center in 2006 and
4 2008

5 The defendants filed an Answer and
6 moved to dismiss both under 12(b)(6) and
7 under 12(b)(1) for lack of subject matter
8 jurisdiction.

9 Your Honor denied the Motion and we
10 move to reconsider with respect to the 12(b)(1)
11 Motion to dismiss for lack of subject matter
12 jurisdiction. The grounds for that really are
13 that -- as far as subject matter jurisdiction
14 is concerned, that's a Rule 12(b)(1) Motion.
15 The case law says that it cannot be converted
16 into a Motion for summary judgment, so it's
17 more appropriately raised as a 12(b)(1) Motion

18 Secondly, under *Eldrich v City of*
19 *Greenwood*, the plaintiff -- not the defendant
20 -- in an action bears the burden of proving
21 jurisdiction when the defendant challenges it.

22 Thirdly, *Wood v Hilton Head Hospital*
23 states that it is well settled in South
24 Carolina ---

1 THE COURT I can help you You've
2 got a ground for appeal. Mr. Johnson, I assume
3 that you want me to deny the Motion to
4 reconsider?

5 MR JOHNSON That's correct, Your
6 Honor

7 THE COURT: It's denied Thank you.
8 Thank you very much Have a great day

9 (HEARING CONCLUDED)

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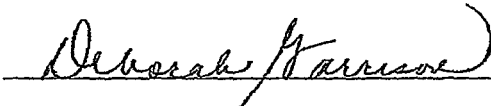
24

25

CERTIFICATE OF REPORTER

I, the undersigned, Deborah Garrison,
official court reporter for the 9th Judicial
Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true,
accurate and complete transcript of the hearing
held before The Honorable R Markley Dennis,
Jr , on March 8, 2011,

I further certify that I am neither kin nor
counsel to any of the parties and have no
interest in the outcome of this action



Deborah Garrison

Circuit Court Reporter

9th Judicial Circuit

Charleston, South Carolina

March 29, 2011

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON) CASE NO 2010-CP-103410

CYNTHIA HOLMES,)
)
 PLAINTIFF,)
)
VS)
)
EAST COOPER COMMUNITY HOSPITAL,)
)
 DEFENDANT)

MOTIONS HEARING

held before the Honorable Kristi L Harrington
Mia Perron, Circuit Court Reporter, 9th Judicial Circuit
in the Charleston County Courthouse
Charleston, South Carolina
on Friday, July 8, 2011, Commencing at 1 35 p m

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EXHIBITS

[None]

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THE COURT Holmes vs East Cooper Community
Hospital

Counsel, if you'll state your name for the
record and the party you represent

MR JOHNSON My name is Chalmers Johnson I
represent the plaintiff in this action, Dr Cynthia
Holmes

MS SMITH-YANCEY Good afternoon I'm Lindsay
Smith-Yancey I represent East Cooper Hospital and
Tenet HealthSystem Medical, Inc , the defendants in
the case

MR PRATT-THOMAS Your Honor, I'm Douglas
Pratt-Thomas, Lindsay's partner and co-counsel,
representing East Cooper and Tenet

THE COURT All right

MR MCQUEENEY Your Honor, I'm Jeff McQueeney
I also work with Lindsay and Douglas, representing the
defense Thank you, Your Honor

MS SMITH-YANCEY This is Stan Mullis He is
the board -- the chairman of the board at East Cooper
Hospital

THE COURT All right I have a motion to
dismiss filed by the plaintiffs on October 18 of 2010
and then a motion for summary judgment filed by the

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1 defendants June 6th of this year Is that correct?

2 MS SMITH-YANCEY That's correct

3 THE COURT Anything else --

4 MR PRATT-THOMAS Yes, Your Honor

5 THE COURT -- in front of the Court?

6 MS SMITH-YANCEY No, ma'am

7 THE COURT All right Counsel, I'm going to
8 allow you -- I've read the file What are we doing
9 here?

10 MR JOHNSON Very quickly, Your Honor

11 I filed a motion to dismiss on the pleadings,
12 which apparently was never heard, and that's why it's
13 front of you I would like to pursue it I think
14 it's a very quick and simple argument but I think it's
15 -- it was ripe long ago and still ripe now

16 THE COURT All right Can you clarify for me,
17 because it appears from the file that it is in front
18 of me, that I have reviewed, that we have been through
19 this process in front of two other circuit judges

20 Am I correct, Mr Johnson?

21 MR JOHNSON Through the process, Your Honor?

22 THE COURT Yes, sir

23 MR JOHNSON Of the motion to dismiss?

24 THE COURT The basis of this litigation

25 MR JOHNSON That's what the defendant claims,

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1 Your Honor, that this is the same case over and over
2 again

3 THE COURT All right Then you need to tell me
4 why it's different

5 MR JOHNSON This case is different from --
6 well, the other cases were dismissed for a lack of
7 subject matter jurisdiction and they were dismissed
8 for a lack of subject matter each time because the
9 courts in those cases found that Dr Holmes was
10 bringing a case asking the Court to decide whether
11 there was due process within the bylaws and whether
12 due process was afforded in a privileging process in
13 the hospital And under South Carolina law, the
14 courts aren't allowed to do that There's no subject
15 matter jurisdiction

16 In this case -- and it was Judge Dennis every
17 time So we were in front of Judge Dennis on the
18 motion to dismiss on the same grounds, res judicata,
19 collateral estoppel, and lack of subject matter
20 jurisdiction in December and again in March for a
21 motion for reconsideration And the judge found in
22 that -- under both of those hearings that there was
23 subject matter jurisdiction, and denied the motion to
24 dismiss for lack of subject matter jurisdiction In
25 the motion for reconsideration, he denied it and

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1 granted what I normally interpret as the right to an
2 appeal to the defendant And they didn't appeal So
3 my argument at this point is that it has been in front
4 of Judge Dennis He has decided all the other cases
5 and in this case he accepted my argument The case is
6 different

7 And I'm sorry to take a long way around this,
8 Your Honor The case is different This time we're
9 specifically pleading that this is a breach of a
10 settlement agreement between Dr Holmes and East
11 Cooper In the settlement agreement she was allowed
12 specifically to apply for changes in status, pursuant
13 to the bylaws, which she has done

14 We are arguing that in every contract there is
15 an implied covenant of good faith and fair dealing
16 The crux of this case is that after the settlement,
17 that East Cooper decided they didn't want Dr Holmes
18 to have privileges there and they have gone basically
19 out of bounds to try to make sure that she can't
20 participate in the process and that she never is
21 allowed to appeal

22 By denying -- I'm sorry By not accepting her
23 application, which is different from denying the
24 application, she's denied all the due processes that
25 are followed by the bylaws, which would end up with

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1 her in court having the Court review the due process
2 that was afforded to her and if it went through the
3 proper process So they're trying to shortcut her out
4 and we think that that's a -- that's the basis of this
5 claim

6 So what we're trying to present if we got to a
7 jury would be pieces of evidence, for instance, our
8 expert, the affidavit of Dr Majeski, showing that the
9 hospital has been doing things to Dr Holmes, that
10 they don't normally do to people who are applying for
11 privileges, to try to skate around the rules and keep
12 her away from being able to even apply and participate
13 in the process

14 And so it's different from a doctor simply
15 applying for privileges, being upset about it, and
16 bringing it before the Court for a second bite of the
17 apple, which is what the jurisdiction issue includes

18 THE COURT And the basis of your motion to
19 dismiss?

20 MR JOHNSON Motion to dismiss was on several
21 -- actually, two of the counterclaims that were
22 brought Two of the counterclaims that were brought,
23 the first one is a Frivolous Proceedings Sanctions Act
24 claim under 15-36-10 And my argument there is one of
25 the elements of Frivolous Proceedings Sanctions Act is

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1 that you must have had a case included in your favor
2 before you can bring it There's no way that can
3 possibly be true as we're standing here today

4 I think that ought to be dismissed It's a
5 motion that can be brought within ten days after the
6 conclusion if they were to win But you can't bring
7 it in a complaint You certainly can't bring it in a
8 complaint and allege that the action has already been
9 one -- I'm sorry -- in the answer and counterclaim
10 So I think that ought to be dismissed on the
11 pleadings

12 My argument under malicious prosecution is the
13 exact same thing The third element under malicious
14 prosecution is termination of proceedings in
15 plaintiff's favor Certainly, they can't sue for
16 malicious prosecution and allege that termination --
17 that the proceedings have been terminated in their
18 favor when we're standing here in the middle of the
19 proceedings

20 So I think on those bases, both the malicious
21 prosecution claim and the counterclaim under 15-36-10
22 should be dismissed upon the pleadings

23 THE COURT All right Anything further as to
24 that motion?

25 MR JOHNSON The last portion of that motion

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1 was a motion to strike There are certain paragraphs
2 of the plaintiffs -- or the defendant's answer that
3 were devoted solely to recounting past law suits And
4 I've opened my brief on the summary judgment with
5 discussion of the fact that all of that is considered
6 inadmissible hearsay I think that it's certainly not
7 proper to be included in the answer It was included
8 in the answer initially, as Judge Dennis put it, to
9 apply some creative lawyering to try to bring a
10 summary judgment motion in the guise of a motion to
11 dismiss on the pleadings by including all of that
12 information Judge Dennis decided that he wasn't
13 going to consider it that way and that this should be
14 brought up at summary judgment

15 I agree with him I think it's not proper to
16 put in the answer and I think it's all hearsay that
17 could never go in front of a jury in trial But it
18 could be used as an end run around that, since
19 pleadings can be presented to a jury at trial I
20 think it's appropriate for me to ask that it be
21 stricken

22 THE COURT Counsel?

23 MS SMITH-YANCEY Thank you, Your Honor

24 If I may first address the summary -- the
25 subject matter jurisdiction

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1 THE COURT Yes, ma'am

2 MS SMITH-YANCEY As Your Honor pointed out, we
3 have been down this road several times with Dr
4 Holmes So when this latest lawsuit was filled we
5 tried to nip it in the bud, so to speak, and we filed
6 a motion for a judgment on the pleadings and a motion
7 to dismiss for lack of subject matter jurisdiction
8 And Judge Dennis heard that motion and he denied that
9 motion

10 He did not deny those motions based on the
11 merits and he did not ever rule that this Court had
12 subject matter jurisdiction over this controversy
13 That is a blatant misrepresentation of his comments
14 and his rulings And if you are so inclined to
15 entertain that argument, I would encourage you to hold
16 that in abeyance so that we can get a copy of his
17 transcript What he actually said was that these
18 issues were premature and that they were more suited
19 for summary judgment

20 Regardless, that aside, to deny on the motion to
21 dismiss based on lack of subject matter jurisdiction
22 has no finality, it's not immediately appealable, and
23 it may be maintained at trial and at any time And
24 the denial of a Rule 12[b][6] motion does not
25 establish the law of the case nor does it preclude the

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1 party from raising the issue at a later point So not
2 only did Judge Dennis not say those things that they
3 say that he did, it doesn't matter We can bring this
4 up before you now

5 As for the motion to dismiss and strike
6 regarding the counterclaims, the reason that
7 information was put in the complaint was in support of
8 our counterclaims for abuse of process and malicious
9 prosecution And, clearly, if a party instigates
10 excessive suits upon the same cause of action after an
11 adverse determination, files repetitive suits for the
12 same cause of action before any are resolved, or
13 initiates, dismisses and re-files the same cause of
14 action, that the act of bringing successive actions,
15 even those concluded, outside the applicable
16 limitations period for a malicious prosecution claim
17 may be used as proof of improper motive or malice

18 And this is from CJS, and I'll be happy to hand
19 it up to you

20 [Whereupon, Ms Smith-Yancey proffers documents
21 to the Court]

22 MS SMITH-YANCEY So, Your Honor, we would
23 submit that all of that information in the complaint
24 is necessary to support our claims that we have been
25 down this road so many times with Dr Holmes and that

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1 that is why we are entitled to go to a jury for them
2 to determine whether she has abused this process, and
3 abused this process, and maliciously prosecuted her
4 claims

5 THE COURT All right Now I'll hear from you
6 on your motion for summary judgment

7 MS SMITH-YANCEY That's fine And if you're
8 -- I've got a bit of a cold so I may come up a little
9 bit closer to you

10 THE COURT That's fine

11 MS SMITH-YANCEY Again, Danny Mullins is here
12 today And I don't know if you know Danny He is a
13 member of the Charleston County Bar and he's also
14 director of the ADR program for the U S District
15 Court He's chair of the board of East Cooper
16 Hospital And I hope that his presence here today
17 conveys to the Court the importance of this motion and
18 its impact on East Cooper Hospital

19 As you know from reading the file, Dr Holmes is
20 an ophthalmologist She's also a lawyer and a member
21 of the South Carolina Bar, as well This is the sixth
22 lawsuit she has brought in twelve years, all
23 concerning her medical-staff privileges at East Cooper
24 Hospital, four of which were against the hospital
25 directly The other two involved lawyers who

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1 represented her in these previous cases

2 She has been admonished and/or sanctioned by
3 every court in this state for these activities once
4 by the U S District Court in 2000, when Judge Duffy
5 dismissed her federal claims, the first action she
6 filed, specifically stating that she has disregarded
7 the rules of the Court just like she disregarded the
8 rules of East Cooper Hospital, twice by the Court of
9 Common Pleas, once in 2009 when Judge Dennis dismissed
10 her last case and issued sanctions against her to the
11 tune of \$90,000 and again in 2009, by Judge Houston,
12 in response to her legal malpractice -- one of her
13 legal malpractice cases and issuing sanctions to the
14 tune of \$200,000

15 After we were awarded summary judgment by Judge
16 Dennis for the last lawsuit, she filed three redundant
17 appeals with the South Carolina Supreme Court over and
18 over again That resulted in two orders one from
19 the Honorable Kaye Hearn, one from the Honorable
20 Jasper Curtain, both admonishing her and warning her
21 that any additional filings would result in sanctions

22 Despite that, she again appealed, filed a writ
23 for certiorari for the South Carolina Supreme Court
24 They sanctioned her twice, as well once in yet
25 another legal malpractice case, directing the clerks

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1 of court of this state to refuse any filing from her
2 concerning her medical staff privileges at East Cooper
3 Hospital unless they were signed by another lawyer,
4 and again specifically in this case when she attempted
5 to file a pro se writ without the signature of another
6 lawyer All of those orders are located in Exhibits A
7 and B to the defendant's answer in this case

8 In all those cases she has alleged that the
9 credentialing decisions at East Cooper Hospital were
10 part of a conspiracy to promote the practice of
11 economic competitor of another ophthalmologist named
12 Dr Grady She alleges the same thing in this present
13 case

14 So we filed a memorandum of law outlining our
15 arguments on why we're entitled to summary judgment in
16 this case, like we were last time, and those arguments
17 are that the Court doesn't have subject matter
18 jurisdiction to either credentialing decisions of a
19 private hospital, that we're entitled to summary
20 judgment on the basis of res judicata and collateral
21 estoppel based on the previous rulings of Judge Dennis
22 in the last case, and, third, because as a matter of
23 law, the evidence in this case shows that not only was
24 the hospital in compliance with the bylaws but in
25 compliance with the settlement agreement she's

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1 complaining about

2 We've also filed a series of affidavits
3 supporting our motion one from the chairman of the
4 department of surgery, the medical executive
5 committee, the East Cooper Hospital, one from the
6 chairman of the credentials committee, two from the
7 various chairs of the governing board, one from the
8 director of medical staff services, attaching the
9 bylaws and all her credentialing materials, and one
10 from Dr Poecock [phonetic], who is an expert in
11 physician credentialing It's a really long memo, and
12 I apologize for that, but this is really another way
13 -- no way other [phonetic] to address a twelve-year-
14 old credentialing process So I don't want to go
15 through the memo piece by piece, but I would beg the
16 Court's indulgence to highlight some areas

17 THE COURT Yes, ma'am

18 MS SMITH-YANCEY The credential process of
19 physicians at East Cooper Hospital are set forth in
20 our bylaws, in our memo, and the various affidavits
21 that we've submitted But basically what happens is
22 that the chair of the various departments that the
23 physician belongs to first receives the reappointment
24 application and determines whether it's complete or
25 not He then presents a report to the credentials

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1 committee The credentials committee then makes a
2 recommendation to what's called the medical executive
3 committee The members of the credentials committee
4 and the medical executive committee are physicians,
5 and this is peer review Then the medical executive
6 committee makes a recommendation to the board of
7 directors and the board has the ultimate vote to say
8 yes or no

9 So it's undisputed in this case that East Cooper
10 Hospital is a private hospital, operating pursuant to
11 bylaws, with a governing board

12 It's also undisputed -- and, as you heard Mr
13 Johnson agree, the case law in South Carolina and
14 throughout the country is that courts cannot review
15 the credentialing decisions of a private hospital

16 And so what this last lawsuit is fashioned as is
17 a breach of a settlement agreement reached in a
18 previous case So they're saying we're not
19 complaining about bylaws, we're complaining about a
20 settlement agreement But if you look at this
21 closely, the evidence shows this is all about the
22 bylaws and it's all about the same things that we've
23 litigated over and over and over in the last twelve
24 years

25 The settlement agreement in question was entered

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1 into in early 2003 and it called for her reappointment
2 to the consulting medical staff for a two-year term --
3 that'll be from 2002 to 2004 -- with the right to
4 apply for a change in privileges in accordance with
5 the bylaws So she was indeed reappointed to the
6 consulting staff in 2002 for a two-year term

7 As a consulting staff member, she is not allowed
8 to admit patients or perform surgery And under state
9 and federal law, the hospital is required to perform
10 credentialing every two years A medical staff
11 appointment can't last beyond two years without the
12 physician having to go through all the credentialing
13 That's for patient safety

14 So at the end of her 2002 to 2002 [sic]
15 reappointment, she filed a lawsuit alleging that those
16 appointments were contrary to the bylaws and contrary
17 to the settlement agreement entered into in 2003 And
18 that's the case that was decided on by Judge Dennis

19 Judge Dennis dismissed her 2002 claims right off
20 the bat, finding that her reappointment to the
21 consulting staff was a term of the settlement
22 agreement And he allowed her 2004 claims to proceed
23 through the discovery process, again finding that
24 those were more appropriate for summary judgment,
25 rather than a motion to dismiss initially after the

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1 pleadings were filed

2 So we did wait a year She did nothing She
3 didn't file any interrogatories, request for
4 production, didn't take any depositions, anything So
5 we then filed a motion for summary judgment Judge
6 Dennis granted summary judgment His order, which is
7 attached as Exhibit H to your answer, specifically
8 found that while she claimed, like in this lawsuit,
9 that the settlement agreement had been breeched, as
10 were the bylaws, that the Court -- all this arose out
11 of peer review and that he did not -- this Court did
12 not have subject matter jurisdiction on that, was also
13 the basis of his sanctions order that she was
14 requesting this Court to review a matter that was
15 clearly contrary to South Carolina case law

16 And so here we are again In 2006, she comes
17 back up for reappointment She's still a member of
18 the consulting staff She would like a -- she
19 requested, through her reappointment application, a
20 change in staff category and privileges She wanted
21 to advance to associate and she wanted surgical
22 privileges Associate staff members can't admit
23 patients to the hospital but she wanted surgical
24 privileges to perform surgery on the eye

25 And as part of the bylaws, she was required to

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1 submit, to the satisfaction of the credentials
2 committee, information showing that she was currently
3 clinically competent to do these things The hospital
4 had no record of her performing surgery since 1998, so
5 they didn't have any surgical records to determine
6 whether she was competent to perform surgery She did
7 not submit any operative notes with her preappointment
8 application What she did submit appeared to be
9 summaries of twenty-five patients that she had seen in
10 her office These summaries were not dated, they
11 contained no patient identifying information, and they
12 didn't indicate that she had performed surgery on
13 these people

14 And so -- also as a part of the application,
15 every applicant is required to have a peer fill out a
16 peer-review form stating that, you know, I don't have
17 any information that this person has a drug problem or
18 health problem or has medical malpractice actions or
19 anything like that, but they don't specifically speak
20 to surgery or surgery skills

21 And so because the credentials committee didn't
22 really have a whole lot of information to go on, they
23 picked up the phone and they called Dr Holmes' peer-
24 review-form signature physicians and all of them said,
25 we refer medical patients to Dr Holmes, we don't

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1 refer surgery patients to Dr Holmes so we cannot
2 speak to her surgical skills

3 So with that, the credentials committee found
4 that while her application was complete and that it
5 did have some evidence of her competency to treat
6 patients in the office, they didn't find that it
7 showed enough evidence that she was able to surgically
8 treat patients or to treat them in the hospital, so
9 they denied her privileges And that was affirmed by
10 the medical executive committee and by the board

11 And contrary to the allegations in her law suit,
12 she was given a hearing at the hospital, an
13 administrative hearing, that was presided over by an
14 independent hearing officer, John Massalon She was
15 allowed to call witnesses, submit evidence, cross-
16 examine witnesses, had a full-blow hearing several
17 hours long

18 The medical review committee that presided over
19 the hearing, and comprised of her peers, upheld the
20 denial of her privileges and she then appealed to the
21 governing board of East Cooper Hospital, which also
22 affirmed the medical review committee's decision So
23 that was her 2006 issue And while they denied her
24 associate status and surgical privileges, they did
25 allow her to remain on consulting Okay?

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1 So then she comes up for reappointment in 2008,
2 every two years This time she does the same thing
3 Again wants associate, again wants surgical
4 privileges But this time she does not submit
5 anything with her application, nothing, no reports, no
6 summaries or anything

7 And by that time the bylaws had changed to
8 require all associate staff members to be eligible and
9 to meet the threshold requirements core privileges
10 And core privileges are defined on this form and they
11 include admission, work-up, diagnosis, performance of
12 surgical procedures on patients of all ages with
13 illnesses, injuries, or disorders of the eye, so
14 forth

15 And to be -- and so she has to be eligible for
16 core privileges to be an associate staff member And
17 to be eligible to request the core privileges or
18 reappointment, she also had to demonstrate that she
19 had performed at least forty-eight surgical procedures
20 in the past twenty-four month period This
21 requirement was decided on by the department of
22 surgery, approved by the medical executive committee

23 When she filed her reappointment application,
24 she checked -- and this is actually a copy of her form
25 -- she didn't check anything So she didn't check

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1 that she wanted core privileges, she didn't check that
2 she didn't want core privileges, she didn't check that
3 she wanted special privileges She checked nothing
4 Instead, she submitted this old, obsolete list of
5 procedures and proceeded to put checkmarks by the
6 procedures that she wanted privileges for

7 But in addition to not filling out the form, she
8 didn't give the credentials committee any information
9 that she had performed forty-eight procedures in the
10 preceding twelve [sic] months And that's only two a
11 month

12 And so what the hospital did, they wrote her a
13 letter, which they didn't have to They wrote her a
14 letter and they told her that her application was
15 incomplete and that this wasn't filled out
16 appropriately and they explained to her in
17 excruciating detail what she needed to do to complete
18 her application She not only needed to fill out the
19 form, but she also needed to submit documentation that
20 she had provided forty-eight procedures in the past
21 twenty-four months They also told her that, pursuant
22 to the bylaws -- and they cited the specific bylaw
23 provision -- that if she didn't do this under the
24 bylaws, her application would be deemed to be
25 incomplete and a voluntary resignation without

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1 appellate rights

2 And, true to form, Dr Holmes did not supply the
3 information Instead, she resubmitted the same
4 application over She just wrote a note on it saying
5 that she had over ninety hours of continuing medical
6 education

7 So the credentials committee deemed her
8 application to be incomplete Under the bylaws they
9 are not allowed to process an incomplete application
10 The medical executive committee agreed that this was
11 an incomplete application So did the board So she
12 was written a letter, just like she told -- she was
13 told that was going to happen, that her application
14 was incomplete and she was deemed to be voluntarily
15 resigned from the medical staff

16 The difference between the two processes, the
17 2006 and 2008, is that the 2006 was a complete
18 application It just was insufficient to show current
19 clinical competence for surgery This was completely
20 incomplete So the 2006 application was processed
21 They denied her privileges That was an adverse
22 action under the bylaws and she was giving a hearing
23 2008, the application was incomplete, never processed
24 She wasn't denied privileges, it just was incomplete
25 and under the bylaws, you're not entitled to a

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1 hearing

2 So really what she is doing here today is
3 requesting you to secondguess credentialing decisions
4 at East Cooper Hospital And that is, respectfully,
5 not a matter that this Court can do These are the
6 very same issues that were decided on by Judge Dennis
7 The law of res judicata is that in a subsequent suit
8 between the same parties on a different claim, the
9 former judgment is conclusive as to those issues
10 actually determined in her action The same with
11 collateral estoppel When an issue of fact of law is
12 determined by a valid and final judgment, the
13 determination is conclusive and a subsequent action
14 between the parties, whether or not the same or
15 different claim

16 So if you look at the order, summary judgment
17 order of Judge Dennis, it specifically states that
18 while she alleges that this is a breach of settlement
19 agreement, in addition to a breach of bylaws, all of
20 this arises out of peer review All this means that
21 the Court doesn't have jurisdiction Again, that's
22 contained in his sanctions orders It's clearly res
23 judicata, collateral estoppel

24 Regardless of all that, and as shown in detail
25 in the brief and the affidavits of the various

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1 physician members and the board, they cite specific
2 bylaw provisions that show that each of her 2006 and
3 2008 process were followed to the tee in accordance
4 with the bylaws

5 What the plaintiff I suspect is going to get up
6 here and say is that the affidavits that they've
7 submitted in opposition to our motion for summary
8 judgment create a genuine issue of material fact
9 They have submitted an affidavit of a credentialing
10 expert who goes through a very selective reading and
11 interpretation of the bylaws, never mentioning the
12 settlement agreement This isn't about the bylaws,
13 it's about the settlement agreement, based on what
14 they say And the Court does not have jurisdiction to
15 review the implementation of the bylaws That doesn't
16 create a genuine issue of material fact

17 They also have an affidavit of a former medical
18 staff member, who was at some time on the credentials
19 committee, who says that the call that the credentials
20 committee made to him in response to the peer review
21 form he signed on behalf of the plaintiff was unusual
22 It was unusual She was an unusual applicant Most
23 applicants file and submit all the information that
24 they need in support of their application

25 But -- and then the plaintiff herself has

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1 submitted an affidavit

2 But all of this shows that this is about bylaws
3 And I would submit to you that for that reason, res
4 judicata, collateral estoppel applies pursuant to the
5 previous orders of Judge Dennis and it shows, without
6 a doubt, that this is a subject matter jurisdiction
7 issue and the Court does not have that

8 I'm going to stop talking now Do you have any
9 questions for me?

10 THE COURT No, ma'am

11 MS SMITH-YANCEY Okay

12 THE COURT Thank you

13 MS SMITH-YANCEY Thank you

14 MR JOHNSON Thank you, Your Honor May I
15 approach the bailiff?

16 [Whereupon, the bailiff proffers documents to
17 the Court]

18 MR JOHNSON Your Honor, the first thing I
19 would -- let me ask you first is there any area you
20 would like me to address before I start talking?

21 THE COURT I want, again, to know why we're
22 here

23 MR JOHNSON Okay And I know Ms Smith-Yancey
24 noted that I didn't have a -- we didn't have a
25 transcript from the first hearing with Judge Dennis

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1 I actually do have that transcript And I didn't mean
2 to misrepresent anything to the Court I submitted,
3 as an exhibit, the actual transcripts of the motion --
4 the hearing on the motion for reconsideration as to
5 subject matter jurisdiction I think that one is
6 applicable to my arguments on subject matter
7 jurisdiction

8 I do have the other transcript, if Your Honor
9 would like to review it, but I agree with Ms Smith-
10 Yancey that Judge Dennis, in the denial of the initial
11 motion to dismiss, found that these issues were better
12 taken up later in the case rather than issuing an
13 actual denial So I would say that that first one was
14 not prejudice It's only when the defendant pressed
15 the issue by filing a motion for reconsideration that
16 the judge said, I quote, to Mr McQueeney, I can help
17 you, you've got a ground for appeal Mr Johnson, I
18 assume you want me to deny the motion to reconsider
19 I said, that's correct, Your Honor And he said, it's
20 denied

21 I believe at that point the judge was giving
22 final ruling and issuing them the right to appeal
23 because I think that's what he thought they wanted
24 They didn't appeal I think that the issue of subject
25 matter jurisdiction, that the law of the case was

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1 closed at that point That's my argument on that
2 It's a technical -- on what the judge said at the
3 motion for reconsideration Why would he be giving
4 them grounds for appeal unless he was giving him an
5 immediate appeal

6 THE COURT All right Well, let's address the
7 lawsuit that's before me

8 MR JOHNSON Now, in the initial motion to
9 dismiss, Judge Dennis, you know, warned me about this
10 and said, I think there's some creative lawyering,
11 Mr Johnson, be careful in this case And I agree
12 with him The case looks like it's a credentialing
13 case We have to talk a little bit about the bylaws
14 to get where we're going

15 Her -- Dr Holmes' privileges at this point are
16 terminated

17 THE COURT But the only way for her to get
18 privileges is to follow the bylaws, correct?

19 MR JOHNSON That's right

20 THE COURT And if that's the only way that she
21 can be privileged, and I don't have jurisdiction over
22 the bylaws or the credentialing, then what are we
23 doing here?

24 MR JOHNSON So the question, Your Honor, is --
25 our argument is that they kept her from participating

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1 in a --

2 THE COURT All right Tell me how they kept
3 her from participating

4 MR JOHNSON By not accepting her application
5 as complete when it was complete

6 THE COURT But in order for me to make that
7 determination, I have to review the bylaws, correct?

8 MR JOHNSON You would have to look at the
9 bylaws to see whether it was complete or not because
10 the bylaws tell you, in fact, I think --

11 [Whereupon, Mr Johnson and Dr Holmes confer]

12 MR JOHNSON This is the delineation form, Your
13 Honor, and this is where I think you don't have to go
14 into the bylaws and review a decision for due process

15 The subject matter jurisdiction cases that we're
16 talking about, that I review in my brief, are about
17 cases where somebody is going and asking a court to
18 review a private hospital's decision for due process
19 You can do that for a public hospital, but not a
20 private hospital And that's what those cases say
21 We are not asking the Court to review a process to
22 decide whether it's fair or necessarily a process to
23 decide whether this doctor got the review that was
24 afforded under the bylaws We're trying to get a jury
25 to decide whether -- and just like their argument, and

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1 there's a pattern here of them trying to make sure she
2 doesn't practice surgery at this hospital after they
3 settled with her

4 The story is as simple as I can get it --

5 THE COURT Well, that's according to your
6 client If I talk to the defendants, that's not the
7 story that they give Their story is that she's not
8 qualified to practice, correct?

9 MR JOHNSON Right And therein lies our issue
10 of fact

11 Our expert says that she should be qualified,
12 from what he can tell He also says that she wasn't
13 applying for this category that requires forty-eight
14 surgeries in twenty-four months Remember, they just
15 told you they had changed that rule before her last
16 application and said, well, everybody has to have core
17 privileges But that's not the case There is an
18 associate position that does not require the forty-
19 eight surgeries in the last twenty-four months They
20 reapply every twenty-four months And what they did
21 is change the rules and said, well, now --

22 THE COURT So it's your position that her
23 application was complete?

24 MR JOHNSON Yes And it was complete because
25 the application on its face -- and, again, this is

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1 something I'm trying to show a jury and point to it,
2 say, look, the application says right here you can
3 either check this box for core privileges, which
4 they're saying everybody had to have -- that's what
5 the attorneys are saying -- or removal from core In
6 other words, you don't want privileges -- or
7 additional privileges If the conditions -- last
8 privilege you're interested in is not included on this
9 form, please provide a separate written request and
10 appropriate documentation of training and/or
11 experience

12 Our argument is that the form itself allows
13 somebody to apply for a privilege that's not on the
14 form, to say what they want so that the credentialing
15 committee could consider that, maybe this is something
16 that they would allow in their hospital And that's
17 what Dr Holmes has done in her application

18 THE COURT But, Mr Johnson, if she did that,
19 then are we back to the same question of do I have
20 jurisdiction to determine whether or not the board --
21 if they accepted the application, even if it was
22 incomplete, do I have the authority to tell them that
23 they should have reviewed the application further?

24 MR JOHNSON I believe that the Court in this
25 case has the authority -- and this is where I have to

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1 split hairs carefully and this is where you make a
2 decision

3 THE COURT This is where I think you're being
4 very creative, Mr Johnson

5 MR JOHNSON Exactly^s And I'm trying to This
6 is the last case in this matter because her
7 termination of -- her privileges are terminated now
8 She won't be reapplying There's not going to be
9 another case If this doesn't work, this is the end

10 And so the question is are they violating the
11 settlement agreement That's what she's been claiming
12 from the very beginning And the hospital has been
13 saying, no, no, no, look at the rules, we're following
14 the rules The argument is, if you look at what's
15 going on here, they're pretending to follow the rules
16 but they're not And that is exactly what a claim
17 for bad faith is all about

18 I try to explain this to clients all the time
19 when they ask me what's a claim for bad faith I say,
20 if I say I'm going to sell you a car for \$1,000, I
21 show you a car, you drive it around, you decide to buy
22 it, and I take the \$1,000 and then I show up in two
23 weeks and I leave the car completely disassembled on
24 your front lawn, I've lived up to the terms of our
25 contract, haven't I I sold you the car, I took your

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1 \$1,000, but have I really That's bad faith It is a
2 little more of a gray area and that's allowed in
3 breach of contract cases and that's what we think is
4 going on here They paid her the first settlement,
5 they settled with her, they are mad that she sued

6 After that our argument is that, and we think
7 that the evidence can prove, that they just decided
8 they were going to block every attempt for her to get
9 into this hospital and practice They should have
10 allowed her to play And when I say play, I mean
11 participate in their bylaws They didn't And it's a
12 very simple argument If you can't play, you can't
13 win If they'd allowed her to participate, as they
14 did in some of the other times, she would have had
15 appeal rights

16 She could have gone through and argued further,
17 called witnesses, given support for why she thought
18 she deserved the associate position that Dr Shearshow
19 [phonetic] describes in his affidavit, which doesn't
20 require all these extra surgeries They knew she
21 hadn't done those surgeries She never claimed that
22 she did She didn't do forty-eight procedures in
23 twenty-four months She couldn't because she didn't
24 have privileges She had a consulting privilege
25 which, to put it in terms that we might understand

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1 more easily, would be like being required to be second
2 chair in all your trials

3 And she did have experience with patients, which
4 she was ready to provide That's what Dr Shearshow
5 [phonetic] is talking about The defense says that he
6 was creatively reading the bylaws, and I don't think
7 you can creatively read the bylaws The bylaws say
8 what they say But he states in his affidavit if
9 Dr Holmes's application for a change in status to
10 associate had been approved, the bylaws are clear that
11 she was exempt from the required number of admissions,
12 procedures, or patient contact for a year, in the
13 preceding twelve-month period So I think they
14 shouldn't have rejected her application out of hand

15 THE COURT All right Anything further?

16 MR JOHNSON Unless you have any specific
17 questions, Your Honor

18 THE COURT I do not

19 MR JOHNSON Thank you

20 THE COURT All right Counsel, I will accept
21 proposed orders If you would have those to me by
22 Wednesday afternoon You may e-mail them to my clerk
23 And you'll have my ruling within ten days Good luck
24 to you all Thank you

25 [HEARING CONCLUDES AT 2 17 P M]

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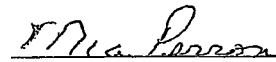
C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

I, the undersigned Mia Perron, Circuit Court Reporter for the 9th Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of the hearing held before the Honorable Kristi L Harrington, on Friday, July 8, 2011

I do further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action

Dated this 1st day of December, 2011



Mia Perron, CVR-CM
Circuit Court Reporter
9th Judicial Circuit

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF CHARLESTON) C A NO 2010-CP-10-3410

Dr Cynthia Holmes, M D ,

Plaintiff,

VS

East Cooper Community Hospital, Inc
and Tenet HealthSystem Medical, Inc ,

Defendants

**NOTICE OF MOTION AND MOTION FOR
JUDGMENT ON AND DISMISSAL OF
PLAINTIFF'S PLEADINGS**

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorneys for Defendants East Cooper Community Hospital, Inc , and Tenet HealthSystem Medical, Inc , (“Defendants”) will move before the Presiding Judge of the Court of Common Pleas for Charleston County, South Carolina, on such day and at such time as the Court may appoint, more than ten (10) days after the service hereof, or as soon thereafter as counsel may be heard, for a judgment on and dismissal of Plaintiff’s pleadings pursuant to Rule 12(c), SCRPC. The grounds for this motion are that the Plaintiff has failed to allege facts in her Complaint sufficient to constitute a cause of action recognized by the law of the State of South Carolina in the following particulars:

- I This Court respectfully lacks jurisdiction over the subject matter of the present dispute, which, while pled and disguised as an action for breach of contract, is in actuality a challenge of the decisions of a private hospital concerning physician credentialing and medical staff privileging for which a cause of action does not exist,
- II The Plaintiff's action is barred by the doctrine of collateral estoppel and res judicata as this Court has previously issued two separate orders that it lacks subject matter jurisdiction to review and decide claims of the nature set forth in the Plaintiff's Complaint

- III Defendants are entitled to judgment on the pleadings as a matter of law as the pleadings show that Defendants complied with the plain language of the contract Plaintiff alleges was breached
- IV Defendants are entitled to judgment on the pleadings because Plaintiff's action is barred by S C Code Ann § 40-71-10 and the Health Care Quality Improvement Act

This Motion is made in association with the Motions to Dismiss pled and set forth in the Answer of the Defendants, the grounds of which are included and incorporated herein by reference This Motion is based upon the pleadings, exhibits thereto and a forthcoming Memoranda of Law in accordance with the SC Rules of Civil Procedure

Please be present to defend this Motion if so minded

Respectfully Submitted


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Attorneys for Defendants

9/23/10
Charleston South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	C A 2010-CP-10-3410
	)	
DR CYNTHIA HOLMES, M D ,	)	
	)	
Plaintiff,	)	
	)	
Vs	)	PLAINTIFF'S RESPONSE TO
	)	DEFENDANTS' MOTIONS TO
EAST COOPER COMMUNITY	)	DISMISS AND FOR SANCTIONS
HOSPITAL, INC , TENET	)	
HEALTHSYSTEM MEDICAL,	)	
INC	)	
	)	
Defendant	)	

The Plaintiff hereby responds to the Defendants' motions to dismiss, Rule 12(b)(1) and Rule 12(b)(6), and Defendant's motion for sanctions pursuant to the S C> Frivolous Proceedings Sanctions Act

STATUS OF THE CASE

This case is at the pleadings stage To date, the Complaint has been filed and served Defendant filed an Answer and motions to dismiss under Rule 12, as well as a motion for sanctions under the S C Frivolous proceedings sanctions act Defendant's answer also included counterclaims Plaintiff has responded to the Counterclaims and has filed her own motions to dismiss and to strike portions of the Answer Discovery has not been initiated by either party As of the date that the undersigned authored this response, the Defendant has not submitted any memoranda in support of its motions

I The Plaintiff's complaint should not be dismissed for lack of jurisdiction pursuant to Defendant's motion to dismiss under Rule 12(b)(1) of the S C Rules of Civil Procedure nor under 12(b)(6)

The Defendant has alleged, in its Answer, and asserted, as a motion, that South Carolina law does not grant subject matter jurisdiction to the Courts "to address a private hospital's staffing or privileging decisions " (Answer, paragraph 49) Defendant's motion

to dismiss pursuant to Rule 12(6)(6) takes the same position, specifically, that "South Carolina does not recognize a cause of action against a private hospital for its credentialing decisions concerning its medical staff" (Answer, paragraph 50) As is argued below, the line of cases to which Defendant must be referring should not apply to deprive the Plaintiff of the right to pursue a breach of contract claim alleging that the Defendant has not allowed her to participate in the credentialing process in violation of a private settlement agreement that was signed some time ago Plaintiff's complaint does not put the Court or a jury in the position of reviewing a credentialing decision based on a private hospital's bylaws for due process The finder of fact will be asked to determine whether a private settlement agreement constitutes a contract, and whether the Defendant's refusal to allow the Plaintiff to participate in the credentialing process constitutes a breach of that agreement This is not the kind of claim to which Strauss v Marlboro County General Hospital and its progeny apply

As Defendant has not expounded upon the bases of its motions by way of a memorandum, the undersigned will respond based on the assumption that Defendant will be relying on a family of cases starting with , Strauss v Marlboro County General Hospital, 185 S C 425, 194 S E 65 (1937), in which the Court finds that a private hospital does not owe the due process rights to a doctor in regards to privileges that a public hospital does In case after case, the Court reiterates that the by-laws of a hospital which is a private entity can not be reviewed, judicially, for fairness, as could the same by-laws if set forth by a public institution This makes sense, as the due process right does not come into play unless the entity seeking to deprive a citizen of a property right is a public entity The line of cases culminates, so to speak, with Gowan v St Francis

Community Hospital, 275 S C 203, 268 S E 2d 580 (1980) , and Wood v Hilton Head Hospital, Inc 292 S C 403, 356 S E 2d 841 (S C 1987), where the Court reiterates the finding “we affirmed our view that the implementation of the regulations of a private hospital which are initiated to restrict a practitioner's practices are not subject to judicial review We stated that we would not "depart from the longstanding principle that such action [by the hospital] is not subject to judicial review (citations omitted) " Id

The Defendant, Tenet HealthSystem Medical, Inc owns and operates East Cooper, it alleges, as a privately owned, for profit business The by-laws, therefore, are not subject to a judicial, due process review In Lee v Chesterfield General Hosp , Inc., 289 S C 6, 13, 344 S E 2d 379, 383 (Ct App 1986) , the Court addresses the Gowan case and its line, and explains why a doctor's claim challenging whether the by-laws have been followed is not the same thing as a due process challenging and requesting a judicial review of the fairness of the rules themselves

The Hospital first argues the demurrers should have been sustained because internal rules governing the practice of a physician's assistant in a private hospital are not subject to judicial review
1, 2 We agree that a private hospital is free, in the absence of controlling legislation or regulatory provisions, to decide the nature and extent of medical practice permitted to persons it grants staff privileges Ordinarily, such decisions involve matters of expert medical judgment not subject to judicial review See Gowen v St Francis Community Hospital, 275 S C 203, 268 S E (2d) 580 (1980), *cert denied*, 449 U S 1062, 101 S Ct 786, 66 L Ed (2d) 605 (1980), Hoffman v Garden City Hospital-Osteopathic, 115 Mich App 773, 321 N W (2d) 810 (1982) A medical professional has no right, simply because he is licensed by state authority to perform certain procedures, to claim unrestricted staff privileges in a hospital See Yeargin v Hamilton Memorial Hospital, 225 Ga 661, 171 S E (2d) 136 (1969), *cert denied*, 397 U S 963, 90 S Ct 997, 25 L Ed (2d) 255 (1970) Within the confines of the law, a hospital may set professional standards for staff according to its own conception of good medical practice
These principles are not dispositive of the present cases, however In ruling

moving party “prevailing”

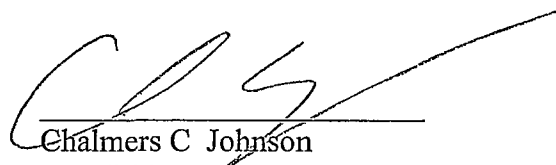
(C)(1) At the conclusion of a trial and after a verdict for or a verdict against damages has been rendered or a case has been dismissed by a directed verdict, summary judgment, or judgment notwithstanding the verdict, upon motion of the prevailing party, the court shall proceed to determine if the claim or defense was frivolous

S C Code section 15-36-10 (C)(1)

In this case, there has been no dismissal to date, and no prevailing party to date on any motion or action in the case Under the statute, the moving party must have first “prevailed” before asking the Court to consider sanctions under the Act Because Defendant’s motion is premature in that regard, its motion for sanctions under the act, as set forth in the Answer should be denied

CONCLUSION

The Plaintiff’s asserted cause of action in the Complaint does not ask the Court to review a decision of a private hospital regarding the Plaintiff’s fitness for practice Nor does it seek a due process review of a credentialing decision by the Defendant under its bylaws Rather, it seeks to assert that a private settlement agreement was breached when the Defendant hospital refused to accept Plaintiff’s attempt to participate in the credentialing process South Carolina case law does not preclude the assertion of such a claim Defendant’s motion concerning the frivolous proceeding sanctions act is premature as there are no “prevailing parties” to date Therefore, the Defendant’s motions to dismiss and for sanctions under the S C Frivolous proceedings Sanctions Act should be denied

A handwritten signature in black ink, appearing to read 'C. Johnson', is written over a horizontal line.

Chalmers C Johnson

S C # 11583

523 So G Street, Apt 402

Tacoma, WA 98405

(425) 999-0900

December 10, 2010

12 13 10

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) IN THE COURT OF COMMON PLEAS
) C A NO 2010-CP-10-3410

Dr Cynthia Holmes, M D ,)

Plaintiff,)

vs)

East Cooper Community Hospital, Inc ,)
and Tenet HealthSystem Medical Inc ,)

Defendants)

Defendants' Memorandum in Support of
Motion to Dismiss for Lack of Subject
Matter Jurisdiction and Motion for
Judgment on the Pleadings

Plaintiff Cynthia Collie Holmes (' Plaintiff') is an attorney licensed to practice law in South Carolina, as well as a licensed ophthalmologist She practices law under the name of C Collie, Esq , and practices medicine under the name of Dr Cynthia Holmes, M D This lawsuit constitutes the fourth separate lawsuit that Plaintiff has filed arising from essentially the same factual allegations—a privileging dispute which began in 1997 She has been warned or sanctioned by South Carolina trial and appellate courts at least six (6) times in these and other related lawsuits

The present action continues a long history of frivolous and abusive litigation by Plaintiff against Defendants East Cooper Community Hospital, Inc , Tenet HealthSystem Medical, Inc (collectively ' Defendants'), and others, all arising from Plaintiff's medical staff privileges at East Cooper Regional Medical Center (the ' Hospital) Plaintiff's litigation activities relating to these privileges now date back more than 11 years, to 1999

Plaintiff's latest lawsuit for breach of contract relates to the denial of her 2006 and 2008 applications for medical staff privileges Plaintiff resubmits her application every two years and generally files suit when the application or a part thereof is denied or found incomplete In 2005, when Plaintiff filed a complaint against Defendants alleging, among other things, breach of contract based on the denial of her applications in 2002 and 2004, this Court held in two

separate orders that this Court lacked jurisdiction to review the privileging decisions of a private hospital. In one of the orders, this Court sanctioned Plaintiff on that basis. This Court should dismiss Plaintiff's current complaint for identical reasons.

Even if this Court had subject matter jurisdiction to review the privileging decisions of a private hospital (which it respectfully does not), Defendants are entitled to judgment on the pleadings because it is beyond dispute that Defendants complied with the alleged contract. Accordingly, this Court should respectfully grant Plaintiff's motion to dismiss for lack of subject matter jurisdiction or for judgment on the pleadings.

Standard of Review

I Subject Matter Jurisdiction

Initially, Defendants move to dismiss the Plaintiff's complaint for a lack of subject matter jurisdiction. This is a matter of law for the Court, in which the Court may consider affidavits or other evidence necessary to the determination. "The proper procedure for raising lack of subject matter jurisdiction prior to trial is to file a motion to dismiss pursuant to Rule 12(b)(1), SCRCP." Edens v. Bellini, 359 S.C. 433, 440, 597 S.E.2d 863, 867 (Ct. App. 2004). "The question of subject matter jurisdiction is a question of law for the court, not a jury question." Chew v. Newsome Chevrolet, Inc., 315 S.C. 102, 104, 431 S.E.2d 631, 631 (Ct. App. 1993). If the facts which give rise to a jurisdictional issue are in dispute, the court, not a jury, must find the facts. Id. "The motion may be supported by, and the court may consider, affidavits or other evidence necessary to determine the question of jurisdiction." Id. at 104, 431 S.E.2d at 632.

II Judgment on the Pleadings

Defendants also move for judgment on the pleadings. In ruling on such a motion, the Court is constrained to considering the pleadings. However, the pleadings include all documents attached thereto or incorporated therein. Further, this Court may also judicially take notice of documents filed in previous actions involving the parties without converting the motion into one for summary judgment.

'A motion for Judgment on the Pleadings is proper where pleadings entitle a party to judgment without proof, by disclosure of all facts where the pleadings present no issue of fact or present merely an immaterial issue Rosenthal v Unarco Indus., Inc., 278 S C 420, 422, 297 S E 2d 638, 640 (1982) 'Where the pleadings are fatally deficient in substance or fail to state a good cause of action in favor of the plaintiff and against the defendant, judgment on the pleadings is proper " Id.

"A copy of any plat, photograph diagram, document, or other paper which is an exhibit to a pleading is a part thereof for all purposes if a copy is attached to such pleading " Rule 10(c), SCRCP, see Burns v Gardner, 328 S C 608, 618, 493 S E 2d 356, 361 (Ct App 1997) ('Because the position paper was attached to and incorporated in the amended complaint, we may consider it when ruling on the defendants' motion to dismiss '), Metal Serv Corp v Indus Elec Co., 253 S C 507, 509, 171 S E 2d 703, 704 (1970) (considering documents attached to the plaintiff's complaint in determining whether the complaint should be dismissed on defendant's motion)

In addition, "[a] court can take judicial notice of its own records, files and proceedings for all proper purposes including facts established in its records " Freeman v McBee, 280 S C 490, 494, 313 S E 2d 325, 327 (Ct App 1984) "It is not error for a judge to take judicial notice of what was stated in a former opinion in a prior action of the same case " Id. "Under the rule governing motions to dismiss for failure to state a claim upon which relief can be granted, a court may consider matters that are subject to judicial notice, without transforming the motion to dismiss into one for summary judgment " 49 C J S Judgments § 321

Defendants filed an extensive answer to Plaintiff's present lawsuit, incorporating by reference the documents which Plaintiff has previously filed with this Court, Plaintiff's 2006 and 2008 application files, and the applicable medical staff bylaws in 2006 and 2008 **Defs' Answer to Compl** Because they are attached to and incorporated in Defendants' answer, these documents are properly considerable on a motion for judgment on the pleadings

Law/Analysis

I The Plaintiff's complaint should be dismissed for a lack of subject matter jurisdiction

Plaintiff alleges that Defendants breached a contract by denying Plaintiff's 2006 and 2008 applications for medical staff privileges. As this Court has previously held in two separate orders, this Court lacks jurisdiction to review the privileging decisions of a private hospital. As a result, this action should be dismissed for a lack of subject matter jurisdiction.

A This Court lacks jurisdiction to review the privileging decisions of a private hospital

Generally speaking, subject matter jurisdiction is the power to hear and determine cases of the general class to which the proceedings in question belong." Metts v Mims, 384 S C 491, 498, 682 S E 2d 813, 817 (2009). "Claims of lack of subject matter jurisdiction may be raised at any time, and subject matter jurisdiction may not be waived by filing responsive pleadings or otherwise consenting to the jurisdiction of a particular court." Eldridge v City of Greenwood, 331 S C 398, 408, 503 S E 2d 191, 196 (Ct App 1998).

'It is well settled in South Carolina, and throughout the country, that it is improper for the courts to review the decisions of governing boards of private hospitals concerning the staff privileges of practitioners." Wood v Hilton Head Hosp., Inc. 292 S C 403, 405, 356 S E 2d 841, 842 (1987), see also Strauss v Marlboro County Gen Hosp., 185 S C 425, 194 S E 65, 65 (1937) ('It is conceded, we understand, that if Marlboro County General Hospital is a private institution, the action must fail and the appeal be dismissed '), Gowan v St. Francis Cmty Hosp., 275 S C 203 204, 268 S E 2d 580, 581 (1980) (recognizing that a hospital's actions in denying a licensed medical practitioner specialized privileges at the hospital "is not subject to judicial review ")

The present lawsuit undeniably requests that this Court review the Hospital's 2006 and 2008 privileging decisions with respect to Plaintiff. Specifically, Plaintiff's entire cause of action is grounded upon the following allegation: 'Defendants breached this duty by attempting (successfully to date) to block Plaintiff from being able to seek review of its decision to deny her

application for advancement in staff privileges in violation of the letter and the spirit of the applicable bylaws ' **Plt's Compl** ¶14 (emphasis added) Plaintiff continues on to allege 'The Credentials Committee then denied the Plaintiff's application an act which should have given Plaintiff the right to pursue an appeal, under the applicable bylaws ' **Plt's Compl** ¶16 (double emphasis added) As the Supreme Court of South Carolina has clearly stated, "it is improper for the courts to review the decisions of governing boards of private hospitals concerning the staff privileges of practitioners ' Wood, 292 S C at 405, 356 S E 2d at 842 Accordingly, this action should be dismissed pursuant to Rule 12(b)(1), SCRPC

B This Court's previous rulings that this Court lacks subject matter jurisdiction to review the privileging decisions of a private hospital is res judicata and collaterally estops Plaintiff from arguing otherwise

In a 2005 lawsuit, as in this lawsuit, Plaintiff contended that the Hospital breached a contract in its review of her applications for medical staff privileges This Court ruled twice in the 2005 lawsuit that this Court lacks jurisdiction to review the privileging decisions of a private hospital Therefore, Plaintiff's complaint should also be dismissed for a lack of subject matter jurisdiction on the grounds of res judicata and collateral estoppel

"Res judicata applies where there is identity of parties, identity of subject matter, and an adjudication of the issue in the former suit " Hilton Head Ctr of S Carolina, Inc v Pub Serv Comm'n, 294 S C 9, 11, 362 S E 2d 176, 177 (1987) "A litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit Id "Under the doctrine of collateral estoppel, once a final judgment on the merits has been reached in a prior claim, the relitigation of those issues actually and necessarily litigated and determined in the first suit are precluded as to the parties and their privies in any subsequent action based upon a different claim ' Richburg v Baughman, 290 S C 431, 434, 351 S E 2d 164, 166 (1986)

Plaintiff filed a lawsuit against Defendants in 2005 alleging that Defendants breached a contract or breached a covenant of good faith and fair dealing in considering Plaintiff's 2002 and

2004 applications for medical staff privileges **Plt's Am Compl in Case No 2005-CP-10-5113**¹ In fact, a careful review of the Plaintiff's amended complaint in the 2005 lawsuit and the Plaintiff's complaint in the instant case reveals substantial similarities in the breach of contract and breach of good faith and fair dealing allegations in the two lawsuits

2005 Lawsuit	2010 Lawsuit
The Plaintiff and Defendant [sic] were and are parties to a contractual agreement, the terms of which are set forth in the Medical Staff Bylaws, Rules, Regulations, and related documents ¶¶19, 30(1), 31(2) ²	The Plaintiff and Defendant [sic] were and are parties to a contractual arrangement, the terms of which are set forth as part of a settlement agreement ¶12
As with every contractual relationship, this contract involved an implied covenant of good faith and fair dealing ¶32(2)	As with every contractual relationship, this contract involved an implied covenant of good faith and fair dealing ¶13
That the Defendant [sic] breached this duty by attempting (successfully to date) to block Plaintiff from being able to seek review of its decision to deny her application for advancement in staff privileges by claiming, fraudulently that Plaintiff's application for privileges was incomplete, when it was not ¶33(2)	That the Defendant [sic] breached this duty by attempting (successfully to date) to block Plaintiff from being able to seek review of its decision to deny her application for advancement in staff privileges in violation of the letter and the spirit of the applicable bylaws ¶14
In 2002 and 2004 (in each of the two years), Plaintiff submitted an application for advancement in staff privileges, which was complete on its face ¶34(2)	In 2006-2007 and 2008-2009 (in each of two years), Plaintiff submitted an application for advancement in staff privileges, which was complete on its face ¶15
The Credentials Committee then denied the Plaintiff's application, an act which should have given Plaintiff the right to pursue an appeal, under the Contract ¶36(2)	The Credentials Committee then denied the Plaintiff's application, an act which should have given the Plaintiff the right to pursue an appeal, under the applicable bylaws ¶16

In the 2005 lawsuit, this Court granted summary judgment to Defendants **Order filed 05/23/2007 in Case No 2005 CP-10-5113** In addressing the allegations set forth above relating to the Plaintiff's 2004 application, which are almost identical to the claims set forth in the current case relating to Plaintiff's 2006 and 2008 applications, this Court held, in pertinent part

¹ The documents referenced herein are attached to and incorporated in Defendants' answer to the Plaintiff's complaint in the instant case

² Plaintiff's amended complaint in the 2005 lawsuit includes two separate paragraphs labeled 30, 31, 32, 34, and 36 The parenthetical next to the referenced paragraph indicates whether the citation is to the first of such paragraph (1) or the second (2)

The Plaintiff's Amended Complaint seeks judicial determination of whether the decisions regarding her credentialing and privileges at East Cooper Hospital were reasonable and in compliance with the Hospital's Bylaws Specifically, she requests the Court to review whether the failure to process and consider her application for associate status and surgical privileges, her reappointment to the consulting staff, and the denial of an administrative hearing were reasonable decisions made in accordance with the Bylaws The Plaintiff's claims all arise out of the peer review process at East Cooper Hospital and, as such, are not subject to judicial review The Court does not have jurisdiction to determine these issues and the Plaintiff has presented no evidence or reason to persuade the Court to depart from the long-standing principle that such actions are not subject to judicial review

Order filed on 05/23/2007 in Case No 2005-CP-10-5113 (double emphasis added) Plaintiff appealed this order to the South Carolina Court of Appeals three separate times, and the Court of Appeals dismissed and remitted the appeal each time

This Court re-emphasized its ruling in a subsequent order sanctioning Plaintiff for litigating the issue

Despite clear case law to the contrary, the Plaintiff filed this action seeking judicial determination of whether the decisions regarding her credentialing and privileges were reasonable and in compliance with the Hospital's Bylaws Specifically, she sought the Court to review whether the failure to process and consider her application for associate status and surgical privileges her reappointment to the consulting staff and the denial of an administrative hearing were reasonable decisions made in accordance with the Bylaws The Plaintiff's claims all arose out of the peer review process and, under South Carolina law, are not subject to judicial review, and the Plaintiff presented no evidence or reason to persuade the Court to depart from this long-standing principle

Order Awarding Sanctions filed 08/06/2009 in Case No 2005-CP-10-5113 (double-emphasis added) This order was also appealed by Plaintiff The Court of Appeals dismissed and remitted her appeal

Plaintiff apparently did not receive the message in these two prior orders, as the present lawsuit once more asserts that this Court should review the privileging decisions of a private hospital These rulings undeniably constitute res judicata and collaterally estop Plaintiff from

making the same arguments in the present proceeding. As a result, Plaintiff's complaint should be dismissed for a lack of subject matter jurisdiction.

C Defendants never agreed to permit this Court to review the Hospital's privileging decisions and, in any event, the parties may not consent, by contract or otherwise, to confer subject matter jurisdiction on the Court.

It is anticipated that Plaintiff will contend that this Court has subject matter to review the privileging decisions of the Hospital in 2006 and 2008 because Plaintiff alleges the Hospital's review of her applications breached a previous settlement agreement between the parties. In 2002, Plaintiff and Defendants entered into a settlement agreement and general release (the "Settlement Agreement") to resolve a lawsuit filed by Plaintiff in state court in 2000 arising out of her 1997 application for reappointment to the medical staff and certain privileges. **Settlement Agreement**. The Settlement Agreement released all present and future claims arising from the subject matter of the lawsuit and provides, in pertinent part: "That Dr. Holmes has been reappointed to consulting status for a term of two (2) years. Dr. Holmes shall have the right to apply for a change in status in accordance with the Bylaws." **Settlement Agreement, pp 1-2**

1 The Settlement Agreement does not constitute a consent to subject matter jurisdiction

Initially, the Settlement Agreement does not evince an agreement by Defendants to confer subject matter jurisdiction on this Court to review the privileging decisions of a private hospital. "A release is a contract and contract principles of law should be used to determine what the parties intended." Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC, 374 S.C. 483, 497, 649 S.E.2d 494, 501 (Ct. App. 2007). "The primary purpose of all rules of contract construction is to determine the intent of the parties." Goldston v. State Farm Mut. Auto. Ins. Co., 358 S.C. 157, 170, 594 S.E.2d 511, 518 (Ct. App. 2004). "If the contract's language is clear and unambiguous, the language alone determines the contract's force and effect." Schulmeyer v. State Farm Fire & Cas. Co., 353 S.C. 491, 495, 579 S.E.2d 132, 134 (2003).

The plain language of the Settlement Agreement shows absolutely no intention on the part of Defendants to consent to this Court's jurisdiction to review the Hospital's privileging decisions. **Settlement Agreement** Instead, the Settlement Agreement shows the parties' intentions to permit the Plaintiff to apply for a change in status in accordance with the bylaws. **Settlement Agreement, pp 1-2** There is no contract in which Defendants agreed that this Court could review its privileging decisions, and the Plaintiff cannot point to one.

2 The parties cannot consent to confer subject matter jurisdiction on this Court

Moreover, it is black-letter law in South Carolina and throughout the country that the parties may not consent—by contract, agreement or otherwise—to confer subject matter jurisdiction on this Court where none exists. “The question of lack of subject matter jurisdiction may be raised at anytime during the action and *cannot be waived or conferred by consent*.” GNOC Corp v Estate of Rhyne 312 S C 86, 88, 439 S E 2d 274, 275 (1994) (emphasis added), see also State v Gentry 363 S C 93, 100, 610 S E 2d 494, 498 (2005) (“The lack of subject matter jurisdiction may not be waived, even by consent of the parties, and should be taken notice of by this Court.”) “In general the jurisdiction of courts is a public matter that cannot be affected by a private agreement, and the jurisdiction of a court can neither be acquired nor lost as a result of an agreement of the parties.” 20 Am Jur 2d Courts § 95, see also 21 C J S Courts § 84 (“[A]s a general rule, where the court has no jurisdiction of the cause of action or subject matter involved in a particular case, such jurisdiction cannot be conferred by consent, agreement, contract, stipulation, or by other conduct or action of the parties.”) As a result, this Court lacks subject matter jurisdiction to review the Hospital's privileging decisions regardless of what the Settlement Agreement does or does not say.

3 This Court rejected the same argument in the 2005 lawsuit

Finally, this Court rejected the exact same argument in the 2005 lawsuit. In the 2005 lawsuit Plaintiff specifically pled “The Plaintiff and Defendant were and are parties to a contractual agreement, the terms of which are set forth in the Medical Staff Bylaws, Rules and

Regulations, and related documents” **Plt’s Am Compl in Case No 2005-CP-10-5113, ¶¶19, 30, 31(2)** (emphasis added) Plaintiff later confirmed that the ‘related documents’ referred to in her amended complaint included the Settlement Agreement

The defendant [sic] claims that a settlement agreement executed by the parties which required that the Plaintiff be reappointed to the consulting staff in 2002 precludes Plaintiff from suing in this case because she was, actually, reappointed to the consulting staff in 2002. The Defendant [sic] misinterprets the complaint, which should be clear on its face. Plaintiff was given two rights under the former agreement. One was to be reappointed to the consulting staff in 2002 for two years. The other, as Defendant [sic] explains in its own brief, was that the Plaintiff would have the right to apply for a change in status pursuant to the by-laws. It is the denial of the Plaintiffs right to apply for a change in status pursuant to the by-laws which is the basis of her claims in this case

Plt’s Response to Def’s Mot to Dismiss in Case No 2005-CP-10-5113, p 1 (double emphasis added) As previously discussed, notwithstanding Plaintiff’s argument in the 2005 lawsuit that the Settlement Agreement somehow conferred subject matter jurisdiction on this Court, this Court ruled that it lacked jurisdiction to review the privileging decisions of a private hospital **Order filed 05/23/2007 in Case No 2005-CP-10-2005, Order Awarding Sanctions filed 08/06/2009 in Case No 2005-CP-10-2005**

Like the 2005 lawsuit, the current lawsuit is also based on an alleged breach of the 2002 settlement agreement by the Defendants in reviewing Plaintiff’s application for medical staff privileges. In the current lawsuit, Plaintiff pleads ‘The Plaintiff and Defendant [sic] were and are parties to a contractual agreement, the terms of which are set forth as part of a settlement agreement” **Plt’s Compl ¶12**. As in the 2005 lawsuit, this Court should reject Plaintiff’s argument that the Settlement Agreement somehow confers subject matter jurisdiction on this Court on the basis of res judicata and/or collateral estoppel.

II Defendants should be awarded judgment on the pleadings because Defendants complied with the alleged contract and the applicable bylaws in reviewing Plaintiff’s 2006 and 2008 applications

Defendants should also be awarded judgment on the pleadings because they complied with the Settlement Agreement and because they reviewed Plaintiff's 2006, and 2008 applications in accordance with the applicable bylaws. A complete iteration of the Hospital's governance and structure is set forth in Paragraphs 28 through 35 of the Defendants' answer to the present lawsuit. **Defs' Answer, ¶¶28-35**. Defendants will not undertake to reiterate this information here, for the sake of brevity.

In 2002, Plaintiff was reappointed to the Hospital's consulting medical staff, which consists of physicians who do not admit patients to the Hospital but desire privileges to provide consultative services to patients at the request of active or courtesy staff physicians. **Bylaws (Rev July 2006), Art VI, §5, p 18 (Exhibit I to Answer)**. Consulting medical staff members are not eligible to admit patients, perform surgery, vote, or hold office. **Bylaws (Rev July 2006), Art IV, §5, p 18**. This reappointment was in conformity with the Settlement Agreement, which was executed by Plaintiff and Defendants in 2003. **Order filed 05/23/2007 in Case No 2005-CP-10-5113**. In 2004, Plaintiff was reappointed to the Hospital's consulting staff for another two year term running from 2004 to 2006. **Order filed 05/23/2007 in Case No 2005-CP-10-5113**. The Plaintiff's 2005 lawsuit claimed this 2004 reappointment, which also denied Plaintiff's request for an advancement in staff category and surgical privileges, breached the Settlement Agreement. **Plt's Am Compl in Case No 2005-CP-10 5113, Plt's Response to Def's Mot to Dismiss in Case No 2005-CP-10-5113**. This Court refused to review the Hospital's decision in this regard. **Order filed 05/23/2007 in Case No 2005-CP-10 5113**.

A Plaintiff's 2006 Application

On October 7, 2006, Plaintiff applied for reappointment to the medical staff and, as she had in 2004, requested an advancement in staff category from consulting to associate medical staff. **Plt's Medical Staff Reappointment Application dated 10/07/2006 (Ex K to Answer)**. Members of the associate staff may seek surgical privileges at the Hospital. As part of her reappointment application, Plaintiff requested clinical privileges to perform surgery on the eye.

as she did in 2004 **Pit's Medical Staff Reappointment Application dated 10/07/2006, Delineation of Privileges attachment**

The Medical Staff Bylaws Rules and Regulations (the "Bylaws") require medical doctors who seek associate medical staff status or surgical privileges to document current clinical competence **Bylaws (Rev July 2006), Art IV, §3 A, p 17** Under the Bylaws, the Hospital's Medical Executive Committee ("MEC") is charged with evaluating the application and making a recommendation to the Hospital's Governing Board **Bylaws (Rev July 2006), Art VI, §5, p 39** (explaining an application for change in staff category or addition of privileges will be evaluated as application for initial appointment), **Art V, §1, p 19** (explaining that Governing Board approves or denies application based on recommendation of MEC) The MEC is required to consider current clinical competence in evaluating the application **Bylaws (Rev July 2006), Art VI, §2 B** (recognizing that request shall be based on, among other things "demonstrated current competence')

The MEC reviewed the Plaintiff's application and determined that she failed to demonstrate current clinical competence to perform surgery on the eye **Wozniak ltr to Holmes dated 12/20/2006 (Ex L to Answer)** Plaintiff failed to include any evidence reflecting that she had performed or was competent to perform the surgical procedures for which she requested privileges **Pit's Medical Staff Reappointment Application dated 10/07/2006, Wozniak ltr to Holmes dated 12/20/2006** Further, the Hospital had no internal documentation that Plaintiff had admitted or surgically treated patients at the Hospital since 1998 **Pit's Medical Staff Reappointment Application dated 10/07/2006, Wozniak ltr to Holmes dated 12/20/2006**

On December 20, 2006, the Hospital's Chief Executive Officer informed Plaintiff, in writing, of the MEC's recommendation **Wozniak ltr to Holmes dated 12/20/2006** She also advised Plaintiff of her right to an administrative hearing **Wozniak ltr to Holmes dated 12/20/2006, Bylaws (Rev July 2006), Art V, §2 H 4, p 24** Plaintiff requested and was

afforded an administrative appellate hearing of this decision on September 17, 2007, before the Hospital's Medical Review Committee ("MRC"), which is the committee charged with affording such a hearing under the Bylaws **Bylaws (Rev July 2006), Art VIII, §2 E, p 49** The MRC concluded that Plaintiff failed to meet her burden of demonstrating her clinical competency and failed to show that the MEC's recommendation that she be reappointed to the consulting staff was arbitrary, capricious, or unreasonable **Final Decision of the Governing Body, p 1 (Ex M to Answer)**

On October 12, 2007, the Hospital's Governing Body adopted the findings of the MRC and issued an order affirming the MEC's recommendation **Final Decision of the Governing Body, p 1** The Hospital's Governing Board has final decision-making authority under the Bylaws for these applications **Bylaws (Rev July 2006), Art VI, §5, p 39** (explaining an application for change in staff category or addition of privileges will be evaluated as application for initial appointment), **Art V, §1, p 19** (explaining that Governing Board approves or denies application based on recommendation of MEC) As a result of the Governing Board's decision, the Plaintiff was reappointed to the Hospital's consulting medical staff for two years **Final Decision of the Governing Body, p 1**

B Plaintiff's 2008 Application

On October 30, 2008, Plaintiff submitted another application for reappointment to the Hospital's medical staff, but failed to complete the required Delineation of Privileges portion of the application **Plt's Medical Staff Reappointment Application dated 10/30/2008 (Ex N to Answer)** This portion of the application was required to be completed to demonstrate that Plaintiff had performed at least 48 ophthalmology surgical procedures in the past 24 months in a hospital or surgical outpatient setting **Bylaws (Rev Feb 2007), Art VI, §2, pp 35-36 (Ex J to Answer)** As with her 2004 and 2006 applications, Plaintiff requested privileges to perform surgery on the eye but failed to submit any documentation showing she was currently clinically

competent to perform surgery on the eye **Plt 's Medical Staff Reappointment Application dated 10/30/2008**

On November 11, 2008, Elaine Meuli, the Hospital's Director of Medical Staff Services, wrote to Plaintiff confirming receipt of her application for reappointment and explaining that Plaintiff failed to complete the required Delineation of Privileges portion of the application and failed to include any evidence of her current clinical competency **Meuli ltr to Holmes dated 11/11/2008 (Ex O to Answer)** Meuli explained that Plaintiff's failure to respond in a timely manner would result in her being deemed to have resigned from the medical staff pursuant to the Bylaws **Meuli ltr to Holmes dated 11/11/2008, Bylaws (Rev Feb 2007), Art V, §3 B, p 28** (providing that a reappointment application must be complete within 30 days of the expiration of the current appointment or the applicant will be deemed to have voluntarily resigned from the medical staff) Plaintiff failed to address Meuli's letter, did not complete the requisite Delineation of Privileges portion of the application, and did not supply any documentation of her current clinical competency to perform the surgical procedures for which she requested privileges **Plt 's Medical Staff Reappointment Application dated 10/30/2008**

On December 19, 2008, Janie Sinacore-Jaberg the Hospital's Chief Executive Officer, informed Plaintiff that her medical staff membership and privileges were deemed to be voluntarily resigned under the applicable Bylaws **Sinacore-Jaberg ltr to Holmes dated 12/19/2008 (Ex P to Answer)**

The Hospital Bylaws expressly prohibit the consideration of an incomplete application and prohibit an administrative appellate hearing under these circumstances, stating that a practitioner who fails to return the form or supply all of the required information within thirty (30) days prior to the expiration of the current appointment period or respond in a timely manner to a request for information shall be deemed to have resigned his or her medical staff membership effective as of the date of the expiration of his current appointment and that a practitioner who is

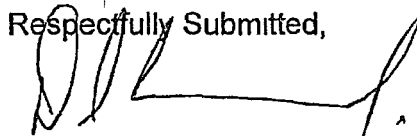
deemed to have resigned voluntarily under this section shall not be entitled to a hearing and appeal rights Bylaws (Rev Feb 2007), Art V, §3 B, p 28

To reiterate, the term of the January 2003 Settlement Agreement alleged to have been breached by the Defendants in this lawsuit states "That Dr Holmes has been reappointed to consulting status for a term of two (2) years Dr Holmes shall have the right to apply for a change in status in accordance with the Bylaws ' Settlement Agreement As explained herein, Plaintiff was allowed to and did apply for a change in her medical staff status and her applications in this regard were processed "in accordance with the Bylaws" Because the Defendants have complied fully with the Settlement Agreement, Plaintiff's claims are barred as a matter of law

Conclusion

This Court respectfully lacks subject matter jurisdiction to review the privileging decisions of a private hospital This premise has not only been emphasized in several appellate court decisions, but this Court has also explained the proposition to Plaintiff in two separate orders Further, Defendants plainly complied with the Settlement Agreement Based on the foregoing, the present action should be dismissed for lack of subject matter jurisdiction or Defendants should be granted a judgment on the pleadings

Respectfully Submitted,



Lindsay K. Smith-Yancey (S C Bar No 9083)
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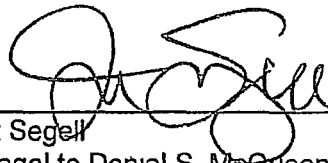
Charleston, South Carolina
December 13, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing by delivering a copy to the following counsel/parties, in accord with applicable Rules of Civil Procedure, on December 13, 2010, by first class mail (postage prepaid, properly addressed)

Chalmers C Johnson, Esq
523 So G Street, Apt #402
Tacoma, WA 98405

The Honorable R Markley Dennis, Jr
c/o Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401



Janet Segell
Paralegal to Daniel S McQueeney, Jr
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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) C A NO 2010-CP-10-3410

Dr Cynthia Holmes, M D ,)
)
Plaintiff,)
)
vs)
)
East Cooper Community Hospital, Inc ,)
and Tenet HealthSystem Medical, Inc ,)
)
Defendants)
)

**NOTICE OF MOTION AND MOTION
FOR RECONSIDERATION**

YOU WILL PLEASE TAKE NOTICE that ten days from the date hereof, or as soon thereafter as may be heard, the undersigned, as attorneys for Defendants East Cooper Community Hospital, Inc., and Tenet HealthSystem Medical, Inc., (“Defendants”) will move this Court for an order reconsidering its oral ruling denying Defendant’s motion to dismiss on the basis of subject matter jurisdiction

While this Court ruled that Defendants' motion would be more appropriately addressed as a motion for summary judgment, subject matter jurisdiction is properly raised only through a Rule 12(b)(1), SCRPC, motion to dismiss. See Chew v. Newsome Chevrolet, Inc., 315 S C 102, 104, 431 S E 2d 631, 632 (Ct App 1993) ("If a party files a Rule 56 motion for summary judgment on the ground of lack of subject matter jurisdiction, the court should treat the motion as if it were a Rule 12(b)(1) motion.") As a result, Defendants respectfully request that this Court reconsider its decision and grant Defendants' motion to dismiss on the basis of subject matter jurisdiction.

Brief Procedural Posture

This action was filed by Plaintiff Dr Cynthia Holmes, M D ("Plaintiff") on April 26, 2010. On September 24, 2010, Defendants moved for judgment on the pleadings and to dismiss on the basis of subject matter jurisdiction. In particular, Defendants contended that Plaintiff's action sought review of the privileging decisions of a private hospital. On December 16, 2010, this Court held a hearing on Defendants' motions and orally denied the motions solely on the basis that they would be more appropriately considered and reviewed on appeal upon a motion for summary judgment.

Argument

Defendants would respectfully request that this Court reconsider its ruling on Defendants' motion to dismiss on the basis of subject matter jurisdiction.

"[T]he proper procedure for raising lack of subject matter jurisdiction prior to trial is to file a motion to dismiss pursuant to Rule 12(b)(1), SCRCP." Chew v Newsome Chevrolet, Inc., 315 S C 102, 104, 431 S E 2d 631, 632 (Ct App 1993). "If a party files a Rule 56 motion for summary judgment on the ground of lack of subject matter jurisdiction, the court should treat the motion as if it were a Rule 12(b)(1) motion." Id. "The proper procedure for raising lack of subject matter jurisdiction prior to trial is to file a motion to dismiss pursuant to Rule 12(b)(1), SCRCP, rather than a motion for summary judgment pursuant to Rule 56, SCRCP." Edens v Bellini, 359 S C 433, 440, 597 S E 2d 863, 867 (Ct App 2004).

"It is well settled in South Carolina, and throughout the country, that it is improper for the courts to review the decisions of governing boards of private hospitals concerning the staff privileges of practitioners." Wood v Hilton Head Hosp., Inc., 292 S C 403, 405, 356 S E 2d 841, 842 (1987), see also Strauss v Marlboro County Gen

Hosp., 185 S C 425, 194 S E 65, 65 (1937) ("It is conceded, we understand, that if Marlboro County General Hospital is a private institution, the action must fail and the appeal be dismissed"), Gowan v. St. Francis Cmty. Hosp., 275 S C 203, 204, 268 S E 2d 580, 581 (1980) (recognizing that a hospital's actions in denying a licensed medical practitioner specialized privileges at the hospital "is not subject to judicial review")

Plaintiff concedes that the Court may not review a private hospital's privileging decisions, but contends that a 2002 settlement agreement purportedly permits the Court to undertake such review. Notwithstanding the Plaintiff's argument, it is well-established that the parties may not consent—by contract, agreement or otherwise—to confer subject matter jurisdiction on this Court. See GNOC Corp. v. Estate of Rhyne, 312 S C 86, 88, 439 S E 2d 274, 275 (1994) ("The question of lack of subject matter jurisdiction may be raised at anytime during the action and *cannot be waived or conferred by consent*") (emphasis added), 21 C J S Courts § 84 ("[A]s a general rule, where the court has no jurisdiction of the cause of action or subject matter involved in a particular case, such jurisdiction cannot be conferred by consent, agreement, contract, stipulation, or by other conduct or action of the parties")

Accordingly, this Court may grant Defendants' motion to dismiss for lack of subject matter jurisdiction without going beyond the Plaintiff's complaint.¹ Therefore,

¹ Unlike a Rule 12(b)(6), SCRCP, motion or a motion for judgment on the pleadings, this Court may go beyond the face of the Plaintiff's complaint in addressing a motion to dismiss under Rule 12(b)(1), SCRCP, without converting the motion into one for summary judgment. See Edens v. Bellini, 359 S C 433, 440, 597 S E 2d 863, 867 (Ct App 2004) ("The court may consider affidavits on a question of law in a jurisdictional motion without converting the motion into one for summary judgment") As a result, Defendants would also respectfully note that the applicable settlement agreement does not show any intent to consent to this Court's subject matter jurisdiction and that Plaintiff

Defendants would respectfully request the Court reconsider its oral ruling and grant Defendants' motion

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Lindsay K. Smith-Yancey', with a stylized 'fox' written below it.

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December 22, 2010
Charleston, South Carolina

has already argued the exact same thing in a previous case, triggering the doctrines of *res judicata* and collateral estoppel. Notwithstanding these other bases for granting Defendants' motion, however, this Court need look no further than the allegations in the Plaintiff's complaint in dismissing this action on the basis of lack of subject matter jurisdiction.

JULIE J ARMSTRONG

CLERK OF COURT CP & GS
100 BROAD STREET SUITE 106
CHARLESTON SC 29401 2258

RETURN SERVICE REQUESTED



4-25-11
www3 charlestoncounty.org

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NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRCF

Order/Defnt's Mot to Reconsider is denied

CASE NO 2010CP1003410

This judgment was entered on the 09th day of March, 2011, and a copy mailed first class on Monday, April 25, 2011, to all counsel of record and/or all parties entitled to receive notice

You may view and download this document at [www3 charlestoncounty.org](http://www3.charlestoncounty.org)

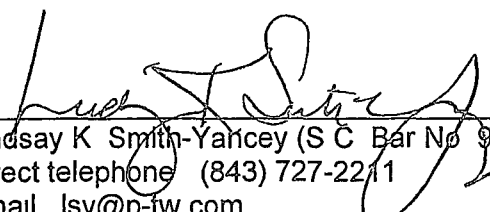
Medical Center (hereinafter referred to as "East Cooper Hospital") In her present action, the Plaintiff alleges breach of contract and breach of the covenant of good faith and fair dealing relating to her applications for reappointment to the medical staff of East Cooper Hospital in 2006 and 2008 The Defendants hereby move for summary judgment as to the Plaintiff's claims because there is no genuine issue of material fact with regard thereto for the following alternative reasons

- I This Court respectfully lacks jurisdiction over the subject matter of the present dispute, which, while pled and disguised as an action for breach of contract, is in actuality a challenge of the decisions of a private hospital concerning physician credentialing and medical staff privileging for which a cause of action does not exist,
- II The Plaintiff's action is barred by the doctrine of collateral estoppel and res judicata as this Court has previously issued two separate orders that it lacks subject matter jurisdiction to review and decide claims of the nature set forth in the Plaintiff's Complaint
- III Defendants are entitled to judgment on the pleadings as a matter of law as the pleadings show that Defendants complied with the plain language of the contract Plaintiff alleges was breached
- IV Defendants are entitled to judgment on the pleadings because Plaintiff's action is barred by S C Code Ann § 40-71-10 and the Health Care Quality Improvement Act

This Motion will be based on the pleadings, discovery, Orders, and other filings from this and other cases involving the Plaintiff, other Affidavits to be provided, and a forthcoming Memorandum of Law

(Signature appears on following page)

Respectfully Submitted,

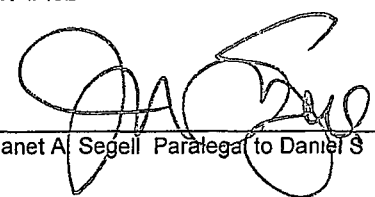


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Attorneys for Defendants

June 6, 2011
Charleston, South Carolina

I hereby certify that I have served a true copy of the foregoing document by delivering a copy to the below listed counsel/parties on June 6, 2011 via first class mail postage prepaid and properly addressed to said counsel/party(ies)

Chalmers C. Johnson Esquire
523 So. G Street Apt #402
Tacoma WA 98405



Janet A. Segell Paralegal to Daniel S. McQueeney II

Hospital's Credentials Committee and Medical Executive Committee (MEC), which are comprised of physician members of the Medical Staff 2006 Bylaws, Art V, §3 F (p 28) Because of the expertise of the members of these committees, the Governing Body relies heavily on the recommendations of the MEC regarding the appointments and reappointments Initial appointments and reappointments to the Medical Staff are made by the Governing Body of the Hospital, for a period not to exceed two (2) years 2006 Bylaws, Art V, §1 (p 19)

5 The Credentials Committee is responsible for reviewing and evaluating the qualifications of each applicant for initial appointment, reappointment, or modification of appointment to the Medical Staff, and for clinical privileges at East Cooper Regional Medical Center 2006 Bylaws, Art XI, §3 B 1

6 The Credentials Committee must submit a report to the Medical Executive Committee ("MEC") on the qualifications for each applicant including its recommendations for appointment, staff category assignment, and clinical privileges 2006 Bylaws, Art XI, §3 B 5

7 The MEC is responsible for, among other things, receiving reports from the Credentials Committee relating to physician appointments, reappointments, clinical privileges and assignment of Medical Staff category 2006 Bylaws, Art XI, §2 B 2 The MEC is also responsible for the review and consideration of said reports and then making its own determinations and recommendations for physician appointments, reappointments, clinical privileges and Medical Staff category assignments to the Governing Board 2006 Bylaws, Art XI, §2 B 2

8 After receipt of the recommendation of the Credentials Committee, the MEC submits its recommendation to the Hospital's Governing Body regarding membership, staff category, and clinical privileges 2006 Bylaws, Art V, §2 H (p 24) The MEC may take action by recommending that the Governing Body reject the applicant's request for membership and/or privileges 2006 Bylaws, Art V, §2 H (p 24) When the recommendation of the MEC is adverse to the applicant, the applicant must be informed of the decision and advised of her hearing and appeal rights under the Bylaws 2006 Bylaws, Art V, §2 H (p 24) The Governing Body will not act upon an adverse recommendation of the MEC until after the affected individual has exercised or waived her right to a hearing and appeal under the Bylaws 2006 Bylaws, Art V, §2 H (p 24)

9 The applicant's hearing and appeal rights regarding an adverse recommendation (including the denial of a request for change in staff category) are set forth in Article VIII of the 2006 Bylaws The affected practitioner has thirty (30) days following the date notice of the MEC's action is given in which to request a hearing 2006 Bylaws, Art VIII, §2 A (p 47) The hearing is held before a panel known as a Medical Review Committee ("MRC") with a hearing officer appointed to run the hearing 2006 Bylaws, Art VIII, §2 D and §2 F (p 49) The hearing procedure is governed by Article VIII, Section 3 of the 2006 Bylaws (pp 50-54) The affected practitioner has the burden of proving, by clear and convincing evidence, that the action or recommendation of the body whose decision prompted the hearing is arbitrary, capricious, or unreasonable Art VIII, §3 H (p 53) The MRC shall render and deliver a written report and decision Art VIII, §4 (p 54) Pursuant to Article VIII, Section 6 of the 2006 Bylaws

(pp 57), the affected practitioner may then appeal the MRC's decision to the Governing Body. The grounds for the appeal are limited to substantial and prejudicial failure of the MRC or the MEC to comply with the Bylaws or to afford due process or a fair hearing, the action or recommendation that prompted the hearing, or any substantial part thereof was arbitrary and capricious or the MRC's decision or any substantial part was clearly contrary to the weight of the evidence. Art. VIII, §6 C (p 55). The Governing Body's written final decision will then be issued. Art. VIII, §6 F.

10 As Chairman of the Governing Board of the Hospital, I participated in the decisions regarding the 2006 reappointment applications of Dr. Cynthia Holmes. I am familiar with the above referenced Medical Staff Bylaws in effect at the time as well as information presented to the Board by the MEC concerning her application for reappointment. At that time Dr. Holmes was a member of the Hospital's Consulting Staff. The Consulting Medical Staff consists of physicians who do not admit patients to the hospital but who desire privileges to provide consultative services to patients at the request of active or courtesy staff physicians. Consulting staff members are not eligible to admit patients, perform surgery, vote, or hold office. See 2006 Bylaws, Art. IV, §5 (p 18).

11 Dr. Holmes' appointment to the Consulting staff was scheduled to expire in December of 2006 and prior thereto she submitted a reappointment application requesting advancement in status from a Consulting member to an Associate member of the Medical Staff.

12 At the times relevant to Dr. Holmes' 2006 reappointment, the Associate Medical Staff consisted of practitioners who meet all the criteria for Active Medical Staff.

membership except the minimum required number of patient contacts per year, i.e. 24 patient contacts per year. In order to allow adequate medical peer review of the smaller number of patient contacts by members of the Associate Medical Staff, all patient contacts are reviewed by the Department to which the practitioner is assigned. In addition, if the applicant desires privileges for surgical or invasive medical procedures, the applicant will be required to submit documentation of current clinical competence to the satisfaction of the appropriate Department Chairman and Credentials Committee. 2006 Bylaws, Art. IV, §3 A (p. 17)

13. Reapplicants to the Medical Staff have the burden of completing and submitting an application for reappointment at least ninety (90) days prior to the expiration of their previous appointment term. 2006 Bylaws, Art. V, §3 A. The reapplicant has the burden of producing adequate information for a proper evaluation of his or her current clinical competence in terms of his or her ability to practice or continue to practice in the area in which privileges are sought. 2006 Bylaws, Art. V, §3 C. Reapplicants requesting a change in staff category or clinical privileges have the burden of supplying information in support thereof. 2006 Bylaws, Art. V, §3 A.2. A request for Associate staff status including surgical privileges must be supported by documentation of current clinical competence to the satisfaction of the appropriate Department Chairman and Credentials Committee. 2006 Bylaws, Art. IV, §3 A. Requests for clinical privileges shall be evaluated on the basis of a physician's training, experience and education, demonstrated clinical competence, and other relevant information. 2006 Bylaws, Art. VI, §2 B.

14 With respect to the Plaintiff's 2006 reappointment application, the Governing Board was advised that the Credentials Committee had recommended that Dr Holmes be reappointed to the Consulting Medical Staff. The Credentials Committee had reviewed Dr Holmes' application and found it to be insufficiently documented to show that she was currently clinically competent for Associate status and the surgical privileges she requested. While Dr Holmes had submitted what appeared to be summaries of office examinations of some of her patients, the Credentials Committee noted that the documentation did not have patient names or dates and did not contain any evidence of her performing surgical procedures. In addition, the Hospital had no record of and Dr Holmes' application did not contain any information that she had admitted patients or performed surgery at the Hospital or any other accredited hospital or surgical center since 1998. As a result, the Credentials Committee determined that Dr Holmes did not provide adequate documentation of surgical expertise to support her request for advancement to the Associate Medical Staff with surgical privileges and recommended that she be reappointed to the Consulting staff.

15 The Governing Board was advised that the MEC had also reviewed Dr Holmes' reappointment application and agreed with the findings and recommendations of the Credentials Committee.

16 The Governing Board adopted the MEC's recommendation that Dr Holmes be reappointed to the Consulting Medical Staff and she was notified of this decision by letter, in compliance with the 2006 Bylaws. See 2006 Bylaws, Art V, §2 H (p 24), 2006 Bylaws, Art VIII, §2 A (p 47). Dr Holmes then requested a hearing by letter dated January 15, 2007.

17 On September 19, 2007, Dr Holmes received a hearing in front of the Medical Review Committee (MRC) presided over by a hearing officer She was given appropriate notice of the hearing, allowed input on the selection of the hearing officer, allowed to and did present written briefs, information, objections and argument in support of her position, and was allowed to and did examine witnesses

18 After entertaining the information presented to it, the MRC upheld the MEC's recommendation that Dr Holmes be reappointed to the Consulting staff

19 Dr Holmes then requested and received an appeal to the Governing Board In considering her appeal, the Governing Board examined the report of the MRC, the transcript of the hearing, an eight page supplemental submission of Dr Holmes detailing events, issues, and arguments surrounding her 1998 credentialing process, as well as Dr Holmes' arguments that the decision of the MRC was arbitrary, capricious and contrary to the weight of the evidence, that she had been denied due process, that she had not been provided the properly authorized Bylaws, that she had not been given appropriate notice of the hearing, that the witnesses did not provide truthful testimony under oath, and that the hearing officer failed to follow the Bylaws After consideration of this information the Governing Board determined that Dr Holmes failed to provide adequate documentation to support a change from Consulting status to Associate status with privileges for ophthalmology surgery and upheld the recommendation of the MRC See Exhibit M Defendants' Answer

20 The final decision of the Governing Board regarding Dr Holmes' 2006 reappointment was made in accordance with the Medical Staff Bylaw provisions discussed above, and was arrived at solely because her reappointment application

failed to demonstrate her current clinical competency to perform surgery on the eye
Her reappointment process was handled in good faith, in accordance with the Bylaws,
and in the same manner as any other physician under the same circumstances

James B Bagwell, III
James B Bagwell, III

Sworn to before me this
27 day of June, 2011

Kimberley A Easterling
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires 6/30/2016



STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) IN THE COURT OF COMMON PLEAS
)
) C A NO 2010-CP-10-3410

Dr Cynthia Holmes, M D ,

Dr Holmes,

vs

East Cooper Community Hospital, Inc
and Tenet HealthSystem Medical, Inc ,

Defendants

Affidavit of Dr Ramesh Narang, DMD

PERSONALLY APPEARED BEFORE ME Dr Ramesh Narang, DMD, who, being
first duly sworn, avers and states as follows

1 I am over eighteen (18) years of age, of sound mind, and competent to
make this Affidavit. The facts stated herein are true and correct, and are based upon
my personal knowledge

2 I am a doctor of dental medicine (DMD) specializing in the practice of
ambulatory oral surgery

3 I became a member of the Medical Staff of East Cooper Medical Center
(the "Hospital") in 1985 and have had privileges at this Hospital since that time

4 During the time of the 2006 reappointment application of Dr Cynthia
Holmes, I served as the Interim Chairman of the Credentials Committee at the Hospital.
During the same time period, I also served as a member of the Hospital's Medical
Executive Committee ("MEC"). I have knowledge of and am familiar with the process
and requirements for the granting of Medical Staff membership and clinical privileges for

physicians at the Hospital, including the provisions of the Medical Staff Bylaws, Rules and Regulations regarding same

5 In her 2006 reappointment application, Dr Holmes requested a change in status from a Consulting member to an Associate member of the Medical Staff

6 The Consulting Medical Staff consists of physicians who do not admit patients to the hospital but who desire privileges to provide consultative services to patients at the request of Active or Courtesy staff physicians Consulting staff members are not eligible to admit patients, perform surgery, vote, or hold office See Exhibit I to Defendants' Answer, 2006 Bylaws, Art IV, §5 (p 18)

7 By contrast, the Associate Medical Staff consists of practitioners who meet all the criteria for Active Medical Staff membership except the minimum required number of patient contacts per year, i.e. 24 patient in-hospital contacts per year In order to allow adequate medical peer review of the smaller number of patient contacts by members of the Associate Medical Staff, all patient contacts are reviewed by the Department to which the practitioner is assigned In addition, if the applicant desires privileges for surgical or invasive medical procedures, the applicant will be required to submit documentation of current clinical competence to the satisfaction of the appropriate Department Chairman and Credentials Committee Id at Art IV, §3 A (p 17)

8 Initial appointments and reappointments to the Medical Staff are made by the Governing Body of the Hospital, for a period not to exceed two (2) years Id at Art V, §1 (p 19) Reappointments are made by the Governing Body after receipt and

consideration of peer input from the Credentials Committees and MEC, which are comprised of physician members of the Medical Staff Id at Art V, §3 F (p 28)

9 At the times relevant to Dr Holmes' 2006 reappointment, reapplicants to the Medical Staff have the burden of completing and submitting an application for reappointment at least ninety (90) days prior to the expiration of their previous appointment term Id at Art V, §3 A The reapplicant has the burden of producing adequate information for a proper evaluation of his or her current clinical competence in terms of his or her ability to practice or continue to practice in the area in which privileges are sought Id at Art V, §3 C Reapplicants requesting a change in staff category or clinical privileges have the burden of supplying information in support thereof Id at Art V, §3 A 2 A request for Associate staff status including surgical privileges must be supported by documentation showing the practitioner is currently clinically competent in the specific procedures for which the privileges are requested to the satisfaction of the appropriate Department, Chairman and Credentials Committee Id at Art IV, §3 A Requests for clinical privileges shall be evaluated on the basis of a physician's training, experience and education, demonstrated clinical competence, and other relevant information Id at Art VI, §2 B

10 The Credentials Committee is responsible for reviewing and evaluating the qualifications of each applicant for initial appointment, reappointment, or modification of appointment to the Medical Staff, and for clinical privileges at East Cooper Medical Center 2006 Bylaws, Art XI, §3 B 1

11 The Credentials Committee must submit a report to the Medical Executive Committee ("MEC") on the qualifications for each applicant including its

recommendations for appointment, staff category assignment, and clinical privileges
2006 Bylaws, Art XI, §3 B 5

12 The Credentials Committee is comprised of at least five (5) physician members of the Active Medical Staff representative of the major clinical departments
2006 Bylaws, Art XI, §3 A The Chairman of the Credentials Committee is appointed by the Chief of Staff and must also be a member of the Active Medical Staff 2006 Bylaws, Art XI, §3 A

13 The MEC is responsible for, among other things, receiving reports from the Credentials Committee relating to physician appointments, reappointments, clinical privileges and assignment of Medical Staff category 2006 Bylaws, Art XI, §2 B 2 The MEC is also responsible for the review and consideration of said reports and then making its own determinations and recommendations for physician appointments, reappointments, clinical privileges and Medical Staff category assignments to the Governing Board 2006 Bylaws, Art XI, §2 B 2

14 The MEC is comprised of the Chief of Staff, Vice-Chief of Staff, Secretary-Treasurer, the Chairpersons of all Medical Staff Departments, the most recent ex-Chief of Staff, the Chairman of the Credentials Committee, the Chairman of Medical/Surgical/Patient Care Unit Committee, one member selected at large from the Medical Staff by the Chief of Staff, and the Administrator of the Hospital, who is a non-voting member 2006 Bylaws, Art XI, §2 A Pursuant to the Medical Staff Bylaws, the Chief of Staff serves as Chairman of the MEC and is responsible for reporting to the recommendations of the MEC to the Governing Board 2006 Bylaws, Art XI, §2 A

15 As a member of the Credentials Committee, I participated in the determinations and recommendations regarding the 2006 application for reappointment to the Medical Staff made by Dr Holmes. At the time, I served as the Interim Chairman of the Credentials Committee. As the Interim Chairman of the Credentials Committee, I also served on the MEC at the time it evaluated Dr Holmes's 2006 reappointment application.

16 At the time of her 2006 application for reappointment, Dr Holmes was a member of the Consulting Medical Staff of the Hospital. As stated above, Consulting Medical Staff members do not admit patients to the Hospital but provide consultative services to patients at the request of active or courtesy staff physicians only. Dr Holmes's 2006 application requested advancement to Associate Medical Staff status and clinical privileges to perform invasive and surgical procedures on the eye.

17 As indicated above, the Hospital's Bylaws require Dr Holmes to produce adequate information for a proper evaluation of her current clinical competence to practice the procedures for which privileges were sought, to supply information in support of her request for change in staff membership and clinical privileges, and to submit documentation of current clinical competence in the surgical procedures requested to the satisfaction of the appropriate Department Chairman and Credentials Committee.

18 Dr Holmes's 2006 reappointment application included what appeared to be clinical notes regarding office visits for some of Dr Holmes' patients. The notes were undated, did not contain identifying patient information, were not compiled in a hospital or accredited surgical facility setting, and contained no information showing that

Dr Holmes had recently performed and was competent in the surgical procedures she requested. In addition, according to files of East Cooper Medical Center, Dr Holmes had not admitted or surgically treated any patients at East Cooper Regional Medical Center since 1998 and her application did not contain any information that she had ever admitted patients or performed surgery at or any other Hospital or accredited surgical facility. Dr Holmes was given the opportunity to supplement her application with information sufficient to demonstrate her current clinical competency, but she failed to do so. Consequently, the Credentials Committee recommended that the Dr Holmes be reappointed to the Consulting Medical Staff. The MEC concurred in this recommendation. The votes of the Credentials Committee and the MEC were unanimous in this respect.

19 I was present and actively participated in all discussions, deliberations and recommendations of the Credentials Committee and MEC concerning Dr Holmes's 2006 reappointment application. The determinations and recommendations by the Credentials Committee and the MEC herein were made in accordance with the Medical Staff Bylaw provisions discussed above, and were arrived at solely because Dr Holmes's reappointment application failed to demonstrate her current clinical competency to perform surgery on the eye. Her reappointment process was handled in good faith, in accordance with the Bylaws, in the same manner as any other physician under the same circumstances.

20 The Governing Board of East Cooper Medical Center adopted the recommendations of the Credentials Committee and the MEC regarding Dr Holmes' reappointment application and on December 20, 2006, Dr Holmes was provided written

notice of her reappointment to the Consulting Medical Staff, as well as her right to request an administrative appeal of the decision under the Bylaws See Exhibit L to Defendants' Answer

21 Dr Holmes did request an administrative appeal of this decision and the administrative hearing was conducted on September 17, 2007 The Medical Review Committee (MRC) which presided over the hearing upheld Dr Holmes' reappointment to the Consulting Staff The decision of the MRC was then adopted by the Board See Exhibit M to Defendants' Answer


Dr Ramesh Narang, DDS
DMD

Sworn to before me this
27th day of June, 2011


NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires April 3rd, 2018

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) C A NO 2010 CP-10-3410

Dr Cynthia Holmes, M D

Plaintiff,

VS

East Cooper Community Hospital, Inc
and Tenet HealthSystem Medical Inc

Defendants

Affidavit of William Stroud, Jr, M D

PERSONALLY APPEARED BEFORE ME, William Stroud, Jr, M.D, who, being

first duly sworn, avers and states as follows

1 I am over eighteen (18) years of age, of sound mind, and competent to make this Affidavit. The facts stated herein are true and correct, and are based upon my personal knowledge.

2 I am a medical doctor practicing in the field of general surgery

3 I became a member of the Medical Staff of East Cooper Medical Center
(the "Hospital") in 1985 and have had privileges at the Hospital since that time

4 During the time of Dr. Holmes' 2008 reappointment application, I served as the Chairman of the Department of Surgery for the Hospital. As such, I also served on the Credentials Committee and the Medical Executive Committee ("MEC") of the Hospital. I have knowledge of and am familiar with the processes and requirements for the granting of Medical Staff membership and clinical privileges for physicians at the Hospital, including the provisions of the Medical Staff Bylaws, Rules and Regulations ("Bylaws") regarding same.

5 Initial appointments and reappointments to the Medical Staff are made by the Governing Body of the Hospital upon a recommendation from the MEC for a period not to exceed two (2) years 2007 Bylaws, Art V, §1 (p 20) The applicant has the burden of producing adequate information for a proper evaluation of his or her current clinical competence in terms of his or her ability to practice or continue to practice in the area in which privileges are sought 2007 Bylaws, Art V, §3 C (p 29) Applicants for reappointment to the Medical Staff have the burden of completing and submitting an application for reappointment at least 30 days prior to the expiration of their previous appointment term 2007 Bylaws, Art V, §3 B (p 29)

6 Medical staff members requesting a change in staff category or clinical privileges have the burden of supplying information in support thereof 2007 Bylaws, Art V, §3 A 2 (p 28) Clinical privileges may be granted only upon formal request on forms provided by the Hospital with subsequent processing and approval 2007 Bylaws, Art VI, §2 A (p 37) Every application for staff appointment or reappointment must contain a request for the specific clinical privileges desired by the applicant 2007 Bylaws, Art VI, §2 A (p 37) Requests for clinical privileges shall be evaluated on the basis of a physician's training, experience and education, demonstrated current competence, and other relevant information 2007 Bylaws, Art VI, §2 B (p 37) **A practitioner who fails to return the form or to supply all of the required information within thirty (30) days prior to the expiration of the current appointment period or respond in a timely manner to a request for information shall be deemed to have resigned his or her Medical Staff membership, effective as of the date of the expiration of the current appointment period** 2007 Bylaws,

Art V, §3 B (p 29) (emphasis added) **A practitioner who is deemed to resign in this manner is not entitled to the hearing and appeal rights under the Bylaws** 2007 Bylaws, Art V §3 B (p 29) (emphasis added)

7 The Credentials Committee is responsible for initially reviewing and evaluating the qualifications of each applicant for initial appointment, reappointment, or modification of appointment to the Medical Staff, and for clinical privileges at the Hospital 2007 Bylaws, Art XI, §3 B 1 (p 74) **The Credentials Committee is also responsible for reviewing each application prior to processing to determine if it is complete for processing and shall not process any application for membership or privileges that is incomplete** 2007 Bylaws, Art XI, §3 B 2 (p 74) (emphasis added) The Credentials Committee is comprised of at least five (5) physician members of the Active Medical Staff representative of the major clinical departments 2007 Bylaws, Art XI, §3 A (p 74) The Chairman of the Credentials Committee is appointed by the Chief of Staff and must also be a member of the Active Medical Staff 2007 Bylaws, Art XI, §3 A (p 73)

8 The MEC is responsible for, among other things, receiving reports from the Credentials Committee relating to physician appointments, reappointments, clinical privileges and assignment of Medical Staff category 2007 Bylaws, Art XI, §2 B 2 (p 72-73) The MEC is also responsible for the review and consideration of said reports and then making its own determinations and recommendations for physician appointments, reappointments, clinical privileges and Medical Staff category assignments to the Governing Board 2007 Bylaws, Art XI, §2 B 2 (p 72-73) The MEC is comprised of the Chief of Staff, Vice-Chief of Staff, Secretary-Treasurer, the

Chairpersons of all Medical Staff Departments, the most recent ex-Chief of Staff, the Chairman of the Credentials Committee, the Chairman of Medical/Surgical/Patient Care Unit Committee one member selected at large from the Medical Staff by the Chief of Staff, and the Administrator of the Hospital, who is a non-voting member 2007 Bylaws Art XI, §2 A (p 72) Pursuant to the Medical Staff Bylaws, the Chief of Staff serves as Chairman of the MEC and is responsible for reporting to the recommendations of the MEC to the Governing Board 2007 Bylaws, Art XI, §2 A (p 72)

9 In September of 2007 the MEC instituted a requirement that all applicants and reapplicants to the Medical Staff were required to complete a Delineation of Privileges form as part of their application process to identify what privileges were being sought 2007 Bylaws, Art VI, §2 A (p 37) This form set forth the threshold requirements for Core Privileges for the applicant's specialty Core privileges is the grouping of basic procedures physicians are taught in his or her specific training program and should be qualified to perform into a single privilege for that category or specialty Additional procedures that go beyond the Core and require additional training or experience are listed separately and specific criteria are developed to qualify for procedures that fall outside core privileges During the time of Dr Holmes's reappointment application in 2008, the Core Privileges for ophthalmology included the admission, work-up, diagnosis, and the performance of surgical procedures on patients of all ages presenting with illnesses injuries, and disorders of the eye, including its related structures and visual pathways To be eligible for Core privileges within the specialty of ophthalmology, reapplicants must demonstrate that they had performed at least 48 ophthalmologic surgical procedures in the preceding 24 months in a hospital or

surgical outpatient setting See Ex B to Affidavit of Elaine B Meuli, 2008 Credentials File for Dr Holmes, Delineation of Privileges form

11 From 2006 to 2008 Dr Holmes was a member of the Consulting Medical Staff of East Cooper Medical Center Dr Holmes' term on the Consulting staff was scheduled to expire in November of 2008 and prior thereto she submitted a reappointment application requesting advancement from a Consulting member to an Associate member of the Medical Staff

12 The Consulting Medical Staff consists of physicians who do not admit patients to the Hospital but who desire privileges to provide only consultative services to patients at the request of Active, Associate, or Courtesy staff physicians Consulting staff members are not eligible to admit patients, perform surgery, vote, or hold office See Exhibit E to Deposition of Elaine B Meuli, Medical Staff Bylaws (Rev Dec 2007) ('2007 Bylaws'), Art IV, §5 (p 19)

13 The Associate Medical Staff consists of practitioners who (i) do not have privileges at any other hospital but who (ii) meet all the criteria for active staff membership except the minimum number of admissions, procedures, or patient contacts per year or preceding 12-month period 2007 Bylaws, Art IV, §3 A (p 18) **At the time of initial appointment and at all times subsequent thereto, a member of the Associate Medical Staff was required to meet all of the threshold criteria for exercising Core Privileges in his or her respective Department** 2007 Bylaws, Art IV, §3 A (p 18)(emphasis added) The threshold criteria, which are identified by the Department and approved by the MEC, relate to minimum formal training, board certification, professional experience within the preceding twelve months and clinical

references 2007 Bylaws, Art IV, §3 A (p 18) In order to facilitate ongoing professional practice evaluation, all patient admissions, procedures and patient contacts by members of the associate staff are reviewed by the Department to which the Practitioner is assigned 2007 Bylaws, Art IV, §3 A (p 18)

14 Pursuant to amendments to the Bylaws in December of 2007, only Active members of the Medical Staff are eligible for surgical privileges

15 Dr Holmes's 2006 appointment to the Consulting staff was scheduled to expire on November 13, 2008 Despite the provision in the 2007 Bylaws requiring the reappointment application be completed within thirty (30) days prior to the expiration of her current appointment period, the Hospital did not receive Dr Holmes's reappointment application until November 6, 2008 In her application, Dr Holmes requested advancement from the Consulting Medical Staff to the Associate Medical Staff Dr Holmes failed to complete the required Delineation of Privileges portion of her application identifying the privileges she was seeking and attesting, among other things, that she was qualified for reappointment by having performed at least 48 ophthalmologic surgical procedures in the preceding 24 months In lieu of the required Delineation of Privileges form, Dr Holmes arbitrarily and unilaterally attached an outdated "laundry list" of surgical procedures she wished to be granted

15 Because of her failure to complete this required portion of her application, the Hospital returned the application to Dr Holmes as incomplete on November 11, 2006, and provided her explicit instructions on how to complete the required Delineation of Privileges form See Exhibit O to Defs ' Answer The letter returning the application was hand-delivered to Dr Holmes on November 12, 2008, with a warning that it needed

Privileges form identifying the privileges she was seeking and attesting or in any way documenting that she was qualified for reappointment and Core privileges in her specialty of ophthalmology

18 As the Chairman of the Department of Surgery, I submitted Dr Holmes' 2008 reappointment application to the Credentials Committee, which likewise determined the following that Dr Holmes' application was incomplete, that multiple attempts were made to allow Dr Holmes the opportunity to correct her application, that Dr Holmes failed to complete the Delineation of Privileges portion of her application and, instead, attached a copy of an old "laundry list" of privileges, even though she was informed the "laundry list" was obsolete, and that Dr Holmes failed to demonstrate that she has performed at least 48 ophthalmologic surgical procedures in the past 24 months in a hospital or surgical outpatient setting as required for Associate Medical Staff membership

19 The Credentials Committee unanimously determined that Dr Holmes failed to submit a complete application within 30 days prior to the expiration of her current appointment, that her application was, therefore, incomplete and deemed a voluntary resignation from the Medical Staff in accordance with the Bylaws effective December 13, 2008, the date on which her then-current appointment expired. The Credentials Committee also determined that the Bylaws did not afford Dr Holmes an administrative hearing or appeal rights on the basis of an incomplete application.

20 As a member of the MEC, I also participated in the determinations and recommendations of the MEC regarding the 2008 application for reappointment to the Medical Staff made by Dr Holmes. The MEC adopted the findings and

recommendations of the Credentials Committee for the same reasons discussed in above

21 The Governing Board of East Cooper Medical Center then adopted the recommendation of the MEC and on December 19, 2008 Dr Holmes was provided written notification that her failure to return the completed reappointment form and supply required information within 30 days prior to the expiration of her reappointment had been deemed as her resignation from the Medical Staff See Ex P to Defs ' Answer Dr Holmes was further advised that she would not be afforded a hearing or appellate rights under the circumstances because of the Hospital Bylaw provision stating that a practitioner deemed to have resigned because of an incomplete application is not entitled to hearing and appellate rights Ex P to Defs ' Answer

22 I was present and actively participated in all discussions, deliberations and recommendations of the Credentials Committee and MEC concerning Dr Holmes's 2008 reappointment application The determinations and recommendations by the Credentials Committee and the MEC herein were made in accordance with the Medical Staff Bylaw provisions discussed above, and were arrived at solely because Dr Holmes' reappointment application was incomplete Her reappointment process was handled in good faith, in accordance with the Bylaws, and in the same manner as any other physician under the same circumstances

William Stroud, Jr, M D
William Stroud, Jr, M D

Sworn to before me this
28 day of June, 2011

Dana R Bradford

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires Oct 4 2020

6-27-11

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) IN THE COURT OF COMMON PLEAS
)
) C A NO 2010-CP-10-3410

Dr Cynthia Holmes, M D ,

Plaintiff

vs

East Cooper Community Hospital, Inc ,
and Tenet HealthSystem Medical Inc ,

Defendants

Affidavit of Kate Darby

PERSONALLY APPEARED BEFORE ME, Kate Darby, who, being first duly sworn, avers and states as follows

1 I am over eighteen (18) years of age, of sound mind, and competent to make this Affidavit. The facts stated herein are true and correct, and are based upon my personal knowledge.

2 I am employed as Director of Administration for J Henry Stuhr, Inc.

3 During the time Dr Holmes' 2008 reappointment application was being considered, I was Chair of the Governing Board of East Cooper Medical Center (the "Hospital"). I have knowledge of and am familiar with the governance of the Hospital its Medical Staff Bylaws, Rules and Regulations, and the processes and requirements for the granting of Medical Staff membership and clinical privileges for physicians practicing there.

4 At the times relevant hereto, Dr Holmes was a member of the Hospital's Consulting staff. In her 2008 reappointment application, Dr Holmes requested a

change in status from a Consulting member to an Associate member of the Medical Staff

5 The Consulting Medical Staff consists of physicians who do not admit patients to the Hospital but who desire privileges to provide only consultative services to patients at the request of Active, Associate, or Courtesy staff physicians Consulting staff members are not eligible to admit patients, perform surgery, vote, or hold office See Exhibit E to Deposition of Elaine B Meuli, Medical Staff Bylaws (Rev Dec 2007) ("2007 Bylaws"), Art IV, §5 (p 19)

6 By contrast, the Associate Medical Staff consists of practitioners who (i) do not have privileges at any other hospital, but who (ii) meet all the criteria for active staff membership except the minimum number of admissions, procedures, or patient contacts per year or preceding 12-month period 2007 Bylaws, Art IV, §3 A (p 18) **At the time of initial appointment and at all times subsequent thereto, a member of the Associate Medical Staff shall meet all of the threshold criteria for exercising Core Privileges in his or her respective Department** 2007 Bylaws, Art IV, §3 A (p 18)(emphasis added) The threshold criteria, which are identified by the Department and approved by the MEC, relate to minimum formal training, current board certification within five years of completing residency or fellowship training, professional experience within the preceding twelve months and clinical references 2007 Bylaws, Art IV, §3 A (p 18) In order to facilitate ongoing professional practice evaluation, all patient admissions, procedures and patient contacts by members of the associate staff are reviewed by the Department to which the Practitioner is assigned 2007 Bylaws, Art IV, §3 A (p 18)

7 During the time of Dr Holmes's reappointment application in 2008, the Core Privileges for ophthalmology included the admission, work-up, diagnosis, and the performance of surgical procedures on patients of all ages presenting with illnesses, injuries, and disorders of the eye, including its related structures and visual pathways To be eligible to request clinical privileges associated with the specialty of ophthalmology, reapplicants must demonstrate, among other things, that they have performed at least 48 ophthalmologic surgical procedures in the past 24 months in a hospital or surgical outpatient setting

8 Initial appointments and reappointments to the Medical Staff are made by the Governing Body of the Hospital upon a recommendation from the MEC for a period not to exceed two (2) years 2007 Bylaws, Art V, §1 (p 20) Because of the expertise of the members of these committees, the Governing Body relies heavily on the recommendations of the MEC regarding the appointments and reappointments In December 2007, the Hospital adopted an amendment to the Bylaws providing that only Active members of the Medical Staff were eligible for surgical privileges in the Hospital This provision was added to better ensure patient safety Applicants for reappointment to the Medical Staff have the burden of completing and submitting an application for reappointment at least 30 days prior to the expiration of their previous appointment term 2007 Bylaws, Art V, §3 B (p 29) **A practitioner who fails to return the form or to supply all of the required information within thirty (30) days prior to the expiration of the current appointment period or respond in a timely manner to a request for information shall be deemed to have resigned his or her Medical Staff membership, effective as of the date of the expiration of the current appointment**

period 2007 Bylaws, Art V, §3 B (p 29)(emphasis added) **A practitioner who is deemed to resign in this manner is not entitled to the hearing and appeal rights under the Bylaws** 2007 Bylaws, Art V, §3 B (p 29)(emphasis added) The applicant has the burden of producing adequate information for a proper evaluation of his or her current clinical competence in terms of his or her ability to practice or continue to practice in the area in which privileges are sought 2007 Bylaws, Art V, §3 C (p 29)

9 Applicants requesting a change in staff category or clinical privileges have the burden of supplying information in support thereof 2007 Bylaws, Art V, §3 A 2 (p 28) Clinical privileges may be granted only upon formal request on forms provided by the Hospital with subsequent processing and approval 2007 Bylaws, Art VI, §2 A (p 37) Every application for staff appointment or reappointment must contain a request for the specific clinical privileges desired by the applicant 2007 Bylaws, Art VI, §2 A (p 37) Requests for clinical privileges shall be evaluated on the basis of a physician's training, experience and education, demonstrated current competence, and other relevant information 2007 Bylaws, Art VI, §2 B (p 37)

10 The Credentials Committee is responsible for initially reviewing and evaluating the qualifications of each applicant for initial appointment, reappointment, or modification of appointment to the Medical Staff and for clinical privileges at the Hospital 2007 Bylaws, Art XI, §3 B 1 (p 74) The Credentials Committee is also responsible for reviewing each application prior to processing to determine if it is complete for processing and shall not process any application for membership or privileges that is incomplete 2007 Bylaws, Art XI, §3 B 2 (p 74) The Credentials Committee is comprised of at least five (5) physician members of the Active Medical

Staff representative of the major clinical departments 2007 Bylaws, Art XI, §3 A (p 74)

The Chairman of the Credentials Committee is appointed by the Chief of Staff and must also be a member of the Active Medical Staff 2007 Bylaws, Art XI, §3 A (p 73)

11 The MEC is responsible for, among other things, receiving reports from the Credentials Committee relating to physician appointments, reappointments, clinical privileges and assignment of Medical Staff category 2007 Bylaws, Art XI, §2 B 2 (p 72-73) The MEC is also responsible for the review and consideration of said reports and then making its own determinations and recommendations for physician appointments, reappointments, clinical privileges and Medical Staff category assignments to the Governing Board 2007 Bylaws, Art XI, §2 B 2 (p 72-73) The MEC is comprised of the Chief of Staff, Vice-Chief of Staff, Secretary-Treasurer, the Chairpersons of all Medical Staff Departments, the most recent ex-Chief of Staff, the Chairman of the Credentials Committee, the Chairman of Medical/Surgical/Patient Care Unit Committee, one member selected at large from the Medical Staff by the Chief of Staff, and the Administrator of the Hospital, who is a non-voting member 2007 Bylaws, Art XI, §2 A (p 72) Pursuant to the Medical Staff Bylaws, the Chief of Staff serves as Chairman of the MEC and is responsible for reporting to the recommendations of the MEC to the Governing Board 2007 Bylaws, Art XI, §2 A (p 72)

12 In September of 2007 the MEC instituted a requirement that all applicants and reapplicants to the Medical Staff requesting surgical privileges were required to complete a Delineation of Privileges form as part of their application process 2007 Bylaws, Art VI, §2 A (p 37) This form set forth the threshold requirements for Core Privileges for the applicant's specialty For clinical privileges in ophthalmology, Dr

Holmes's specialty, reapplicants to the Medical Staff were required to demonstrate that they had performed at least 48 ophthalmologic surgical procedures in the preceding 24 months in a hospital or surgical outpatient setting See Ex B to Affidavit of Elaine B Meuli, 2008 Credentials File for Dr Holmes, Delineation of Privileges form

13 Dr Holmes's 2006 reappointment period was scheduled to expire on November 13, 2008 Despite the provision in the 2007 Bylaws requiring the reappointment application be completed within thirty (30) days prior to the expiration of her current appointment period, the Hospital did not receive Dr Holmes's reappointment application until November 6, 2008 In her application, Dr Holmes requested advancement from the Consulting Medical Staff to the Associate Medical Staff Dr Holmes failed to complete the required Delineation of Privileges portion of her application attesting, among other things, that she had performed at least 48 ophthalmologic surgical procedures in the preceding 24 months In lieu thereof, Dr Holmes arbitrarily and unilaterally attached an outdated "laundry list" of surgical procedures she wished to be granted

14 Because of her failure to complete this portion of her application, the Hospital returned the application to Dr Holmes as incomplete on November 11, 2008, and provided her explicit instructions on how to complete the form See Exhibit O to Defs ' Answer The letter returning the application was hand-delivered to Dr Holmes on November 12, 2008, with a warning that it needed to be completed on or before November 13, 2008, to comply with the 2007 Bylaws Ex O to Defs ' Answer As documented in her 2008 credentials file, multiple efforts were made to contact Dr

Holmes regarding the incomplete form, and Dr Holmes initially communicated that the form was to be submitted as is

15 On November 13, 2008, Dr Holmes delivered a revised application for reappointment. The revised application ignored the explicit instructions in the November 12, 2008 letter, and the only change from the previous application was to state and document that Dr Holmes had completed more than 90 hours of continuing medical education. The revised application did not include a current and complete Delineation of Privileges form as requested, nor did it provide evidence that Dr Holmes had performed sufficient ophthalmologic surgical procedures in the previous 24 months in a hospital or surgical setting. According to the Hospital's files, Dr Holmes had not admitted or surgically treated any patients at the Hospital since 1998 and her application did not contain any information that she had ever admitted patients or performed surgery at that or any other hospital or accredited surgical facility.

16 As a member of the Hospital's Governing Board, I participated in the determinations and recommendations regarding the 2008 application for reappointment to the Medical Staff made by Dr Holmes. The Governing Board accepted the recommendations of the Chairman of the Department of Surgery, the Credentials Committee, and the MEC as follows:

- Numerous attempts were made (and well documented) to allow Dr Holmes the opportunity to complete her application.
- The Delineation of Privileges form submitted along with her final application was not completed. She failed to check any boxes and instead attached a copy

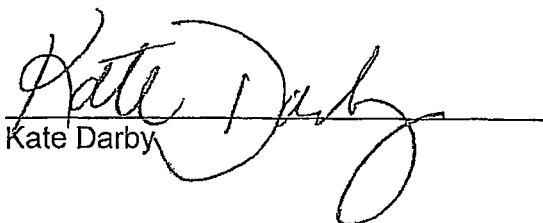
of an old "laundry list" of privileges, even though she was informed the "laundry list" was obsolete

➤ She requested to change her status from Consulting to Associate staff which does not allow for surgical privileges, however, a member of the Associate staff must meet the threshold criteria for exercising Core privileges, and she failed to demonstrate that she has performed at least 48 ophthalmologic surgical procedures in the past 24 months in a hospital or surgical outpatient setting

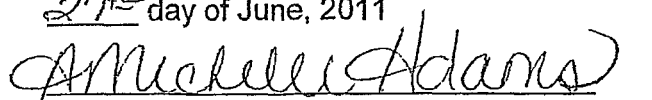
17 The Governing Board of East Cooper Medical Center adopted the recommendation of the MEC and on December 19, 2008, Dr Holmes was provided written notification that her failure to return the completed reappointment form and supply required information within 30 days prior to the expiration of her reappointment had been deemed as her resignation from the Medical Staff See Ex P to Defs ' Answer Dr Holmes was further advised that she would not be afforded a hearing or appellate rights under the circumstances because of the Hospital Bylaw provision stating that a practitioner deemed to have resigned because of an incomplete application is not entitled to hearing and appellate rights Ex P to Defs ' Answer

18 I was present and actively participated in all discussions, deliberations and recommendations of the Credentials Committee and MEC concerning Dr Holmes's 2008 reappointment application The determinations and recommendations by the Credentials Committee and the MEC herein were made in accordance with the Medical Staff Bylaw provisions discussed above, and were arrived at solely because Dr Holmes' reappointment application was incomplete Her reappointment process was

handled in good faith, in accordance with the Bylaws, and in the same manner as any other physician under the same circumstances


Kate Darby

Sworn to before me this
27th day of June, 2011


NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires 9/10/2015

evaluating the qualifications of each applicant for initial appointment, reappointment, change in Medical Staff category, and clinical and/or surgical privileges

3 As Director of Medical Staff Services, I maintain possession of the applications and information submitted therewith for each member of the Hospital's Medical Staff. This information is collectively referred to as a physician's credentials file."

4 I have knowledge of and am familiar with Dr. Holmes's credentials file, including her 2006 and 2008 applications for reappointment to the Hospital's Medical Staff and the information Dr. Holmes submitted with these applications. Exhibits A and B attached to my Affidavit are full and complete copies of Dr. Holmes's credentials file concerning her applications for reappointment to the Medical Staff in 2006 and 2008, respectively. Exhibit C to my Affidavit is a full and complete copy of the hearing documents relating to Dr. Holmes's hearing and appeal from the recommendation of the Medical Executive Committee ("MEC") of the Hospital with respect to her 2006 application.

5 As Director of Medical Staff Services, I maintain possession of the Medical Staff Bylaws for the Hospital. I have knowledge of and am familiar with the Medical Staff Bylaws for the Hospital, including the Bylaws in effect at the time of Dr. Holmes's applications for reappointment to the Medical Staff in 2006 and 2008. Exhibits D and E to my Affidavit are full and complete copies of the Hospital's Medical Staff Bylaws applicable to Dr. Holmes's applications for reappointment to the Medical Staff in 2006 and 2008, respectively.

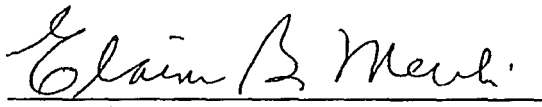
6 With respect to Dr Holmes' 2008 credentialing process, Dr Holmes' 2006 reappointment period was scheduled to expire on November 13, 2008. The Hospital did not receive Dr Holmes's reappointment application until November 6, 2008. In her application, Dr Holmes requested advancement from the Consulting Medical Staff to the Associate Medical Staff. Dr Holmes failed to complete the required Delineation of Privileges portion of her application attesting, among other things, that she had performed at least 48 ophthalmologic surgical procedures in the preceding 24 months. In lieu thereof, Dr Holmes arbitrarily and unilaterally attached an outdated "laundry list of surgical procedures she wished to be granted

7 Because of her failure to complete this portion of her application, the Hospital returned the application to Dr Holmes as incomplete on November 11, 2008, and provided her explicit instructions on how to complete the form. See Exhibit O to Defs' Answer. The letter returning the application was hand-delivered to Dr Holmes on November 12, 2008, with a warning that it needed to be completed on or before November 13, 2008, to comply with the 2007 Bylaws. Ex O to Defs' Answer. As documented in her 2008 credentials file, multiple efforts were made to contact Dr Holmes regarding the incomplete form, and Dr Holmes initially communicated that the form was to be submitted as is.

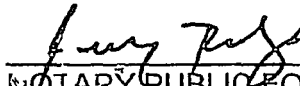
8 On November 13, 2008, Dr Holmes delivered a revised application for reappointment to my office. The revised application ignored the explicit instructions in the November 12, 2008 letter, and the only change from the previous application was to state and document that Dr Holmes had completed more than 90 hours of continuing medical education. The revised application did not include a current and complete

Delineation of Privileges form as requested nor did it provide evidence that Dr Holmes had performed sufficient ophthalmologic surgical procedures in the previous 24 months in a hospital or surgical setting According to the Hospital's files, Dr Holmes had not admitted or surgically treated any patients at the Hospital since 1998 and her application did not contain any information that she had ever admitted patients or performed surgery at that or any other hospital or accredited surgical facility

FURTHER AFFIANT SAYETH NOT


Elaine B Meuli

Sworn to before me this
27 day of June, 2011


NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires

My Commission
Expires on
Feb 25, 2013

East Cooper Regional Medical Center

TeneT

Medical Staff Office
1200 Johnnie Dodds Boulevard
Mt Pleasant SC 29464
(843) 881 4350 Phone
(843) 375 5238 Fax

MEDICAL STAFF REAPPOINTMENT APPLICATION

Please check one of the following

- ☒ I wish to be reappointed to the Medical Staff of East Cooper Regional Medical Center
- ☐ I do not wish to be reappointed

If you have checked the second statement, do not continue Sign below and fax IMMEDIATELY to (843) 375-5238

Cynthia E Holmes MD
Applicant Signature Cynthia E Holmes MD

10/7/06
Date

In order to process your reappointment to the Medical Staff we ask that you provide the following information
A non refundable \$25.00 reappointment fee must accompany this application. If your application is not received within thirty (30) days upon receipt a late fee of \$100.00 will be charged for the continued processing of your application past the thirty (30) day deadline. If you have questions please contact the MSO or e mail me at Elena.giordano@tenethealth.com

Please return this form to the Medical Staff Office within 30 days of receipt

Below is your data currently stored in our database. Review carefully and mark any changes on this sheet.

PERSONAL IDENTIFICATION DATA

Name	Cynthia E Holmes, MD	Department	Surgery
Specialty	Ophthalmology	Present Status	Consulting
Please change my staff category to		☐ Active	☐ Courtesy ☐ Consulting ☒ Associate
Last Reappointment Date		12/16/2004	Privileges Expire 12/16/2006

PRIMARY OFFICE ☒ No change since appointment or last reappointment

Primary Office

Primary Ofc Address PO Box 187 Sullivans Island SC 29482

(843)883 9030

Primary Ofc Phone

Primary Ofc Fax

Beeper

E mail

Office Manager

Direct Line or Extension



Cynthia E Holmes MD

East Cooper Regional Medical Center
TeneT

Page 2

HOME ADDRESS

☒ No change since appointment or last reappointment

Home Address 1611 Poe Ave Sullivans Island SC 29482 0187

(843)883 3010

Home Phone

Home Fax

Cell Phone

Spouse Name

All questions must be answered in full All data provided must be sufficient to update your records since your last appointment or reappointment The Chairman of the respective department may request additional information

- 1 Please indicate an alternate physician on the ECRMC Medical Staff who will attend to your patients in an emergency situation during your absence

Name

DR BLUESTEIN Specialty

OPH

- 2 Has the nature of your medical practice changed since your last appointment to the Medical Staff?

No ☒ Yes ☐

If Yes, please explain

- 3 Since your last appointment to the Medical Staff has your license to practice medicine or your DEA registration been limited suspended revoked or any challenges pending either voluntarily or involuntarily?

No ☒ Yes ☐

If Yes, please explain

- 4 Is your license to practice medicine current?

No ☐ Yes ☒

If No, why

- 5 Since your last appointment to the Medical Staff have there been any medical problems or changes in your personal health status that would affect your ability to practice medicine in your specialty?

No ☒ Yes ☐

If Yes, please explain

- 6 Since your last appointment to the Medical Staff have you been suspended voluntarily or involuntarily refused or denied membership at any hospital outpatient treatment / surgical center or other clinical facility?

No ☒ Yes ☐

If Yes, please explain

- 7 Have your clinical privileges at any hospital been voluntarily or involuntarily reduced limited suspended revoked or not renewed?

No ☒ Yes ☐

If Yes, please explain

- 8 Please indicate any disciplinary action imposed by hospitals professional societies or licensing bodies (a separate piece of paper may be used)

DATE

NATURE OF VIOLATION

ACTION TAKEN

- 9 Do you have Professional Liability Insurance coverage in the minimum amount of One Million / Three Million Dollars (\$1 000 000 / \$3 000 000) or comparable coverage?

No ☐ Yes ☒

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East Cooper Regional Medical Center
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Page 3

The information below must be filled in completely with a current copy attached

Present Insurance Carrier SC Joint Underwriting Association

Level of Coverage \$200/\$600K Policy No JB016624 Expiration Date 01/24/2007

- 10 Have you been named as a defendant in any medical or professional malpractice claim lawsuit or medical liability litigation or do you have any cases pending since your last reappointment? No ☒ Yes ☐

If yes please explain on separate paper and attach to application

- 11 Have you voluntarily or involuntarily been terminated of medical staff membership had limitations reductions or loss of clinical privileges at any hospital? No ☒ Yes ☐

If Yes please explain

- 12 Have you ever been suspended sanctioned or otherwise restricted from participating in any private federal or state health insurance program (ie HMO PPO Medicare and / or Medicaid)? No ☒ Yes ☐

If Yes please explain

- 13 Have you ever been the subject of an investigation by any private federal or state agency concerning your participation in any private federal or state health insurance program (ie HMO PPO Medicare Medicaid)? No ☒ Yes ☐

If Yes please explain

- 14 Have you participated in continuing education activities as required by the South Carolina State Licensing Board and relating at least in part to the privileges requested? No ☐ Yes ☒

Please sign the enclosed attestation sheet. It is not necessary to send certificates A random audit will be performed and you may be asked to supply the appropriate documentation

- 15 Are you currently Board Certified in your specialty? No ☒ Yes ☐

In what?

Please send a copy of current board certification Board certification must be recognized by the American Board of Medical Specialties ABMS If recertification is a requirement for your boards please submit recertification dates All medical staff appointed after February 1 2004 must maintain board recertification if their respective board requires recertification)

If no please provide the following information regarding Board Certification examinations during the past two years

Date of Attempt	Type Taken Oral or Written
Specialty Board Name	Results

I fully understand that any significant misstatement or omissions from this Reappointment Application constitute cause for denial of reappointment or causes for summary dismissal from the Medical Staff All information submitted by me in this Reappointment Application is true to the best of my knowledge

I understand my responsibilities and agree to comply with the Medical Bylaws / Rules and Regulations / Policies I understand it is my responsibility to acknowledge any changes to the Medical Staff Bylaws Rules and Regulations which is posted in the main physician lounge medical staff newsletter and announced at Quarterly Medical Staff meetings

 Applicant Signature **Cynthia E Holmes MD**

10/7/06
Date

Cynthia E Holmes MD

Healthcare Practitioner's Use of Signature Stamp / Electronic Signature

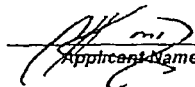
JCAHO requires that all healthcare practitioners utilizing signature stamps or electronic signature maintain a current letter on file that documents that they will be the only person utilizing the stamp or electronic signature and its use will not be delegated to anyone else

Please complete the statement at the bottom of this form appropriately depending on whether you will or will not be utilizing a signature stamp or electronic signature. If you have not utilized a signature stamp or electronic signature in the past please note

- 1 The stamp is used to authenticate entries in the medical record
- 2 You are responsible for obtaining the signature stamp
- 3 It is recommended that the stamp be designed with your name printed underneath the signature to ensure legibility

Please check one of the following

☒ No I do not intend to use a signature stamp or electronic signature

 12/7/06
Applicant Name Cynthia E. Holmes MD Date

☐ Yes I intend to use a signature stamp and / or electronic signature (Complete the paragraph below)

I _____, am the only individual having access to and using the below individual signature stamp and/or electronic signature. No one else has my authorization to use this stamp/signature in the medical record. This stamp/signature will be my authentication of any report, progress note, order, or any other testing or interpretation I may document in the medical record. This statement will be in effect until the expiration of my current appointment period, at which time I will be given the opportunity to renew this letter.

Signature Stamp Impression	Date
Print or type name on signature stamp	

Cynthia E Holmes MD

Physician CME Attestation Form

Physician's Name Cynthia E Holmes MD

Specialty Ophthalmology

Current Appointment Period 12/16/2004 through 12/16/2006

I attest that I have completed 40 hours AMA Category I CME specific to my specialty in the two years since my last appointment / reappointment to the medical staff at East Cooper Regional Medical Center. I will provide documentation of specific certificates and hours upon request by the Medical Staff.

A percentage of appointment and reappointment forms will be reviewed each cycle to corroborate attested CME hours. Those physicians whose forms are reviewed will be required to present copies of CME certificates and hours earned. If a physician cannot provide documentation of the hours to which he attested, he will lose staff privileges on the grounds of falsification of their application / reappointment process.

100+ HRS.
Applicant Signature Cynthia E Holmes, MD

10/7/06
Date

**Please return this completed form to the Medical Staff Office
with your reappointment application**

Cynthia E Holmes MD

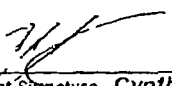
RELEASE of INFORMATION

Provider's Name Cynthia E Holmes, MD

To facilitate the evaluation of my qualifications for staff reappointment and Clinical privileges, I hereby give my consent and authorize East Cooper Regional Medical Center to

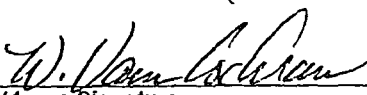
- 1 Consult with any and all members of medical staffs on other hospitals with which I have been associated
- 2 Consult with others who may have information bearing on my competence, character and ethical qualifications
- 3 Inspect such records as shall be material to an evaluation of my professional qualifications

I hereby release and hold harmless from liability for information furnished and for statements made in good faith and without malice all individuals who submit information at the request of East Cooper Regional Medical Center I waive my right to review the information submitted


Applicant Signature Cynthia E Holmes, MD

10/18/06
Date

(SIGNATURE MUST BE WITNESSED BELOW OR THIS FORM WILL BE RETURNED)


Witness Signature

W Van Cichra
- Print Name

10/18/06
Date

Cynthia E Holmes MD

East Cooper Regional Medical Center
Tenet

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PEER REFERENCES

At the time of reappointment, three (3) peer recommendations are required. Name three (3) medical or health care professionals who have firsthand, personal knowledge of your current clinical abilities, ethical character, health status, and ability to work cooperatively with others and who will provide specific written comments on these matters upon request from hospital representatives. The named individuals must have acquired the requisite knowledge through recent observation of your professional practice over a reasonable period of time.

Please do not use the references listed on your previous application - which we have listed below (if available).

Previous References
Musc OB/GYN

List 3 new references.

1. Reference Name / Title	Phone Number	FAX Number
DR. DURST	883 3176	883 3459
Address		
306 STATION 22 1/2		
City	State	Country
SULLY AND ISLAND, SC		
Postal Code		
29482		
Nature of contact with you (eg, Partner, Peer, Director) PEER		

2. Reference Name / Title	Phone Number	FAX Number
DR. MAJESKI	884 7991	884-7874
Address		
900 BOWMAN RD		
City	State	Country
MT PLEASANT, SC		
Postal Code		
29464		
Nature of contact with you (eg, Partner, Peer, Director) PEER		

3. Reference Name / Title	Phone Number	FAX Number
DR. BOTELHO	884 1777	
Address		
929 BOWMAN RD		
City	State	Country
MT PLEASANT, SC		
Postal Code		
29464		
Nature of contact with you (eg, Partner, Peer, Director) PEER		

Cynthia E Holmes MD

Hospital Affiliations

Please list all current hospital affiliations, excluding ECRMC

Hospital	Staff Category

Please return this form along with the physician's reappointment application

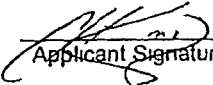
Cynthia E Holmes MD

**East Cooper Regional
Medical Center**

TENET

I understand that

- (a) in exercising clinical privileges granted I am constrained by each hospital's Medical Staff Bylaws Rules & Regulations and
- (b) any restriction on the clinical privileges granted to me is waived in an emergency situation and in such situation my actions are governed by the applicable section of each hospital's Medical Staff Bylaws


Applicant Signature

10/17/06
Date

Department Chairman

11/20/2006
Date

6/8/04

Cynthia E Holmes MD

**East Cooper Regional
Medical Center**

TENET

NAME Cynthia E Holmes MD

OPHTHALMOLOGY SURGERY DELINEATION OF PRIVILEGES			
Minimum threshold criteria to apply for ophthalmology privileges			
1	Education MD or DO		
2	Minimum formal training Successful completion of an ACGME/AOA accredited residency training program in ophthalmology program		
3	Board Certification Must be achieved within 5 years of residency/fellowship training or as noted by their respective board Acceptable board certification in only through the ABMS		
4	Required previous experience Applicants must be able to demonstrate that they have provided surgical ophthalmology treatment to at least 25 ophthalmologic surgical procedures in the past 24 months		
5	References Letters of reference must come from the residency and/or fellowship director or the Chief of Ophthalmology in which the applicant has successfully completed training and/or the applicant has been affiliated with for the last two years Two letters must come from an anesthesiologist and primary care physician who have known the applicant at least two years and are acquainted with the applicant's current professional status medical practice and involvement in the field of ophthalmology		
6	Reappointment Demonstrates that one has maintained competence by showing evidence that they have managed at least 25 patients in the past 24 month		
The above minimum threshold criteria must be met in order to request core privileges			
		REQUESTED	APPROVED
CORE PRIVILEGES FOR OPHTHALMOLOGY SURGERY			
Core privileges include admission work up diagnosis and the performance of surgical procedures on patients of all ages presenting with illnesses injuries and disorders of the eye including its related structures and visual pathways These privileges include the provision of consultation as well as the ordering of diagnostic studies and procedures related to the ophthalmologic problems The use of CO2 YAG and KTP laser as trained in residency		#6 ABOVE	
Special procedures that are not routinely part of training and require additional documentation of competency, training and experience			
SPECIAL PROCEDURES			
Penetrating keratoplasty			
Lamellar keratoplasty			
Radial keratoplasty			
Epikeratophakia			
Placement of external radiotherapeutic sources			
Other - If the condition/privilege you are interested in is not included on this form please provide a separate written request and appropriate documentation of training and/or experience			

Cynthia E Holmes MD

C. Holmes, M.D.

PO Box 187
306 Station 22 1/2
Sullivan's Island, SC 29482-0187

Phone 843 883.3176

Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 73 y/o WF presents with decreased visual acuity OD. Past ocular history is negative for glaucoma. Past medical history (PMH) is positive for hypertension (htn) and negative for diabetes mellitus (DM). Past surgical history (PSH) is positive for hysterectomy in 1986. Family history (FH) is negative for diabetes and positive for hypertension. She is on Lotral, HCTZ, Clonidine, Aerobid, Nasocort, and NSAIDs PRN. She is allergic to PCN and mycins. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/50 OD and 20/25 OS. Best corrected visual acuity (BCVA) OD was 20/50.

On external exam, there was dermatochalasis bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 3:50 PM: 16 mm Hg OD (right eye) and 13 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OS greater than OD. The vitreous was clear. There was A/V nicking OU consistent with hypertension. Otherwise, the disc and macula were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. The patient has elected to have cataract extraction by phacoemulsification and is scheduled for pre-operative A-scan measurements in order to determine the appropriate lens power for the artificial lens implant. Thereafter, elective surgery will be scheduled in coordination with her primary care physician.

C Holmes, MD

PO Box 187
306 Station 22 1/2
Sullivan's Island SC 29482-0187

Phone 843 883 3176

Dx Posterior Capsular Opacification OD and Visually Significant Nuclear Sclerotic
Cataract OS

This 67 y/o WF presents with decreased visual acuity OD. Past ocular history (POH) is significant for cataract extraction OD approximately 18 months earlier. Past medical history is negative for hypertension and diabetes mellitus and positive for hypercholesterolemia, arthritis of the hands and feet, and hypothyroidism. She is on Thyroxin, Lipitor, and NSAIDs PRN. She is allergic to Neosporin.

On exam, the patient's distance visual acuity with correction was 20/40 OD and 20/50 OS. The patient's best corrected visual acuity was 20/40 OD and 20/50 OS.

On external exam, there was dermatochalasis bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. There was superficial punctate keratitis (SPK) OU consistent with dry eye syndrome. Otherwise, the cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 4:40 PM: 11 mm Hg OD (right eye) and 10 mm Hg OS (left eye).

On dilated fundus exam, there was a well-centered posterior chamber intraocular lens with 2+ posterior capsular opacification OD. There was a visually significant nuclear sclerotic cataract OS. There were vitreous floaters consistent with benign vitreous degeneration OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus was negative for hemorrhages, holes, tears, or masses OU.

In summary, the patient was diagnosed with dry eye syndrome, posterior capsular opacification OD, and visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. Dry eye syndrome will be treated conservatively with preservative-free lubricants OU QID hs and PRN. The patient will be seen in follow-up for response to therapy, monitoring comfort and visual acuity as superficial punctate keratitis can degrade vision. If there is no improvement, prescription eye medications such as cyclosporine, NSAID, and other ophthalmic drops will be considered. Absent visual improvement, posterior capsular opacification is treated with YAG laser capsulotomy. After maximizing visual acuity OD, cataract extraction by phacoemulsification OS will be considered.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 59 y/o WM presents with decreased visual acuity OD. Past medical history (PMH) is positive for hypertension (htn) and negative for diabetes mellitus (DM). He is on Hyzaar and Penostat. Past surgical history (PSH) is positive for remote appendectomy. He is allergic to PCN.

On exam, the patient's distance visual acuity (VA) with correction was 20/100 OD and 20/30 OS. Best corrected visual acuity (BCVA) OD was 20/60 and 20/30 OS.

On external exam, there was dermatochalasis bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 12:30 PM: 19 mm Hg OD (right eye) and 17 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OD greater than OS. The vitreous was clear. The optic nerve cup-to-disc ratio was within normal limits. There was A-V nicking OU consistent with hypertension. There were mild retinal pigment epithelial (RPE) changes at the macula OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. Pre-operative A-scan measurements were obtained in order to determine the appropriate lens power for the artificial lens implant. In coordination with the patient's primary care physician, cataract surgery was scheduled. The patient had successful cataract extraction by phacoemulsification with improved visual acuity OD.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 72 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma but positive for trauma OD secondary to a BB gun accident as a child. Past medical history (PMH) is negative for hypertension (htn) and diabetes mellitus and positive for hypercholesterolemia. Past surgical history (PSH) is negative. Family history is positive for hypertension and negative for diabetes mellitus. He is on Lipitor and NSAIDs PRN. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/50 OD and 20/50 OS. There was no improvement with manifest refraction.

On external exam, there was dermatochalasis bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. There was a 10 degree area of iris dialysis at 12 00 OD. There was no apparent phacodonesis OD. The intraocular pressure (IOP) was normal OU at 11 45 am. 19 mm Hg OD (right eye) and 18 mm Hg OS (left eye).

On dilated fundus exam, there was a traumatic cataract OD with posterior subcapsular changes superiorly. There were nuclear sclerotic lens changes OU. The vitreous was clear OU. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant traumatic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. Traumatic cataracts require careful attention to lens zonules with possible dehiscence in order to avoid complications at surgery. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OD after pre-operative A-scan measurements to determine the appropriate lens power for artificial lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 81 y/o WF presents with decreased visual acuity OS. Past ocular history is negative for glaucoma but positive for posterior subcapsular cataract extraction OD X 5 years. Past medical history (PMH) is positive for hypertension (htn) and hypercholesterolemia but negative for diabetes mellitus. Past surgical history (PSH) is positive for hysterectomy X years. Family history is positive for hypertension and diabetes mellitus. She is on Lipitor, Hyzaar, and Fossamax. She has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/25 OD and 20/60 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 11:10 am: 17 mm Hg OD (right eye) and 18 mm Hg OS (left eye).

On dilated fundus exam, there was a well-centered posterior chamber intraocular lens OD. There was a nuclear sclerotic cataract OS. The vitreous was clear OU. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient has elected to have cataract extraction by phacoemulsification OS after pre-operative A-scan measurements to determine the appropriate lens power for artificial lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 70 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma and eye trauma but positive for cataract extraction OD X 3 years. Past medical history (PMH) is positive for hypercholesterolemia but negative for diabetes mellitus and hypertension (HTN). Past surgical history (PSH) is positive for hernia repair. Family history is negative for hypertension and diabetes mellitus. He is on Lipitor. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/25 OD and 20/80 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 2:05 PM: 14 mm Hg OD (right eye) and 15 mm Hg OS (left eye).

On dilated fundus exam, there was a well-centered posterior chamber intraocular lens OD. There was a nuclear sclerotic cataract OS. The vitreous was clear OU. There were peripapillary myopic crescents OU. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, there was a 1 disc-diameter chororetinal nevus located at the temporal peripheral retina. Otherwise, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with artificial lens implant based upon pre-operative A-scan measurements.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 76 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma but positive for Presumed Ocular Histoplasmosis Syndrome (POHS). Past medical history (PMH) is negative for diabetes mellitus but positive for hypertension and Parkinson's Disease. Past surgical history (PSH) is positive for appendectomy and cholecystectomy. Family history is positive for hypertension and negative for diabetes mellitus. He is on Tenormin, Carbidopa, Levodopa, and Sinemet. He is allergic to Penicillin (PCN). Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/40 OD and 20/50- OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 9:10 am: 12 mm Hg OD (right eye) and 11 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OU. The vitreous was clear OU. There was inactive peripapillary histoplasmosis, choroidal atrophy OU, as well as peripheral lesions. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient has elected to have cataract extraction by phacoemulsification OS after pre-operative A-scan measurements to determine the appropriate correction for the artificial lens implant.

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Dx Visually significant Nuclear Sclerotic Cataract (NSC) OS

This 76 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma but positive for rosacea. Past medical history (PMH) is positive for hypertension (htn) but negative for diabetes mellitus. Family history is positive for hypertension and diabetes mellitus. He is on HCTZ, Dapsone per Dermatology, and NSAIDs PRN. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/40 OD and 20/50 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). There was blepharitis OU. There was trace injection of the conjunctiva OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, there was trace non-specific hyperemia (NSH) of the conjunctiva OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 10:30 am: 10 mm Hg OD (right eye) and 10 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OU. The vitreous was clear OU. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient has elected to have cataract extraction by phacoemulsification OS after pre-operative A-scan measurements to determine the appropriate intraocular lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 79 y/o WM presents with decreased visual acuity OS. Past ocular history is positive for glaucoma and rosacea. Past medical history (PMH) is positive for hypertension (htn), non insulin dependent diabetes mellitus (NIDDM), rosacea, and hypercholesterolemia. Past surgical history (PSH) is positive for carotid endarterectomy after presenting here with amaurosis fugax in 2000. Family history is positive for hypertension and diabetes mellitus. He is on HCTZ Hytrin, an oral hyperglycemic agent, Zocor, and topical agents per Dermatology. He is on Xalatan ophthalmic drops OU q day. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/40 OD and 20/60 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). There was blepharitis OU. There was trace injection of the conjunctiva OU. The pupils were equally round and reactive to light. Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, there was trace non-specific hyperemia (NSH) of the conjunctiva OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 10:45 am, 14 mm Hg OD (right eye) and 17 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OU. The vitreous was clear OU. The optic nerve cup-to-disc ratio was enlarged OU, consistent with glaucoma. Otherwise, the macula and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS after pre-operative A scan measurements to determine the appropriate intraocular lens implant.

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Dx Visually significant Nuclear Sclerotic Cataract (NSC) OS

This 66 y/o WF presents with decreased visual acuity OS. Past ocular history is positive for glaucoma. Past medical history (PMH) is positive for hypercholesterolemia but negative for diabetes mellitus and hypertension (htn). Past surgical history (PSH) is positive for remote tonsillectomy. Family history is unknown due to adoption. She is on Crestor and Actonel. She has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/40 OD and 20/50 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 11:15 am: 19 mm Hg OD (right eye) and 18 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OU. The vitreous was clear OU. There were peripapillary myopic crescents OU. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with artificial lens implant based upon pre-operative A-scan measurements.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 55 y/o WF presents with decreased visual acuity OS. Past ocular history is negative for glaucoma and eye trauma. Past medical history (PMH) is negative for diabetes mellitus and hypertension (htn). Past surgical history (PSH) is positive for hysterectomy X years. Family history is negative for hypertension and diabetes mellitus. She is on prescription medications. She is allergic to Codeine (rash). Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/20 OD and 20/100 OS. With manifest refraction, best-corrected visual acuity (BCVA) was 20/50 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) was normal OU at 4:45 PM: 16 mm Hg OD (right eye) and 18 mm Hg OS (left eye).

On dilated fundus exam, there was a nuclear sclerotic cataract (NSC) OS greater than OD. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract (NSC) OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with artificial lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 64 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma and eye trauma. Past medical history (PMH) is negative for diabetes mellitus and hypertension (htn) and positive for COPD. Family history is negative for diabetes mellitus and positive for hypertension. He is on Flovent, Albuterol, Coumadin, Prilosec, Neurotin, Lexapro, and Ambien. He is allergic to Cephalosporins. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/60 OD and 20/40 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 10:30 am: 20 mm Hg OD (right eye) and 20 mm Hg OS (left eye).

On dilated fundus exam, there was a nuclear sclerotic cataract (NSC) OD greater than OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract (NSC) OD. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OD with posterior chamber artificial lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 76 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma and eye trauma but positive for possible mild amblyopia OD and uneventful cataract extraction by phacoemulsification OS. Past medical history (PMH) is negative for diabetes mellitus and hypertension (htn). Family history is negative for hypertension and diabetes mellitus. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/50 OD and 20/25 OS. There was no improvement with manifest refraction OD.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal.

On dilated fundus exam, there was nuclear sclerotic cataract (NSC) OD and a well-centered posterior chamber intraocular lens implant OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract (NSC) OD. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OD with posterior chamber artificial lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 79 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma and eye trauma and positive for uncomplicated cataract extraction by phacoemulsification OS. Past medical history (PMH) is negative for diabetes mellitus and hypertension (htn). Family history is positive for hypertension and diabetes mellitus. He is on no prescription medications. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/40 OD and 20/25 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU.

On dilated fundus exam, there was nuclear sclerotic cataract (NSC) OD and a well-centered posterior chamber intraocular lens OS. The vitreous was clear OU. There were mild retinal pigment epithelial changes at the macula OU. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract (NSC) OD. The patient received patient education regarding diagnosis, treatment, and prognosis. The patient elected to have cataract extraction by phacoemulsification OD with posterior chamber artificial lens implant.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 74 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma and but positive for high myopia OU and retinal detachment (RD) repair OS X 14 years and recent cataract extraction OS. Past medical history (PMH) is positive for insulin-dependent diabetes mellitus (IDDM), hypertension (htn), and hypercholesterolemia. Family history is positive for glaucoma, hypertension, and diabetes mellitus. He is on Insulin, Lipitor, Niaspan, Norvasc, Hydrochlorothiazide (HCTZ), and Coreg. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/60 OD and 20/100 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU with conjunctival scarring temporally OS secondary to RD surgery. The pupils were equally round and reactive to light. Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU with conjunctival scarring temporally OS. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 9-10 AM: 11 mm Hg OD (right eye) and 15 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OD with a well-centered posterior chamber intraocular lens implant OS. The vitreous was clear OU. There was background diabetic retinopathy (BDR) OU. There were peripapillary myopic crescents OU. There were retinal pigment epithelial (RPE) changes at the macula OU consistent with myopic degeneration. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. Due to the patient's history of retinal detachment OS and high myopia, a retinal consult was obtained in order to evaluate and treat any retinal pathology prior to cataract extraction. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OD with posterior chamber artificial lens implant based upon pre-operative A scan measurements.

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Dx Visually Significant Posterior Subcapsular Cataract (PSC) OD

This 55 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma and positive for cataract extraction OS. Past medical history (PMH) is negative for diabetes mellitus and positive for hypertension (htn) and hypercholesterolemia. Family history is positive for hypertension and negative for diabetes mellitus. He is on Vytonn Hydrochlorothiazide (HCTZ) and Nasonex. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/40 OD and 20/25 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU.

On dilated fundus exam, there was posterior subcapsular cataract OD and a well-centered posterior chamber intraocular lens implant OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant posterior subcapsular cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OD with artificial lens implant based upon pre-operative A scan measurements.

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Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 76 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma but positive for rosacea and positive for cataract extraction OS. Past medical history (PMH) is positive for hypertension (htn) but negative for diabetes mellitus. Family history is positive for hypertension and diabetes mellitus. He is on HCTZ, Dapsone per Dermatology, and NSAIDs PRN. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/40 OD and 20/20 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). There was blepharitis OU. There was trace injection of the conjunctiva OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, there was trace non-specific hyperemia (NSH) of the conjunctiva OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU.

On dilated fundus exam, there was nuclear sclerotic cataract OD and a well-centered posterior chamber intraocular lens implant (PCIOL) OS. The vitreous was clear OU. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient has elected to have cataract extraction by phacoemulsification OD after pre-operative A-scan measurements to determine the appropriate intraocular lens implant.

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Dx Visually Significant Posterior Subcapsular Cataract (PSC) and Nuclear Sclerotic Cataract OS

This 70 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma. Past medical history (PMH) is negative for diabetes mellitus and positive for hypertension (htn). Family history is positive for glaucoma and hypertension and negative for diabetes mellitus. He is on Lotensin, Digoxin, Lasix, and Zyrtec. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/40 OD and 20/70 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 11:20 AM: 13 mm Hg OD (right eye) and 15 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OU and posterior subcapsular cataract OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for holes, tears, or masses OU.

In summary, the patient was diagnosed with nuclear sclerotic cataract OU and visually significant posterior subcapsular cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with artificial lens implant based upon pre-operative A-scan measurements.

C. Holmes, M.D.

PO Box 187
306 Station 22 1/2
Sullivan's Island, SC 29482-0187

Phone 843 883 3176

Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OD

This 74 y/o WM presents with decreased visual acuity OD. Past ocular history is positive for glaucoma suspect status with thick corneas. Past medical history (PMH) is positive for hypertension (htn) and non insulin dependent diabetes mellitus (NIDDM). Family history is positive for hypertension and diabetes mellitus. He is on HCTZ, Lipitor, and Glucophage. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/60 OD and 20/40 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 10:20 AM: 21 mm Hg OD and 20 mm Hg OS.

On dilated fundus exam, there was nuclear sclerotic cataract OD greater than OS. The vitreous was clear OU. The disc was mildly asymmetric OD greater than OS. Otherwise, the macula and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OD after pre-operative A-scan measurements to determine the appropriate intraocular lens implant.

C Holmes, M.D.

PO Box 187
306 Station 22 1/2
Sullivan's Island, SC 29482-0187

Phone 843 883.3176

Dx Visually Significant Nuclear Sclerotic Cataract OD

This 71 y/o WM presents with decreased visual acuity OD. Past ocular history is negative for glaucoma and positive for uncomplicated cataract surgery OS. Past medical history (PMH) is negative for diabetes mellitus and positive for hypertension (htn). Family history is positive for glaucoma and hypertension and negative for diabetes mellitus. He is on Lotensin, Digoxin, Lasix, and Zyrtec. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/40 OD and 20/20 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 9:25 AM: 13 mm Hg OD (right eye) and 11 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OD and a well-centered posterior chamber intraocular lens implant (PCIOL) OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, holes, tears, or masses OU.

In summary, the patient was diagnosed with nuclear sclerotic cataract OD. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient had cataract extraction by phacoemulsification OD with artificial lens implant based upon pre-operative A-scan measurements.

C Holmes, M.D.

PO Box 187
306 Station 22 1/2
Sullivan's Island, SC 29482-0187

Phone 843 883 3176

Dx Visually Significant Posterior Subcapsular Cataract (PSC) OS

This 55 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma. Past medical history (PMH) is negative for diabetes mellitus and positive for hypertension (htn) and hypercholesterolemia. Family history is positive for hypertension and negative for diabetes mellitus. He is on Vytorin, Hydrochlorothiazide (HCTZ), and Nasonex. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/30 OD and 20/50 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization on the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 9:40 AM: 12 mm Hg OD (right eye) and 12 mm Hg OS (left eye).

On dilated fundus exam, there were early lens changes OD and posterior subcapsular cataract OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant posterior subcapsular cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with artificial lens implant based upon pre-operative A-scan measurements.

C Holmes, M.D.

PO Box 187
306 Station 22 1/2
Sullivan's Island, SC 29482-0187

Phone 843 883 3176

Dx Visually Significant Posterior Subcapsular and Nuclear Sclerotic Cataract (NSC)
 OS

This 74 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma and but positive for high myopia OU and retinal detachment (RD) repair OS X 14 years. Past medical history (PMH) is positive for insulin-dependent diabetes mellitus (IDDM), hypertension (htn), and hypercholesterolemia. Family history is positive for glaucoma, hypertension, and diabetes mellitus. He is on Insulin, Lipitor, Niaspan, Norvasc, Hydrochlorothiazide (HCTZ), and Coreg. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/60 OD and 20/100 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU with conjunctival scarring temporally OS secondary to RD surgery. The pupils were equally round and reactive to light. Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU with conjunctival scarring temporally OS. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 9-10 AM, 11 mm Hg OD (right eye) and 15 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract OU with posterior subcapsular cataract OS. The vitreous was clear OU. There was background diabetic retinopathy (BDR) OU. There were peripapillary myopic crescents OU. There were retinal pigment epithelial (RPE) changes at the macula OU consistent with myopic degeneration. Otherwise, the disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant posterior subcapsular and nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. Due to the patient's history of retinal detachment OS and high myopia, a retinal consult was obtained in order to evaluate and treat any retinal pathology prior to cataract extraction. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with posterior chamber artificial lens implant based upon pre-operative A-scan measurements.

C. Holmes, M.D.

PO Box 187
306 Station 22 1/2
Sullivan's Island, SC 29482-0187

Phone 843 883.3176

Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 74 y/o WM presents with decreased visual acuity OS. Past ocular history is positive for glaucoma suspect status with thick corneas and uncomplicated cataract extraction OS. Past medical history (PMH) is positive for hypertension (htn) and non-insulin dependent diabetes mellitus (NIDDM). Family history is positive for hypertension and diabetes mellitus. He is on HCTZ, Lipitor and Glucophage. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/60 OD and 20/25 OS. There was no improvement with manifest refraction.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU.

On dilated fundus exam, there was nuclear sclerotic cataract OS. There was a well-centered posterior chamber intraocular lens OD. The vitreous was clear OU. The disc was mildly asymmetric OD greater than OS. Otherwise, the macula and vessels were within normal limits OU. By indirect ophthalmoscopy, the peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS after pre-operative A scan measurements to determine the appropriate intraocular lens implant.

C Holmes, M.D

PO Box 187
306 Station 22 1/2
Sullivan's Island, SC 29482-0187

Phone 843 883 3176

Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 76 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma and eye trauma but positive for possible mild amblyopia OD. Past medical history (PMH) is negative for diabetes mellitus and hypertension (htn). Family history is negative for hypertension and diabetes mellitus. He has NKDA. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's distance visual acuity (VA) with correction was 20/50 OD and 20/70 OS. There was no improvement with manifest refraction OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU at 3:30 PM: 14 mm Hg OD (right eye) and 12 mm Hg OS (left eye).

On dilated fundus exam, there was nuclear sclerotic cataract (NSC) OS greater than OD. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, holes, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract (NSC) OS. The patient received patient education regarding diagnosis, treatment, and prognosis. In coordination with the patient's primary care physician, the patient elected to have cataract extraction by phacoemulsification OS with posterior chamber artificial lens implant.

C Holmes, M.D.

PO Box 187
306 Station 22 1/2
Sullivan's Island, SC 29482-0187

Phone 843 883.3176

Dx Visually Significant Nuclear Sclerotic Cataract (NSC) OS

This 64 y/o WM presents with decreased visual acuity OS. Past ocular history is negative for glaucoma and eye trauma and positive for uncomplicated cataract extraction by phacoemulsification OD. Past medical history (PMH) is negative for diabetes mellitus and hypertension (htn) and positive for COPD. Family history is negative for diabetes mellitus and positive for hypertension. He is on Flovent, Albuterol, Coumadin, Prilosec, Neurotin, Lexapro, and Ambien. He is allergic to Cephalosporins. Review of Systems (ROS) is non-contributory (NC).

On exam, the patient's best-corrected distance visual acuity (BCVA) was 20/25 OD and 20/40 OS.

On external exam, the lids were flat bilaterally (OU). The conjunctiva was white OU. The pupils were equally round and reactive to light. There was no relative afferent pupillary defect (RAPD). Extraocular muscle movements (EOMs) were intact OU.

On slit lamp exam, the conjunctiva was quiet OU. The cornea was clear OU. The anterior chamber was deep and quiet OU. There was no neovascularization of the iris. The intraocular pressure (IOP) by Tonopen was normal OU.

On dilated fundus exam, there was a well-centered posterior chamber intraocular lens implant OD and nuclear sclerotic cataract (NSC) OS. The vitreous was clear OU. The disc, macula, and vessels were within normal limits OU. By indirect ophthalmoscopy, peripheral fundus exam was negative for hemorrhages, tears, or masses OU.

In summary, the patient was diagnosed with visually significant nuclear sclerotic cataract (NSC) OS. The patient received patient education regarding diagnosis, treatment, and prognosis in coordination with the patient's primary care physician. The patient elected to have cataract extraction by phacoemulsification OS with posterior chamber artificial lens implant.

CYNTHIA HOLMES 08-06
1611 POE AVE
SULLIVANS ISLAND SC 29482-8765

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**South Carolina Board of Medical Examiners
Website Verification**

306 STATION 22 1/2
SULLIVANS IS, SC 29482 0187

Name CYNTHIA COLLIE HOLMES **Profession** MD **Office Phone** 8438833176
Basis NB 90 **School** SC **Graduation** 05/20/1988
License No 16132 **Date Issued** 08/31/1992 **Expiration** 12/31/2007
Specialty OPH

Primary Source Verification of Graduation Certified

Hospital Affiliation (s)
EAST COOPER REGIONAL MEDICAL CENTER

Status Active
No disciplinary action taken by the Board This certifies that the above licensee is in good standing

License History
Temporary License Number 00T301
Temporary License Issue Date 06/22/1992
Verification disclaimer

National Practitioner Data Bank
Healthcare Integrity and Protection Data Bank
P O Box 10832
Chantilly VA 20153 0832
http www npdb hipdb com

DCN 5500000043731569
Process Date 10/17/2006
For authorized use by
East Cooper Regional Medical Center

RESPONSE TO INFORMATION DISCLOSURE REQUEST

A REQUESTOR INFORMATION

Data Bank Identification Number(DBID) 230455200000608
Entity Name East Cooper Regional Medical Center
Address 1200 Johnnie Dodds Blvd
City State Zip Mt Pleasant SC 29464
Telephone (843) 881 4350
Authorized Agent TENET HEALTHSYSTEM MEDICAL INC
Agent Phone 4698936634
Authorized Submitter s Name Carol Boatwright
Authorized Submitter s Title Medical Staff Coordinator
Authorized Submitter s Telephone (843) 881 4350

B SUBJECT ON WHOM DISCLOSURE IS REQUESTED

Subject Name HOLMES CYNTHIA E
Other Name(s) Used
Gender FEMALE
Date of Birth 03/22/1952
Home Address 1611 POE AVE
City State ZIP SULLIVANS ISLAND SC 29482 0187
Country
Organization Name
Work Address PO BOX 187
City State ZIP SULLIVANS ISLAND SC 29482
Country
Organization Type
Other as Specified
Deceased
Date of Death
Federal Employer Identification Numbers (FEIN)
Social Security Number(SSN) 254504676
National Providers Identifiers (NPI)
Professional School(s) & Year(s) of Graduation MEDICAL COLLEGE OF GEORGIA 1989
Occupation/Field of Licensure (Code) Physician (MD) (010)
State License Number State of Licensure 16132 SC
Other as Specified
Specialty
Drug Enforcement Administration (DEA) Number BH3329833
Unique Physician Identification Numbers (UPIN)

C SEARCH RESULT

Based on the subject identification information provided by you in Section B above a search of the NPDB has located the following 0 report(s)

Recipients should verify that the subject identified in Section B is in fact the subject of interest

Copies of these reports are enclosed for restricted/limited use as prescribed by Title IV of Public Law 99 660 as amended Recipients should verify that the subject identified in Section B of the report(s) is in fact the subject of interest Information from the NPDB is confidential and must be used solely for the purpose for which it was disclosed Any person who violates the confidentiality provisions as specified in Title IV is subject to a civil money penalty of up to \$11 000 for each violation Subjects of reports who obtain information about themselves from the NPDB are permitted to share that information with anyone they choose

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END OF REPORT

EPLS

Excluded Parties List System



Search Current Exclusions

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- > Exact Name and SSN/TIN
- > MyEPLS

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- > Reciprocal Codes
- > Procurement Codes
- > Nonprocurement Codes

Agency & Acronym Information

- > Agency Contacts
- > Agency Descriptions
- > State/Country Code Descriptions

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EPLS Search Results

Search Results for Parties Excluded by

Exact Name Cynthia Holmes
SSN/TIN

Save to MyEPLS

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Resources

- > Search Help
- > Public User's Manual
- > FAQ
- > Acronyms
- > Privacy Act Provisions
- > News

Reports

- > Advanced Reports

Archive Search Past Exclusions

- > Advanced Archive Search

Contact Information

- > Email support@epls.gov
eplscomments@epls.gov
- > Phone 1 866 GSA EPLS
1 866-472 3757



Search Result

No results were found for Holmes Cynthia

Search conducted 11/16/2006 10 43 19 AM EST on OIG LEIE Exclusions database

Source data updated on 11/14/2006 11 57 50 AM EST

◀ Authorities & Federal Register Notices

◀ Publications

◀ Reports

◀ Hearing Testimony

◀ Fraud Prevention & Detection

◀ Reading Room

◀ Organization

◀ Employment Opportunities

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In addition to conducting name and business searches we have made cumulative exclusions data available in a variety of ways. Simply click on the appropriate link below to see exclusions data segregated into these areas

State

General Classification

Exclusion Type

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[HHS Homepage](#) | [IGnet](#) | [FirstGov](#) | [Accessibility](#) | [Adobe Acrobat](#)

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Tina Botelho

- sent only medical management pts,
no surgical pts for management
so cannot attest to surgical
expertise

George Pant

L/M → no response

384-799 Jim Majeski

No 1st hand knowledge of surgical expertise
Medical referrals only

[Signature]
11/17/2006

**East Cooper Regional Medical Center
Physician Performance / Peer Competency Form**

This form must be completed by a "peer" who maintains medical staff privileges at East Cooper Regional Medical Center. Please have the individual completing this form fax it to the Medical Staff Office at 843-881-8171 OR 843-375-5238. The South Carolina Code Section 40-71-20 protects this information from discovery.

Practitioner (Name of physician being reviewed) Cynthia Holmes MD Specialty Ophthalmology

How long have you known the applicant? 1.5 yrs

In what capacity have you known the applicant? mutual patient care

Please explain any "Yes" responses on a separate sheet if necessary

To the best of your knowledge, has this physician's privileges at a health care facility ever been suspended, revoked or reduced, either voluntarily or involuntarily?	YES <u>NO</u>
To the best of your knowledge, has this physician been subject to any disciplinary action by a health care facility or any licensing board, medical organization during the past two years either voluntarily or involuntarily?	YES <u>NO</u>
To the best of your knowledge, has the physician's license to practice and/or DEA registration been challenged, placed under suspension or removed, voluntarily or involuntarily, during the last two years?	YES <u>NO</u>
To the best of your knowledge, has this physician been excluded from participation in any federal health programs including any exclusions or other sanction(s) imposed or recommended by the federal Department of Health and Human Services?	YES <u>NO</u>
To the best of your knowledge, has this physician been subject to any pending or final malpractice litigation during the last two years?	YES <u>NO</u>
To the best of your knowledge, does this physician have any mental/physical health or other problem, which would interfere with his/her ability to exercise their clinical privileges?	YES <u>NO</u>
To the best of your knowledge, is there any reason (not explained above) why this applicant should not be appointed to the East Cooper Regional Medical Center Medical Staff?	YES <u>NO</u>

Based on your professional/personal knowledge of this applicant, please rate his/her current clinical competence in the following areas. Please complete all areas.

	Excellent	Satisfactory	Problem	No Information
Clinical Competence				
Technical Skill				
Judgment				
Relevant training of experience in Clinical specialty				
Pharmacology				
Medical Record Compliance				
Quality of Care Provided				
Relationship with Peers				
Relationship with Subordinates				

 I would recommend this physician for membership to East Cooper Regional Medical Center

 I would not recommend this physician for membership to East Cooper Regional Medical Center

Lina M. Botelho MD
Signature of MD Completing Form

Date

Lina M. Botelho
Printed Name of MD

11/6/06
Specialty

East Cooper Regional Medical Center
Physician Performance / Peer Competency Form

This form must be completed by a peer who maintains medical staff privileges at East Cooper Regional Medical Center. Please have the individual completing this form fax it to the Medical Staff Office at 843-881-8171 OR 843-373-4238. The South Carolina Code Section 40-71-20 protects this information from discovery.

Practitioner (Name of physician being reviewed) Cynthia Holmes MD

Specialty Ophthalmology

How long have you known the applicant? 10 YEARS

In what capacity have you known the applicant? REFERRING PHYSICIAN

Please explain any "Yes" responses on a separate sheet if necessary.

To the best of your knowledge, has this physician's privileges at a health care facility ever been suspended, revoked or reduced, either voluntarily or involuntarily?	YES (NO)
To the best of your knowledge, has this physician been subject to any disciplinary action by a health care facility or any licensing board, medical organization during the past two years either voluntarily or involuntarily?	YES (NO)
To the best of your knowledge, has the physician's license to practice and/or DEA registration been challenged, placed under suspension or removed, voluntarily or involuntarily during the last two years?	YES (NO)
To the best of your knowledge, has this physician been excluded from participation in any federal health programs including any exclusions or other sanction(s) imposed or recommended by the federal Department of Health and Human Services?	YES (NO)
To the best of your knowledge, has this physician been subject to any pending or final malpractice litigation during the last two years?	YES (NO)
To the best of your knowledge, does this physician have any mental/physical health or other problem, which would interfere with his/her ability to exercise their clinical privileges?	YES (NO)
To the best of your knowledge, is there any reason (not explained above) why this applicant should not be appointed to the East Cooper Regional Medical Center Medical Staff?	YES (NO)

Based on your professional/personal knowledge of this applicant, please rate his/her current clinical competence in the following areas. Please complete all areas.

	Excellent	Satisfactory	Problem	No Information
Clinical Competence	✓			
Technical Skill	✓			
Judgment	✓			
Relevant training of experience in Clinical specialty	✓			
Pharmacology	✓			
Medical Record Compliance	✓			
Quantity of Care Provided	✓			
Relationship with Peers	✓			
Relationship with Subordinates	✓			

* I would recommend this physician for membership in East Cooper Regional Medical Center

I would not recommend this physician for membership in East Cooper Regional Medical Center

James Majeski, MD
Signature of MD Completing Form
JAMES MAJESKI, MD
Printed Name of MD

NOVEMBER 2, 2006
Date
SURGEON
Specialty

C:\Documents and Settings\elena.giordano\My Documents\PEERCOMPLTR.doc

11/02/2006 10:56AM (CMT-05 00)

Reappointment Checklist

Holmes, Cynthia

Completed Application	Status- consulting Active where if Courtesy	ECHO Updated	IS Form Sent	App fee Copy #1037	Photo
✓	Alternate Physician on staff?	verified	Dr. Blues, M.D.		
✓	Update Office info?				
	Verify status change!	WON't ASK			
✓	CME SIGNED ATTESTATION				
✓	RUBBER STAMP FORM		Admit Copy		
✓	SC Med License Wallet Size				
✓	DEA Cert	ECHO Updated			
✓	CDS	ECHO Updated			
✓	Consent of Release	Scanned into Echo			
✓	Privileges Form Completed	Any Changes	Supporting Documentation		
✓	Malpractice	ECHO Updated	#1	#2	
	Questions 10-13	N/A			
Verifications					
✓	License	clear			
✓	Databank				
✓	OIG / EPLS				
	Board Certification				
	Peer References	majority	Boleho	Does not support	
	Affiliations	Date Sent	Name	Received	
	NONE				
	Profile	NO Contacts / Insufficient Data			

**East Cooper Regional Medical Center
Medical Staff Credentialing Action**

Physician/Practitioner Cynthia Holmes Specialty Ophthalmology

Is being considered for ☒ Medical Staff ☐ Specified Professional Personnel

- Initial Appointment Provisional appointment for one year to the following staff category

☐ Provisional Active ☐ Provisional Courtesy ☐ Provisional Consulting

- Reappointment ☐ Active ☐ Associate ☐ Courtesy ☒ Consulting

- Other _____

Recommendation of the Department Chairman

- ☐ I have reviewed the application and supporting documents and recommend appointment/reappointment of this physician/practitioner to the Medical Staff category requested

- ☒ I have reviewed the clinical privileges requested by this physician/practitioner and based on current competency as evidenced by training experience and peer references I recommend each privilege with the following exception(s)

Remain on Consulting staff Unable to
demonstrate surgical competency.

- ☐ I have reviewed the application/reapplication and am unable to recommend this physician/practitioner due to _____

Signature [Signature] Department Chairman

Date

11/20/2006

Department of

Surgery

As recorded in the following meeting minutes dated

Credentialing Committee 11/20/2006

Medical Executive Committee 12/13/2006

Board of Trustees 12/13/2006

East Cooper
Regional Medical Center

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

December 20 2006

VIA CERTIFIED MAIL, R/R/R, Article # 7005 1160 0005 4451 8797

Cynthia Holmes M D
P O Box 187
Sullivans Island SC 29482

Dear Dr Holmes

Your application for reappointment to the Medical Staff of East Cooper Regional Medical Center has been received and processed. Please be informed that the Medical Executive Committee (MEC) has recommended to the Governing Body that your application for associate status and surgical privileges be denied based upon inadequate documentation of current clinical competency. Under the Medical Staff Bylaws every applicant has the burden of producing adequate information for a proper evaluation of his or her current clinical competence to practice in the area of requested privileges. Also under the Medical Staff Bylaws the Hospital is required to confirm an applicant's current clinical competence. The MEC believes that the documentation of management of patients submitted with your application is inadequate to show clinical competency for the privileges requested in that the information is not dated, does not contain identifying patient information, was not compiled in a hospital or accredited surgical facility setting, and does not demonstrate your ability to competently perform the surgical procedures requested. Further, according to our records, you have not admitted or surgically treated any patients at East Cooper Regional Medical Center since 1998 and therefore there are no in-house records by which to evaluate your current clinical competency. The MEC, however, has determined that your application meets the requirements of consulting staff status and has recommended to the Governing Body that you be reappointed to the consulting Medical Staff.

Please be advised that pursuant to Article VIII of the Medical Staff Bylaws you have the right to request a hearing to appeal the action recommended by the MEC regarding the denial of associate status and surgical privileges. Accordingly, this letter will serve as a Notice of Adverse Recommendation. A request for hearing must be made in writing and received by me as Administrator of East Cooper Regional Medical Center within thirty (30) days of your receipt of this Notice. You have the right to representation by an attorney or other person of your choice should you request a hearing. Any request for legal representation must be made at the time a hearing request is made. Your hearing rights under the Medical Staff Bylaws also include the right to voir dire and challenge the impartiality of the Medical Review Committee (MRC) members or Hearing Officer presiding over the hearing, be provided with all information made available to the MRC, call and examine witnesses on relevant evidence, cross-examine



Cynthia Holmes, MD
Page Two
December 20 2006

witnesses present evidence that tends to impeach any witness subject to the limitations set forth in the Medical Staff Bylaws and submit a written statement at the close of the presentation of evidence

Failure to request a hearing within the time frame and manner set forth above shall be deemed an acceptance of the recommendation of the MEC and a waiver of hearing and appellate rights under the Medical Staff Bylaws. If the action recommended by the MEC is formally adopted by the Governing Body the action may be reported to the National Practitioner Data Bank if so required by law. By copy of this letter the Notice of Adverse Recommendation has been forwarded to the Governing Body for its information.

Sincerely



Andrea L. Wozniak
Chief Executive Officer

cc Board of Directors East Cooper Regional Medical Center

C Holmes, M D

PO Box 187
Sullivan's Island SC 29482-0187

January 15, 2007

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

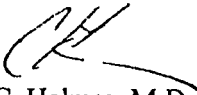
Dear Madam

I am writing to provide notice of appeal, request for hearing, and reservation of counsel

Further, I am writing to notify you of multiple inaccuracies and falsehoods contained in your letter. As you know, your application requested documentation of management of 25 patients which was provided. Your application did not specify any particular format. If you preferred an alternate format, it could have been specified. Nor did you inform the applicant that you needed another format which could have been provided upon request. In addition, your records are incorrect as patients have indeed been admitted since 1998. Your wrongful acts are consistent with economic credentialing at its worst. Your wrongful conduct is in contravention of your own by-laws.

RECEIVED
FEB 05 2007
ECCH/C
MEDICAL STAFF OFFICE

Sincerely,


C Holmes, M D

C Holmes, MD

PO Box 187
Sullivans Island SC 29482 0187

Second Request

January 15, 2007

By Hand

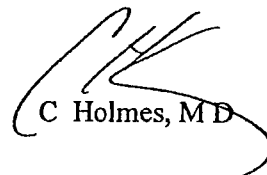
Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

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Sincerely,


C Holmes, MD

East Cooper Regional Medical Center

Medical Staff Office
1200 Johnnie Dodds Boulevard
Mt Pleasant, SC 29464
(843) 881-4350 Phone
(843) 375-5238 Fax

MEDICAL STAFF REAPPOINTMENT APPLICATION

Please check one of the following

- ☒ I wish to be reappointed to the Medical Staff of East Cooper Regional Medical Center
☐ I do not wish to be reappointed

If you have checked the second statement, do not continue Sign below and fax IMMEDIATELY to (843) 375-5238

Applicant Signature Cynthia E Holmes, MD

Date _____

In order to process your reappointment to the Medical Staff we ask that you provide the following information. A non-refundable \$25.00 reappointment fee must accompany this application. If your application is not received within thirty (30) days upon receipt, a late fee of \$100.00 will be charged for the continued processing of your application past the thirty (30) day deadline. If you have questions please contact the MSO or e mail me at Elena.giordano@tenethealth.com

Please return this form to the Medical Staff Office within 30 days of receipt

Below is your data currently stored in our database. Review carefully and mark any changes on this sheet.

PERSONAL IDENTIFICATION DATA

Name	Cynthia E Holmes, MD	Department	Surgery
Specialty	Ophthalmology	Present Status	Consulting
PLEASE CHANGE MY STAFF CATEGORY TO		☐ Active	☐ Courtesy ☐ Consulting ☒ Associate
Last Reappointment Date	12/13/2006	Privileges Expire	12/13/2008

PRIMARY OFFICE

☒ No change since appointment or last reappointment

Practice Name C. HOLMES, MD

Primary Office 306 STATION 22 1/2, SE, SC 29482 0187

Primary Address PO Box 187 Sullivan's Island SC 29482

883 3176

AND (843) 883 9030

Primary Ofc
Phone

Primary Ofc Fax

728 2733
Beeper

E mail

MRS MARY FLETCHER
Office Manager

883 3176 EXT 6
Direct Line or Extension

NPI 1023222734
Cynthia E Holmes, MD



East Cooper Regional Medical Center

HOME ADDRESS

☐ No change since appointment or last reappointment

Home Address 1611 Poe Ave Sullivans Island SC 29482-0187

(843)883 3010

Home Phone

Home Fax

Cell Phone

Spouse Name

All questions must be answered in full All data provided must be sufficient to update your records since your last appointment or reappointment The Chairman of the respective department may request additional information

- 1 Please indicate an alternate physician on the ECRMC Medical Staff who will attend to your patients in an emergency situation during your absence

Name DR BLUESTEIN Specialty OPHTHO

- 2 Has the nature of your medical practice changed since your last appointment to the Medical Staff? No ☒ Yes ☐

If Yes, please explain

- 3 CURRENT LICENSURE (Please list each state in which you are currently licensed and attach a copy of each)

State	License No	Issued	Expires
SC	16132		9/30/09
State	License No	Issued	Expires
State	License No	Issued	Expires

Since your last appointment to the Medical Staff has your license to practice medicine or your DEA registration been limited suspended revoked or any challenges pending either voluntarily or involuntarily?

No ☒ Yes ☐

If Yes, please explain

- 4 Is your license to practice medicine current? No ☐ Yes ☒

If No, why

- 5 Since your last appointment to the Medical Staff have there been any medical problems or changes in your personal health status that would affect your ability to practice medicine in your specialty? No ☒ Yes ☐

If Yes, please explain

- 6 Since your last appointment to the Medical Staff have you been suspended voluntarily or involuntarily refused or denied membership at any hospital outpatient treatment / surgical center or other clinical facility? No ☒ Yes ☐

If Yes please explain

- 7 Have your clinical privileges at any hospital been voluntarily or involuntarily reduced limited suspended revoked or not renewed? No ☒ Yes ☐

If Yes please explain

- 8 Please indicate any disciplinary action imposed by hospitals professional societies or licensing bodies (a separate piece of paper may be used)

DATE	NATURE OF VIOLATION	ACTION TAKEN

- 9 Do you have Professional Liability Insurance coverage in the minimum amount of One Million / Three Million Dollars (\$1 000 000 / \$3 000 000) or comparable coverage? No ☐ Yes ☒

Cynthia E Holmes, MD

East Cooper Regional Medical Center

The information below must be filled in completely with a current copy attached

Present Insurance Carrier South Carolina Medical Malpractice Liability Insur

Level of Coverage Unlimited Policy No 11220 Expiration Date 01/24/2008

- 10 Have you been named as a defendant in any medical or professional malpractice claim lawsuit or medical liability litigation or do you have any cases **pending** since your last reappointment? No ☒ Yes ☐

If yes please explain on separate paper and attach to application

- 11 Have you voluntarily or involuntarily been terminated of medical staff membership had limitations reductions or loss of clinical privileges at any hospital? No ☒ Yes ☐

If Yes please explain

- 12 Have you ever been suspended sanctioned or otherwise restricted from participating in any private federal or state health insurance program (ie HMO PPO Medicare and / or Medicaid)? No ☒ Yes ☐

If Yes please explain

- 13 Have you ever been the subject of an investigation by any private federal or state agency concerning your participation in any private federal or state health insurance program (ie HMO PPO Medicare Medicaid)? No ☒ Yes ☐

If Yes, please explain

- 14 Have you participated in continuing education activities as required by the South Carolina State Licensing Board and relating at least in part to the privileges requested? No ☐ Yes ☒

Please sign the enclosed attestation sheet It is not necessary to send certificates A random audit will be performed and you may be asked to supply the appropriate documentation

- 15 Are you currently Board Certified in your specialty? BOARD ELIGIBLE No ☐ Yes ☐

In what?

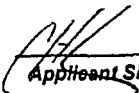
Please send a copy of current board certification Board certification must be recognized by the American Board of Medical Specialties ABMS If recertification is a requirement for your boards, please submit recertification dates All medical staff appointed after February 1, 2004, must maintain board recertification if their respective board requires recertification)

If no please provide the following information regarding Board Certification examinations during the past two years

Date of Attempt	Type Taken Oral or Written
Specialty Board Name	Results

I fully understand that any significant misstatement or omissions from this Reappointment Application constitute cause for denial of reappointment or causes for summary dismissal from the Medical Staff All information submitted by me in this Reappointment Application is true to the best of my knowledge

I understand my responsibilities and agree to comply with the Medical Bylaws / Rules and Regulations / Policies I understand it is my responsibility to acknowledge any changes to the Medical Staff Bylaws Rules and Regulations which is posted in the main physician lounge medical staff newsletter and announced at Quarterly Medical Staff meetings

 Applicant Signature Cynthia E Holmes, MD

10/30/08 Date

East Cooper Regional Medical Center

Healthcare Practitioner's Use of Signature Stamp / Electronic Signature

JCAHO requires that all healthcare practitioners utilizing signature stamps or electronic signature maintain a current letter on file that documents that they will be the only person utilizing the stamp or electronic signature and its use will not be delegated to anyone else

Please complete the statement at the bottom of this form appropriately depending on whether you will or will not be utilizing a signature stamp or electronic signature. If you have not utilized a signature stamp or electronic signature in the past please note

- 1 The stamp is used to authenticate entries in the medical record
- 2 You are responsible for obtaining the signature stamp
- 3 It is recommended that the stamp be designed with your name printed underneath the signature to ensure legibility

Please check one of the following

☒ No I do not intend to use a signature stamp or electronic signature



Applicant Name Cynthia E Holmes MD

12/30/06

Date

☐ Yes I intend to use a signature stamp and / or electronic signature (Complete the paragraph below)

I _____, am the only individual having access to and using the below individual signature stamp and/or electronic signature. No one else has my authorization to use this stamp/signature in the medical record. This stamp/signature will be my authentication of any report, progress note, order or any other testing or interpretation I may document in the medical record. This statement will be in effect until the expiration of my current appointment period, at which time I will be given the opportunity to renew this letter.

Signature Stamp Impression	Date
Print or type name on signature stamp	

East Cooper Regional Medical Center

Physician CME Attestation Form

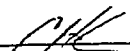
Physician's Name Cynthia E Holmes, MD

Specialty Ophthalmology

Current Appointment Period 12/13/2006 through 12/13/2008

I attest that I have completed 40 hours AMA Category I CME specific to my specialty in the two years since my last appointment / reappointment to the medical staff at East Cooper Regional Medical Center. I will provide documentation of specific certificates and hours upon request by the Medical Staff.

A percentage of appointment and reappointment forms will be reviewed each cycle to corroborate attested CME hours. Those physicians whose forms are reviewed will be required to present copies of CME certificates and hours earned. If a physician cannot provide documentation of the hours to which he attested, he will lose staff privileges on the grounds of falsification of their application / reappointment process.


Applicant Signature Cynthia E Holmes, MD

12/30/08
Date

**Please return this completed form to the Medical Staff Office
with your reappointment application**

East Cooper Regional Medical Center

RELEASE of INFORMATION

Provider's Name Cynthia E Holmes, MD

To facilitate the evaluation of my qualifications for staff reappointment and Clinical privileges, I hereby give my consent and authorize East Cooper Regional Medical Center to

- 1 Consult with any and all members of medical staffs on other hospitals with which I have been associated
- 2 Consult with others who may have information bearing on my competence, character, and ethical qualifications
- 3 Inspect such records as shall be material to an evaluation of my professional qualifications

I hereby release and hold harmless from liability for information furnished and for statements made in good faith and without malice, all individuals who submit information at the request of East Cooper Regional Medical Center

_____
Applicant Signature **Cynthia E Holmes, MD**

Date

10/30/08

(SIGNATURE MUST BE WITNESSED BELOW OR THIS FORM WILL BE RETURNED)

_____
Witness Signature **T Gardner** - Print Name

Date

10/30/08

East Cooper Regional Medical Center

PEER REFERENCES

At the time of reappointment three (3) peer recommendations are required Name three (3) medical or health care professionals who have firsthand personal knowledge of your current clinical abilities ethical character health status and ability to work cooperatively with others and who will provide specific written comments on these matters upon request from hospital representatives The named individuals must have acquired the requisite knowledge through recent observation of your professional practice over a reasonable period of time

List 3 new references

1 Reference Name / Title	Phone Number	FAX Number
GEORGE DURST, MD	883 3176	883 3459
Address		
PO BOX STATION 22 1/2		
City	State	Country
SI	SC	USA
Postal Code		
29482		
Nature of contact with you (eg, Partner, <u>Peer</u> , Director)		

2 Reference Name / Title	Phone Number	FAX Number
ETTALEAH BLUESTEIN, MD	849 3600	769 7870
Address		
2145 HENRY TEULENBURG DR		
City	State	Country
CNAB	SC	USA
Postal Code		
29414		
Nature of contact with you (eg, Partner, <u>Peer</u> , Director)		

3 Reference Name / Title	Phone Number	FAX Number
JENNIFER PULLANO, MD	171 9900	971 9870
Address		
246 MATHIS FERRY RD		
City	State	Country
MT PL	SC	USA
Postal Code		
29464		
Nature of contact with you (eg, Partner, <u>Peer</u> , Director)		

East Cooper Regional Medical Center DELINEATION OF PRIVILEGES

SPECIALTY: Ophthalmology

NAME C. HOLMES

Please print

☐ Initial ☐ Change In Privileges ☒ Renewal of Privileges - ~~Date:~~ SEE ATTACHED

To be eligible to request these clinical privileges the applicant must meet the following threshold criteria

Basic Education	MD or DO
Minimum formal training	Successful completion of an ACGME/AOA accredited residency training program in ophthalmology
Board Certification	Must be achieved within 5 years of residency/fellowship training or as noted by the respective board Acceptable board certification is only through the ABMS or AOA
Required Previous Experience	Applicants must demonstrate that they have performed at least 24 ophthalmologic surgical procedures in the past 12 months in a hospital or surgical outpatient setting. Recent residency or fellowship training experience may be applicable. Proctorship may be requested if applicant cannot demonstrate minimum number of cases.
Clinical Reference	Letters of reference must come from the residency and/or fellowship director or the Chief of Service in which the applicant has successfully completed training and/or the applicant has been affiliated with for the last two years.
Reappointment	Applicants must demonstrate that they have performed at least 48 ophthalmologic surgical procedures in the past 24 month in a hospital or surgical outpatient setting.

Applicant Place a check in the (R) column for each privilege requested

(R)	CORE PRIVILEGES - OPHTHALMOLOGY
☐	Core privileges include admission, work up, diagnosis, and the performance of surgical procedures on patients of all ages presenting with illnesses, injuries, and disorders of the eye, including its related structures and visual pathways. These privileges include the provision of consultation as well as the ordering of diagnostic studies and procedures related to the ophthalmologic problems as well as the use of CO2, YAG and KTP laser as trained in residency.
☐	REMOVAL FROM CORE The following procedures are "deselected" from the core listing above. Applicant and/or MEC must document reasons for "deselection". _____ _____ _____

Special procedures are not routinely part of training and require additional documentation of competency, training and experience

(R)	SPECIAL PROCEDURES
☐	Moderate sedation
☐	Penetrating keratoplasty
☐	Lamellar keratoplasty
☐	Radial keratoplasty
☐	Eplkeratophakia
☐	Placement of external radiotherapeutic sources
	Additional Privileges If the condition/privilege you are interested in is not included on this form, please provide a separate written request and appropriate documentation of training and/or experience.

I certify that I meet the minimum threshold criteria to request the above privileges and have provided documentation to support my eligibility to request each group of procedures requested. I understand that in making this request, I am bound by the applicable Bylaws and/or policies of the Hospital and Medical staff.

Applicant's Signature

12/30/08 **Date**

NOTE In the case of an emergency any individual who has been granted clinical privileges is permitted to do everything possible within the scope of license to save a patient's life or to save a patient from serious harm regardless of staff status or privileges granted.

CLINICAL PRIVILEGES SHEET

OPHTHALMOLOGY

<u>1</u>	<u>Class O</u> <u>Life-threatening emergency</u> At the time of a clinical emergency any practitioner may render whatever care he believes to be indicated	<u>1</u>	<u>2</u>	<u>Class IV</u> Vitreous surgery Corneal transplant surgery Neuro Ophthalmology surgery Retinal surgery (including lasers) Glaucoma surgery Pediatric Ophthalmology Electrophysiologic studies	
<u>✓</u> <u>1</u>	<u>2</u>	<u>Class I</u> Vision acuity screening Tonometry/Tonography Optical measurement (i.e., pupillary distance, near point of convergence, accommodation) Color vision testing Surgical assisting with ophthalmologist External eye examination Fundus examination of posterior pole Treatment of uncomplicated conjunctivitis Removal of foreign bodies on cornea or conjunctiva Treatment of corneal abrasions Eye irrigation Order x-rays to rule out retained foreign body or fracture	<u>✓</u> <u>1</u>	<u>2</u>	<u>Class II</u> Refractions, manifest Orthoptic exercises Visual field testing Contact lens fitting Contact lens modifications
<u>✓</u> <u>1</u>	<u>2</u>	<u>Class III</u> Treatment of all ophthalmic conditions Treatment of neoplasms of orbit, eye and adnexa Intra and extraocular surgery	<u>✓</u> <u>1</u>	<u>2</u>	

2nd time - 11/13/2006

East Cooper Regional Medical Center

Medical Staff Office
1200 Johnnie Dodds Boulevard
Mt Pleasant SC 29464
(843) 881-4350 Phone
(843) 375-5238 Fax

MEDICAL STAFF REAPPOINTMENT APPLICATION

Please check one of the following

- ☒ I wish to be reappointed to the Medical Staff of East Cooper Regional Medical Center
☐ I do not wish to be reappointed

If you have checked the second statement, do not continue Sign below and fax IMMEDIATELY to (843) 375-5238

Applicant Signature Cynthia E Holmes MD

Date

In order to process your reappointment to the Medical Staff we ask that you provide the following information. A non refundable \$25.00 reappointment fee must accompany this application. If your application is not received within thirty (30) days upon receipt a late fee of \$100.00 will be charged for the continued processing of your application past the thirty (30) day deadline. If you have questions please contact the MSO or e-mail me at Elena.giordano@tenethealth.com

Please return this form to the Medical Staff Office within 30 days of receipt

Below is your data currently stored in our database. Review carefully and mark any changes on this sheet.

PERSONAL IDENTIFICATION DATA

Name	Cynthia E Holmes MD	Department	Surgery
Specialty	Ophthalmology	Present Status	Consulting
PLEASE CHANGE MY STAFF CATEGORY TO		☐ Active	☐ Courtesy ☐ Consulting ☒ Associate
Last Reappointment Date	12/13/2006	Privileges Expire	12/13/2008

PRIMARY OFFICE ☒ No change since appointment or last reappointment

Practice Name C. HOLMES, MD

Primary Office 306 STATION 22 1/2, S I, SC 29482 0187

Primary Address PO Box 187 Sullivans Island SC 29482

883 3176

(843) 883 9030

728 2733

Primary Ofc
Phone

Primary Ofc Fax

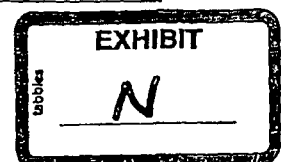
Beeper

E mail

MRS MARY FLETCHER
Office Manager

883 3176 EXT 6
Direct Line or Extension

NPI 1023222734
Cynthia E Holmes MD



East Cooper Regional Medical Center

HOME ADDRESS

☐ No change since appointment or last reappointment

Home Address 1611 Poe Ave Sullivans Island SC 29482-0187

(843)883 3010

Home Phone

Home Fax

Cell Phone

Spouse Name

All questions must be answered in full. All data provided must be sufficient to update your records since your last appointment or reappointment. The Chairman of the respective department may request additional information.

- 1 Please indicate an alternate physician on the ECRMC Medical Staff who will attend to your patients in an emergency situation during your absence.

Name Dr. Bluestein Specialty OPHTHO

- 2 Has the nature of your medical practice changed since your last appointment to the Medical Staff? No ☒ Yes ☐

If Yes, please explain

- 3 CURRENT LICENSURE (Please list each state in which you are currently licensed and attach a copy of each)

State	License No	Issued	Expires
SC	16132		9/30/09
State	License No	Issued	Expires
State	License No	Issued	Expires

Since your last appointment to the Medical Staff has your license to practice medicine or your DEA registration been limited, suspended, revoked or any challenges pending either voluntarily or involuntarily?

No ☒ Yes ☐

If Yes, please explain

- 4 Is your license to practice medicine current? No ☐ Yes ☒

If No, why

- 5 Since your last appointment to the Medical Staff have there been any medical problems or changes in your personal health status that would affect your ability to practice medicine in your specialty? No ☒ Yes ☐

If Yes, please explain

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If Yes, please explain

- 8 Please indicate any disciplinary action imposed by hospitals, professional societies or licensing bodies (a separate piece of paper may be used)

DATE	NATURE OF VIOLATION	ACTION TAKEN

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Cynthia E Holmes MD

East Cooper Regional Medical Center

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Level of Coverage Unlimited Policy No 11220 Expiration Date 01/24/2008

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If Yes please explain

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Please sign the enclosed attestation sheet. It is not necessary to send certificates A random audit will be performed and you may be asked to supply the appropriate documentation

- 15 Are you currently Board Certified in your specialty? BOARD ELIGIBLE No ☐ Yes ☐

In what?

Please send a copy of current board certification Board certification must be recognized by the American Board of Medical Specialties ABMS If recertification is a requirement for your boards please submit recertification dates All medical staff appointed after February 1 2004 must maintain board recertification if their respective board requires recertification)

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I fully understand that any significant misstatement or omissions from this Reappointment Application constitute cause for denial of reappointment or causes for summary dismissal from the Medical Staff All information submitted by me in this Reappointment Application is true to the best of my knowledge

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 Appointing Signature Cynthia E Holmes MD

10/20/08 Date

Cynthia E Holmes MD

East Cooper Regional Medical Center

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- 2 You are responsible for obtaining the signature stamp
- 3 It is recommended that the stamp be designed with your name printed underneath the signature to ensure legibility

Please check one of the following

☒ No I do not intend to use a signature stamp or electronic signature



Applicant Name Cynthia E Holmes MD

10/30/06

Date

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I, _____ am the only individual having access to and using the below individual signature stamp and/or electronic signature. No one else has my authorization to use this stamp/signature in the medical record. This stamp/signature will be my authentication of any report, progress note, order, or any other testing or interpretation I may document in the medical record. This statement will be in effect until the expiration of my current appointment period at which time I will be given the opportunity to renew this letter.

Signature Stamp Impression	Date
Print or type name on signature stamp	

Cynthia E Holmes MD

East Cooper Regional Medical Center

Physician CME Attestation Form

Physician's Name Cynthia E Holmes, MD

Specialty Ophthalmology

Current Appointment Period 12/13/2006 through 12/13/2008

I attest that I have completed 40 hours AMA Category I CME specific to my specialty in the two years since my last appointment / reappointment to the medical staff at East Cooper Regional Medical Center. I will provide documentation of specific certificates and hours upon request by the Medical Staff.

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Applicant Signature Cynthia E Holmes MD

12/30/08
Date

**Please return this completed form to the Medical Staff Office
with your reappointment application**

Cynthia E Holmes MD

East Cooper Regional Medical Center

Physician CME Attestation Form

Physician's Name Cynthia E. Holmes, MD

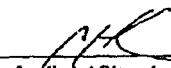
Specialty Ophthalmology

Current Appointment Period 12/13/2006 through 12/13/2008

MORE THAN 90 HOURS

I attest that I have completed 40 hours AMA Category I CME specific to my specialty in the two years since my last appointment / reappointment to the medical staff at East Cooper Regional Medical Center. I will provide documentation of specific certificates and hours upon request by the Medical Staff.

A percentage of appointment and reappointment forms will be reviewed each cycle to corroborate attested CME hours. Those physicians whose forms are reviewed will be required to present copies of CME certificates and hours earned. If a physician cannot provide documentation of the hours to which he attested, he will lose staff privileges on the grounds of falsification of their application / reappointment process.


Applicant Signature Cynthia E Holmes MD

12/30/08
Date

**Please return this completed form to the Medical Staff Office
with your reappointment application**

Cynthia E Holmes MD

East Cooper Regional Medical Center

RELEASE of INFORMATION

Provider's Name Cynthia E Holmes, MD

To facilitate the evaluation of my qualifications for staff reappointment and Clinical privileges I hereby give my consent and authorize East Cooper Regional Medical Center to

- 1 Consult with any and all members of medical staffs on other hospitals with which I have been associated
- 2 Consult with others who may have information bearing on my competence, character and ethical qualifications
- 3 Inspect such records as shall be material to an evaluation of my professional qualifications

I hereby release and hold harmless from liability for information furnished and for statements made in good faith and without malice all individuals who submit information at the request of East Cooper Regional Medical Center

_____
Applicant Signature Cynthia E Holmes MD Date 10/30/08

(SIGNATURE MUST BE WITNESSED BELOW OR THIS FORM WILL BE RETURNED)

_____
Witness Signature T Gardner Print Name 10/30/08 Date

Cynthia E Holmes MD

East Cooper Regional Medical Center

PEER REFERENCES

At the time of reappointment three (3) peer recommendations are required Name three (3) medical or health care professionals who have firsthand personal knowledge of your current clinical abilities ethical character health status and ability to work cooperatively with others and who will provide specific written comments on these matters upon request from hospital representatives The named individuals must have acquired the requisite knowledge through recent observation of your professional practice over a reasonable period of time

List 3 new references

1 Reference Name / Title	Phone Number	FAX Number
GEORGE DUST, MD	883 3176	883 3459
Address		
306 STATION 22 1/2		
City	State	Country
SI	SC	USA
Postal Code		
29482		
Nature of contact with you (eg, Partner/Peer/Director)		

2 Reference Name / Title	Phone Number	FAX Number
ETTA LEAH BLUESTEIN, MD	849 3600	769 7870
Address		
2145 HENRY TECKLENBURG DR		
City	State	Country
CNAB	SC	USA
Postal Code		
29414		
Nature of contact with you (eg, Partner/Peer/Director)		

3 Reference Name / Title	Phone Number	FAX Number
JENNIFER PULLANO, MD	971 9900	971 9870
Address		
216 MATHIS FERRY RD		
City	State	Country
MT PL	SC	USA
Postal Code		
29464		
Nature of contact with you (eg, Partner/Peer/Director)		

Cynthia E Holmes MD

East Cooper Regional Medical Center

Hospital Affiliations

Please list all current hospital affiliations, excluding ECRMC

Hospital	Staff Category

Please return this form along with the physician's reappointment application

* * Dr Holmes did not submit this form ** *
Ellie Giordano Credentialing Coordinator Medical Staff Services ECRMC
Printed by Ellie Giordano on 11/24/2008

Cynthia E Holmes MD

OPHTHALMOLOGY

		<u>Class O</u>			<u>Class IV</u>
<u>1</u>		<u>Life-threatening emergency</u> At the time of a clinical emergency any practitioner may render whatever care he believes to be indicated	<u>1</u>	<u>2</u>	Vitreous surgery
					Corneal transplant surgery
					Neuro Ophthalmology surgery
<u>✓</u>	<u>2</u>	<u>Class I</u>		<u>✓</u>	Ratinal surgery (including lasers)
<u>1</u>		Vision acuity screening		<u>✓</u>	Glaucoma surgery
		Tonometry/Tonography		<u>✓</u>	Pediatric Ophthalmology
		Optical measurement (i e , pupillary distance, near point of convergence, accommodation)		<u>✓</u>	Electrophysiologic studies
		Color vision testing			
		Surgical assisting with ophthalmologist			
		External eye examination			
		Fundus examination of posterior pole			
		Treatment of uncomplicated conjunctivitis			
		Removal of foreign bodies on cornea or conjunctiva			
		Treatment of corneal abrasions			
		Eye irrigation			
		Order x-rays to rule out retained foreign body or fracture			
<u>✓</u>	<u>2</u>	<u>Class II</u>			
<u>1</u>		Refractions, manifest			
		Orthoptic exercises			
		Visual field testing			
		Contact lens fitting			
		Contact lens modifications			
<u>✓</u>	<u>2</u>	<u>Class III</u>			
<u>1</u>		Treatment of all ophthalmic conditions			
		Treatment of neoplasms of orbit, eye and adnexa			
		Intra and extraocular surgery			

East Cooper Regional Medical Center

Physician CME Attestation Form

Physician's Name Cynthia E Holmes, MD

Specialty Ophthalmology

Current Appointment Period 12/13/2006 through 12/13/2008

MORE THAN 90 HOURS

I attest that I have completed ⁴⁰ hours AMA Category I CME specific to my specialty in the two years since my last appointment / reappointment to the medical staff at East Cooper Regional Medical Center. I will provide documentation of specific certificates and hours upon request by the Medical Staff.

A percentage of appointment and reappointment forms will be reviewed each cycle to corroborate attested CME hours. Those physicians whose forms are reviewed will be required to present copies of CME certificates and hours earned. If a physician cannot provide documentation of the hours to which he attested, he will lose staff privileges on the grounds of falsification of their application / reappointment process.

[Signature]
Applicant Signature Cynthia E Holmes, MD

12/30/08
Date

**Please return this completed form to the Medical Staff Office
with your reappointment application**

Cynthia E Holmes MD

**East Cooper Regional Medical Center
Physician Performance / Peer Competency Form**

Please have one of your peers who has privileges at a JCAHO-accredited facility complete this form or provide a letter of reference pertaining to the items below on your behalf. Have the individual completing this form return it to the Medical Staff Office in a sealed confidential envelope or fax it to 843-375-5238. This form is not to be returned by the Practitioner

Practitioner (Name of physician being reviewed) Cynthia Holmes MD Specialty Ophthalmology

How long have you known the applicant? 12 years

In what capacity have you known the applicant? Peer

Please respond to the following questions as it relates to your knowledge of the practitioner within the past two (2) years, explaining any YES responses on a separate sheet, if necessary

To the best of your knowledge has this physician's privileges at a health care facility ever been suspended, revoked or reduced, either voluntarily or involuntarily?	YES ☐ NO ☒
To the best of your knowledge has this physician been subject to any disciplinary action by a health care facility or any licensing board, medical organization during the past two years either voluntarily or involuntarily?	YES ☐ NO ☒
To the best of your knowledge has the physician's license to practice and/or DEA registration been challenged, placed under suspension or removed, voluntarily or involuntarily, during the last two years?	YES ☐ NO ☒
To the best of your knowledge has this physician been excluded from participation in any federal health programs, including any exclusions or other sanction(s) imposed or recommended by the federal Department of Health and Human Services?	YES ☐ NO ☒
To the best of your knowledge, has this physician been subject to any pending or final malpractice litigation during the last two years?	YES ☐ NO ☒
To the best of your knowledge, does this physician have any mental/physical health or other problem, which would interfere with his/her ability to exercise their clinical privileges?	YES ☐ NO ☒
To the best of your knowledge, is there any reason (not explained above) why this applicant should not be appointed to the East Cooper Regional Medical Center Medical Staff?	YES ☐ NO ☒

Based on your professional/personal knowledge of this applicant, please rate his/her current clinical competence in the following areas. Please complete all areas

	Excellent	Satisfactory	Problem	No Information
Clinical Competence	✓			
Technical Skill	✓			
Judgment	✓			
Relevant training of experience in Clinical specialty	✓			
Pharmacology	✓			
Medical Record Compliance	✓			
Quality of Care Provided	✓			
Relationship with Peers	✓			
Relationship with Subordinates	✓			

☒ I would recommend this physician for membership to East Cooper Regional Medical Center

☐ I would not recommend this physician for membership to East Cooper Regional Medical Center

Ettaleah Bluestein MD
Signature of MD Completing Form
Ettaleah Bluestein MD
Printed Name of MD

10/13/08
Date
Ophthalmology
Specialty

Cynthia E Holmes MD

East Cooper Regional Medical Center
Physician Performance / Peer Competency Form

Please have one of your peers who has privileges at a JCAHO-accredited facility complete this form or provide a letter of reference pertaining to the items below on your behalf. Have the individual completing this form return it to the Medical Staff Office in a sealed confidential envelope or fax it to 843-375-5238. **This form is not to be returned by the Practitioner.**

Practitioner (Name of physician being reviewed) Cynthia Holmes Specialty Ophthalmology

How long have you known the applicant? 13 years

In what capacity have you known the applicant? PEER

Please respond to the following questions as it relates to your knowledge of the practitioner within the past two (2) years explaining any YES responses on a separate sheet, if necessary

To the best of your knowledge, has this physician's privileges at a health care facility ever been suspended, revoked or reduced, either voluntarily or involuntarily? YES ☐ NO ☒
To the best of your knowledge, has this physician been subject to any disciplinary action by a health care facility or any licensing board, medical organization during the past two years either voluntarily or involuntarily? YES ☐ NO ☒
To the best of your knowledge, has the physician's license to practice and/or DEA registration been challenged, placed under suspension or removed, voluntarily or involuntarily, during the last two years? YES ☐ NO ☒
To the best of your knowledge, has this physician been excluded from participation in any federal health programs including any exclusions or other sanction(s) imposed or recommended by the federal Department of Health and Human Services? YES ☐ NO ☒
To the best of your knowledge, has this physician been subject to any pending or final malpractice litigation during the last two years? YES ☐ NO ☒
To the best of your knowledge, does this physician have any mental/physical health or other problem which would interfere with his/her ability to exercise their clinical privileges? YES ☐ NO ☒
To the best of your knowledge, is there any reason (not explained above) why this applicant should not be appointed to the East Cooper Regional Medical Center Medical Staff? YES ☐ NO ☒

Based on your professional/personal knowledge of this applicant, please rate his/her current clinical competence in the following areas. Please complete all areas.

	Excellent	Satisfactory	Problem	No Information
Clinical Competence	✓			
Technical Skill	✓			
Judgment	✓			
Relevant training of experience in Clinical specialty	✓			
Pharmacology	✓			
Medical Record Compliance	✓			
Quality of Care Provided	✓			
Relationship with Peers	✓			
Relationship with Subordinates	✓			

☒ I would recommend this physician for membership to East Cooper Regional Medical Center

☐ I would not recommend this physician for membership to East Cooper Regional Medical Center

Jennifer Pullano, DO
Signature of MD Completing Form
Jennifer Pullano, DO
Printed Name of MD

10-14-08
Date
Family Practice
Specialty

Cynthia E Holmes MD

East Cooper Regional Medical Center
Physician Performance / Peer Competency Form

Please have one of your peers who has privileges at a JCAHO-accredited facility complete this form or provide a letter of reference pertaining to the items below on your behalf. Have the individual completing this form return it to the Medical Staff Office in a sealed confidential envelope or fax it to 843-375-5238. **This form is not to be returned by the Practitioner**

Practitioner (Name of physician being reviewed) C HOLMES, MD Specialty OPHTHALMOLOGY

How long have you known the applicant? _____

In what capacity have you known the applicant? PEER

Please respond to the following questions as it relates to your knowledge of the practitioner within the past two (2) years explaining any YES responses on a separate sheet if necessary

To the best of your knowledge has this physician's privileges at a health care facility ever been suspended, revoked or reduced either voluntarily or involuntarily?	YES ☐ NO ☒
To the best of your knowledge, has this physician been subject to any disciplinary action by a health care facility or any licensing board, medical organization during the past two years either voluntarily or involuntarily?	YES ☐ NO ☒
To the best of your knowledge has the physician's license to practice and/or DEA registration been challenged, placed under suspension or removed, voluntarily or involuntarily, during the last two years?	YES ☐ NO ☒
To the best of your knowledge has this physician been excluded from participation in any federal health programs including any exclusions or other sanction(s) imposed or recommended by the federal Department of Health and Human Services?	YES ☐ NO ☒
To the best of your knowledge, has this physician been subject to any pending or final malpractice litigation during the last two years?	YES ☐ NO ☒
To the best of your knowledge does this physician have any mental/physical health or other problem, which would interfere with his/her ability to exercise their clinical privileges?	YES ☐ NO ☒
To the best of your knowledge, is there any reason (not explained above) why this applicant should not be appointed to the East Cooper Regional Medical Center Medical Staff?	YES ☐ NO ☒

Based on your professional/personal knowledge of this applicant please rate his/her current clinical competence in the following areas. Please complete all areas

	Excellent	Satisfactory	Problem	No Information
Clinical Competence	☒			
Technical Skill	☒			
Judgment	☒			
Relevant training of experience in Clinical specialty	☒			
Pharmacology	☒			
Medical Record Compliance	☒			
Quality of Care Provided	☒			
Relationship with Peers	☒			
Relationship with Subordinates	☒			

☒ I would recommend this physician for membership to East Cooper Regional Medical Center

☐ I would not recommend this physician for membership to East Cooper Regional Medical Center

George D. Durrant
 Signature of MD Completing Form
George Durrant
 Printed Name of MD

10/26/18
 Date
FM
 Specialty

Cynthia E Holmes MD

ASCRS

AMERICAN SOCIETY OF CATARACT
AND REFRACTIVE SURGERY

C. Collie, MD

has successfully completed the following educational activity

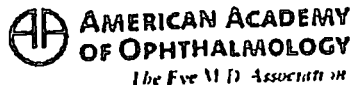
Storm Eye/ASCRS Clinical Update 2008

Kiawah Island, South Carolina

Program Chairs: Kerry D. Solomon, MD and M. Edward Wilson, Jr, MD
May 29-June 1, 2008

and is awarded 11 75 *AMA PRA Category 1 Credits™*

The American Society of Cataract and Refractive Surgery certifies that this educational activity was planned in accordance with the requirements of the Accreditation Council for Continuing Medical Education, and it meets the criteria for award of CME credit



Certificate of Attendance

The American Academy of Ophthalmology is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians

The American Academy of Ophthalmology certifies that

C HOLMES

Has participated in the educational activity titled
2008 Joint Meeting
in Atlanta, Georgia, November 8-11, 2008,
and has claimed 4 *AMA PRA Category 1 Credits*TM

Ethics Credits Entered	0
Pain Credits Entered	0

H Dunbar Hoskins Jr MD
Executive Vice President

David W Parke II MD
President

Physician

Please retain this document for your records

912356

**EAST COOPER REGIONAL MEDICAL CENTER
PHYSICIAN PROFILE**

Physician Name <u>Cynthia Holmes</u>		Physician Hospital # <u>551</u>
Initial Appointment <u>7/20/1994</u>		Profile Dates <u>11/18/2006 - 11/18/2008</u>
Specialty <u>Ophthalmology</u>	Status <u>Consulting</u>	Change of Status? Active where if change to Courtesy?
Department <u>Medicine</u>	<u>Surgery</u>	First Year Provisional
OB/GYN	FP	Active Courtesy Associate Active Consulting

HEALTH INFORMATION MANAGEMENT

	#	Comments
Admissions	0	
Surgeries	0	
Consults	0	
Legibility Issues	0	
Numbers of times on suspension/ Action taken	0	

☒ Due to insufficient patient contacts for the re-credentialing period reviewed, there is insufficient clinical data available to evaluate the overall clinical performance of this physician

MEDICAL STAFF OFFICE

Data Bank	New Cases Noted	Old Cases Noted	<u>Clear</u>
CME Attestation Signed?	<u>YES</u>	NO	

UTILIZATION MANAGEMENT

	#	COMMENTS
LOS Denials	<u>9</u>	
Inappropriate Admissions		

ANTHIA HOLMES 11-05
BOX 187
SULLIVANS ISLAND SC 29482-0187



1151

87-448/539 SC
2928

10/30/08 Date

Pay in So
to the order of

One Hundred Twenty Five and 00/100

\$ 125.00

Bank of America

Dollars

☐ Security
Stamp
Date

ACH R/T 053904483

Memo

000539044830 0007844780491101151

**South Carolina Board of Medical Examiners
Website Verification**

306 STATION 22 1/2
SULLIVANS IS, SC 29482-0187

Name CYNTHIA COLLIE HOLMES	Profession MD	Office Phone 8438833176
Basis NB 90	School SC	Graduation 05/20/1988
License No 16132	Date Issued 08/31/1992	Expiration 09/30/2009
Specialty OPH		

Primary Source Verification of Graduation Certified

Hospital Affiliation (s)
EAST COOPER REGIONAL MEDICAL CENTER

Credential Status Active
No disciplinary action taken by the Board This certifies that the above licensee is in good standing

License History
Temporary License Number 00T301
Temporary License Issue Date 06/22/1992

Verification disclaimer

National Practitioner Data Bank
Healthcare Integrity and Protection Data Bank
P O Box 10832
Chantilly VA 20153-0832
http www npdb-hipdb com

DCN 5500000053842014
Process Date 11/12/2008
For authorized use by
East Cooper Regional Medical Center

RESPONSE TO INFORMATION DISCLOSURE REQUEST

A REQUESTOR INFORMATION

Data Bank Identification Number(DBID) 230455200000608
Entity Name East Cooper Regional Medical Center
Address 1200 Johnnie Dodds Blvd
City State Zip Mt Pleasant SC 29464
Telephone (843) 881-4350
Authorized Agent TENET HEALTHSYSTEM MEDICAL INC
Agent Phone 4698936634
Authorized Submitter s Name Elaine B Meuli CPMSM
Authorized Submitter s Title Director Medical Staff Services
Authorized Submitter s Telephone (843) 881-4350

B SUBJECT ON WHOM DISCLOSURE IS REQUESTED

Subject Name HOLMES CYNTHIA E
Other Name(s) Used
Gender FEMALE
Date of Birth 03/22/1952
Home Address 1611 POE AVE
City State ZIP SULLIVANS ISLAND SC 29482-0187
Country
Organization Name
Work Address PO BOX 187
City State ZIP SULLIVANS ISLAND SC 29482
Country
Organization Type
Other as Specified
Deceased
Date of Death
Federal Employer Identification Numbers (FEIN)
Social Security Number(SSN) 254504676
National Providers Identifiers (NPI)
Professional School(s) & Year(s) of Graduation MEDICAL COLLEGE OF GEORGIA 1990
Occupation/Field of Licensure (Code) Physician (MD) (010)
State License Number State of Licensure 16132 SC
Other as Specified
Specialty
Drug Enforcement Administration (DEA) Number BH3329833
Unique Physician Identification Numbers (UPIN)

C SEARCH RESULT

Based on the subject identification information provided by you in Section B above a search of the NPDB has located the following 0 report(s)

Recipients should verify that the subject identified in Section B is in fact the subject of interest

Copies of these reports are enclosed for restricted/limited use as prescribed by Title IV of Public Law 99-660 as amended Recipients should verify that the subject identified in Section B of the report(s) is in fact the subject of interest Information from the NPDB is confidential and must be used solely for the purpose for which it was disclosed Any person who violates the confidentiality provisions as specified in Title IV is subject to a civil money penalty of up to \$11 000 for each violation Subjects of reports who obtain information about themselves from the NPDB are permitted to share that information with anyone they choose

CONFIDENTIAL DOCUMENT - FOR AUTHORIZED USE ONLY
END OF REPORT

South Carolina Department of Health and Environmental Control www.scdhec.gov

Drug Control

Verification of State Controlled Substances Registration

Note All fields are not required for searching

Registration Number (no hyphen)

Name (Last name First name)

Registration Number	Name/Address	Number of Results	Issuance Date	Expiration Date	Schedules
2016132	HOLMES CYNTHIA COLLIE MD 306 STATION 22 1/2 PO BOX 187 SULLIVANS ISLAND SC 29482	1	9/8/1992	10/1/2009	22N33N45

*For additional information contact
(803) 896-0636
Fax (803) 896 0638*

*** EchoPSV - Electronic Query Results ***

Query Date 11/1/2008 4 38 06 AM

Submitted Name Cynthia Holmes Identifier Number 5103604

Data Source [http //exclusions oig hhs gov/](http://exclusions.oig.hhs.gov/)

Results

* No matches found

*** EchoPSV - Electronic Query Results ***

Query Date 10/29/2008 3 39 49 PM

Submitted Name Cynthia Holmes Identifier Number 5074059

Data Source <http://www.epls.gov/>

Results

* No matches found



Certificate of Attendance

The American Academy of Ophthalmology is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians

The American Academy of Ophthalmology certifies that

C HOLMES

Has participated in the educational activity titled
2008 Joint Meeting
in Atlanta, Georgia, November 8-11, 2008,
and has claimed 4 *AMA PRA Category 1 Credits™*

Ethics Credits Entered	0
Pain Credits Entered	0

H Dunbar Hoskins Jr MD
Executive Vice President

David W Parke II MD
President

Physician

Please retain this document for your records

912356



AMERICAN SOCIETY OF CATARACT
AND REFRACTIVE SURGERY

C. Collie, MD

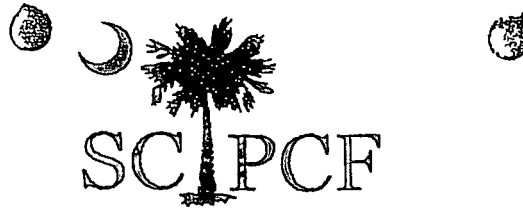
has successfully completed the following educational activity

Storm Eye/ASCRS Clinical Update 2008
Kiawah Island, South Carolina

Program Chairs: Kerry D. Solomon, MD and M. Edward Wilson, Jr., MD
May 29-June 1, 2008

and is awarded 11.75 *AMA PRA Category 1 Credits™*

The American Society of Cataract and Refractive Surgery certifies that this educational activity was planned in accordance with the requirements of the Accreditation Council for Continuing Medical Education, and it meets the criteria for award of CME credit



James E. Mercer DDS
Chairman of the Board

SC Medical Malpractice Patients Compensation Fund

Please Remit to
P O Box 210739
Columbia SC 29221

Phone 803 896 5290
Fax # 803 896 5294

MEMBERSHIP DECLARATION ASSFSSABLE

Membership ID **11220**

Date Issued **12/31/07**

Member Name and Address

**DR CYNTHIA E C HOLMES
PO BOX 187
SULLIVAN'S IS SC 29482**

Specialty

**Ophthalmology - Minor &
Major Surgery**

Membership Period

From **1/24/08** To **1/24/09**

Membership fees paid through

1/24/09

Coverage

PROFESSIONAL LIABILITY

Limits of Coverage

Unlimited

Employees as additional Insureds N/A

This will certify that PCF coverage is follow form and is in excess of
the basic professional liability insurance coverage

IMPORTANT Limits are inclusive of underlying coverage
which must be a minimum of \$200,000 per claim/\$600,000
annual aggregate PCF does not provide coverage unless basic
coverage is in effect during the above membership period

Please retain this membership declaration and utilize copies to verify PCF membership to Hospitals HMO's etc

**DR CYNTHIA E C HOLMES
PO BOX 187
SULLIVAN'S IS SC 29482**

PROFESSIONAL LIABILITY POLICY

South Carolina Medical Malpractice Liability Insurance

Joint Underwriting Association

Policy Declarations

ASSESSABLE

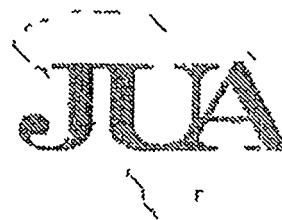
Occurrence

Renewal of JB016624

Policy Number JB016624

Item 1 Named Insured and Business Address

Cynthia C Holmes MD
306 Station 22 1/2
Sullivans Island, SC 29482



A
G Pinckney- Carter Company
E Attn Broker
N PO Box 60118
C North Charleston, SC 29419
Y

Item 2 Policy Period (Mo Day Yr)

From 1/24/2008 To 1/24/2009

12 01 A M standard time at the address of the named insured as stated herein

Item 3 The limit of the Association's liability shall be as stated herein, subject to all of the terms of this policy having reference hereto

Coverage	Limits of Liability	Premium
PROFESSIONAL LIABILITY	\$200,000 EACH CLAIM	\$7,778 00
	\$600,000 ANNUAL AGGREGATE	

Employees as Additional Insureds Included

Ophthalmology - Major/Minor Surgery

The following listed forms / endorsements are issued as part of this policy and are incorporated therein

Forms / Endorsement Schedule

SC JUA PL-100 (Ed 10/03)

JUA PD 101A (Ed 11/05)

COUNTERSIGNATURE DATE	AUTHORIZED REPRESENTATIVE	DATE ISSUED
		12/20/2007

SCJUA PD 100 (Ed 08/03)

Insured Copy

State of South Carolina
Department of Labor Licensing and Regulation
Board of Medical Examiners

CYNTHIA L. HOLMES, M.D.

Is duly licensed and qualified as a
Medical Examiner

License Number MD 16132
Expires 09/30/2009

B. F. D.
Administrative

CONTROLLED SUBSTANCE REGISTRATION CERTIFICATE
UNITED STATES DEPARTMENT OF JUSTICE
DRUG ENFORCEMENT ADMINISTRATION
WASHINGTON D C 20537

DEA REGISTRATION
NUMBER

BH3329833

THIS REGISTRATION
EXPIRES

10 31 2010

FEE
PAID

FEE PAID

SCHEDULES

2 2N
3 3N 4 5

BUSINESS ACTIVITY

PRACTITIONER

ISSUE DATE

10 05 2007

HOLMES CYNTHIA COLLIE MD
PO BOX 187
306 STATION 22 1/2
SULLIVANS ISLAND SC 29482 0000

Sections 304 and 1008 (21 USC 824 and 958) of the
Controlled Substances Act of 1970 as amended
provide that the Attorney General may revoke or
suspend a registration to manufacture distribute
dispense import or export a controlled substance

THIS CERTIFICATE IS NOT TRANSFERABLE ON CHANGE OF OWNERSHIP CONTROL LOCATION OR BUSINESS ACTIVITY
AND IT IS NOT VALID AFTER THE EXPIRATION DATE

Form DEA 223 (4/07)

CERTIFICATE OF REGISTRATION
ISSUED PURSUANT TO THE
SOUTH CAROLINA CONTROLLED SUBSTANCES ACT
THIS CERTIFICATE MUST BE MAINTAINED IN A READILY RETRIEVABLE MANNER AT ALL TIMES

C83555 -3	DATE OF ISSUE	REGISTRATION FEE	CODE	EXPIRATION DATE
	07/31/2008	125 00		10/01/2009
SCHEDULES OF CONTROLLED SUBSTANCES AUTHORIZED	DEA REGISTRATION NUMBER	STATE REGISTRATION NUMBER		
22N33N45	BH3329833	20-16132		

HOLMES, CYNTHIA COLLIE, MD
306 STATION 22 1/2
PO BOX 187

SULLIVANS ISLAND SC 29482

II. ALL DRUGS ARE NON-NARCOTIC. THE NARCOTIC DRUGS ARE NON-NARCOTIC. 4 SCHEDULE IV ALL SCHEDULE V ALL
THIS CERTIFICATE IS NOT TRANSFERABLE UPON CHANGE OF OWNERSHIP OR ADDRESS
S.C. DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
BUREAU OF DRUG CONTROL
600 BULL STREET
COLUMBIA SOUTH CAROLINA 29201

Confirmation of Receipt of application-

I received Dr Holmes reappointment on 11/06/2008
Ellie Giordano, Credentialing Coordinator
East Cooper Regional Medical Center

Reappointment Checklist

Completed Application	Status- <i>consulting</i> Active where if Courtesy	If Courtesy Pg 9 <i>N/A</i>	IS Form Sent <i>N/A</i>	App fee Check # Copy
<i>* 12</i>	Update Off Info	<i>mailing address</i>	<i>has not changed</i>	
	Verify status change!			
	✓ CME SIGNED ATTESTATION			
<i>NO</i>	Email provided?	In Echo? <i>NO</i>		
	✓ RUBBER STAMP FORM	Admit Copy ✓		
	✓ Release of Info	Copy in back ✓		
Certificates	✓ SC Med License Wallet Size		EXP <i>9/30/2009</i>	
	✓ Malpractice		EXP <i>1/24/2009</i>	
	✓ DEA	Schedules	EXP <i>10/31/2010</i>	
	✓ CDS	Schedules	EXP <i>10/2009</i>	
Privileges	Privileges Form Completed	Any Changes	Supporting Documentation	
Questions	No Questions	<i>2,3,4,6,7,10,11,12,13</i>	YES Questions	<i>1,8,14,15</i>
	✓ Alt Phys	<i>Bluestein</i>		
	✓ Signature pg 3			
Verifications	License <i>clear</i>			
	✓ Question #3 Other state License?	<i>SC only</i>		
	✓ Databank	New Cases	Old Cases	<i>Clear</i>
	✓ OIG <i>clear</i>		✓ EPLS <i>clear</i>	
	Board Certification	<i>Not board certified</i>		
	Federal DEA		✓ SC DHEC	
	✓ Peer References	<i>Duist</i>	<i>Pullano</i>	<i>Bluestein</i>
	Affiliations	Date Sent	Name	Received
	<i>Form not submitted</i>			
	Profile	# Contacts	Issues	

*Cynthia
Holmes*

Dr Holmes has requested Associate Status

**East Cooper Regional Medical Center
Medical Staff Credentialing Action**

Physician/Practitioner Cynthia Holmes MD **Specialty** Ophthalmology

Is being considered for ☒ Medical Staff ☐ Specified Professional Personnel

- Initial Appointment Provisional appointment for one year to the following staff category

☐ Provisional Active ☐ Provisional Courtesy ☐ Provisional Consulting

- Reappointment ☐ Active ☐ Associate ☐ Courtesy ☐ Consulting

- Other _____

Recommendation of the Department Chairman

- ☐ I have reviewed the application and supporting documents and recommend appointment/reappointment of this physician/practitioner to the Medical Staff category requested

- ☐ I have reviewed the clinical privileges requested by this physician/practitioner and based on current competency as evidenced by training experience and peer references I recommend each privilege with the following exception(s)

- ☐ I have reviewed the application/reapplication and am unable to recommend this physician/practitioner due to _____

Signature Department Chairman

12/01/2008
Date

Department of Surgery

As recorded in the following meeting minutes dated

Credentialing Committee 12/01/2008
Medical Executive Committee 12/03/2008

Board of Directors

DEPARTMENT CHAIR REVIEW

I certify that I have reviewed and evaluated this individual's request for clinical privileges, the verified credentials, quality data and/or other supporting information. Based on the information available and/or personal knowledge, I recommend the practitioner be granted

☐ privileges as requested ☐ privileges with modification (see attached description of modifications) ☐ do not recommend

ECRMC Department Chairman Signature

Date

Credentials Committee _____ (date of Committee review/recommendation)

☐ privileges as requested ☐ privileges with modification (see attached description of modifications) ☐ do not recommend

Medical Executive Committee _____ (date of Committee review/recommendation)

☐ privileges as requested ☐ privileges with modification (see attached description of modifications) ☐ do not recommend

Board of Directors _____ (date of Committee review/recommendation)

☐ privileges as requested ☐ privileges with modification (see attached description of modifications) ☐ do not recommend

NOTE: In the case of an emergency, any individual who has been granted clinical privileges is permitted to do everything possible within the scope of license to save a patient's life or to save a patient from serious harm, regardless of staff status or privileges granted.

East Cooper Regional Medical Center

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

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BY U S Registered Mail Return Receipt Requested

November 11, 2008

Cynthia Holmes, MD
PO Box 187
Sullivans Island SC 29482

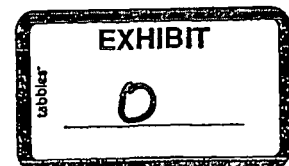
Dear Dr Holmes

We received your Medical Staff Reappointment Application on November 6 2008 The application is being returned to you because it is incomplete The Delineation of Privileges form must be completed as follows

- 1) To request Core Privileges place an "X" in the appropriate column
- 2) To request Special Procedures, place an "X" in the appropriate column of the Special Procedures section If you would like to request privileges not listed in that section list the procedures on a separate sheet of paper and attach it along with documentation proving competency to perform the procedures to the delineation of privileges sheet
- 3) DO NOT alter the Delineation of Privileges form in any way
- 4) DO NOT attach a copy of the old Clinical Privileges form to the current Delineation of Privileges form The old form is obsolete and is no longer recognized by the Medical Staff and cannot be used as a substitute for the current Delineation of Privileges form
- 5) If you are requesting associate staff status you must demonstrate that you have performed at least 48 ophthalmologic surgical procedures in the past 24 months in a hospital or surgical outpatient setting

The completed Delineation of Privileges form and documentation of having performed at least 48 ophthalmologic surgical procedures in the past 24 months must be received in the Medical Staff Office by November 13, 2008 **Failure to meet this deadline will constitute a failure to supply all required information within thirty (30) days prior to the expiration of the current appointment period and failure to respond in a timely manner to a request for information, and you will be deemed to have resigned from the medical staff**

Article V Section 3 B of the Medical Staff Bylaws states in pertinent part [a] Practitioner who fails to supply all of the required information within thirty (30) days prior to the expiration of the current appointment period or respond in a timely manner to a request for information shall be

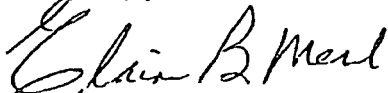


Cynthia Holmes, MD
Page Two
November 11 2008

deemed to have resigned his Medical Staff membership effective as of the date of the expiration of his current appointment. A Practitioner who is deemed to have resigned under this section shall not be entitled to the hearing and appeal rights under these Bylaws."

Please contact me at (843) 375-5253 if you have any questions

Very truly yours



(Elaine B. Meuli, CPMSM)
Director, Medical Staff Services

Enc

**East Cooper
Regional Medical Center**

PERSONAL AND CONFIDENTIAL

HAND DELIVERED

LETTER TO

Dr. Cynthia Holmes

Barbara G. Hornsberry E-W
Print Name/Signature of recipient

11-12-08

Date

E. Meuli 11 21 AM
Delivered by Elaine Meuli

East Cooper Regional Medical Center

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

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By U S Registered Mail Return Receipt Requested

December 19 2008

Cynthia E Holmes, M D
P O Box 187
Sullivans Island, SC 29482

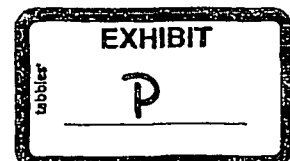
Re Voluntary Resignation from the Medical Staff

Dear Dr Holmes

The Board of Directors of East Cooper Regional Medical Center hereby informs you that your medical staff membership and clinical privileges are deemed to have been resigned voluntarily, effective as of December 14, 2008 the date of the expiration of your appointment to the medical staff for the period December 13, 2006 to December 13, 2008. This determination is made in accordance with Article V, Section 3 B of the Medical Staff Bylaws ("Bylaws") which states that.

A Practitioner who fails to return the form or to supply all of the required information within thirty (30) days prior to the expiration of the current appointment period or respond in a timely manner to a request for information shall be deemed to have resigned his Medical Staff membership, effective as of the date of the expiration of his current appointment. A Practitioner who is deemed to have resigned under this section shall not be entitled to the hearing and appeal rights under these Bylaws.

Under the Bylaws an application for reappointment is complete when the applicable medical staff department Credentials Committee, Medical Executive Committee and the Board of Trustees determine that the application meets the requirements of the Bylaws, Rules and Regulations. Bylaws p 7. Your application for reappointment was determined to be incomplete because you failed to submit a current and complete delineation of privileges form and because there was no evidence of having performed at least 48 ophthalmologic surgical procedures in the past 24 months in a hospital or surgical setting although you were seeking associate staff status.



Dr Cynthia Holmes
Page Two
December 19, 2008

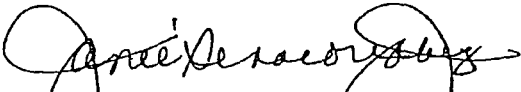
The Hospital sent you an application for reappointment on or about September 3, 2008 which the postal receipt shows you received on September 19 2008 The Hospital received your application for reappointment on November 6 2008 Ms Meuli the Director of Medical Staff Services, called your office on November 12, 2008 to let you know that the reappointment application was incomplete and that she would be returning the application to you She returned the application to your office that day by hand delivery The returned application was accompanied by a letter that explained the reasons the application was incomplete and the need to submit the missing information to the Medical Staff Office by the following day, November 13, 2008

When you called Ms Meuli on the evening of November 12 you informed her that unless the Hospital heard otherwise from you on the following day November 13, 2008, it should consider the application submitted as received On November 13 2008 you delivered to Ms Meuli's office a revised application for reappointment However the only change to the application was to state and document that you had completed more than 90 hours of continuing medical education The revised application for reappointment did not include a current and complete delineation of privileges form as requested, nor did it provide evidence of having performed at least 48 ophthalmologic surgical procedures in the past 24 months in a hospital or surgical setting

Because the Bylaws deem failure to submit a completed application in timely fashion a voluntary resignation hearing and appeal rights under Article VIII are not available

The Board appreciates your interest in the Hospital

Very truly yours,


Jane Sinacore-Jaberg, FACHE
Chief Executive Officer

Cc Credentials file

C Holmes, M.D

PO Box 187
Sullivans Island SC 29482-0187

January 6, 2009

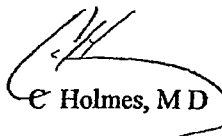
Certified Mail Return Receipt Requested

Ms J Sinacore-Jaberg
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Dear Madam

I am writing to provide notice of appeal, request for hearing, and reservation of
counsel

Sincerely,


C Holmes, M.D



 East Cooper
Regional Medical Center

January 21 2009

CERTIFIED MAIL

Cynthia E Holmes M D
P O Box 187
Sullivans Island SC 29482-0187

Re Notice of Appeal and Request for Hearing

Dear Dr Holmes

I have received your letter dated January 6 2009 stating that you want to provide notice of appeal request for hearing and reservation of counsel

As I explained in my letter to you dated December 19 2008 your application for reappointment was determined to be incomplete because you did not submit a current and complete delineation of privileges form and because you did not submit any evidence of having performed at least 48 ophthalmologic surgical procedures in the past 24 months in a hospital or surgical setting Such documentation is required for a practitioner who is seeking associate staff status as you were

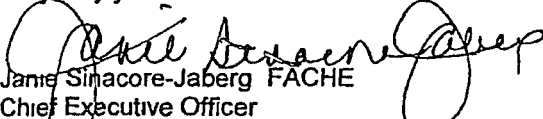
Article V Section 3 B of the Medical Staff Bylaws states that a practitioner who "fails to return the form or to supply all of the required information within thirty (30) days prior to the expiration of the current appointment period or respond in a timely manner to a request for information shall be deemed to have resigned his Medical Staff membership effective as of the date of the expiration of his current appointment " The Bylaws state further that a practitioner who is deemed to have resigned voluntarily under this section shall not be entitled to the hearing and appeal rights" under the Bylaws

Based on the plain language of the Bylaws, the Hospital cannot accommodate your request for hearing

You may submit a new application for medical staff membership and clinical privileges that will be processed as such Please be aware however that a physician submitting a new application will not be eligible for medical staff membership and clinical privileges unless he/she is board certified or if not can achieve board certification within five years from the time of completion of residency training In addition ophthalmologists seeking active or associate staff privileges must submit evidence of having performed at least 48 ophthalmologic surgical procedures in the past 24 months in a hospital or surgical setting

In the meantime the Hospital will consider this matter closed

Very truly yours


Jamie Sinacore-Jaberg FACHE
Chief Executive Officer

cc Chief of Staff
Chairman Board of Directors

1200 Johnnie Dodds Blvd, Mt Pleasant, SC 29464 * (843)881-0100



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BY U S Registered Mail, Return Receipt Requested

February 22, 2007

Cynthia E Holmes, M D
P O Box 187
Sullivans Island
South Carolina 28482

Re Notice of Hearing and Statement of Charges

Dear Dr Holmes

This letter will serve as the Notice of Hearing and Statement of Charges relating to the recommendation of the Medical Executive Committee ('MEC') of East Cooper Regional Medical Center (Hospital) that your request for advancement to the associate staff at the Hospital with core privileges in ophthalmology (which includes certain surgical privileges) be denied Your request for hearing dated January 15, 2007, was received February 5, 2007

In accordance with Article VIII, Section 2 C of the Medical Staff Bylaws, the hearing is scheduled for April 4, 2007 beginning at 6 00 p m The hearing will be held in the Classroom of the Hospital

The hearing will be conducted before a Medical Review Committee (MRC) appointed by the Chief of the Medical Staff The members of the MRC are Alan Fogle M D (Urology), Elizabeth Kline, M D (Thoracic Surgery), John Kerrison, M D (Ophthalmology) M Daub Nawabi, M D (Hematology/Oncology), and Michael Grayson, M D (Cardiology) Dr Grayson will serve as chair of the MRC None of these physicians has acted as an accuser, investigator, fact-finder or initial decision-maker in connection with this matter None is believed to be in direct economic competition with you or to gain direct financial benefit from the outcome Please inform me in writing immediately if you object to the appointment of any of these individuals and state the basis for your objection



lot 4
2/22/2007

In accordance with Article VIII, Section 2 F of the Medical Staff Bylaws, James Hinchey (Hinchey, Murray & Pagliarini, 895 Island Park Dr, Suite 203, Daniel Island, SC 29492 843-971-8646) has been appointed as Hearing Officer to conduct the hearing. The role of the Hearing Officer is to conduct the hearing impartially such that the proceeding will be, to the extent reasonably possible, fair, efficient and protective of the rights of all parties and witness. The Hearing Officer shall act as advisor to the MRC as to procedural matters, including the drafting of its decision and report, but he shall not be entitled to vote.

Please be advised that the Medical Executive Committee, through counsel, will request that a pre-hearing meeting be conducted with the Hearing Officer to discuss the procedures to be used at the hearing and to resolve any pre-hearing questions that may arise.

The reason for denial of your request for advancement to the associate staff of the Hospital with core privileges in ophthalmology is because you failed to provide objective evidence of current clinical competence for the core privileges that you requested as required by Article IV, Section 3A and Article V, Section 3C of the Medical Staff Bylaws. Core privileges in ophthalmology include admission, work-up, diagnosis and the performance of surgical procedures on patients of all ages presenting with illnesses, injuries and disorders of the eye, including its related structures and visual pathways.

The documentation you provided to demonstrate current clinical competence for the requested clinical privileges consists primarily of what appear to be undated office notes for unidentified patients. None of the notes indicates that you performed surgical procedures on any of the patients for whom you provide the notes. There is also no indication that these notes and the underlying medical records were subject to peer review.

Further, the Hospital has no current information of its own evaluating your clinical competence in connection with professional medical services provided at East Cooper Regional Medical Center. Moreover, you have not provided the Hospital with any information indicating that you are a member of and have admitted patients to and performed surgery at any other hospital facility or ambulatory surgery center and were subject to peer review at those facilities.

You provided the names of three physician references as requested. However, none of these individuals indicated first hand knowledge of your surgical expertise or attested to your surgical competence.

After careful review of the information provided, the Medical Executive Committee determined that there was insufficient information to make an informed and reasonable decision that you have current clinical competence to perform the requested procedures and services in ophthalmology. Accordingly, the Medical Executive Committee recommended that your application for associate staff status and core privileges be denied.

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2/22/2007

The witnesses expected to testify on behalf of the Medical Executive Committee are W John Langley, M D , Bill Wilson, M D , John von Lehe, M D , James T Rawls, MD, Chairman Department of Surgery, and Elaine Meuli, Director Medical Staff Services. The Medical Executive Committee reserves the right to add to this witness list and will give you notice of any such additions at least ten (10) days before the hearing.

The documents that the Medical Executive Committee intends to enter into evidence are i) your application for reappointment and medical staff privileges, dated October 7 2006, ii) the relevant excerpts from the Medical Staff Bylaws, Rules and Regulations and applicable policies, iii) the relevant excerpts from the requirements for accreditation issued by the Joint Commission on Accreditation of Healthcare Organizations, and iv) relevant Medicare requirements. Copies of these documents will be made available to you as soon as possible but not later than ten (10) days before the hearing. The Medical Executive Committee reserves the right to offer additional documents at the hearing and will give you advance notice and a copy of additional documentary evidence at least ten (10) days before the date of the hearing. If you wish to inspect the medical records listed above at the Hospital, you may do so by making arrangements through Ms Elaine Meuli.

The Medical Executive Committee requests that you provide it, through its counsel, with a list of the witnesses expected to testify and copies of all documents expected to be introduced at the hearing on your behalf at least ten (10) days before the hearing.

Briefly summarized, you will have the following rights at the hearing: to be represented by legal counsel; to have a reasonable opportunity to *voir dire* the Hearing Officer and the members of the MRC; to challenge the impartiality of the Hearing Officer or any MRC member; to be provided with all information made available to the MRC; to call and examine witnesses on relevant evidence and to cross-examine witnesses; to introduce relevant evidence; to present evidence that tends to impeach any witness on relevant matters and to submit a written statement at the close of the presentation of evidence. The proceedings will be transcribed by a court reporter and a copy of the transcript of the proceeding shall be available for purchase by either party at its own cost.

The MRC has the authority to recommend to the Governing Board of the Hospital that it affirm, terminate, or modify the action and recommendation of the MEC. You will receive a copy of the report and decision of the MRC. If the decision of the MRC is adverse to you, you will have the right to seek appellate review from the Governing Board in accordance with the Bylaws.

At the hearing the burden of proof will be on you to prove, by clear and convincing evidence, that the denial of your request for associate staff privileges is arbitrary, capricious or unreasonable.

304
2/22/2007

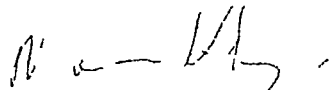
Your failure to appear at the hearing will be deemed to constitute your voluntary acceptance of the action and recommendation of the Medical Executive Committee and waiver of all hearing and appeal rights under these bylaws, unless the MRC finds good cause for such failure, based upon your written request

Please refer to the Medical Staff Bylaws, a copy of which is enclosed for a full description of the hearing and appeal procedures

Because of the serious nature of this matter and the professional implications that it may have for you, the Medical Executive Committee encourages you to review this letter carefully and to obtain legal counsel to assist with such review. Please provide the name and address of your counsel

If a final decision in this matter is adverse to you, it will be reported to the National Practitioner Data Bank or to the South Carolina Medical Licensing Board if required

Very truly yours,



Norman Khoury, M.D.
Chief of Staff

Enc

CC Medical Executive Committee
James Hinchey, Hearing Officer

404
2/22/2007

**East Cooper
Regional Medical Center**

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BY U S Registered Mail, Return Receipt Requested

February 23 2007

Cynthia E Holmes, M D
P O Box 187
Sullivan's Island
South Carolina 28482

Dear Dr Holmes

As you will recall, by letter dated March 14, 2007, the Medical Executive Committee (MEC") accepted your request to meet with you and attempt voluntary settlement or resolution of the pending matter. On Tuesday evening March 20, at 6 59 p m you left a message on Ms Meuli's answering machine indicating that you would meet at 7 00 a m on Friday March 23 in the physicians' lounge. Ms Meuli left you a telephone message Wednesday morning, March 21 confirming a 7 00 a m meeting time on March 23 but advising that the meeting would take place in the administrative board room. The reason for this was to afford more privacy for discussion of a peer review matter. She also told you that who would be available to meet with you on behalf of the MEC was not yet clear.

You left a message on Ms Meuli's answering machine at 6 52 a m on March 22, objecting to conducting the meeting in the administrative board room. Ms Meuli called the number you asked her to respond to later in the morning of March 22. Ms Meuli's message informed you that, as an alternative, the meeting would take place in the nurses' classroom on the second floor of the hospital. She also let you know that Drs VonLehe and Mitchell and I would meet with you.

At approximately 3 45 on the afternoon of March 22 you faxed a letter to Ms Meuli objecting to my and Dr VonLehe's presence at such meeting but stating that you may be willing to meet with Dr Mitchell in the physician's lounge at 7 a m on March 23 "as scheduled."

Ms Meuli immediately responded on the MEC's behalf, sending both a fax and calling your office number to alert them to the response. Curiously the fax number from which we received your letter belongs to a fax machine in Clemson, South Carolina. Someone from

2/23/2007

Cynthia Holmes, MD
Page Two
March 23 2007

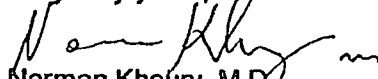
that office notified us that you were unknown to them, yet the fax clearly originated from that number. Your own office personnel, then reached by phone, agreed to contact you about the importance of the pending message. In it, Ms. Meuli stated that Dr. VonLehe, Dr. Mitchell and I would be available to meet with you in the nurses' lounge on the 23rd and that if you wished to proceed with such meeting to please respond before 5 p.m. on March 22nd. The letter stated that if you did not respond, the MEC would assume that you did not wish to proceed and the meeting would be cancelled. You did not respond.

Ms. Meuli returned to the hospital on the evening of March 22nd at 6:30 p.m. to check her messages and faxes. There was nothing from you. It was therefore somewhat surprising to receive a message from you on the Medical Staff Services' answering machine at 7:15 this morning stating that you were waiting for representatives to meet with you in the doctors' lounge.

Dr. Holmes, the MEC is prepared to meet with you in good faith. It is not, however, apparent to us that you wish to do so. The settlement process is voluntary; each side can determine who its spokesperson(s) should be. The Bylaws clearly state in Article VIII C: "The Practitioner may ask the body whose decision prompted the hearing to discuss voluntary settlement or resolution of the matter." Therefore, the only physicians who can meet with you for a settlement or resolution are the members of the MEC. The location of the meeting is less important. However, because this is a peer review matter, it is not appropriate to conduct the meeting in a public space such as the physicians' lounge and the MEC will not do so.

Should you wish to reschedule you may let me know.

Very truly yours,


Norman Khouury, M.D.
Chief of Staff

(ebm)

2/23/2007

C Holmes, M.D.

11 MAR 12 31 11

PO Box 187
Sullivan Island SC 2982-0187
811 885 3110

March 9 2007

By Hand

Ms Andrea Wozniak
FCH
1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464

Dear Madam

Please be advised and you are hereby on notice that the letter dated February 22 2007 is in contravention of your own bylaws specifically, failure to comply with Article VIII Section 2 C The required notice failed to provide a complete copy of the bylaws and it failed to provide 30 days notice Further, it appears that the wrong bylaws were sent Please forward a complete copy of the appropriate bylaws in effect at the time the reappointment application was sent Enclosed please find a copy of your cover letter dated 8/4/06 As per the bylaws the hearing date shall be set not less than 30 days after receipt of the complete bylaws in effect on 8/4/06

Per your request you are advised and you are hereby on notice that the Chief of the Medical Staff has been involved as an accuser investigator fact-finder and/or initial decision maker in connection with this matter therefore the practitioner objects to his involvement and/or appointments in violation of the bylaws Due to his failure to adequately examine in the E R this same physician now Chief of the Medical Staff

almost killed or maimed his patient, my husband who was referred for urgent medical care. Further, it was this same physician who risked loss of my husband's life and/or limb under his so-called medical care such that the patient, my husband, had to be emergently transferred to another doctor's care and immediately admitted to the ICU. The bylaws prohibit his involvement under any circumstances and require his removal from the appellate process as well as his tainted appointments. For these and other reasons, the Practitioner objects to his appointments and suggests a mutually agreed upon panel. Please provide the names of all medical staff members.

In accordance with Article VIII, Section 2-F, the practitioner objects to the appointment of the hearing officer who has acted as Roper Hospital's attorney and has been more than handsomely paid to advocate against practitioners. Such a hearing officer is hardly impartial as required by your own bylaws. A mutually agreed upon Certified Hearing Officer is suggested.

Your stated reason for denial is patently absurd as the practitioner already has been granted privileges in ophthalmology which were documented with the application. The practitioner requested a change in staff category. The practitioner provided the requested information relating to management of 25 cases. Due to doctor-patient privilege, patient names were of course not listed. Alternative arrangements including release and/or confidentiality agreements could have been made if you required additional information or an alternative format. No specific format was provided with the application, therefore a reasonable format was submitted in compliance. If another format was desired, it could have been specified. Further, peer review could have been provided upon request. The practitioner provided the requested information. But for Tenet's wrongful acts, there would have been multiple admissions. Because Tenet wrongfully prevented any admissions, Tenet is estopped from asserting lack of admissions.

In addition Tenet provided the physician reference forms which were completed and submitted exactly as requested. All of the references had first hand knowledge of the practitioner's competence and expertise in ophthalmology. On information and belief these forms were not used and processed in accordance with the bylaws or in the same manner as they were for other medical staff members. Because the forms were processed differently than those of other physicians, Tenet is guilty of unequal treatment and discrimination.

In accordance with the bylaws the witness list will be supplemented at a later date. At this time, the following is a list of witnesses: Wm Cone, E Douglas Pratt-Thomas, John Grady, Paul Yantis, Norm Khoury, Joe Thomas, Karen Towery, John Langley, Bill Wilson, John von Lehe, Jimmy Rawls, Elaine Meuli, Greg Bellamy, Ellie Giordano, and Ms Wozniak. Further, documents include, but are not limited to, all documents contained in your file regarding Doe v Grady, Cone, Yantis, and Tenet. This matter was resolved in my favor. Tenet allowed John Grady performing outmoded, large-incision cataract surgery, to summarily withhold privileges from his direct economic competitor because he did not want the members of this community to have access to and did not want competition from modern small-incision cataract surgery. His stated goal was to force his direct economic competitor to refer all surgery apparently to him. He later testified that he had already attempted to acquire and could not master the skills required for modern small-incision cataract surgery i.e. he failed. The above referenced matter was resolved in my favor. Tenet paid an amount less than attorneys' fees plus taxes and promised to process my reappointment application in good faith and return privileges in accordance with the bylaws and in accordance with any other staff member's reappointment application. Tenet has failed to comply with its own settlement agreement and this matter is currently pending.

Also as per the bylaws the practitioner requests copies of all documents to be entered into evidence Please mail them to the address listed above along with the bylaws in effect on the date the reappointment application was sent

Further I do not have an attorney as I am unable to pay \$55 000 00 which I was charged for the first sham hearing The hearing was a sham because Tenet refused to follow the recommendations at that hearing to return privileges which were wrongfully withheld Your bylaws prohibit you from having an attorney at the hearing A mutually agreed upon medical staff representative is suggested

Voir dire to follow

In summary I am a good physician, I take good care of my patients I am trained and licensed and my patients, who live in this community, need services at the only facility in this geographic area. There has never been any evidence to the contrary Tenet's wrongful conduct is arbitrary, capricious and unreasonable I worked just as hard as any other physician for my medical education and any physician subjected to such wrongdoing would object just as strongly

Pursuant to the bylaws Article VIII, Section I C and/or Section 8 the practitioner hereby makes a request to discuss resolution Please advise

Sincerely,



C Holmes MD

East Cooper Regional Medical Center

March 14, 2007

CERTIFIED MAIL , R/R/R, Article #7005-1160-0005-4452-1421

Cynthia Holmes, M D
P O Box 187
Sullivans Island, SC 29482

Dear Dr Holmes

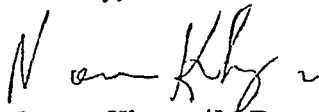
In response to your letter dated March 9, 2007, a representative group from the Medical Executive Committee and I would be agreeable to meeting with you to discuss possible resolution of the issue that has led to your request for a hearing

Such meeting must occur prior to the hearing date of April 4, 2007, the Medical Executive Committee does not wish to delay the scheduled hearing should resolution not be accomplished {

The core privileges in ophthalmology that you have requested include the performance of surgical procedures on patients of all ages presenting with illness, injuries and disorders of the eye, including its related structures and visual pathways The concern from the Credentials Committee and the Medical Executive Committee has been the absence of information demonstrating that you are current in your surgical competence Providing adequate and appropriate documentation of ophthalmologic surgery you have successfully performed within the past twenty-four months would help resolve this issue promptly

Please notify Elaine Meuli in the Medical Staff Office at 375-5253 by March 21, 2007 of a time that is convenient to you for the meeting to discuss resolution of this issue If we do not hear from you by that date, we will assume you are no longer interested in resolution and will proceed to the hearing on April 4

Sincerely,



Norman Khoury, M D
Chief of Staff

(ebm)

Medical Staff Services * 1200 Johnnie Dodds Blvd * Mt. Pleasant, SC 29464 * (843) 375-5253
Fax (843) 375-5238

C Holmes, M D

PO Box 187
Sullivan's Island SC 29482 0187

March 16, 2007

By Hand

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Dear Madam

I am writing in follow-up to my letter of March 9, 2007. To date, you have not responded.

The practitioner reiterates the previous request for compliance with the bylaws. First, as per Article VIII, Section 2 C, the hearing shall not be set less than 30 days after notice. April 4 is less than 30 days and, pursuant to the bylaws, the hearing shall not be held then. Further, in direct contravention of your own bylaws, no notice in compliance with the bylaws has been given. No complete set of bylaws has yet been provided. The practitioner has made a reasonable request for the bylaws in effect at the relevant time and to date you have failed to comply and have failed to provide information necessary for the appeal. The practitioner reiterates the reasonable request for bylaws in effect at the time the reappointment application was sent on 8/4/06.

As you know, the guiding principle under the bylaws is fairness. The bylaws mandate a fair hearing process as well as impartial participants. To that end, the practitioner has requested that the current chief of staff, who has a vested

1 of 3

interest in the outcome, be recused and removed from the fair hearing and appellate process. Specifically, he has been involved as an accuser, investigator, fact-finder, and/or initial decision-maker in connection with this matter. Further, his failure to examine and failure to diagnose my family-member resulted in what might have been catastrophic consequences had my family-member not been immediately transferred to the ICU under another doctor's competent care. In addition, litigation is ongoing against the lawyers a/k/a tortfeasors who breached their fiduciary duty in the previous claim against Tenet. It has come to my attention that one of the defendants is now known to be married to the former Norma Khoury, blood relative of the self-same Norman Khoury, chief of staff. Norma Khoury will be deposed and investigated as to involvement in the matter. On information and belief, the chief of staff is not impartial, has a vested interest in the outcome, and should be sequestered pursuant to the bylaws. Further, the practitioner objects to his tainted appointments to the panel as they are not impartial, they have acted as accusers, investigators, fact-finders, and/or initial decision-makers in connection with this matter, they stand to gain some benefit from the outcome, and/or they are in economic competition with the practitioner. For these and other reasons, the practitioner reiterates the previous objection to the panel and the tainted appointments. A mutually agreed-upon impartial panel is requested. To that end, please provide the names of all medical staff members.

Pursuant to Article VIII, Section 2 H, after removal of Norm Khoury from the appellate process, the MEC shall promptly appoint a Medical Staff Representative (MSR) who shall not have acted as accuser, investigator, fact-finder, and/or initial decision-maker in connection with this matter. He or she shall gain no direct financial benefit from the outcome and he or she shall not be in direct economic competition. Pursuant to the bylaws, an impartial MSR is mandated.

In accordance with Article VIII, Section 2 F, the practitioner objects to the appointment of a hearing officer who has acted as Roper Hospital's attorney and advocate against practitioners. He now seeks to add a national hospital chain to his resume. Such a hearing officer is hardly impartial as required by your own bylaws. A mutually agreed-upon Certified Hearing Officer is suggested.

Further, the practitioner has requested copies of all documents to be entered into evidence. To date, there has been no response to the practitioner's reasonable request and your delay jeopardizes the fair hearing process. The practitioner reiterates the request for copies of all documents to be entered into evidence.

Voir dire to follow.

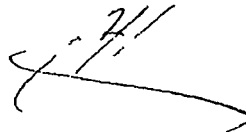
In summary, I am a good physician. I take good care of my patients. I am trained and licensed and my patients, who live in this community, need services at the only facility in this geographic area, a fact which has been well-documented by Tenet during its Certificate of Need application process. Tenet's wrongful conduct is arbitrary,

2 of 3
2/11/2007

capricious, and unreasonable I worked just as hard as my fellow physicians for my medical education and any physician similarly situated would object just as strongly

Pursuant to Article VIII, Section 8, the practitioner requests informal discussions with an impartial person, mutually agreed upon and chosen after removal from the appellate process of the chief of staff who has a vested interest in the outcome Please advise

Sincerely,


C Holmes, MD

East Cooper Regional Medical Center

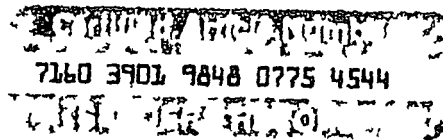
1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

Confidential Protected from Disclosure Pursuant to 8 C Code Ann § 40 71 20 and other applicable legal privileges

BY U S Registered Mail, Return Receipt Requested

March 16, 2007

Cynthia E. Holmes, M D
P O Box 187
Sullivans Island
South Carolina 28482



Re Witness and Exhibit List

Dear Dr. Holmes

In accordance with Article VIII, Section 3B of the Medical Staff Bylaws, the Medical Executive Committee hereby provides you with its list of witnesses expected to testify at the hearing scheduled for April 4, 2007 and a copy of the exhibits it expects to introduce at the hearing.

The witnesses expected to testify on behalf of the Medical Executive Committee are W. John Langley, M.D., Bill Wilson, M.D., John von Lehe, M.D., James T. Rawls, M.D., M. Edward Wilson, M.D., and Elaine Meuli, Director, Medical Staff Services. The Medical Executive Committee reserves the right to add to this witness list and will give you notice of any such additions at least ten (10) days before the hearing.

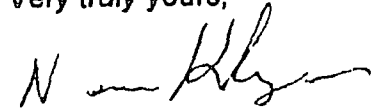
The documents that the Medical Executive Committee intends to enter into evidence are: i) your application for medical staff privileges, dated October 7, 2006 and credentials file, ii) the relevant excerpts from the Medical Staff Bylaws and Rules and Regulations, iii) the relevant excerpts from the requirements for accreditation issued by the Joint Commission on Accreditation of Healthcare Organizations and iv) relevant conditions of participation for the federal Medicare program. Copies of these documents are enclosed. The Medical Executive Committee reserves the right to offer additional documents at the hearing and will give you advance notice and a copy of additional documentary evidence at least ten (10) days before the date of the hearing.

Cynthia Holmes, MD
Page Two
March 16, 2007

The Medical Executive Committee requests that you provide it with a list of the witnesses expected to testify and copies of all documents expected to be introduced at the hearing on your behalf at least ten (10) days before the hearing. Please provide the materials to Ms. Meuli in the Medical Staff Office.

Failure of a party to produce these materials, or to update them, at least ten (10) days before the hearing, constitutes good cause for the Hearing Officer to grant a continuance, or to bar or otherwise limit the introduction of any documents not provided to the other party or testimony from witnesses not identified.

Very truly yours,



Norman Khoury, M D
Chief of Staff

Enc

CC James Hinchey, Esq

C Holmes, M.D

PO Box 187
Sullivan Island, SC 29482-0187

March 19, 2007

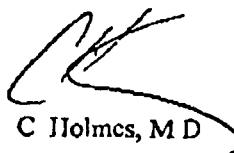
By Hand

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Dear Madam

Per your request, informal discussion with someone who is impartial is tentatively scheduled for 3/23/07 at 7 00 a.m in the physicians' lounge or at another mutually-convenient time

Sincerely,


C Holmes, M.D

*please call
883 3010
to confirm
Thank you!*

*received via
hot to mail*

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

151 Meeting Street / Sixth Floor / Charleston SC 29401 2239

Tel 843 853 5200 Fax 843 534 4371

www.nelsonmullins.com

Cynthia B Hutto

Tel 843 720 4307

Fax 843 534 4371

cindy.hutto@nelsonmullins.com

March 21, 2007

CONFIDENTIAL

PEER REVIEW INFORMATION

*Confidential Protected from disclosure pursuant to
S C Code Ann §40-71-20 and other applicable legal privileges*

Via Facsimile & U S Mail

James J Hinchey Jr
Hinchey Murray & Pagliarini, LLC
895 Island Park Drive, Suite 203
Daniel Island, South Carolina 29492

Re Cynthia E Holmes, M D

Dear Mr Hinchey

We write to respond to the various matters raised by Dr Holmes in her letters to Ms Wozniak dated March 9, 2007 and March 16, 2007. A copy of the correspondence is enclosed. We had hoped that we would be able to address the issues raised by Dr Holmes in the telephone conference that we requested and that you scheduled with all parties for March 19, 2007. Dr Holmes neither responded to the notice of the call nor did she participate in the call. Accordingly, we address the matters that she raises in this letter and ask that you make such pre-hearing rulings as may be necessary.

Dr Holmes' Objection to Your Appointment as Hearing Officer

Article VIII, Section 2 F of the East Cooper Regional Medical Center Medical Staff Bylaws ("Bylaws") authorizes the administrator of East Cooper Regional Medical Center ("Hospital" or "ECRMC") to appoint a hearing officer to preside over a hearing conducted pursuant to Article VIII of the Bylaws. The role of the hearing officer is to conduct the hearing impartially. The hearing officer may not gain direct financial benefit from the outcome of the hearing and may not act as an advocate for either party. See Bylaws Art VIII Section 2 F.

James J Hinchey, Jr
March 21, 2007
Page 2

Ms Wozniak requested that you serve as hearing officer in this matter. On information and belief you have not previously provided legal services to the Hospital or to its medical staff. While we understand that you will be compensated for your services as hearing officer, you do not gain financial benefit from the outcome of the hearing.

Dr Holmes objects to your appointment in this matter on the grounds that you have acted as an attorney for Roper Hospital and that you have been "handsomely paid to advocate against practitioners." In her letter, dated March 16, 2007 she also asserts that serving as hearing officer in this matter would "add a national hospital chain to [your] resume."

With respect, Dr Holmes does not articulate a sufficient basis for your recusal. Roper Hospital is not a party to this matter and any legal service you may have provided to that institution is not relevant to the pending matter. Secondly, the ECRMC Medical Staff Bylaws expressly preclude you from acting as an advocate for either party. Importantly, the Bylaws state that the hearing officer's function is to act as an advisor to the Medical Review Committee and to assist in the drafting of its decision and report. The hearing officer has no vote. Dr Holmes provides no basis-in-fact for concluding that you would be unable or unwilling to function in the role of an impartial hearing officer.

Article VIII, Section 3 G 1 of the Bylaws affords Dr Holmes a reasonable opportunity to challenge your appointment as hearing officer. The Medical Executive Committee requests that she submit any voir dire questions immediately and that you rule on any such objections on or before Monday, March 26, 2007 so that this matter may go forward on April 4, 2007 as scheduled.

Dr Holmes' Objection to Notice of Hearing and Application of the October 19, 2006 Bylaws

Dr Holmes objects to the Notice of Hearing and Statement of Charges on the grounds that she did not receive a copy of the bylaws in effect as of August 4, 2006 ("August 4, 2006 bylaws") thirty days in advance of the hearing. The Bylaws, dated October 19, 2006, are the Bylaws that were in effect as of the date the Credentials Committee made its recommendation to the Medical Executive Committee and as such, they are the Bylaws that control this matter. Dr Holmes received a copy of these Bylaws with the Notice of Hearing and Statement of Charges, dated February 22, 2007.

Under Article VIII, Section 1 B of the Bylaws, any notice is deemed effective on the date it was first received or five (5) working days after it was mailed first-class postage prepaid, whichever occurs first. The Notice of Hearing and Statement of Charges and a copy of the Bylaws were mailed to Dr Holmes, via registered mail on February 23, 2007. She may, therefore, be deemed to have received notice of these items thirty (30) days in advance of the April 4, 2007 hearing.

James J Hinchey Jr
March 21, 2007
Page 3

You requested on March 19, 2007, while waiting for Dr Holmes to join the conference call, that the Medical Executive Committee provide Dr Holmes with a copy of the August 4, 2006 bylaws Without waiving any objection it may have to their relevance, the Medical Executive Committee has included a copy of these bylaws with this letter The Medical Executive Committee notes that there were no changes to the August 4, 2006 bylaws that would or could affect the outcome of this matter

Dr Holmes' Objection to Appointment of the Hearing Panel by the Chief of Staff

Dr Holmes objects to the appointment of members of the Medical Review Committee by the ECRMC Chief of Staff Dr Norman Khoury Dr Khoury appointed the members of the Medical Review Committee pursuant to his authority under Art VIII, Section 2 E of the Bylaws

Dr Holmes objects to Dr Khoury's role in appointing the members of the Medical Review Committee on the grounds that he "almost killed or maimed" her husband who had been referred for urgent medical care

The Hospital and Dr Khoury have diligently searched their records and find no record or indication of such matter Dr Holmes provides no names, records or documentation to substantiate her inflammatory comments Under these circumstances her objection is not well taken

Dr Holmes states that she seeks the appointment of a mutually agreed upon hearing panel Article VIII, Section 3 G 1 of the Bylaws affords Dr Holmes a reasonable opportunity to conduct voir dire and challenge the appointment of any Medical Review Committee member The Medical Executive Committee requests that the Hearing Officer require Dr Holmes to propose questions of the hearing panel member in advance of the hearing and that every effort be made to resolve any issues in advance of the hearing

Dr Holmes' objection to the appointment of a hearing panel member solely on the grounds that such individual was appointed by Dr Khoury should be overruled Dr Holmes provides no-basis-in-fact to demonstrate that individual hearing panel members cannot be objective by reason of such appointment Absent more, they should be permitted to continue in their appointed roles

Dr Holmes' Objection to Representation of the Medical Executive Committee by Legal Counsel

Dr Holmes states that she will not be represented at the hearing by legal counsel The Medical Executive Committee will accordingly also not be represented at the hearing by legal counsel, meaning that legal counsel will not directly address the Medical Review Committee on the Medical Executive Committee's behalf, nor will legal counsel present evidence or

James J Hinchey, Jr
March 21, 2007
Page 4

conduct cross-examination at the hearing Legal counsel for the Medical Review Committee, will, however, be available to the Medical Review Committee prior to, throughout and after the hearing to assist as necessary

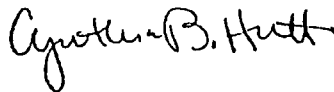
Further, Dr Holmes states that an "impartial MSR [Medical Staff Representative] is mandated ' In fact, the very nature of the role of the Medical Staff Representative is to advocate the position of the Medical Executive Committee and present its case at the hearing not to serve as an impartial participant in the proceeding Article VIII, Section 2 H of the Bylaws gives the Chief of Staff or the Medical Executive Committee the authority to select a medical staff member to present the case on behalf of, and otherwise represent, the Medical Executive Committee at the hearing Contrary to Dr Holmes' assertion, the Bylaws do not permit Dr Holmes to object to or otherwise dictate who the Chief of Staff or the Medical Executive Committee chooses to represent the Medical Executive Committee at the hearing The Medical Executive Committee requests that the Hearing Officer confirm that the Chief of Staff or the Medical Executive Committee is authorized to select a Medical Staff Representative of its own choosing and is not required to obtain the agreement of Dr Holmes to its selection

Medical Executive Committee Request for Dr Holmes' Witness and Exhibit List

The Medical Executive Committee requests that Dr Holmes provide the Medical Executive Committee with any documents or exhibits she expects to submit on her behalf at the hearing The Medical Executive Committee will object to the introduction of any exhibits not provided to the Medical Executive Committee at least ten days in advance of the hearing

In light of the many questions raised by Dr Holmes and the pending hearing on April 4, 2007, the Medical Executive Committee requests that we seek to address the above issues and such other pre-hearing procedural matters as may arise during the telephone meeting you have rescheduled for Wednesday, March 21, 2007 at 4 00 p m

Very truly yours,



Cynthia B Hutto

Enclosures

cc Cynthia E Holmes, M D (via U S Mail)
Julia Krebs-Markrich, Esq (via U S Mail)

James J Hinchey Jr
E Mail jhinchey@danielislandlaw.com

895 Island Park Drive Suite 203
Charleston SC 29492
Phone 843 971 8646
Fax 843 971 8073

CONFIDENTIAL PEER REVIEW INFORMATION

March 22 2007

Cynthia E Holmes M D
P O Box 187
Sullivans Island S C 29482-0187

Cynthia B Hutto, Esq
Nelson, Mullins, Riley & Scarborough LLP
151 Meeting Street / Sixth Floor
Post Office Box 1806
Charleston, SC 29401-2239

Julia Krebs Markrich, Esq
Reed Smith LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, Va 22042

Re Cynthia E Holmes, M D

Dear Dr Holmes Atty Hutto and Atty Krebs-Markrich

A second telephone conference was held on Wednesday, March 21, 2007 at 4 00 P M
The time and date of the conference was noticed in my letter dated March 19, 2007 For the
second time Dr Holmes did not join a scheduled telephone conference

I have read Dr Holmes' letters dated March 9 and 16, 2007 to Ms Andrea Wozniak
raising certain procedural issues and have read Atty Hutto's letter dated March 21 2007
responding to the issues raised by Dr Holmes

Article VIII, Section 3, A of the East Cooper Regional Medical Center Medical Staff
Bylaws imposes a duty on Dr Holmes and the MEC to exercise reasonable diligence in notifying
the Hearing Officer of any pending or anticipated procedural irregularity or any objection to the
hearing panel or to the Hearing Officer as far in advance of the hearing as possible in order that
decisions concerning these matters may be expeditiously made The following matters having
been raised are therefore addressed

1 Dr Holmes' objection to MEC representation by legal counsel

Article VIII, Section 3, D of the Bylaws provides that Dr Holmes has the right to representation by an attorney or other person of her choice. Any request for legal representation must be made at the time the hearing is requested. Dr Holmes has declared that she will not be represented by an attorney and objects to representation at the hearing by an attorney for the MEC. Article VIII, Section 3 D provides that the MEC shall not be represented by legal counsel if Dr Holmes is not represented. For that reason and given Dr Holmes' statement, the MEC shall not be entitled to legal representation at the hearing.

This decision does not, however, preclude either party from consulting an attorney advisor before, during or after the hearing. The attorney advisor shall not address the MRC, shall not examine or cross examine witnesses, shall not make an opening or closing statement, and shall not introduce exhibits. An attorney advisor may participate in the drafting of the written statement allowed under Article VIII Section 3, G, 6.

2 Dr Holmes' objection to the Notice of Hearing

Dr Holmes objects to the sufficiency of the Notice of Hearing dated February 22, 2007. Under Article VIII, Section 1, B of the Bylaws the Notice is deemed received on the date it was first received or five working days after it was mailed by first class mail, postage prepaid. The Notice of Hearing is deemed received by Dr Holmes more than thirty days before the selected April 4, 2007 hearing date.

Dr Holmes asserts that the Notice is invalid because she received with the Notice of Hearing Bylaws revised on October 19, 2006 and not an earlier set of Bylaws. Dr Holmes does not contend that there are any material differences between the two versions and does not dispute that she received the Bylaws as revised on October 19, 2006. The MEC asserts that there are no material differences.

The Hearing Officer was advised during the March 21, 2007 telephone conference that the earlier set of Bylaws was being mailed to Dr Holmes as required by the Hearing Officer. It should be noted that the Bylaws provided Dr Holmes were those in effect on the date when the Credentials Committee made their recommendation to the MEC. For these reasons the Notice of Hearing is sufficient.

3 Dr Holmes' objection to the appointment of the MRC by the Chief of Staff

Dr Holmes objects to the MRC panel because it was appointed by Dr Norman Khoury, the Chief of Staff. Dr Holmes claims that Dr Khoury has been involved as an accuser, investigator, fact-finder, or initial decision maker. Dr Holmes also asserts that Dr Khoury almost killed or maimed her husband, a patient of Dr Khoury. Any MRC appointment by Dr Khoury under these circumstances, according to Dr Holmes, is impermissibly tainted.

Under Article VIII, Section 2, F of the Bylaws, Dr Khoury as the Chief of Staff, is authorized to appoint the MRC members Dr Holmes' allegations, under the Bylaws, do not prohibit Dr Khoury from exercising his Bylaw granted authority to appoint the MRC

Dr Holmes has been advised of the names of the MRC members She has not raised any objection to any MRC member other than the objection recited above Dr Holmes is advised that she has the right to conduct a voir dire and challenge the service of any MRC member according to Article VIII, Section 3, G, 1 of the Bylaws

Article VIII Section 3, G, 1 also provides that the Hearing Officer shall establish a procedure by which this right may be exercised This procedure may include a requirement that voir dire questions be proposed in advance of the hearing and be presented by the Hearing Officer It is the responsibility of the Hearing Officer to rule on any challenges in accordance with applicable legal principles defining standards of impartiality for hearing panels and hearing officers

Dr Holmes and the MEC are advised that any voir dire questions for and challenges to any MRC member must be received in writing by the office of the Chief Executive Officer, Ms Andrea Wozniak no later than 5 00 PM EDT on Wednesday, March 28, 2007 Any party that fails to timely submit questions or challenges by the date and time specified will be deemed to have waived them Timely received questions will be posed by the Hearing Officer to the MRC member on the record after the Hearing is convened on April 4, 2007

4 Dr Holmes' objection to the appointment of the Hearing Officer

Dr Holmes objects to the appointment of the Hearing Officer on the grounds that the Hearing Officer has been retained as Roper Hospital's attorney has been handsomely paid to advocate against physicians, wishes to add a national hospital chain to his resume and is not impartial

Article VIII, Section 2, F provides that the administrator of East Cooper Regional Medical Center may appoint a hearing officer to preside over the hearing The hearing officer is to conduct the hearing impartially not gain financially by the outcome, not advocate for either party act as an advisor to the MRC and assist in the drafting of the MRC decision and report The Hearing Officer does not vote

This hearing Officer has previously been retained by various hospitals including Roper Hospital This Hearing Officer has not previously been retained to represent East Cooper Regional Medical Center or its Medical Staff Dr Holmes has not stated sufficient grounds to remove the Hearing Officer

Dr Holmes and the MEC under Article VIII, Section 3, G, 1 have the right to challenge and voir dire the Hearing Officer Dr Holmes and the MEC are advised that any voir dire questions for or challenges to the Hearing Officer must be received in writing by the office of the Chief Executive Officer, Ms Andrea Wozniak no later than 5 00 PM EDT on Wednesday March 28, 2007 Any party that fails to timely submit questions or challenges by the date and

time specified will be deemed to have waived them. Timely received questions will be responded to in writing before the hearing or on the record on April 4, 2007 after the hearing is convened.

5 Dr. Holmes' request for a witness list and exhibits from the MEC

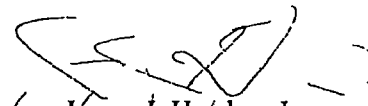
Article VIII, Section 3, B provides that at the request of either party the parties must exchange lists of witnesses expected to testify at the hearing and copies of all documents expected to be introduced at the hearing. The production of the witness list and the documents must take place ten days before the hearing. The failure to produce or update at least ten days before the hearing may result in a bar to or limits on the introduction of any document not provided or testimony from witnesses not identified.

Dr. Holmes is entitled to the witness list and to the documents expected to be introduced by the MEC at the hearing at least ten days before the hearing. The MEC, in a letter dated March 16, 2007 identified hearing witnesses and provided hearing documents. Any supplementation must occur ten or more days before the hearing.

6 MEC's request for a witness list and exhibits from Dr. Holmes

For the reasons stated above, the MEC is entitled to receive from Dr. Holmes a list of witnesses expected to testify and copies of documents expected to be introduced during the hearing at least ten days before the hearing. Dr. Holmes, in her letter dated March 9, 2007 provides a list of witnesses expected to testify at the hearing. Dr. Holmes is reminded that she must produce any documents she intends to use at the hearing and submit any amended witness list at least ten days before the hearing.

Very truly yours,


James J. Hinchey Jr.
Hearing Officer

✓ cc Andrea Wozniak
Chief Executive Officer

 East Cooper
Regional Medical Center

Confidential Protected from disclosure pursuant to S C Code Ann §40 71 20 and other applicable legal privileges

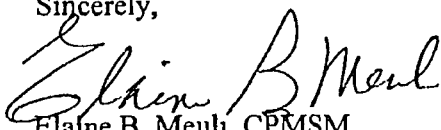
March 22, 2007

Cynthia E Holmes, M D
P O Box 187
Sullivans Island
South Carolina 28482

Dear Dr Holmes

Representatives from the Medical Executive Committee are prepared to meet with you on Friday, March 23, 2007, in the second floor classroom of East Cooper Regional Medical Center to discuss voluntary settlement or resolution As the Bylaws state, any settlement must be dealt with by the 'members of the body whose decision prompted the hearing' Therefore, Drs Khoury, Mitchell, and vonLehe will meet with you tomorrow provided you respond by 5 00 pm today If we do not hear from you by that time, we will assume you are no longer interested

Sincerely,



Elaine B Meuli, CPMSM
Director, Medical Staff Services

Medical Staff Services * 1200 Johnnie Dodds Blvd * Mt Pleasant, SC 29464 * (843) 375-5253
Fax (843) 375-5238

C. Holmes, M D

PO Box 187
Sullivan's Island, SC 29482-0187

March 22, 2007

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Re Bylaws Article VIII, Hearing and Appellate Procedures,
Section 8

Dear Madam

Please be advised and you are hereby on notice that your Bylaws mandate fairness and impartial participants in the appellate and fair hearing process. The Article VIII, Section 8, informal meeting is scheduled for March 23, 2007, at 7 am in the Physicians' Lounge. Pursuant to the Bylaws, the Appellant objects to John A Von Lehe's attendance because he has already been named as a witness against the Appellant and is not impartial. Further, the Appellant objects to Norman Khoury's participation in the appellate process for multiple reasons including, but not limited to, the fact that he has been involved as an accuser, investigator, fact-finder, and/or initial decision-maker in connection with this matter. Good faith compliance with your Bylaws mandates impartial

Slipped under door in Adams 3/23/07

participants If Dr Mitchell is impartial, the Appellant would be happy to meet with him
at 7 am in the Physicians' Lounge as scheduled

Sincerely,

A handwritten signature in black ink, appearing to be 'C. Holmes', written in a cursive style.

C Holmes, M D

cc MSO

C Holmes, M.D.

PO Box 18,
Sullivan's Island, SC 29482-018,

March 23, 2007

By Hand

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Re *Voir dire*

Dear Madam

Enclosed please find *voir dire* for the purpose of empanelling impartial participants. As you know, the previous hearing date was not in compliance with your Bylaws. A mutually-convenient hearing date is requisite.

Sincerely,

C Holmes, M.D.

VOIR DIRE

The Bylaws, South Carolina law, the State and Federal judiciary, and the Federal Constitution mandate the right to *voir dire*. Under the Bylaws, only impartial physicians are qualified. The following questions will determine competency, qualifications, fairness, and freedom from prejudice. You have a duty and obligation to give honest answers. The answers you give are binding on you. Please retain a copy and return in the envelope provided.

- 1 Do you have any bias in favor of or prejudice against Tenet?
- 2 Have you acted as an accuser in this matter at any time?
- 3 Have you acted as an investigator in this matter at any time?
- 4 Have you acted as a fact-finder in connection with this matter at any time?
- 5 Are you able to render an impartial decision?
- 6 Have you been involved as a decision-maker in this matter at any time?
- 7 Are you fair-minded and free of prejudice against either side?
- 8 Are you or any of your family members an employee, officer, shareholder, or agent of Tenet Healthsystems, Inc., East Cooper Hospital, or any subsidiary of Tenet or the hospital?
- 9 Have you or any of your family members entered into a business or contractual relationship with Tenet Healthsystems, Inc., East Cooper Hospital, or any subsidiary of Tenet or the hospital?
- 10 Will you, any of your business(es), or any of your family-member's business(es) gain any economic or future benefit from the outcome of this matter?

11 Are you, any of your business(es), or any of your family-member's business(es) in competition with the physician in this matter?

12 Are you a physician with staff privileges at East Cooper Hospital whose practice is independent of the hospital?

13 Do you, any of your business(es), any of your family-member's business(es), or any of your trusts now have or have they ever had an investment interest in or been a shareholder in Tenet Healthsystems, Inc, East Cooper Hospital, or any subsidiary of Tenet or the hospital?

14 Have you, any of your business(es), or any of your family-member's business(es) ever received any economic benefit or compensation of any kind from East Cooper Hospital, Tenet, or any business entity affiliated with Tenet or the hospital?

15 Does Tenet, East Cooper Hospital, or any business entity affiliated with Tenet or the hospital provide any goods or services to you, to any of your business(es), or to any of your family-member's business(es)?

16 Do you, any of your business(es), or any of your family-member's business(es) provide goods to or services for Tenet, East Cooper Hospital, or any business entity affiliated with Tenet or the hospital?

17 Are you employed by or do you contract with a corporation or entity that has a contract with Tenet, East Cooper Hospital, or any business entity affiliated with Tenet or the hospital?

18 Have you refrained from forming an opinion?

19 Is there any reason which adversely impacts your ability to render a fair and impartial decision?

20 Do you have any bias in favor of or prejudice against the physician?

21 When and from whom did you first learn about any of the circumstances surrounding this matter?

I certify that I have given honest answers and hereby consent to invalidation of findings if proven otherwise

Signed _____

C Holmes, MD

PO Box 187
Sullivan's Island SC 29482-0187

March 23, 2007

By Hand

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Re Bylaws Article VIII, Hearing and Appellate Procedures,
Section 8

Dear Madam

Please be advised and you are hereby on notice that your representative(s) failed to appear for the meeting this morning at 7 am. Further, when your hospital operator paged them, they failed to respond. The fact that your participants failed to appear and failed to return the page to the operator is consistent with participation by person(s) who are not impartial and who have acted as accusers, investigators, fact-finders, and/or initial decision-makers in connection with this matter. Your Bylaws mandate that participants in the appellate process be impartial. The appellant reiterates the reasonable request mandated by your Bylaws for impartial participants instead of participant(s) with a vested interest. Good faith compliance with your own Bylaws requires impartial participants.

3/23/2017
1042

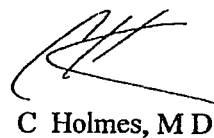
instead of those who fail to comply with the Bylaws, who impede the fair hearing and appellate process, and who thwart any attempts authorized under your Bylaws toward resolution

Further, in consideration of other physicians attempting to use your fax lines, you may want to have them serviced as both fax lines, # 881 4396 and # 375 5238, were malfunctioning yesterday

In addition, the appellant requests compliance with Article VIII, Section 2(H) This Section directs appointment of an impartial medical staff representative Please advise

Finally, pursuant to the Bylaws, the appellant requests the Article VIII, Hearing and Appellate Procedures Section 8, meeting be scheduled at 7 am on March 30, 2007, in the Physicians' Lounge or at some other mutually-convenient time The courtesy of a prompt response at the address listed above is requested

Sincerely,



C Holmes, M D

cc MSO

3/23/2007
2042

C Holmes, M D

PO Box 187
Sullivan's Island SC 29482-0187

March 26 2007

By Hand

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Re Article VIII, Section 10 - Breach of Confidentiality
Article VIII, Section 3 G 1 - *Voir Dire* and Challenge
Article VIII, Section 8 - Informal Meeting

Enclosure *Voir Dire* to be completed and returned by hearing officer

Dear Madam

Please be advised and you are hereby on notice that I have no fax and your records contain previous notice to that effect

Further, it has come to my attention that there has been unauthorized release of confidential information for which your parent company will be held accountable

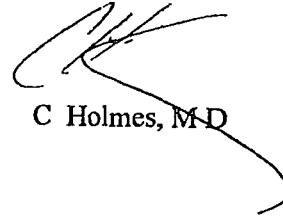
In addition, the appellant reiterates the previous challenge to the tainted appointments and to the Hearing Officer Pursuant to Article VIII, Section 3G 1, please forward the enclosed *Voir Dire* for the Hearing Officer to complete and return

Finally, pursuant to the Bylaws, the Article VIII, Hearing and Appellate Procedures, Section 8, informal meeting with an impartial person is scheduled for 7 am

3/26/2007

on March 30, 2007, in the Physicians' Lounge or at some other mutually-convenient time
Please call 883 3010 to confirm

Sincerely,



C Holmes, M.D.

3/26/2007

VOIR DIRE

The Bylaws, South Carolina law, the State and Federal judiciary, and the Federal Constitution mandate the right to *voir dire*. Under the Bylaws, only impartial physicians are qualified. The following questions will determine competency, qualifications, fairness, and freedom from prejudice. You have a duty and obligation to give honest answers. The answers you give are binding on you. Please retain a copy and return in the envelope provided.

- 1 Do you have any bias in favor of or prejudice against Tenet?
- 2 Have you acted as an accuser in this matter at any time?
- 3 Have you acted as an investigator in this matter at any time?
- 4 Have you acted as a fact-finder in connection with this matter at any time?
- 5 Are you able to render an impartial decision?
- 6 Have you been involved as a decision-maker in this matter at any time?
- 7 Are you fair-minded and free of prejudice against either side?
- 8 Are you or any of your family members an employee, officer, shareholder, or agent of Tenet Healthsystems, Inc., East Cooper Hospital, or any subsidiary of Tenet or the hospital?
- 9 Have you or any of your family members entered into a business or contractual relationship with Tenet Healthsystems, Inc., East Cooper Hospital, or any subsidiary of Tenet or the hospital?
- 10 Will you, any of your business(es), or any of your family-member's business(es) gain any economic or future benefit from the outcome of this matter?

11 Are you, any of your business(es), or any of your family-member's business(es) in competition with the physician in this matter?

12 Are you a physician with staff privileges at East Cooper Hospital whose practice is independent of the hospital?

13 Do you, any of your business(es), any of your family-member's business(es), or any of your trusts now have or have they ever had an investment interest in or been a shareholder in Tenet Healthsystems, Inc , East Cooper Hospital, or any subsidiary of Tenet or the hospital?

14 Have you, any of your business(es), or any of your family-member's business(es) ever received any economic benefit or compensation of any kind from East Cooper Hospital, Tenet, or any business entity affiliated with Tenet or the hospital?

15 Does Tenet, East Cooper Hospital, or any business entity affiliated with Tenet or the hospital provide any goods or services to you, to any of your business(es), or to any of your family-member's business(es)?

16 Do you, any of your business(es), or any of your family-member's business(es) provide goods to or services for Tenet, East Cooper Hospital, or any business entity affiliated with Tenet or the hospital?

17 Are you employed by or do you contract with a corporation or entity that has a contract with Tenet, East Cooper Hospital, or any business entity affiliated with Tenet or the hospital?

18 Have you refrained from forming an opinion?

19 Is there any reason which adversely impacts your ability to render a fair and impartial decision?

20 Do you have any bias in favor of or prejudice against the physician?

21 When and from whom did you first learn about any of the circumstances surrounding this matter?

I certify that I have given honest answers and hereby consent to invalidation of findings if proven otherwise

Signed _____

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
151 Meeting Street / Sixth Floor / Charleston SC 29401 2239
Tel 843 853 5200 Fax 843 534 4371
www.nelsonmullins.com

MAR 30 2007

Cynthia B Hutto
Tel 843 720 4307
Fax 843 534 4371
cindy.hutto@nelsonmullins.com

March 27, 2007

COPY

CONFIDENTIAL
PEER REVIEW INFORMATION
*Confidential. Protected from disclosure pursuant to
S C Code Ann §40-71-20 and other applicable legal privileges*

Via Facsimile & U S Mail

James J Hinchey, Jr.
Hinchey Murray & Pagliarini, LLC
895 Island Park Drive, Suite 203
Daniel Island, South Carolina 29492 ,

Re Cynthia E Holmes, M D

Dear Mr Hinchey

Enclosed is a copy of the correspondence and voir dire questions for the Medical Review Committee ("MRC") members received from Dr Holmes by Andrea Wozniak on Friday, March 23, 2007 Pursuant to your letter to the parties dated March 22, 2007, it is our understanding that the voir dire questions will be posed by you, as the Hearing Officer, to the MRC member on the record after the hearing is convened on April 4, 2007

Also enclosed is a copy of the correspondence and voir dire questions for you, as the Hearing Officer received from Dr Holmes by Andrea Wozniak on Monday, March 26, 2007 It is also our understanding that the voir dire questions will be responded to in writing before the hearing is convened or on the record on April 4, 2007 once the hearing is convened based on your March 22, 2007 letter to the parties

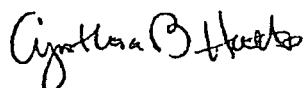
James J Hinchey, Esq

March 27, 2007

Page 2

In addition, please accept this letter as confirmation that the Medical Executive Committee does not intend to submit any voir dire questions to the MRC or to you as the Hearing Officer. This letter also confirms that the Medical Executive Committee will not have an objection if the size of the MRC is reduced as a result of the voir dire process as long as the MRC includes at least three (3) members upon conclusion of the voir dire process.

Very truly yours,



Cynthia B Hutto

Enclosures

cc Cynthia E Holmes, M D (via U S Mail)
✓ Julia Krebs-Markrich, Esq (via Facsimile & U S Mail)

C Holmes, M D

PO Box 187
Sullivans Island, SC 29482 0187

March 27, 2007

By Hand

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Re Bylaws Article VIII, Section 8 - informal meeting

Dear Madam

The Appellant has run the Cooper River Bridge Run for more than 10 years and would like to continue that tradition. Not only is it a way to support health and wellness, it is a way of joining in with and supporting this beautiful community we all live and work in. As a member of the Sullivans Island Park Foundation, we invite local participation and support for our functions and the Cooper River Bridge Run also is worthy. Perhaps an alternate could meet on Friday, March 30, 2007, at 7 00 a m , 12 30 p m , or 5 15 p m or on Thursday, March 29, after 5 00 p m

The Appellant is not prepared for any hearing date with less than 30 days notice. The Appellant reiterates the objection to the hearing date as it is not in compliance with Article VIII, Section 2 C which states that the "date of commencement of the hearing *shall not* be less than thirty days from the date of the notice of hearing " on March 6, 2007. A mutually-agreed upon hearing date is requisite.

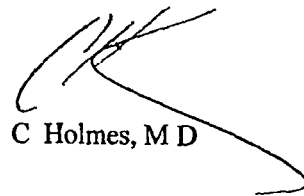
Further, the Appellant reiterates objection to the tainted panel appointments and to the appointment of the hearing officer. Also, the hearing officer is not impartial, has been paid more than handsomely to advocate against physicians, seeks to add a national hospital chain to his list of clients, and is disqualified due to conflict of interest. Pursuant to the South Carolina Rules of Professional Responsibility, including but not limited to,

3/27/2007
1 of 2

Rule 1 12, RPC, Rule 407, SCACR, the hearing officer is conflicted and the Appellant objects A Certified Hearing Officer is suggested

The traffic on Saturday may cause problems Please consider the alternate times and possible alternate locations Please advise

Sincerely,



C Holmes, M D

2 of 2
3/27/2007

C Holmes, M D

PO Box 187
Sullivan's Island SC 29482-0187

March 27, 2007

By Hand

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Re Bylaws Article VIII, Section 8 - informal meeting

Dear Madam

Please be advised and you are hereby on notice that the Appellant reiterates the objection to the hearing date as it is not in compliance with Article VIII, Section 2 C which states that the "date of commencement of the hearing *shall not* be less than thirty days from the date of the notice of hearing " on March 6, 2007 A mutually-agreed upon hearing date is requisite

Further, the Appellant reiterates objection to the tainted panel appointments and to the appointment of the hearing officer Further, the hearing officer is not impartial, has been paid more than handsomely to advocate against physicians, seeks to add a national hospital chain to his list of clients, and is disqualified due to conflict of interest Pursuant to the South Carolina Rules of Professional Responsibility, including but not limited to, Rule 1 12, RPC, Rule 407, SCACR, the hearing officer is conflicted and the Appellant objects

Enclosed please find a copy of your letter dated February 23, 2007 The letter is as contrived as the date which appears on it

As you know, the Article VIII, Section 8 informal meeting was scheduled and confirmed by you for March 23, 2007, at 7 am The Appellant attended the meeting in

10 f 2
3/27/2007

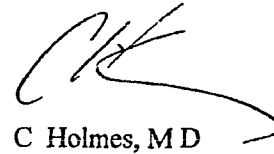
good faith, however, no impartial participant appeared Nor did anyone answer your hospital operator's page There was no notice given otherwise

As you know, there is no fax and the Appellant objects to breach of confidentiality

With regard to March 31, 2007, the Cooper River Bridge Run is Saturday and conflicts with the meeting, therefore, the Appellant has made a reasonable request for the Article VIII, Section 8 - informal meeting to be held at 7 00 am on March 30, 2007, with an impartial person Alternate times are 12 30 p m or 5 15 p m on March 30 Contrary to your statement otherwise, the physicians' lounge is not a public space and is completely consistent with informal meetings between physicians Alternate locations are the Appellant's office or the other physician's office

The courtesy of a good faith response at the address listed above is requested

Sincerely,



C Holmes, M D

2 of 2
3/27/2007

**East Cooper
Regional Medical Center**

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

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BY U S Registered Mail Return Receipt Requested

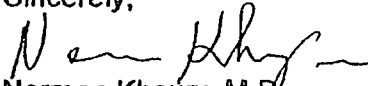
March 27, 2007

Cynthia E Holmes M D
P O Box 187
Sullivans Island
South Carolina 28482

Dear Dr Holmes

We are unable to meet with you on Friday, March 30 as requested As an alternative, Dr Mitchell Dr von Lehe and I will be available to meet with you on Saturday, March 31, 2007, in the second floor Conference Room at East Cooper Regional Medical Center at 8 00 a m You must notify the Medical Staff Office by noon on Friday, March 30 if you plan to attend This will be our last opportunity to meet to attempt voluntary settlement or resolution before the hearing scheduled for April 4, 2007

Sincerely,


Norman Khoury, M D
Chief of Staff

(ebm)

HINCHEY, MURRAY & PAGLIARINI, LLC

ATTORNEYS AT LAW

James J Hinchey, Jr
E Mail jhinchey@danielislandlaw.com

895 Island Park Drive, Suite 203
Charleston SC 29492
Phone 843 971 8646
Fax 843 971 8073

CONFIDENTIAL PEER REVIEW MATERIAL

March 27, 2007

Ms Andrea Wozniak
Chief Executive Officer
East Cooper Regional Medical Center
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Re Matter of Cynthia E Holmes M D

Dear Ms Wozniak

It is with regret that I withdraw as the Hearing Officer in the above matter Dr Holmes' discourteous, unprofessional and disruptive actions make it impossible to remain objective

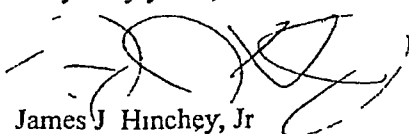
This morning I received an envelope delivered by certified mail There was no return address and there was no letter enclosed The envelope contained two unopened envelopes from me addressed and delivered to Dr Holmes' post office box on Sullivan's Island My unopened envelopes contained letters concerning procedural issues raised by Dr Holmes and Atty Hutto The certified envelope and the contents evidenced to me a willful subversion by Dr Holmes of the Bylaw process

On two occasions, Dr Holmes refused to participate in noticed telephone conferences established to discuss and resolve the procedural issues On neither occasion did she have the simple professional courtesy to notify anyone that she did not intend to participate On each occasion the hearing officer and counsel for the MEC waited for twenty minutes for her to enter the conference Significant time was spent before the conference preparing to appropriately direct the discussion of the issues

It has become clear to me that Dr Holmes has no regard for the Bylaw process that she agreed to as a member of the professional staff at East Cooper She seems to be on a mission to find a target for a lawsuit and not to engage in a meaningful professional review action I will send my file to the new hearing officer or will send it to you if you wish

Thank you sincerely for engaging me

Very truly yours,


James J Hinchey, Jr

JJH/dm

East Cooper
Regional Medical Center

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

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BY U S Registered Mail, Return Receipt Requested

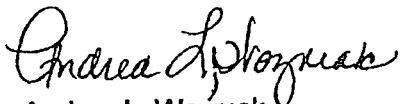
March 28, 2007

Cynthia Holmes, M D
P O Box 187
Sullivans Island, SC 29482

Dear Dr Holmes

Jim Hinchey has resigned as hearing officer for the hearing requested by you
His letter of resignation is attached John Massalon will now serve as the
hearing officer All correspondence going forward should be directed to him

Sincerely


Andrea L Wozniak
Chief Executive Officer

(ebm)

WILLS & MASSALON, LLC

ATTORNEYS AT LAW

Telephone (843) 727 1144

Facsimile (843) 727 7696

Post Office Box 859
Charleston, South Carolina 29402134 Meeting Street Suite 100
Charleston South Carolina 29401

March 28 2007

VIA FACSIMILEMs Andrea Wozniak
Chief Executive Officer
East Cooper Regional Medical Center
1200 Johnnie Dodds Boulevard
Mount Pleasant, SC 29464RE Cynthia Holmes, MD
Our File No 458-1

Dear Ms Wozniak

I am pleased that East Cooper Regional Medical Center (ECRMC) has retained me to serve as the hearing officer for the peer review proceeding involving Dr Cynthia Holmes on April 4, 2007. When asked to accept a new engagement, I find it helpful to explain my firm's policies and practices with regard to our services and billing. This letter describes the terms of this engagement and how ECRMC will be billed for those services.

1 Scope. I have been engaged to serve as the hearing officer for the peer review proceeding involving Dr Cynthia Holmes on April 4, 2007.

2 Professional Undertaking. I will have primary responsibility for this engagement. I will endeavor to provide these services in a professional manner and to the best of my ability, but I cannot guarantee the outcome of any given matter.

3 Fees and Expenses. This matter will be handled on an hourly basis at the rate of \$275 per hour. Additionally, you will be responsible for necessary expenses that we incur in the course of the engagement such as long distance toll charges, photocopying expense, computerized legal research and deposition transcripts. We will bill you on a monthly basis and request that you tender payment upon receipt. Please rest assured that we will make every effort to keep fees and expenses reasonable.

4 Retainer. We have agreed to accept this representation without requesting a retainer. However, if your account becomes delinquent, we reserve the right to request a retainer to secure payments.

10f 2
3/28/2007

Ms Andrea Wozniak

Page 2

March 28, 2007

5 Termination You have the right to terminate this engagement at any time I have the same right, subject to my obligation to give you reasonable notice to arrange alternative representation and where required, to obtain permission of the judge before whom a litigation matter is pending

Please contact me if you have any questions or concerns about any of the information contained in this letter Otherwise, if it meets with your approval sign this letter in the space below and return a copy of the signed letter to me via facsimile

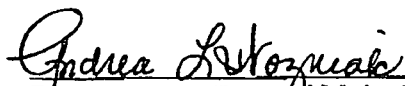
With kind regards, I am

Sincerely

WILLS & MASSALON, LLC



John A. Massalon


For East Cooper Regional Medical Center

3/28/07
Date

**East Cooper
Regional Medical Center**

March 28, 2007

Cynthia Holmes, M D
P O Box 187
Sullivans Island, SC 29482

Dear Dr Holmes

There is a typographical error on the first page of the letter that I sent you on Friday, March 23, 2007. The date of the letter should be "March 23, 2007" not February 23, 2007. The correct date of the letter is reflected on page 2 of the letter.

Sincerely,



Norman Khoury, MD
Chief of Staff

(ebm)

**East Cooper
Regional Medical Center**

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

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BY U S Registered Mail, Return Receipt Requested

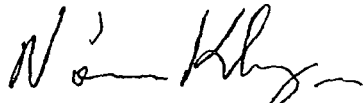
March 28, 2007

Cynthia E Holmes, M D
P O Box 187
Sullivans Island
South Carolina 28482

Dear Dr Holmes

Saturday, March 31, at 8 00 am is the only time available for the MEC representatives to meet with you The Cooper River Bridge Run is not a conflict We will meet in the 2nd floor classroom of the hospital at that time Please confirm that you will attend by calling Ms Meuli's Office at 375-5253 no later than noon on Friday, March 30 If we do not hear from you as indicated, we will assume you are no longer interested in meeting and we will therefore not attend

Sincerely,



Norman Khoury, MD
Chief of Staff

(ebm)

**East Cooper
Regional Medical Center**

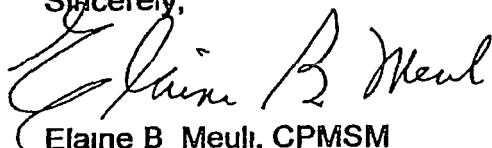
March 29, 2007

Cynthia E Holmes, MD
PO Box 187
Sullivans Island, SC 29482

Dear Dr Holmes

I was uncertain whether or not I had included Mr Hinchey's resignation letter along with Ms Wozniak's letter dated March 28, 2007 To be sure, I am enclosing a copy of that letter for your records

Sincerely,



Elaine B Meuli, CPMSM
Director, Medical Staff Services

Enc

East Cooper Regional Medical Center

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

Confidential Protected from Disclosure Pursuant to S C Code Ann § 40 71 20 and other applicable legal privileges

BY U S Registered Mail, Return Receipt Requested

March 29, 2007

Cynthia E Holmes M D
P O Box 187
Sullivans Island, SC 28482

Dear Dr Holmes

As a final attempt, Sunday, April 1, at 12 noon Dr von Lehe, Dr Mitchell and I will be available to meet with you No other date or time is available The meeting will be held in the 2nd floor classroom and no where else This is the last opportunity for the voluntary informal meeting that you requested prior to the hearing scheduled on April 4, 2007

You must confirm that you will attend at the time and place indicated by calling Ms Meuli's Office at 375-5253 no later than 1 00 p m on Friday, March 30 If we do not hear from you as indicated, we will assume you are no longer interested in meeting and we will therefore not attend

Because time is short and because you have only given us a Post Office Box and telephone number by which to reach you, I am having Ms Meuli inform you of this letter by mail and by telephone at the number you provided to us

Sincerely,



Norman Khoury, MD
Chief of Staff

(ebm)

East Cooper
Regional Medical Center

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

March 30, 2007

BY HAND DELIVERY

John A Massalon
Wills & Massalon, LLC
134 Meeting Street, Suite 100
Charleston, South Carolina 29401

Re Peer Review Matter – Cynthia Holmes, M D

Dear Mr Massalon

Thank you for agreeing to serve as hearing officer in the above referenced matter I believe that Mr Hinchey has forwarded to you his entire file, including correspondence from the parties and their counsel

For completeness of the hearing record, I am forwarding to you with this letter a copy of my letter to Dr Holmes, dated March 28, 2007, informing her that Mr Hinchey resigned as hearing officer and attaching his letter of resignation The letter informs her that you will be serving as hearing officer

I am also forwarding to you correspondence received from Dr Holmes, dated March 27, 2007 In the two letters Dr Holmes reiterates her objection to the hearing date, to the hearing panel appointments and to the appointment of the hearing officer

The Medical Executive Committee asks that you consider these renewed objections and rule accordingly The Medical Executive Committee's position remains that set forth in the letters from Ms Hutto to Mr Hinchey, dated March 21, 2007, and March 27, 2007, copies of which are enclosed A copy of the voir dire questions posed by Dr Holmes to the Medical Review Committee and of voir dire questions posed by Dr Holmes to the Hearing Officer was transmitted to Mr Hinchey in the letter from Ms Hutto, dated March 27, 2007

The hearing date in this matter is set for April 4, 2007 Please make your rulings as expeditiously as possible Copies of your ruling should be transmitted to Dr Holmes and to counsel for the Medical Executive Committee, Cynthia B Hutto and Julia Krebs-Markrich

Confidential Peer Review Information Protected from disclosure pursuant to S.C. Code Ann. §40-71-20 and other applicable legal privileges

The Medical Executive Committee also asks that you convene a telephone conference of the parties as soon as possible to address any remaining procedural questions. The contact information for the parties or their counsel is as follows:

Cynthia Holmes, M D
P O Box 187
Sullivan's Island, South Carolina 29482-0187
Tel 883 3010

Cynthia B Hutto, Esq (Counsel for the Medical Executive Committee)
Nelson Mullins Riley & Scarborough LLP
151 Meeting Street, Sixth Floor
Charleston, South Carolina 29401-2239
Tel 843 853 5200
Fax 843 534 4371
cindyhutto@nelsonmullins.com

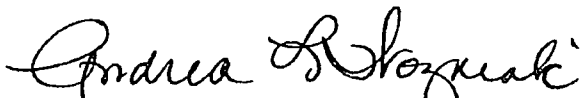
Julia Krebs-Markrich, Esq (Counsel for the Medical Executive Committee)
Reed Smith LLP
3110 Fairview Park Drive
Falls Church, Virginia 22042

Tel 703 641 4232
Fax 703 641 4340
jkrebs-markrich@reedsmith.com

I have asked Ms. Meuli in our Medical Staff Office to inform Dr. Holmes of this letter by telephone and to arrange for hand delivery to Dr. Holmes if she wishes.

Thank you

Very truly yours,



Andrea L. Wozniak, R N , F A C H E
Chief Executive Officer

Enclosures

Cc Cynthia Holmes, M D (By US Mail)
Cynthia B Hutto, Esq (via electronic mail)
Julia Krebs-Markrich, Esq (via electronic mail)

C Holmes, M D

PO Box 187
Sullivan's Island SC 29482 0187

March 30 2007

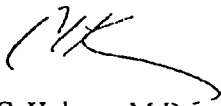
By Hand

Ms Andre a Wozniak
I C CH
1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464

Dear Madam

I am writing to confirm the meeting on Sunday at 12 00 p m

Sincerely,



C Holmes M D

cc MSO

C Holmes, M D

PO Box 187
Sullivan's Island SC 29482-0187

March 31, 2007

By Hand

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Dear Madam

I am in receipt of the recused hearing officer's letter to you dated 3/27/07. His unprofessional letter confirms the validity of the Appellant's challenge and his recusal.

Article VIII, Section G 1, expressly provides for the right to *Voir Dire* and challenge the hearing officer. The recused hearing officer refused to return *Voir Dire* in the stamped, self-addressed envelope provided. The Appellant made the challenges to the hearing officer in a timely manner. The recused hearing officer waited until the eve of the hearing to recuse himself. It is patently obvious the recused hearing officer is not impartial, cannot refrain from attempts to subvert the appellate process, and cannot restrain himself even now from attempts to prejudice the case. The Appellant requests that the inappropriate letter be removed from the file along with any and all references to it.

Further, the Appellant was not consulted regarding any telephone conferences, never knew they were being scheduled, and never agreed to any telephone conferences.

Enclosed please find a copy of the letter dated 3/9/07 requesting compliance with the Bylaws. The Appellant reiterates all previous objections including, but not limited to, the objection of improper notice under the Bylaws which did not include a complete copy of the Bylaws in effect at the time of the reappointment application. The Appellant has made the reasonable request that you forward a complete copy of the Bylaws in effect at

10f2

the time of the reappointment application which govern the Fair Hearing and Appellate process. Thus far, you have failed to comply with that reasonable request. Further, the Appellant objects to the hearing date because under the Bylaws it "*shall not* be less than 30 days from notice" (Article VIII, Section 2 C). As you know, it was scheduled with less than 30 days notice. A mutually-agreed upon hearing date is requested.

Sincerely,



C Holmes, MD

2082 3/31/2007

C Holmes, M D

PO Box 187
Sullivans Island SC 29482-0187

March 31, 2007

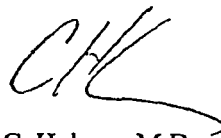
By Hand

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464

Dear Madam

Thank you for rescheduling the meeting around the Cooper River Bridge Run (CRBR) The thirtieth CRBR was once again a huge success It is a privilege and a blessing to be able to participate and it is always great fun to join friends and neighbors for the run Again, thank you for your kind consideration

Sincerely,



C Holmes, M D

April 3, 2007

CONFIDENTIAL

PEER REVIEW INFORMATION

Protected from Disclosure Pursuant to
S C Code Ann §40 71 20 and Other Applicable Legal Privileges

Via Facsimile

John A Massalon, Esq
Wills & Massalon, LLC
P O Box 859
Charleston, South Carolina 29402

Dear Mr Massalon

In light of Dr Holmes' most recent objections, the Medical Executive Committee wishes to submit this letter setting forth its position on certain objections raised by Dr Holmes in prior correspondence. These matters were previously addressed by counsel for the Medical Executive Committee in correspondence to the hearing officer and are being set forth in this letter to confirm that the matters set forth below represent the views of the Medical Executive Committee.

We write to respond to the various matters raised by Dr Holmes in her letters to Ms Wozniak, dated March 9, 2007 and March 16, 2007. A copy of the correspondence is enclosed. We had hoped that we would be able to address the issues raised by Dr Holmes in the previously scheduled telephone conferences that were requested by counsel and that were scheduled by the previous hearing officer with all parties for March 19, 2007 and March 21, 2007. Dr Holmes neither responded to the notice of the calls nor did she participate in the calls. Accordingly, we address the matters that she raises in this letter and ask that you make such pre-hearing rulings as may be necessary.

Dr Holmes' Objection to Appointment of Hearing Officer

Article VIII Section 2 F of the East Cooper Regional Medical Center Medical Staff Bylaws ('Bylaws') authorizes the administrator of East Cooper Regional Medical Center ('Hospital'

or 'ECRMC") to appoint a hearing officer to preside over a hearing conducted pursuant to Article VIII of the Bylaws. The role of the hearing officer is to conduct the hearing impartially. The hearing officer may not gain direct financial benefit from the outcome of the hearing and may not act as an advocate for either party. See Bylaws, Art. VIII, Section 2 F.

Ms. Wozniak originally requested that James J. Hinchey, Jr. serve as hearing officer in this matter. Mr. Hinchey subsequently withdrew as hearing officer by letter to Ms. Wozniak dated March 27, 2007. A copy of the letter from Mr. Hinchey withdrawing as hearing officer is also enclosed. Based on Mr. Hinchey's withdrawal, any objections by Dr. Holmes to his appointment as hearing officer in this matter are moot at this point.

Subsequent to Mr. Hinchey's withdrawal, Ms. Wozniak requested that you serve as the hearing officer. As to your appointment, Article VIII, Section 3 G 1 of the Bylaws affords Dr. Holmes a reasonable opportunity to challenge your appointment as hearing officer. The Medical Executive Committee requests that she submit any voir dire questions immediately and that you rule on any such objections as soon as possible so that this matter may go forward on April 4, 2007 as scheduled.

Dr. Holmes' Objection to Notice of Hearing and Application of the October 19, 2006 Bylaws

Dr. Holmes objects to the Notice of Hearing and Statement of Charges on the grounds that she did not receive a copy of the bylaws in effect as of August 4, 2006 ("August 4, 2006 bylaws") thirty days in advance of the hearing. The Bylaws, dated October 19, 2006, are the Bylaws that were in effect as of the date the Credentials Committee made its recommendation to the Medical Executive Committee and as such, they are the Bylaws that control this matter. Dr. Holmes received a copy of these Bylaws with the Notice of Hearing and Statement of Charges, dated February 22, 2007.

Under Article VIII, Section 1 B of the Bylaws, any notice is deemed effective on the date it was first received or five (5) working days after it was mailed first class postage prepaid, whichever occurs first. The Notice of Hearing and Statement of Charges and a copy of the Bylaws were mailed to Dr. Holmes, via registered mail on February 23, 2007. She may, therefore, be deemed to have received notice of these items thirty (30) days in advance of the April 4, 2007 hearing.

Mr. Hinchey, as hearing officer, requested on March 19, 2007, while waiting for Dr. Holmes to join the conference call, that the Medical Executive Committee provide Dr. Holmes with a copy of the August 4, 2006 bylaws. Without waiving any objection it may have to their relevance, the Medical Executive Committee, through counsel, included a copy of these bylaws with its March 12, 2007 correspondence to Mr. Hinchey. The Medical Executive Committee notes that there were no changes to the August 4, 2006 bylaws that would or could affect the outcome of this matter. The Medical Executive Committee also notes that a copy of the correspondence to Mr. Hinchey with the August 4, 2006 bylaws, was sent by counsel to

Dr Holmes as directed by the hearing officer, however, Dr Holmes' copy was returned to counsel on March 28 2007

Finally, the Medical Executive Committee submits that Mr Hinchey, as the initial hearing officer, ruled in correspondence dated March 22, 2007, that the Notice of Hearing and Statement of Charges was sufficient The Medical Executive Committee submits that the ruling of the initial hearing officer on this matter should stand

Dr Holmes' Objection to Appointment of the Hearing Panel by the Chief of Staff

Dr Holmes objects to the appointment of members of the Medical Review Committee by the ECRMC Chief of Staff, Dr Norman Khoury Dr Khoury appointed the members of the Medical Review Committee pursuant to his authority under Art VIII, Section 2 E of the Bylaws

Dr Holmes objects to Dr Khoury's role in appointing the members of the Medical Review Committee on the grounds that he 'almost killed or maimed' her husband who had been referred for urgent medical care

The Hospital and Dr Khoury have diligently searched their records and find no record or indication of such matter Dr Holmes provides no names, records, or documentation to substantiate her inflammatory comments Under these circumstances her objection is not well taken

Dr Holmes states that she seeks the appointment of a mutually agreed upon hearing panel Article VIII, Section 3 G 1 of the Bylaws affords Dr Holmes a reasonable opportunity to conduct voir dire and challenge the appointment of any Medical Review Committee member The Medical Executive Committee requests that the Hearing Officer require Dr Holmes to propose questions of the hearing panel member in advance of the hearing and that every effort be made to resolve any issues in advance of the hearing

Dr Holmes' objection to the appointment of a hearing panel member solely on the grounds that such individual was appointed by Dr Khoury should be overruled Dr Holmes provides no-basis-in-fact to demonstrate that individual hearing panel members cannot be objective by reason of such appointment Absent more, they should be permitted to continue in their appointed roles

The Medical Executive Committee also submits that Mr Hinchey, as the initial hearing officer, ruled in correspondence dated March 22 2007, that Dr Khoury was authorized by the Medical Staff Bylaws to appoint the members of the Medical Review Committee and advised Dr Holmes of her right to submit voir dire questions The Medical Executive Committee submits that the ruling of the initial hearing officer on the matter of Dr Khoury's right to appoint the Medical Review Committee members should stand

Dr Holmes' Objection to Representation of the Medical Executive Committee by Legal Counsel

Dr Holmes states that she will not be represented at the hearing by legal counsel. The Medical Executive Committee will accordingly also not be represented at the hearing by legal counsel, meaning that legal counsel will not directly address the Medical Review Committee on the Medical Executive Committee's behalf, nor will legal counsel present evidence or conduct cross-examination at the hearing. Legal counsel for the Medical Review Committee, will, however, be available to the Medical Review Committee prior to, throughout and after the hearing to assist as necessary.

Further, Dr Holmes states that an 'impartial MSR [Medical Staff Representative] is mandated.' In fact, the very nature of the role of the Medical Staff Representative is to advocate the position of the Medical Executive Committee and present its case at the hearing not to serve as an impartial participant in the proceeding. Article VIII, Section 2 H of the Bylaws gives the Chief of Staff or the Medical Executive Committee the authority to select a medical staff member to present the case on behalf of, and otherwise represent, the Medical Executive Committee at the hearing. Contrary to Dr Holmes' assertion, the Bylaws do not permit Dr Holmes to object to or otherwise dictate who the Chief of Staff or the Medical Executive Committee chooses to represent the Medical Executive Committee at the hearing. The Medical Executive Committee requests that the Hearing Officer confirm that the Chief of Staff or the Medical Executive Committee is authorized to select a Medical Staff Representative of its own choosing and is not required to obtain the agreement of Dr Holmes to its selection.

Medical Executive Committee Request for Dr Holmes' Witness and Exhibit List

Dr Holmes was required to provide the Medical Executive Committee with any documents or exhibits she expects to submit on her behalf at the hearing at least ten days prior to the hearing. Dr Holmes failed to produce any documents or exhibits she expects to submit at the hearing on her behalf to the Medical Executive Committee at least ten days prior to the hearing. In fact, to date Dr Holmes has not submitted any documents or exhibits to the Medical Executive Committee. The Medical Executive Committee objects, therefore, to the introduction of any exhibits or documents by Dr Holmes at the hearing.

Voir Dire of Hearing Officer and MRC Members

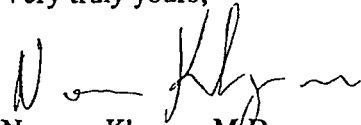
On March 27, 2007, counsel for the Medical Executive Committee submitted correspondence and voir dire questions to the hearing officer for the Medical Review Committee members received from Dr Holmes by Andrea Wozniak on Friday, March 23, 2007. Pursuant to the hearing officer's letter to the parties dated March 22, 2007, it was our understanding that the voir dire questions would be posed by the hearing officer to the MRC member on the record after the hearing is convened on April 4, 2007. A copy of the correspondence from Dr Holmes and the voir dire questions for the Medical Review Committee members is enclosed.

Counsel for the Medical Executive Committee also submitted correspondence and voir dire questions for the hearing officer received from Dr Holmes by Andrea Wozniak on Monday, March 26, 2007. A copy of this correspondence to the hearing officer with both sets of voir dire questions was sent by counsel to Dr Holmes, however the correspondence was returned to counsel on April 2, 2007. It is also our understanding that the voir dire questions will be responded to in writing before the hearing is convened or on the record on April 4, 2007 once the hearing is convened based on the March 22, 2007 letter of the hearing officer to the parties. A copy of the correspondence from Dr Holmes and the voir dire questions for the hearing officer is also enclosed.

In addition, please accept this letter as confirmation that the Medical Executive Committee does not intend to submit any voir dire questions to the Medical Review Committee or to you as the hearing officer. This letter also confirms that the Medical Executive Committee will not have an objection if the size of the Medical Review Committee is reduced as a result of the voir dire process as long as the Medical Review Committee includes at least three (3) members upon conclusion of the voir dire process.

This information is respectfully submitted on behalf of the Medical Executive Committee.

Very truly yours,



Norman Khoury, M.D.
Chief of Staff
East Cooper Regional Medical Center

Enclosures

cc Cynthia E Holmes, M.D.
Julia Krebs-Markrich, Esq
Cynthia B Hutto, Esq

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

AFFIDAVIT OF
ELAINE B MEULI

APPEARING BEFORE ME, THE UNDERSIGNED, HAVING BEEN DULY SWORN,
DEPOSES AND SAYS

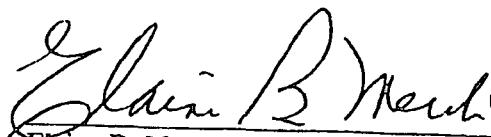
1 My name is Elaine B Meuli, CPMSM I am over 18 years of age, of sound mind, and am competent to make this Affidavit The statements contained herein are true and correct and are based upon my personal knowledge

2 I am the Director of Medical Staff Services at East Cooper Regional Medical Center located at 1200 Johnnie Dodds Boulevard Mt Pleasant South Carolina 29464 ("East Cooper") and have over twenty (20) years of experience in medical staff affairs and credentialing issues

3 In my position as the Director of Medical Staff Services for East Cooper, I was personally responsible for mailing the letter to Cynthia E Holmes, M D from Norman Khoury M D, dated February 22, 2007

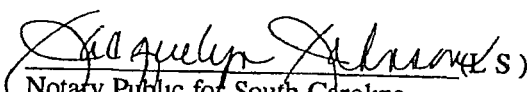
4 I prepared and included a computer generated copy of the complete text of the Medical Staff Bylaws in effective as of October 19, 2006 with the letter from Norman Khoury M D to Cynthia E Holmes, M D dated February 22 2007

FURTHER THE AFFIANT SAYETH NOT


Elaine B Meuli, CPMSM

SWORN to and subscribed before me

this 4th day of April, 2007


Notary Public for South Carolina
My Commission Expires 9/13/10

C Holmes, M D

PO Box 187
Sullivans Island, SC 29482-0187

April 7, 2007

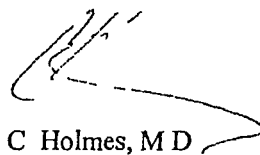
By Hand

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Dear Madam

I am writing to request a copy of your employee's affidavit dated 4/4/07 Please forward to the address listed above

Sincerely,



C Holmes, M D

**East Cooper
Regional Medical Center**

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

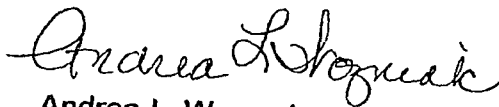
April 9, 2007

Cynthia E Holmes, M D
P O Box 187
Sullivans Island, SC 29482

Dear Dr Holmes

We are in receipt of your letter dated April 7, 2007 wherein you request a copy of our employee's affidavit dated 4/4/07 Please clarify to which employee you are referring as well as the legal action it involves

Sincerely,



Andrea L Wozniak
Chief Executive Officer

(ebm)

C Holmes, M D

PO Box 187
Sullivans Island, SC 29482-0187

April 12, 2007

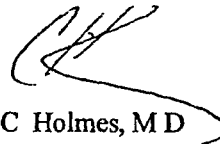
By Hand

Ms Andrea Wozniak
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Dear Madam

Thank you for your kind response to the letter dated 4/7/07, a copy of which is enclosed Please forward copies of all affidavits dated 4/4/07 Please forward to the address listed above

Sincerely,



C Holmes, M D

East Cooper
Regional Medical Center

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

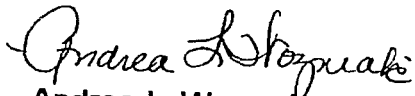
April 17, 2007

Cynthia E Holmes, M D
P O Box 187
Sullivans Island, SC 29482

Dear Dr Holmes

As requested in your letter dated April 12, 2007, enclosed please find a copy of our employee's affidavit dated April 4, 2007

Sincerely,


Andrea L Wozniak
Chief Executive Officer

(ebm)

**East Cooper
Regional Medical Center**

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

*Confidential Peer Review Information Protected from disclosure pursuant to S.C. Code Ann. §40-71.20 and other applicable legal
privileges*

April 25, 2007

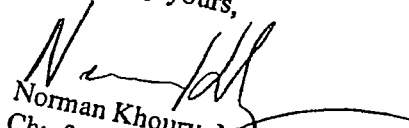
John A. Massalon, Esq
Wills & Massalon, LLC
134 Meeting Street, Suite 100
Charleston, South Carolina 29401

Re Cynthia Holmes, MD

Dear Mr. Massalon

I enclose the closing statement of the Medical Executive Committee. I understand that you will
transmit a copy to Dr. Holmes

Very truly yours,


Norman Khoury, MD
Chief of the Medical Staff
East Cooper Regional Medical Center

Enclosure

Confidential Peer Review Information

Not subject to disclosure pursuant to S C Code Ann. §40 71 20 and other applicable legal privileges

East Cooper Regional Medical Center

Peer Review Matter Cynthia Holmes, M D

Closing Statement of the Medical Executive Committee

The question in this case is whether Dr Cynthia Holmes' application for associate staff status and core privileges at East Cooper Regional Medical Center should be denied because of her failure to demonstrate current surgical competence The Medical Executive Committee ("MEC") has recommended that her application be denied and that she be continued in her present status as a member of the consulting medical staff The MEC's reason for the adverse recommendation is straightforward Core privileges in ophthalmology at East Cooper Regional Medical Center include authority to perform surgical procedures on the eye A physician who wishes to have privileges to perform surgical procedures at East Cooper must be able to demonstrate current competence in surgery A physician who does not provide evidence of current competence in surgery will not be allowed to perform surgery

Background of the Case

At the time of her request for appointment to the associate staff on October 7, 2006 (Exhibit 5, MEC Ex A, p 000074), Dr Holmes held privileges as a member of the consulting medical staff (Exhibit 5, MEC Ex A p 000089) The consulting medical staff consists of physicians who do not admit patients to the hospital but who desire privileges to provide consultative services to patients at the request of active or courtesy staff physicians Consulting staff members are not eligible to admit patients, perform surgery, vote or hold office They may, however, render assistance in the operating room at the specific request of a surgeon who has admitting and operative privileges at East Cooper Exhibit 4, Medical Staff Bylaws, Article IV, Section 5, p 18

Dr Holmes' 2006 application for reappointment to the medical staff made clear that she was seeking to change her medical staff status from consulting to associate staff status The delineation of privileges sheet she submitted shows that she circled the category for

"reappointment" and she marked the box for "core privileges " Exhibit 5, MEC Exhibit A, p 000031) At East Cooper Regional Medical Center, core privileges in ophthalmology include "admission, work-up, diagnosis, and the performance of surgical procedures on patients of all ages presenting with illnesses, injuries and disorders of the eye, including its related structures and visual pathways " Id , emphasis added

With her application Dr Holmes submitted what she described as "documentation of management of 25 patients " Exhibit 5, MEC Exhibit A, p 000073, pp 000048-72 The documentation she submitted appeared to consist of office visit notes and showed only medical management of patients There were no surgical dictations or other documents indicating that she had performed surgical procedures Dr Holmes also did not identify any hospital affiliations in her application Although Dr Holmes' application made clear that she sought to change from a non-operating status to an operating status, she did not provide any evidence of current surgical capability or that she had otherwise performed surgery on the eye in the recent past

On December 20, 2006, the MEC notified Dr Holmes that her application for reappointment had been received and processed The MEC further informed her that the MEC was recommending to the Governing Body that her application for reappointment be denied based upon inadequate documentation of current clinical competency In sum, the MEC told Dr Holmes that she had not demonstrated her ability to perform competently the surgical privileges she requested The letter informed Dr Holmes of her right to appeal the adverse recommendation Exhibit 5, MEC Exhibit A, p 000009

By letter, dated January 15, 2007, Dr Holmes submitted a timely notice of appeal and request for hearing Exhibit 5, MEC Exhibit A, p 000008

By letter, dated February 22, 2007, the Medical Executive Committee gave Dr Holmes notice of the time, date and place of the hearing Exhibit 5, MEC Exhibit A, p 000001 Under Article VIII, Section 1 B of the Medical Staff Bylaws, a notice is deemed effective on the date it is first received or five (5) working days after it is mailed first class prepaid, whichever occurs first Ms Elaine Meuli, the director of the medical staff office, testified that she sent the notice of hearing and statement of charges to Dr Holmes as well as a copy of the bylaws, dated October 19, 2006, via registered mail on February 23 2007 Dr Holmes was, therefore, deemed to have received notice of these items thirty days in advance of the April 4, 2007 hearing

Dr Holmes objected to the application of the October 19, 2006 bylaws and to the timeliness of the notice of hearing. Both of these objections were considered and rejected by Mr Hinchey, the then hearing officer, in his letter ruling of March 22, 2007. The same procedural issues were considered and Dr Holmes' objections overruled by Mr Massalon, the hearing officer who presided at the hearing. Tr 19-20

From the perspective of the MEC, the question of whether the bylaws issued October 19, 2006 control this matter (the bylaws in effect when the Credentials Committee reviewed her application and made its recommendation to the MEC) or whether the preceding bylaws issued in July 2006 should control (the bylaws in effect on October 7, 2006, the day Dr Holmes submitted her application for reappointment [Exhibit 5, MEC Ex A, p 000074]) is an irrelevant diversion. There was no difference between the July 2006 and October 19, 2006 bylaws that had any bearing on Dr Holmes' application for reappointment, nor does she claim that any changes were made to the July 2006 bylaws that had such effect.

Dr Holmes Failed To Meet Her Burden of Proof

Under the pertinent provisions of the Medical Staff Bylaws, an applicant for reappointment has the burden of producing adequate information to demonstrate current clinical competence. Exhibit 4, Medical Staff Bylaws, Art V, Section 3 C. Dr Holmes did not meet that burden because she did not present any evidence demonstrating the surgical competence necessary to exercise core privileges in ophthalmology.

The Chairman of the Department of Surgery at East Cooper testified that he reviewed Dr Holmes' application for associate staff status with core privileges and recommended that she remain on the consulting staff because he found no evidence of surgical competency. Tr 106. His adverse recommendation was presented to the Credentials and Medical Executive Committees. Exhibit 5, MEC Exhibit A, p 000012. Dr Rawls testified that East Cooper is not a training institution, and that the hospital expected everyone to attain a certain level of competency before being awarded clinical privileges. Tr 109,110.

Dr William John Langley is the Chief Medical Officer at East Cooper. Tr 119. Dr Langley testified that he had reviewed Dr Holmes' application for associate staff status and clinical privileges and did not see any demonstration of current surgical competence. Tr 120.

Dr Langley testified that he was present at the meeting of the Credentials Committee and that Dr Holmes' application was denied because evidence of current clinical competence had not been supplied Tr 119

Dr Langley testified that there was no current peer reviewed information regarding Dr Holmes' surgical competence According to Dr Langley, Dr Holmes could have supplied case reviews from other institutions had she chosen to do so Tr 124

Dr Langley testified that in his effort to find corroborating information for Dr Holmes he had contacted her physician references to ask about her surgical competence One of the three individuals did not respond to his call The other two physicians listed as references by Dr Holmes stated that they could not attest to Dr Holmes' surgical competence Tr 120

Dr John Von Lehe testified on behalf of the MEC He stated that the MEC looked for evidence of Dr Holmes' surgical competence and that there was no such evidence based on the information provided to the MEC

Dr M Edward Wilson, Jr, is the Chairman of the Department Ophthalmology at the Medical University of South Carolina and testified as an expert witness on behalf of the Medical Executive Committee Dr Edwards testified that it was reasonable to expect that an ophthalmologist who wants hospital privileges in ophthalmology be able to demonstrate current surgical competence if the ophthalmologist is seeking privileges that will authorize him/her to perform surgery Dr Wilson testified that there was no evidence or documentation of current clinical competence in Dr Holmes' credentialing file He testified that the patient care summaries she submitted were "indicative of office-based practice and certainly looked appropriate for office based practice " However, there was "not any indication of surgery" that he could find in the summaries He also did not see any indication of other hospital affiliation or letters of support from other practitioners stating that they had witnessed her surgical competence Tr 90-91 Dr Wilson testified that in his expert opinion, based on the facts presented to him, it was reasonable for the MEC to conclude that Dr Holmes did not demonstrate current surgical competence Tr 91 According to Dr Wilson

credentialing should be based on the requirements of
core privileges If they include surgical competence, then

it's reasonable to ask for demonstration of surgical competence, because the granting of those privileges might then allow someone to practice surgical ophthalmology. That's what I see most, if not all, ophthalmologists asking for, that they're wanting to perform surgery.

Rarely do our ophthalmologists, except in a surgical trauma or elective surgical situation, need hospital privileges. Admitting patients, those are normally done under another service. They're usually handed off in the hospital by an ophthalmologist.

That's why core privileges in ophthalmology normally include the performance of surgery, and so we usually ask for some demonstration that surgical competence is kept up. And I think that part, that decision that I saw was reasonable. It was reasonable for [the MEC] to expect that

Tr 93-94

The MEC's position in this case is clear. If a physician is going to practice a surgical specialty in the hospital and have surgical privileges, the physician needs to be able to demonstrate current surgical competence. Dr. Holmes did not do that. That is the reason the MEC has recommended that her application for change in status and core privileges be denied.

Dr. Holmes' Response

Dr. Holmes did not testify. She did, however, submit several documents¹, two of which were admitted into evidence. Her credentials file was admitted into evidence in full by the MEC.

¹ The hearing officer properly rejected the other documents Dr. Holmes attempted to enter into evidence for lack of relevance. An affidavit, dated June 1998, was signed eight years before the events at issue. Similarly, a document styled "Practitioner's Appeal Submission" and another styled "Practitioner's Hearing Submission" also dealt with proceedings in 1998 and are thus not relevant here.

There is nothing in the portion of the file relating to the 2006 application for reappointment that demonstrates current surgical competence

Dr Holmes also submitted an article from the September 15, 2006 edition of Medical Economics titled "Economic Credentialing play hard ball" The article is not relevant to the dispute at issue First, the issue at hand is whether Dr Holmes has demonstrated competence to perform the surgical privileges she requested There was no such issue in the circumstances described in the Medical Economics article Secondly, Baptist Health Medical Center, the hospital described in the article, had a policy whereby staff physicians with a direct or indirect financial interest in a competing hospital would lose their appointments and clinical privileges at Baptist Hospital There is no such policy at East Cooper Regional Medical Center Ultimately, the Baptist situation dealt with conflict of interest issues between the hospital and physicians on its staff The matter at hand deals with surgical competence, not financial conflict Accordingly, the article has no bearing on the recommendation of the MEC that Dr Holmes not be awarded associate staff status with core privileges '

In the course of her presentation, Dr Holmes stated that she has assisted in surgery during the past two years There is no such record at East Cooper Regional Medical Center Tr 158 Importantly, Dr Holmes had the opportunity to submit evidence of surgery at any accredited ambulatory surgery center or hospital She was not restricted to surgeries at East Cooper Testimony of Dr Langley, Tr 124, 165 Dr Holmes' apparent failure to perform surgery anywhere or at least to demonstrate that she had done so, substantiates the MEC's recommendation to deny her a staff status that would enable her to perform surgery

Finally, Dr Holmes in discussion stated that the chairman of the Credentials Committee, Dr Yantis should be replaced The duration of Dr Yantis' tenure as chairman of the Credentials Committee is not in issue here The sole basis for the MEC's adverse recommendation was the absence of documented evidence that Dr Holmes is clinically competent to perform surgery at this time

Dr Holmes Failed To Meet Her Burden of Proof

Article VIII, Section 3H of the Medical Staff Bylaws places the burden on Dr Holmes to prove, by clear and convincing evidence that the recommendation of the MEC is arbitrary,

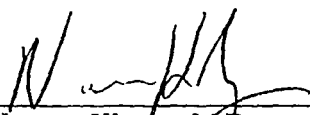
capricious and unreasonable. The MEC has demonstrated a basis-in-fact for its recommendation that Dr. Holmes' application for associate staff status and core privileges be denied. For the reasons set forth above, Dr. Holmes has failed to show that the MEC's rationale was arbitrary, capricious or unreasonable.

Conclusion

The medical staff has responsibility for the oversight of services delivered by the practitioners on the staff. Exhibit 5, MEC Exhibits C, D, E. The medical staff is charged specifically with responsibility for the evaluation of the competency of practitioners who are awarded privileges and the delineation of the scope of privileges that will be granted. Exhibit 5 MEC Exhibit C. The MEC believes that being able to demonstrate current competence for the privileges one seeks is not only required under the bylaws and required by the hospital accrediting organization, it is crucial for being able to assure that quality care is delivered in this hospital. Accordingly, the MEC asks that the hearing panel uphold its recommendation in this case.

Respectfully submitted

Medical Executive Committee

By 
Norman Khoury, M.D.
Chief of the Medical Staff

Date 4/25/02

WILLS & MASSALON, LLC

ATTORNEYS AT LAW

Telephone (843) 727 1144

Facsimile (843) 727 7696

Post Office Box 859
Charleston South Carolina 29402

134 Meeting Street Suite 100
Charleston South Carolina 29401

April 26 2007

CONFIDENTIAL - PEER REVIEW INFORMATION

VIA PICK-UP

Cynthia Holmes MD
Post Office Box 187
Sullivan s Island South Carolina 29482-0187

RE Cynthia E. Holmes, MD/East Cooper Regional Medical Center
Our File No 458-1

Dear Dr Holmes

Enclosed please find a copy of East Cooper Regional Medical Center s Closing Statement of the Medical Executive Committee dated April 25, 2007 I received your voice mail requesting an extension of time to remit your Closing Statement pursuant to your request Your Statement will be due on Monday, April 30, 2007 If you have any questions please do not hesitate to contact me

With kind regards I am

Very truly yours

WILLS & MASSALON, LLC


John A Massalon

Enclosure

cc Norman Khoury MD (Via US Mail)

C Holmes, M D

PO Box 187
Sullivans Island SC 29482-0187

MDJD2k@aol.com

April 28, 2007

N Khoury, M D
1240 Hospital Drive
Mt Pleasant, SC 29464

Dear Sir

Enclosed please find the physician's supplemental hearing submission

Sincerely,

C Holmes, M D

BEFORE THE
MEDICAL REVIEW COMMITTEE (MRC)
PURSUANT TO THE PHYSICIAN'S REQUEST FOR REVIEW

PHYSICIAN'S SUPPLEMENTAL
HEARING SUBMISSION

Introduction

Pursuant to the bylaws, the physician has requested that this Honorable Committee, the MRC, review the physician's recent reappointment. Due to material omissions, the physician respectfully requests that the MRC recommend reconsideration of the reappointment application.

Issue Before the MRC

Is it reasonable to recommend reconsideration of material information which was inadvertently omitted? Yes

Preservation of Objections

The Fair Hearing provisions of the bylaws, Article VIII, mandate a fair and impartial appellate process. The physician objects to the medical staff representative who acted as accuser, investigator, fact-finder, and/or initial decision-maker in this matter, who has a vested interest in the outcome, and who initiated improper *ex parte* communications. The hospital has failed to comply with its own bylaws, has violated the Fair Hearing procedures under the bylaws, and has deviated from the standards of fundamental fairness and due process, principles upon which this country was founded and which are required under the bylaws and as per the JCAHO. See Code of Federal Regulations 42, Sections 482.12 and 482.22 found at MEC Exhibit E. See MEC Exhibit C, p MS-6, Rationale for MS 1.20, MEC Exhibit C, p MS-7, #15 Fair Hearing, MEC Exhibit C, p MS-24, Rationale for MS 4.50 - lack of bias, MEC Exhibit C, p MS-24, MS 4.50 # 4, impartiality. The physician expressly preserves and does not waive any and all objections thereto.

The physician objects to the failure by the MSR to produce documents and a witness list at least 10 days prior to the hearing in compliance with the bylaws. Also, the physician objects to failure to address inadequate notice of the hearing until the day of the hearing preventing any meaningful opportunity to be heard and preventing any meaningful opportunity to call witnesses, fundamental guarantees under the bylaws, under the Constitution, and as promised by Andrea Wozniak in the letter dated 12/20/06.

The physician objects to the original hearing officer's lack of diligence in addressing the timely challenge to the hearing officer, his failure to timely respond to *Voir Dire*, and his "eleventh hour" recusal. The hearing officer's recusal confirms the validity of the challenge and it is retroactive at least to March 9, 2007. In addition, the physician objects to his unprofessional conduct aimed at prejudicing the Fair Hearing and appellate

process. Further, the physician reiterates the challenge to his replacement, his replacement's rulings including the finding that bylaws which were not even in existence at the time the application was submitted govern the reappointment application. The physician also objects to the hearing officer's usurping the MRC's right to request sworn testimony and to the lack of sworn testimony.

The physician objects to inadequate notice. Tenet has failed to comply with notice requirements. As specified in Article VIII, Section 2 C 3, "the MEC shall, not less than 30 days prior to the date of the hearing, give notice and shall deliver a copy of the Bylaws. The date of commencement of the hearing shall not be less than 30 days from the date of notice." The physician was not given adequate notice under the bylaws. Further, the "deeming" provision regarding notice applies only where the actual date of notice is unknown and not in this case, where the actual date of notice is documented to be less than 30 days. Further, the spirit and intent of the Fair Hearing provisions of the bylaws prohibit Tenet from exploiting notice provisions to deprive the physician of a meaningful opportunity to be heard, to deprive the physician of 30 days actual notice, and to deprive the physician of any meaningful opportunity to call witnesses.

The bylaws require that a complete set of the bylaws governing the reappointment application be provided; otherwise, any attempted notice is ineffective. Tenet's MSO employee testified that she did not provide a complete set of the Bylaws including pertinent rules and regulations; therefore, any attempted notice was ineffective. The rationale for requiring a complete set of the bylaws is a recognition of Tenet's current policy of not providing copies of the bylaws to practitioners. The rationale is also rooted in traditional notions of fundamental fairness and due process so that the practitioner can prepare for the hearing according to the rules in effect at the time the reappointment application was submitted. There is no notice where attempted notice fails to comply with all elements of the notice requirements. Statements that there were no changes in

the bylaws are unverified and irrelevant and if true, do not rectify the confusion created due to the improper date and do not fulfill the purpose of the bylaw provision

The physician objects to the hospital's erroneous characterization of this hearing as "peer review " The hospital's chief medical officer, a former pediatrician with no patient care duties, no surgery qualifications, and no recent admissions, testified that peer review occurs at Department of Surgery meetings held four times per year with approximately 15 cases None of those cases is involved here The physician objects including, but not limited to, objection to the multitude of letters branded on the outside of the envelope with CONFIDENTIAL and PEER REVIEW

Background

In January 1994, the physician established an ophthalmology practice located in the Durst Family Medicine building on Sullivans Island in Charleston County. At that time, East Cooper Community Hospital (ECH) located in Mt Pleasant granted privileges to the physician incident to the medical practice on Sullivans Island. ECH is the only hospital in the geographic area. On or about March 1995, Tenet Healthsystem, Inc., (Tenet) purchased and/or acquired ECH and Durst Family Medicine. Tenet engaged in a number of predatory, anti-trust, and restraint of trade acts directed toward the physician and the physician's practice. On Tenet's behalf, Dr Yantis' expressly stated rationale was "With managed care, there's a smaller pie, and some doctors are going to be left behind." In August 1997, Tenet summarily withdrew the physician's hospital privileges without notice, in violation of its own bylaws, and in the absence of any adverse patient care issues. Through counsel, the physician's privileges were restored in 1997.

In 1998, the physician engaged the law firm now known as Haynsworth, Sinkler, Boyd, P A, for representation in the hospital hearing. The law firm was hired approximately one month prior to the hearing. The physician was billed approximately \$55,000.00 despite the law firm's admission that much of the work had already been done by previous attorneys. The physician has no attorney for this hearing because of the excessive fees. Though the prior hearing resulted in a recommendation to return privileges, ECH did not permit the physician to practice at ECH such that the law firm advised the physician to file suit against Tenet and ECH.

On or about January 20, 1999, the physician employed the law firm in a claim against Tenet on a contingency fee basis with an initial deposit paid in the amount of \$5,000.00. The law firm failed to provide a written contingency fee agreement, a clear violation of the Rules of Professional Conduct. The law firm advised the physician there

were anti-trust claims against Tenet and that the law firm had an expert in anti-trust litigation. Following the termination of representation, the physician learned that the law firm had failed to name certain necessary parties to the Federal Court case who were integral to prove the anti-trust claims against Tenet and the firm's anti-trust expert knew or should have known this fact.

In May 1999, the law firm filed suit on behalf of the physician in an anti-trust action in the U.S. District Court (Federal Court) and obtained a Temporary Injunction that restored the physician's privileges at ECH.

As the Federal Court case proceeded, the law firm failed to pursue claims against Tenet and failed to respond to Tenet's discovery requests. These facts were unknown to the physician at that time. As a result of the law firm's failure to respond to discovery, a Motion to Compel was filed. The law firm's failure to respond to discovery and comply with Federal Court orders resulted in dissolution of the Temporary Injunction causing the physician to lose privileges again.

The loss of the injunction caused severe economic harm and adversely affected the physician's professional reputation and practice. The physician was not permitted to perform surgeries already posted to the surgery schedule because of the law firm's failure to comply with Federal Court Orders. The law firm failed to advise the physician regarding appeal of the loss of the Temporary Injunction.

During 1999, the law firm erroneously invoiced the physician for the contingency fee claim against Tenet. The physician continued to make payments for services rendered in the 1998 administrative proceedings representation as well as paying for costs and expenses for the Federal Court case.

At different times, the law firm threatened to withdraw from their representation in the Federal Court case, filed a Motion to Withdraw, withdrew their Motion to Withdraw, changed the terms of representation, requested a \$40,000.00 payment in order to proceed to trial in the Federal Court case, then breached that contract after payment.

was made, and made numerous billing errors on invoices that resulted in great confusion and doubt about the loyalty of the law firm to adequately represent the physician's interests. During this time frame, the physician learned that the law firm had one or more conflicts of interest because the law firm represented ECH also.

During the course of the Federal case and after receiving a second check for \$43,000.00, the law firm failed to diligently represent the physician in various ways including failure to follow Federal Court orders, failure to name necessary parties, failure to interview witnesses critical to the anti-trust and other claims, and failure to pursue discovery to support the causes of action they pled.

In April 2000, the Federal Court dismissed the anti-trust claims against Tenet but expressly refused Tenet's request for dismissal of the State Court claims. The law firm failed to appeal the dismissal of the Federal Court case. The law firm advised the physician to file suit in State Court on state law claims including claims against the hospital administrator William Cone for slander based upon his statements that the physician "bought her medical degree."

By April 2000, the law firm terminated the representation but failed to return the unearned monies, \$43,000.00 paid in advance for trial, a violation of the Rules of Professional Conduct. The law firm also refused to provide an accounting or discuss the sums paid.

Subsequently, the State Court claims regarding Tenet's economic credentialing in the new bylaws (see Attachment # 1) and others were resolved in the physician's favor with a promise by the hospital to treat the physician with good faith and to follow the bylaws in good faith, promises which Tenet has not honored.

Unknown at the time of the Federal Court case, the physician's competitor who was then the head of the Department of Surgery had abused and misused his position in collusion with Dr. Yantis to wrongfully withhold the physician's privileges. See attached copy of the minutes, Attachment # 2. Committee members later testified that they were

misled to believe that the physician was not in compliance with the bylaws. The law firm failed to depose the culpable competitor and failed to develop the restraint of trade, anti trust, and other claims they pled.

Under oath, the culpable competitor later admitted his lack of competence in performing modern small incision cataract surgery. He admitted that he had tried to master small incision cataract surgery but failed. The competitor's wrongful acts resulted in restraint of trade thereby restricting public access in this geographic area to the well-recognized superiority of modern small incision surgery and technology. Small incision cataract surgery is a revolutionary advance over large incision surgery. The competitor, using outdated, large-incision cataract surgery, slices open the eye with a large, almost 180 degree incision to remove the swollen and cataractous lens whole. The competitor's wrongdoing adversely affected the public interest by restricting access to the most modern and safest procedures. The culpable competitor misused and abused his position as head of the Department of Surgery to eliminate his competition. He has stated and has advertised in a local *women's* magazine that he is the only fulltime ophthalmologist with medical and surgical privileges in the East Cooper area (see Attachment # 3). Recently, Tenet chose to recognize this culpable competitor by hiring for him a hospital employee with a published job description of "Surgical Tech for Dr Grady," suggesting he needs the help.

At the last reappointment, the Departmental Review resulted in approval of the physician's request for Associate status (see Attachment # 4), however, Dr Yantis prevented the reappointment application from being processed properly under the bylaws. When questioned, Dr Yantis stated, "I haven't decided it yet." Dr Yantis has misused and abused his position as Chairman of the Credentials Committee and has misled committee members. His perpetual tenure as Chairman of the Credentials Committee is so resoundingly unpopular that a petition was circulated to private practices throughout the area. Over 50 medical staff members at ECCH signed the petition opposing his

failure to rotate the chairmanship Other hospitals in the area rotate the Credentials Committee Chair, but Dr Yantis refuses to rotate his position When a change in the bylaws finally reversed the unpopular practice, Dr Yantis succeeded in "grandfathering" himself in But for failure to rotate the Credentials Committee Chair, there would be no need for this hearing

Issues

- I Despite the physician's timely appeal at every opportunity, the hospital failed to follow the bylaws and refused to allow any appeal before now

Despite the physician's timely appeal at every opportunity, the hospital failed to follow the bylaws and refused to allow an appeal before now The physician is trained, is licensed, and currently has patients who need services at the only hospital facility in this geographic area where they reside

- II The physician has complied with all requirements specified in Article V, Section 3, Reappointment

As per Article V, the reappointment falls under Section 3, The Reappointment Process The physician has complied with the applicable Section 3 requirements for reappointment as set forth step by step below

As per Section 3A, Application (see Attachment # 5), the physician returned the completed application with information covering all 12 categories as follows

- 1 evidence of the individual's support of the Medical Staff and Hospital

The physician regularly attends meetings, is in compliance with the bylaws, and has no adverse medical record deficiency/delinquent status

2 any request or recommendation for changes in staff category, clinical privileges, or department assignment, citing the reasons and supporting information

MEC Exhibit C sets forth the MEC's own guidelines for evaluating reappointment applications. A review of MEC Exhibit C shows that the shaded portions were not in effect in 2006 at the time of the physician's reappointment application, however, relevant portions approve consideration of continuing education, chart review, experience including hands-on experience, and consideration of peer reference forms as submitted. Thus, the MEC's own guidelines support reconsideration of all the supporting information.

The physician made a request for associate status and has provided supporting information with the application. The physician provided Peer Reference Forms by three physicians as requested. However, Tenet has inadvertently omitted one of the peer reference forms which is missing from the Credentials File, MEC Exhibit A. In fairness and in accordance with the guidelines which the MEC has provided as Exhibit C, the practitioner requests reconsideration of all the peer reference forms, all of which favorably recommend the physician and all supporting information. Also, the physician documented management of 25 cases within the last 24 months as requested on the application form (see Attachment # 6). Under the bylaws, seeing 25 patients in the Emergency Room and/or in consultation (without any surgery cases) meets the requirement for reappointment. Thus, the practitioner has complied with this requirement for reappointment. Even Dr. Yantis has testified under oath that a review of charts could be done to document the cases. The physician has provided documentation with the application and has offered to provide the documentation in any other requested format. As per MEC Exhibit C, p. MS-23, information may be acquired through chart review. In addition, the physician completed 100+ hours of CME and had hands-on experience. The MEC Exhibit C, p. MS-31, states the following, "continuing education is an adjunct to

maintaining clinical skills and current competence. Participation in continuing education is considered in decisions about reappointment.” However, the physician’s supporting information and continuing education were omitted from consideration. The physician’s reappointment application and supporting information comply with the applicable section of the bylaws and the physician requests a reconsideration to include omitted supporting information.

3 evidence of consideration of the member’s health status

It is a blessing to be able to report good health and the physician submitted the requested information with the reappointment application.

4 information regarding any sanctions imposed by another health care facility, professional organization, or licensing authority

There are none and the physician submitted the requested information with the reappointment application.

5 malpractice claims experience since the last reappraisal, including at a minimum, final judgments and settlements against the applicant, identifying the case name, court, date of loss, date of disposition, amount paid in judgment or settlement and a description of the case

There are no malpractice claims and the physician submitted the requested information with the reappointment application.

6 evidence of current licensure and DEA registration

Current licensure and DEA registration were submitted with the reappointment application

7 evidence of professional liability coverage (carrier, type, policy number, amount, and expiration date) and any limitations

Copies of full professional liability coverage with JUA and PCF were submitted with the reappointment application

8 information regarding previously successful or currently pending challenges to any licensure or registration (DEA) or the voluntary or involuntarily (*sic*) relinquishment of such licensure or registration

There has been no challenge or relinquishment of such licensure or registration and this information was submitted with the reappointment application

9 information regarding voluntary or involuntary termination of membership, or the voluntary or involuntary limitation, reduction, or loss of clinical privileges at another health care facility

There is no information like this to report as stated on the reappointment application

10 evidence of a query sent to the National Practitioner Data Bank,
information regarding any pending criminal charges or criminal convictions

There are no criminal charges, convictions, or Data bank entries as stated on the
reappointment application

11 As of January 1, 2000, all staff members are required to complete forty
(40) CME credit hours every two (2) years in Category I AMA approved credit within the
staff member's medical specialty Any staff member who fails to meet this requirement
shall be given six (6) months to complete the required CME hours He will be on
Provisional staff until the hours are accomplished Failure to complete the required hours
in six (6) months will result in loss of staff privileges

The physician met this requirement as reported with the reappointment
application

12 List of staff member's physician to cover patients in his absence

The physician complied with this requirement by submitting with the
reappointment application the name of the physician providing coverage

Thus, the physician complied with all the requirements for reappointment under
the bylaws and submitted a complete application However, Tenet failed to properly
consider the application under the bylaws Further, the physician did provide
documentation of additional hands-on experience and continuing education, however,
Tenet failed to consider this information Tenet falsely represented that there were no

contacts since 2004. See attached letter from Ms. Case (Attachment # 7) and attached redacted Consultation disproving her false claims as well as a copy of labeling for the intraocular lens implanted at surgery for one of the physician's patients admitted since 2004 and for whose surgery the physician attended (Attachments # 8 and # 9). There are others, however, Tenet chooses to misrepresent that there were none. In addition, Tenet failed to follow the bylaws in processing the application, provided false information regarding the application (see Attachment # 7), failed to follow Section 3 E, Departmental Review, failed to follow Section 3 F, Credentials Committee Review, and the Credentials Committee failed to provide a written recommendation as required. Further, the MEC improperly notified the Governing Body prior to the administrator's notice in violation of the bylaws. Tenet failed to follow Article V, Section 2 I, by improperly notifying the Governing Body prior to exhaustion of the Fair Hearing and appellate rights in violation of the bylaws. Further, but for Tenet's wrongdoing, the physician would have admitted at least 25 cases. However, the cases had to be referred because Tenet wrongfully withheld admission.

The physician submitted the reappointment application just as any other physician under the bylaws. The physician has already been granted ophthalmology privileges and has completed the provisional requirement. In addition, the physician documented more than 100 hours of CME at this reappointment. The physician documented management of "at least 25 cases" as specified in the application. These patients required services at the only facility in this geographic area, however, the admissions were wrongfully withheld. The hospital is estopped from asserting lack of admissions because the admissions were wrongfully withheld. Due to the hospital's wrongdoing in preventing the admissions, the physician had to refer patients and instead assisted in the Operating Room. The hospital has been granted a Certificate of Need based upon its own showing of proof that the East Cooper area is geographically isolated and separate from the Charleston area. In effect, the State of South Carolina has granted Tenet a monopoly for

the area East of the Cooper River Tenet uses the State-granted Certificate of Need to fend off any competition in this area The physician has documented management of at least 25 cases requiring surgery for patients who are residents in this area and who are entitled to services at the only hospital facility in this geographic area. The physician currently has patients who need services at the only hospital facility in this geographic area

The MEC erroneously treated the physician's reappointment as if it were a leave of absence under Article V, Section 6 A (see Attachment # 10) triggering initial appointment provisions The physician has already completed the initial appointment and has been granted core privileges in ophthalmology The MEC's witness, Tenet's MSO employee stated that there has been no leave of absence, therefore, it is error to apply initial appointment provisions The failure to consider the reappointment application under reappointment provisions is arbitrary, capricious, and/or unreasonable The failure to consider the reappointment application including all supporting information is arbitrary, capricious, and/or unreasonable The MEC failed to consider inadvertently omitted supporting information and the physician respectfully requests reconsideration of omitted information including all peer reference forms, information regarding the OR and the cases submitted, hands-on experience, and continuing education in accordance with the MEC's own guidelines, MEC Exhibit C

The bylaws were and are Tenet-driven as stated by the chief of staff (see Attachment # 1) including the economic credentialing provisions Economic credentialing is credentialing designed to boost hospital revenue instead of credentialing based upon professional considerations, for example, Tenet's policy of considering only patient contacts which generate revenue for Tenet Tenet's administration has admitted that it has poor physician relations not just here but across the country as reported in Attachment # 11 Current prospects are unfavorable for improved physician relations Tenet's economic credentialing, poor judgment and financial conflict in acquiring and

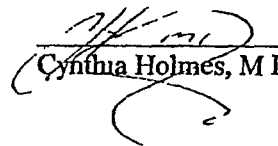
mishandling private medical practices is evident from the previously submitted Practitioner's Hearing Submission and Practitioner's Appeal Submission. Since then, Tenet has relinquished its interest in private primary care practices. But for Tenet's economic credentialing, poor judgment, and financial conflict in acquiring and mishandling private medical practices, the practitioner's privileges would not have been wrongfully withheld and there would be no need for this hearing.

In closing, the physician worked just as hard as every other physician in medical school. Even Dr. Yantis testified that there have never been any problems with the physician's cases (see Exhibit 11, Dr. Yantis' testimony, p. 89 at upper left). In Attachment # 12, an anterior segment and cataract specialist has described the physician's surgery as "meticulous and careful" and "good." From a family of four children, the physician is one of three who are physicians and the fourth is the Director of the Department of Radiology for a private hospital. The physician is defending her practice, profession, and the support and education of her minor children. Any physician would object just as adamantly. Every one of the physician's patients has been well cared for and the physician has assisted in the O.R. without compensation. Tenet's wrongful conduct has deprived the physician of the use, enjoyment, and income of her medical degree and professional practice.

Conclusion

Pursuant to the bylaws, the physician has requested that this Honorable Committee, the MRC, review the physician's recent reappointment. The physician respectfully requests a recommendation for reconsideration to include material information inadvertently omitted.

Respectfully submitted,

 4/28/07
Cynthia Holmes, M D

4/16/97
QMS

Bylaws Committee Dr Langley stated that the Medical Executive Committee has worked article through article on a new set of Medical Staff Bylaws Dr Langley stated the Bylaws Committee has reviewed the draft Medical Staff Bylaws and have made some changes Both the MEC and Bylaws Committee has voted and approved the draft Bylaws

Kara will forward a copy physicians who have requested a copy

Dr Terry stated the new Bylaws were Tenet driven and reflect an updated, well organized set of Medical Staff Bylaws MEC has carefully gone through each article and evaluated the contents She stated that two articles concerning Corrective Action and Fear Hearing and Appellate Review have been reviewed closely by Corporate and legal council with the appropriate changes made

Dr Terry asked physician who are interested in receiving a copy of the draft Bylaws to sign the roster and a copy will be sent to them.

Dr Terry stated that if physicians have any comments or questions to direct them to their respective department chairman. These Bylaws will be voted upon at the July 16, 1997 QMS meeting

Old Business	No old business to discuss	Accepted as information

New Business	See Bylaw Committee section	Accepted as information

Administrative Report	Bill Cone stated that John Holland was away on business and that he had no business to report at this time	Accepted as information

Adjournment	There being no further business the meeting was adjourned at 7 00 p m.	

fully submitted,

2

MINUTES OF Medical Executive Committee

Chairman Dr Terry	Coordinator Kara Meln
Date August 13, 1997	Type/Place Medical Executice/Boardroom
Time 6 00 pm	Adjournment 8 00 pm

Present	Dr Price	Kara Meln
Dr Terry Chairman	Dr Wilson	
Dr Lester	Dr Vial	
Dr Yantis	Marian Bennett	Absent
Dr Baker	Janet Young	Dr Hackney
Dr Rutledge	John Holland	
Dr Grady	Bill Cone	

CALL TO ORDER - REVIEW OF MINUTES

edentials
committee

Dr Yantis reviewed the new physicians interviewed. He discussed Dr Holmes one year provisional review and the Credential's Committee recommendation that a letter be sent to her stating she must maintain active privileges at another facility to have courtesy privileges at ECRMC or she will have to go to consulting staff. Dr Yantis stated the Committee discussed Dr Holmes maintaining a medical ophthalmology practice at ECRMC and referring her surgical cases to another practitioner.

The MEC agreed with the Credential Committee's recommendation. Kara will send a letter to Dr Holmes.

CH 500

Medical University of South Carolina in 1982, and has extensive continuing education in the fields of sedation, implant and restorative dentistry. All of the staff is committed to providing the highest standard of care in a relationship based environment.
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 email ocpalmer@viperlink.net



EYE CARE

OPHTHALMOLOGISTS

COMPREHENSIVE EYE CARE AND OPTICAL

Karen M Ullian, M D , 556 0218

Jeffrey K Richards, M D , 769-5777

Amy Stutsman, Optician, 769 0660

Meeting all of your eye care needs, from routine eye exams to surgical procedures. Eyeglass prescriptions filled using the latest technology in thin design lenses, and Varilux the most progressive multifocal lens. Fashion forward eyewear and sun glasses for the most discriminating eye.
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GRADY, JOHN L , M D , P A

Your vision is precious. That's why Dr. Grady takes time to get to know each patient so that they are comfortable and knowledgeable before any procedure is performed. Practicing for over 26 years, Dr. Grady brings a wealth of wisdom and experience to his patients, and the most current proven technology including Lasik, laser vision correction surgery. Dr. Grady is the only full time ophthalmologist in Mt. Pleasant treating medical and surgical diseases of the eye. Dr. Grady is here to help you because a solution is in sight! ★ Cataract Surgery ★ Lasik - Laser Vision Correction Surgery ★ Board Certified
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OPTICIANS

STUTSMAN, AMY

Meeting All of Your Eyewear Needs

See our listing under Ophthalmologists Comprehensive Eye Care and Optical
 1548 Ashley River Rd West Ashley / ph 769 0660

DONATE OLD GLASSES

Donate old prescription glasses or sunglasses for use in developing nations. Call 800 669 1782 for donation locations.

EYE CARE FACTOIDS

A cool infusion of chamomile and eyebright to bathe the eyes eases soreness and inflammation.

Do you sometimes see floating specks in your eyes that look like spots or tiny threads? They're actually bits of cellular debris floating around inside of your eye. There is no need to be concerned unless they increase in number or are accompanied by flashes of light.

USE GOOD LIGHTING

As you get older, your pupils become smaller and are less adaptable to light changes. Move closer to the light when reading and working, and keep a 100 watt shaded light bulb in a lamp on your desk in addition to an overhead light.

COMPUTER USE

According to the Eye Care Council, a survey of optometrists showed that 10 million primary eye care exams are given each year primarily due to vision problems relating to computer use.

**E Cooper Regional Medical Center
OPHTHALMOLOGY
DELINEATION OF PRIVILEGES**

NAME C. Holmes DATE 9/25/04

THE MINIMUM EDUCATION TRAINING AND EXPERIENCE QUALIFICATIONS FOR CORE PRIVILEGES ARE AS DELINEATED IN EACH HOSPITAL'S MEDICAL STAFF BYLAWS RULES & REGULATIONS OR POLICIES PLEASE CONSULT THESE DOCUMENTS TO DETERMINE YOUR ELIGIBILITY

TO REQUEST CORE PRIVILEGES PLEASE PLACE AN X IN THE SPACE PROVIDED

CORE PRIVILEGES	
Ophthalmology privileges will be extended to physicians who have completed an accredited residency in Ophthalmology Applicants must meet the requirement to be either board eligible or board certified by the American Board of Ophthalmology If board certification requirements are not met within five (5) years from the date of completion of an approved residency training program in Ophthalmology clinical privileges will be terminated according to the Medical Staff Bylaws Core privileges include admission history & physical diagnosis ordering and prescribing medication ordering diagnostic tests as well as surgical and non surgical treatment of patients of all ages presenting with any illnesses injuries and disorders of the eye including its related structures and visual pathways The use of CO2 YAG and KTP lasers as trained in residency The successful applicant must be able to demonstrate that he or she has provided surgery for at least 25 patients during the past 24 months	

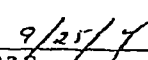
TO REQUEST SPECIAL PROCEDURES PLEASE PLACE AN "X" IN THE APPROPRIATE COLUMN

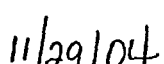
	SPECIAL PROCEDURE	APPROVE	DENY
	Procedures that are not routinely part of training, and may require proof of training or experience		
	Moderate Sedation		
	Radial Keratotomy		
	Vitreous cannulostomy		
X	OTHER (If the condition/privileges you are interested in is not included on this form please provide a separate written request and appropriate documentation of training and/or experience)	✓	

I UNDERSTAND THAT (A) IN EXERCISING CLINICAL PRIVILEGES GRANTED, I AM CONSTRAINED BY EACH HOSPITAL'S MEDICAL STAFF BYLAWS, RULES & REGULATIONS, AND (B) ANY RESTRICTION ON THE CLINICAL PRIVILEGES GRANTED TO ME IS WAIVED IN AN EMERGENCY SITUATION AND IN SUCH SITUATION MY ACTIONS ARE GOVERNED BY THE APPLICABLE SECTION OF EACH HOSPITAL'S MEDICAL STAFF BYLAWS


 APPLICANT'S SIGNATURE


 DEPARTMENT CHAIRMAN'S SIGNATURE


 DATE


 DATE

K Previously Denied or Terminated Applicants Notwithstanding any other provision of these Bylaws if an application is tendered by an applicant who has been previously denied membership and/or privileges or who has had membership and/or privileges terminated, or whose prior application was deemed incomplete and withdrawn, and it appears that the application is based on substantially the same information as when previously denied, terminated, or deemed withdrawn, then the application shall be deemed insufficient by the Credentials Committee and returned to the applicant as unacceptable for processing. No such application shall be processed and no right of hearing or appeal shall be available in connection with the return of such application. Applicant must then wait one calendar year before reapplying.

L Telemedicine Practitioner An appropriately credentialed practitioner who is responsible for the care of a patient via telemedicine link is subject to the credentialing and privileging process of the originating site that recommends the clinical services to be provided by the practitioner through a telemedicine link at their respective site.

SECTION 3 - THE REAPPOINTMENT PROCESS

A Application At least ninety (90) days prior to a Practitioner's privileges expiring (based on a two year reappointment) the Medical Staff Office shall provide each member with an approved "Application for Reappointment" form which must be completed and returned within thirty (30) days to the Medical Staff Office for review. A late fee will be charged for the continued processing of the application past the 30-day deadline. Information to be available for review shall include at least objective evidence of the individual's clinical competence based on peer review activities,

- 1 evidence of the individual's support of the Medical Staff and Hospital (e.g., medical record deficiency/delinquency status, meeting attendance, committee service, satisfaction of minimum patient care requirements to maintain staff category, compliance with the Bylaws, Rules and Regulations, and applicable hospital policies),
- 2 any request or recommendation for changes in staff category, clinical privileges, or department assignment, citing the reasons and supporting information,
- 3 evidence of consideration of the staff member's health status (subject to necessary reasonable accommodation to the extent required by law),
- 4 information regarding any sanctions imposed by another health care facility, professional organization or licensing authority,
- 5 malpractice claims experience since the last reappraisal, including at a minimum final judgments and settlements against the applicant, identifying the case name, court date of loss date of disposition

- amount paid in judgment or settlement and a description of the case,
- 6 evidence of current licensure and DEA registration,
 - 7 evidence of professional liability coverage (carrier, type, policy number, amount, and expiration date) and any limitations,
 - 8 information regarding previously successful or currently pending, challenges to any licensure or registration (DEA) or the voluntary or involuntarily relinquishment of such licensure or registration,
 - 9 information regarding voluntary or involuntary termination of membership, or the voluntary or involuntary limitation, reduction, or loss of clinical privileges at another health care facility,
 - 10 evidence of a query sent to the National Practitioner Data Bank, information regarding any pending criminal charges or criminal convictions,
 - 11 As of January 1, 2000, All staff members are required to complete forty (40) CME credit hours every two-(2) years in Category I AMA approved credit within the staff member's medical specialty. Any staff member who fails to meet this requirement shall be given six (6) months to complete the required CME hours. He will be on Provisional staff until the hours are accomplished. Failure to complete the required hours in six (6) months will result in loss of staff privileges, and
 - 12 List of staff member's physician to cover patients in his absence

B Failure to Complete Application/Incomplete Application A Practitioner who fails to return the form or to supply all of the required information within thirty (30) days prior to the expiration of the current appointment period or respond in a timely manner to a request for information shall be deemed to have resigned his Medical Staff membership, effective as of the date of the expiration of his current appointment. A Practitioner who is deemed to have resigned under this section shall not be entitled to the hearing and appeal rights under these Bylaws.

C Applicant's Responsibility The applicant shall have the burden of producing adequate information for a proper evaluation of his current competence, character, skill, ethics, health status in terms of his ability to practice in the area in which privileges are sought (subject to necessary reasonable accommodation to the extent required by law), ability to work with others and other qualifications. By applying for appointment or reappointment to the Medical Staff, or for clinical privileges the Practitioner agrees to comply with the Medical Staff Bylaws, the Medical Staff and departmental Rules and Regulations and applicable Hospital policies.

East Cooper Regional Medical Center

Tenet

NAME Cynthia E Holmes MD

OPHTHALMOLOGY SURGERY DELINEATION OF PRIVILEGES

Minimum threshold criteria to apply for ophthalmology privileges

- 1 Education MD or DO
- 2 Minimum formal training Successful completion of an ACGME/AOA accredited residency training program in ophthalmology program
- 3 Board Certification Must be achieved within 5 years of residency/fellowship training or as noted by their respective board Acceptable board certification in only through the ABMS
- 4 Required previous experience Applicants must be able to demonstrate that they have provided surgical ophthalmology treatment to at least 25 ophthalmologic surgical procedures in the past 24 months
- 5 References Letters of reference must come from the residency and/or fellowship director or the Chief of Ophthalmology in which the applicant has successfully completed training and/or the applicant has been affiliated with for the last two years Two letters must come from an anesthesiologist and primary care physician who have known the applicant at least two years and are acquainted with the applicant's current professional status medical practice and involvement in the field of ophthalmology
- 6 Reappointment Demonstrates that one has maintained competence by showing evidence that they have managed at least 25 patients in the past 24 month

The above minimum threshold criteria must be met in order to request core privileges

	REQUESTED	APPROVED	COMMENTS
CORE PRIVILEGES FOR OPHTHALMOLOGY SURGERY			
Core privileges include admission work up diagnosis and the performance of surgical procedures on patients of all ages presenting with illnesses injuries and disorders of the eye including its related structures and visual pathways These privileges include the provision of consultation as well as the ordering of diagnostic studies and procedures related to the ophthalmologic problems The use of CO2 YAG and KTP laser as trained in residency	#C ABMS		
Special procedures that are not routinely part of training and require additional documentation of competency training and experience			
SPECIAL PROCEDURES			
Penetrating keratoplasty			
Lamellar keratoplasty			
Radial keratoplasty			
Epikeratophakia			
Placement of external radiotherapeutic sources			
Other - If the condition/privilege you are interested in is not included on this form please provide a separate written request and appropriate documentation of training and/or experience			

Cynthia E Holmes MD

C Holmes, M D

PO Box 187
Sullivans Island SC 29482 0187
943 883 3176

October 1 2006

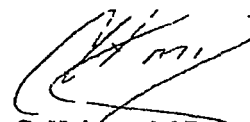
MSO - ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Dear Sir/Madam

I am writing to request reappointment to Associate staff category and continuation of the attached privileges Also attached, please find documentation of management of 25 patients for reappointment

Thanking you in advance for your kind attention, I am

Sincerely yours,



C Holmes, M D,

EAST COOPER COMMUNITY HOSPITAL

CLINICAL PRIVILEGES SHEET

OPHTHALMOLOGY

<u>Class O</u>		<u>Class IV</u>	
<u>1</u>		<u>1</u>	<u>2</u>
	Life-threatening emergency At the time of a clinical emergency any practitioner may render whatever care he believes to be indicated		Vitreous surgery
			Corneal transplant surgery
			Neuro Ophthalmology surgery
<u>✓</u>	<u>Class I</u>		<u>Retinal surgery (including lasers)</u>
<u>1</u>	<u>2</u>		<u>Glaucoma surgery</u>
	Vision acuity screening		<u>Pediatric Ophthalmology</u>
	Tonometry/Tonography		<u>Electrophysiologic studies</u>
	Optical measurement (i e , pupillary distance, near point of convergence, accommodation)		
	Color vision testing		
	Surgical assisting with ophthalmologist		
	External eye examination		
	Fundus examination of posterior pole		
	Treatment of uncomplicated conjunctivitis		
	Removal of foreign bodies on cornea or conjunctiva		
	Treatment of corneal abrasions		
	Eye irrigation		
	Order x-rays to rule out retained foreign body or fracture		
<u>✓</u>	<u>Class II</u>		
<u>1</u>	<u>2</u>		
	Refractions, manifest		
	Orthoptic exercises		
	Visual field testing		
	Contact lens fitting		
	Contact lens modifications		
<u>✓</u>	<u>Class III</u>		
<u>1</u>	<u>2</u>		
	Treatment of all ophthalmic conditions		
	Treatment of neoplasms of orbit, eye and adnexa		
	Intra and extraocular surgery		

 East Cooper
Regional Medical Center

Tenet South Carolina

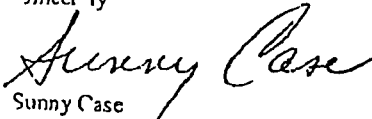
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464
Tel 843 881 6100
www.eastcoopermedctr.com

February 12 2007

Re Dr Cynthia Holmes

This letter is to verify that Dr Cynthia Holmes has not had any patient contacts at East Cooper Regional Medical Center since August 2004

Sincerely


Sunny Case
JHM Director



000011



East Cooper
Regional Medical Center

883 3176

Consulting Physician and/or Service Cynthia Holmes / Ophthalmology

Reason for Request TRANSIENT BLINDNESS

☐ ASAP ☐ Urgent ☐ At Your Convenience ☐ Other

Date Requested 2/9/07 Requested by Dr [REDACTED]

Date and Time Office or Service Notified 2/9/07 849AM Blac
Date Time By Whom

2/9/07 Dr Rebecca

96 y/o F c/o VUA on Adm Hx yesterday w/ 1K
MRI @ infarct @ medulla oblongata

meds Aggrenox, HCTZ, Clonidine, maling 27
All NKDA

PMIT @ Hx, @ dm

POH @ glaucoma - LSE ~ 1 yr

✓
N 20/50 - PLF

LLC - demux choroid 05 > 03 C uou

C chou K - chou

P PRRL, (R) ACD AC deep ou

Em's full ou I - @ NUI ou

L - NSC ou

of FE 2° lens 015 - 20

VFI Traction on OD

- FTC 05

@ glaucoma ou - Traction "

(2) transient VUA resolved per pt.

Consider vent basilar insufficiency. Consider

cardio vasc w/4, carotid studies, carotid

spine compression w/1 follow w/you

2/9/07 [Signature] MD
Date of Consultation Consultant

CONSULTATION RECORD

Page 1 of 1
Copy 1 Medical Record



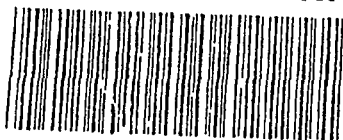
DOB [REDACTED]
02/01/2007

PT 1 FC 40

ACCT#015200157 MP



EAST LOUISIANA REGIONAL MEDICAL CENTER

DOB [REDACTED]
08/01/2005
PTO FC 40014192488 MR# [REDACTED]
[REDACTED]MODEL SA60AT
POWER 24.0 D
LENGTH(Ø_T) 13.0mm
OPTIC(Ø_B) 6.0mm
SN 904717 027EXP DATE
2010 05

UV

ACR *Soft* SINGLE
PIECE IOL
Alcon Laboratories Inc

practice at the Hospital is automatically terminated when his staff membership expires or is terminated. Similarly, his right to render services under the contract is automatically limited to the extent that his clinical privileges are reduced, restricted or terminated.

D Expiration/Termination of Contract The effect of expiration or other termination of a contract upon a Practitioner's staff membership and clinical privileges will be governed solely by the terms of the Practitioner's contract. If the contract is silent on the matter, then contract expiration or termination will not affect the Practitioner's staff membership or clinical privileges, except that the Practitioner may not thereafter exercise any clinical privileges for which the Hospital has made exclusive contractual arrangements with another Practitioner.

SECTION 5 - MEDICO-ADMINISTRATIVE PRACTITIONERS

Practitioners who have a contract with the Hospital, either full time or part time, in a Medico-Administrative position that includes staff clinical responsibilities or functions must be members of the Medical Staff. In addition to any applicable terms of the contract, such Practitioners shall achieve staff membership and clinical privilege delineation through the same procedure as is required for other Medical Staff members. The right to the hearing and appeal procedures under these Bylaws shall apply if the Practitioner's clinical privileges, which are independent of the Practitioner's contract, are also terminated, removed, or suspended.

SECTION 6 - LEAVE OF ABSENCE FOR EDUCATIONAL, MEDICAL OR PERSONAL REASONS

A Request for Leave of Absence A member may request a voluntary leave of absence from the Medical Staff by submitting a written request to the Administrator, who will transmit this request to the Credentials Committee and the MEC. The request shall state the reason for the request and the specific time period that may not exceed the member's current term of appointment. The MEC and the Governing Body must approve all leaves. By requesting a leave of absence the member understands and agrees that he will be treated as an initial applicant for the purpose of evaluating his qualifications for reinstatement and he shall bear the burden of proof to demonstrate to the satisfaction of the MEC and the Governing Body that he is qualified for reinstatement. During the period of leave, the member's clinical privileges shall be inactive.

B Request for Reinstatement At least thirty (30) days prior to termination of leave, or at any earlier time, the member may request reinstatement of privileges by submitting a written notice to that effect to the Administrator, who will transmit this notice to the Credentials Committee and the MEC. The member must also submit a written summary, detailing his professional and patient care activities during the leave. The Credentials Committee shall evaluate the request and may deem it incomplete if any necessary information is not provided. The MEC on receipt of the recommendation of

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News & Analysis

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University

News & Analysis Health Care



Tenet's Top-Spot Tension

By [Melissa Davis](#)

Senior Writer

4/16/2007 12:12 PM EDT

[Click here for more stories by Melissa Davis](#)

Some observers believe a prompt change at the top could help ease Tenet's (THC) Cramer's Take - [Stockpickr](#) pain

Some fans of the Dallas based hospital chain believe CEO Trevor Fetter and his management team are at last poised to pull off a long promised turnaround. They applaud recent developments such as the promotion of Stephen Newman to the operating chief post and the addition of former Florida Governor Jeb Bush to the board.

But others believe even the upgraded management team isn't up to the task. They point out that Tenet has struggled for years to regain the trust of doctors who keep sending patients to competing hospitals, and they say the company needs a CEO who will have credibility with physicians.

Jeff Villwock, managing partner of Genesis Capital and a longtime trader in Tenet shares, believes Tenet should hire Triad (TRI) Cramer's Take [Stockpickr](#) CEO Denny Shelton. He says Shelton is known for his strong rapport with physicians and could soon be jobless, following Triad's looming merger with Community Health Systems (CYH) - [Cramer's Take](#) [Stockpickr](#).

As smart as Trevor is, he does not have a great relationship with doctors. Villwock says Tenet needs to fix that. Trevor can't get there. Denny can.

Peter Young, a business consultant at HealthCare Strategic Issues, offers up

another scenario. He would like to see Newman, named in November to become the first doctor ever to serve as operating chief at Tenet, run the company outright.

I ultimately think that he, or a person with a similar background and track record, has to be CEO, Young says of Newman. And I think that it's probable that the change will come within a year.

21 A She was a meticulous and careful surgeon and
22 a competent surgeon when I operated with her

23 Q Okay Meticulous and careful, those are
24 words of praise for surgeons, are they not?

25 A Those are good, those are good

WILLS & MASSALON, LLC

ATTORNEYS AT LAW

Telephone (843) 727 1144

Facsimile (843) 727 7696

Post Office Box 859
Charleston South Carolina 29402

134 Meeting Street Suite 100
Charleston South Carolina 29401

May 4, 2007

"CONFIDENTIAL - PEER REVIEW INFORMATION"

W John Langley, M D
East Cooper Regional Medical Center
1200 Johnnie Dodds Boulevard
Mount Pleasant, South Carolina 29464

RE Cynthia E. Holmes, MD/East Cooper Regional Medical Center
Our File No 458-1

Dear Dr Langley

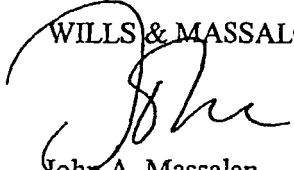
This will confirm our telephone conversation this morning regarding the procedure and schedule for reconvening the Medical Review Committee ("MRC") for the purpose of conducting its deliberations. I have previously received written closing submissions from both Dr Khoury and Dr Holmes, and I have provided copies of those submissions to both physicians. For the sake of convenience and efficiency, I have asked Dr Khoury to provide copies of the closing submissions to you so that you can make the appropriate number of copies for the MRC to use during its deliberations.

As for the timing of the next meeting of the MRC, I could not locate a specific deadline for that meeting in the Medical Staff Bylaws. Therefore, you and I will coordinate that meeting as soon as reasonably practical taking into account the schedules of the members of the MRC. I understand that you will contact the members of the MRC next week to begin that process.

By copy of this letter, I am providing this information to both Dr Holmes and Dr Khoury.

Sincerely,

WILLS & MASSALON, LLC


John A. Massalon

cc Cynthia Holmes, MD
Norman Khoury, MD

WILLS & MASSALON, LLC

ATTORNEYS AT LAW
Telephone (843) 727 1144
Facsimile (843) 727 7696

Post Office Box 859
Charleston, South Carolina 29402

134 Meeting Street Suite 100
Charleston South Carolina 29401

July 11, 2007

"CONFIDENTIAL PEER REVIEW INFORMATION"

VIA HAND DELIVERY

Ms Andrea Wozniak
Chief Executive Officer
East Cooper Regional Medical Center
1200 Johnnie Dodds Boulevard
Mt Pleasant, South Carolina 29464

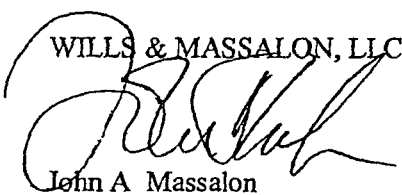
RE Cynthia E Holmes, MD/East Cooper Regional Medical Center
Our File No 458-1

Dear Ms Wozniak

Enclosed please the original Report and Recommendation executed by Dr J Michael Grayson in regard to the above-referenced matter If you have any questions, please do not hesitate to contact me

With kind regards, I am

Sincerely,

WILLS & MASSALON, LLC

John A Massalon

Enclosure

CONFIDENTIAL PEER REVIEW INFORMATION

STATE OF SOUTH CAROLINA	)	BEFORE THE MEDICAL REVIEW
	)	COMMITTEE OF EAST COOPER
COUNTY OF CHARLESTON	)	REGIONAL MEDICAL CENTER
In The Matter of	)	
CYNTHIA HOLMES, M D	)	
	)	<u>REPORT AND RECOMMENDATION</u>
Petitioner	)	

FINDINGS OF FACT

- 1 On October 7, 2006, Cynthia Holmes, MD (hereafter "Dr Holmes) submitted a Medical Staff Reappointment Application (hereafter "the reappointment application") to East Cooper Regional Medical Center (hereafter ' ECRMC')
- 2 At the time that Dr Holmes submitted the reappointment application she held consulting privileges at ECRMC
- 3 As a member of the consulting medical staff of ECRMC Dr Holmes is eligible to provide consultative services and surgical assistance at the request of physicians who hold active and courtesy staff privileges with ECRMC, but she is not authorized to admit patients or perform surgery
- 4 In the October 7, 2006 reappointment application Dr Holmes requested a change in her privileges at ECRMC from consulting privileges to associate privileges
- 5 On the Delineation of Privileges form that Dr Holmes submitted with the reappointment application, Dr Holmes requested Core Privileges for Ophthalmology Surgery
- 6 The Delineation of Privileges form states the minimum criteria to apply for Ophthalmology privileges Among the criteria stated is the requirement that "Applicants must be able to demonstrate that they have provided surgical Ophthalmology treatment to at least 25 ophthalmologic surgical procedures in the past 24 months "
- 7 Further, the Delineation of Privileges defines Core privileges to "include admission, work-up, diagnosis, and the performance of surgical procedures on patients of all ages presenting with illnesses, injuries, and disorders of the eye, including its related structures and visual pathways "
- 8 Dr Holmes did not submit adequate documentation that she had provided surgical Ophthalmology treatment to at least 25 ophthalmologic surgical procedures in the past 24 months The documentation that she submitted consisted of undated office notes which did not demonstrate Dr Holmes' participation in surgical procedures

- 9 On December 20, 2006, Andrea L. Wozniak, Chief Executive Officer of ECRMC, informed Dr. Holmes that the Medical Executive Committee (MEC) had recommended to the Board of Directors for ECRMC that the application for associate privileges be denied, and that Dr. Holmes be reappointed as a consulting member of the medical staff. That letter described the basis for the MEC's decision and informed Dr. Holmes of her right to appeal the recommendation.
- 10 On January 15, 2007, Dr. Holmes provided Ms. Wozniak with written notice of her intent to appeal, request for a hearing and reservation of counsel.
- 11 A hearing on the appeal was scheduled before this committee on April 4, 2007.
- 12 Prior to the appeal hearing on April 4, 2007, Dr. Holmes raised a number of procedural objections which were ruled upon by the Hearing Officer and which appear fully in the hearing transcript.

CONCLUSIONS

- 1 Pursuant to Article VIII, Section 3H of the Medical Staff Bylaws, Rules and Regulations for East Cooper Regional Medical Center, the affected Practitioner, in this instance Dr. Holmes, has the burden of proving, by clear and convincing evidence, that the action or recommendation of the body whose decision prompted the hearing which is the subject matter of the hearing, is arbitrary, capricious or unreasonable.
- 2 After reviewing the records submitted at the hearing, hearing the testimony of the witnesses who appeared at the hearing, and considering the closing statements submitted by the MEC and Dr. Holmes following the hearing, it is the conclusion of this committee that Dr. Holmes failed to carry her burden of proof.
- 3 The documentation submitted by Dr. Holmes was inadequate in support of her application for a change from consulting status to associate status with Core Privileges for Ophthalmology Surgery. Specifically, the information available to this committee fails to demonstrate that Dr. Holmes provided surgical Ophthalmology treatment to at least 25 ophthalmologic surgical procedures in the past 24 months. The patient care records that Dr. Holmes submitted in support of her application are inadequate for that purpose because they are undated and do not demonstrate surgical competency for the granting of the privileges requested. Lastly, the information submitted by Dr. Holmes cannot be verified independently because it contains no identifying patient information and was not compiled in a hospital or similar setting.
- 4 In making this finding, this committee is sensitive to Dr. Holmes' concern that the recommendation of the MEC is a commentary on her professional competence, diligence or integrity. It is not the committee's intention to comment on Dr. Holmes in that manner. Instead, the committee's conclusion is based upon the absence of information indicating that

the recommendation of the MEC was arbitrary, capricious or unreasonable

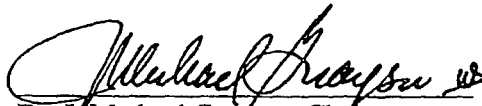
- 5 Finally, the committee notes the procedural objections raised by Dr Holmes in the Physician's Supplemental Hearing Submission, but as the Hearing Officer ruled on those objections prior to the commencement of the hearing on April 4, 2007, those objections will not be reconsidered by the committee

RECOMMENDATION

Accordingly, based upon the foregoing, it is the recommendation of this committee that the recommendation of the MEC be affirmed

NOTICE OF APPELLATE RIGHTS

PLEASE TAKE NOTICE that pursuant to Article VIII, Section 6 of the Medical Staff Bylaws, Rules and Regulations for East Cooper Regional Medical Center, the affected Practitioner and the Medical Executive Committee have thirty (30) days after your receipt of notice of this decision to request an appellate review of this decision. The request for appellate review must be in writing and must be received by the Administrator of East Cooper Regional Medical Center within thirty (30) days after your receipt of this decision. The request for appellate review must state the grounds for appeal as described in Article VIII, Section 6C of the Medical Staff Bylaws, Rules and Regulations for East Cooper Regional Medical Center. IF APPELLATE REVIEW IS NOT REQUESTED, ALL PARTIES SHALL BE DEEMED TO HAVE WAIVED ALL RIGHTS TO APPEAL.



Dr. J. Michael Grayson, Chairman
Medical Review Committee

CHARLESTON, SC

July 11, 2007

C Holmes, MD

PO Box 187
Sullivan's Island SC 29482-0187

August 10, 2007

By Hand and USPS

Ms Andrea Wozniak
Tenet Healthsystem
ECCH
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Dear Madam

Please be advised and you are hereby on notice of request for appellate review and for appearance at appellate review. Please forward the names of all members of the governing board.

The grounds for appeal include, but are not limited to, the following

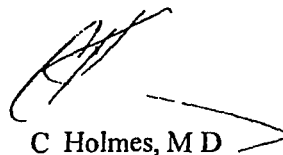
- that all objections are expressly preserved and not waived,
- that Tenet and its' CEO failed and refused to provide the properly authorized bylaws to all parties as required under the bylaws,
- that a decision and report was not made and sent within the specified time period under the bylaws and is thereby waived,
- that any decision and report was not made in accordance with the bylaws and is thereby waived,
- the substantial and prejudicial failure of the Credentials Committee (CC) to comply with the bylaws,
- the substantial and prejudicial failure of the Medical Executive Committee (MEC) to comply with the bylaws,
- the substantial and prejudicial failure of the Medical Review Committee (MRC) to comply with the bylaws,
- the substantial and prejudicial failure of the MEC and MRC to afford a fair hearing,

-the substantial and prejudicial failure of the MEC and MRC to afford due process,

- that the actions by the CC and MEC that prompted the hearing , or substantial parts thereof, were arbitrary, capricious, and/or unreasonable,
- that the MRC's decision and/or substantial parts thereof are contrary to the weight of the evidence,
- that in direct contravention of the bylaws the Chief of Staff failed and refused to appoint a medical staff representative,
- that in direct contravention of the bylaws the Chief of Staff misused and abused his position as Chief of Staff, including but not limited to, unauthorized and improper *ex parte* communications with the members of the MRC,
- that in direct contravention of the bylaws the practitioner was not given the required notice under the bylaws,
- that the practitioner was not notified until the day on which the hearing was held,
- that the practitioner was not afforded any meaningful opportunity to prepare for the MRC review,
- that the practitioner was not afforded any meaningful opportunity to call witnesses as required under the bylaws and as guaranteed by Tenet and Tenet's CEO,
- that the medical staff bylaw, rule, or regulation, if any, relied upon by the MRC in reaching a decision lacked substantive rationality,
- that witnesses did not provide truthful sworn testimony under oath,
- that there was no exchange of an accurate witness list prior to the hearing as required by the bylaws,
- that the Hearing Officer (H O) failed and refused to follow the bylaws and the obligations of a reasonable H O in the same or similar circumstances,
- the practitioner incorporates the attached grounds for appeal (eight pages) as the proximate cause of the appeal herein

Please be advised and you are hereby on notice that under S C case law and pursuant to Article VIII, Section 6(B), "No person or entity that participated in bringing the charges or in officially reviewing the matter shall participate in the appellate review process, even if such removal leaves the Governing Body with less than a quorum " Therefore, the persons excluded include, but are not limited to, the following P Yantis, J Grady, N Koury, Wills & Masalon, W Wilson, J Von Lehe, E Meuli, J Rawls, J Langley, J Kerrison, D Nawabi, E Kline, M Grayson, C B Hutto, J Krebs-Markrich

Sincerely,



C Holmes, M D

SINKLER & BOYD, PA

ATTORNEYS AT LAW

THE PALMETTO CENTER

1426 MAIN STREET SUITE 1200
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TELEPHONE (803) 779-3080
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GREENVILLE OFFICE
10 SOUTH MAIN STREET SUITE 500
PO BOX 121 078
GREENVILLE, S.C. 29602-0270
TELEPHONE (804) 407 1100
FAX (804) 407 1001

ELEANOR CARPENTER
S.C. EMPLOYMENT
& LABOR LAW SPECIALIST

REPLY TO:
COLUMBIA OFFICE
PO BOX 11000
COLUMBIA, S.C. 29211-1000

WIRELESS Direct No. 803-848-7850
E-MAIL EAC@SINKLERBOYD.COM

July 17, 1998

VIA FACSIMILE COPIER 843-881-4396
Mr Jack Dusenbery, CEO
East Cooper Regional Medical Center
Tenet HealthSystem
1200 Johnnie Dodds Blvd
Mt Pleasant, SC 29464

Re In re Cynthia C Holmes, M D
Medical Review Committee Hearing - June 8, 1998

Dear Mr Dusenbery

On June 19, we received your letter of June 17, enclosing the Medical Review Committee's decision and report dated June 9

This letter constitutes Dr Holmes' written request for appellate review pursuant to Article VIII of the 1997 Bylaws and pursuant to the 1995 bylaws

The grounds for the appeal, as required by 1997 Bylaws Article VIII, § 6(C) include

- the substantial and prejudicial failure of the Medical Executive Committee (MEC) to comply with the bylaws,
- the substantial and prejudicial failure of the Medical Review Committee (MRC) to comply with the bylaws,
- substantial and prejudicial failure of the MEC and MRC ("hospital") to afford due process,
- substantial and prejudicial failure of the MEC and MRC to afford a fair hearing,
- that the actions by the Credentialing Committee and MEC that prompted the hearing, or substantial parts of those actions were arbitrary and capricious
- the MRC's decision and substantial parts of it are clearly contrary to the weight of the evidence,
- the Medical Staff bylaw, rule, or regulation - if any - relied upon by the MRC in reaching its decision lacked substantive rationality

33

SINKLER & BOYD PA

Mr Jack Dusenbery, CEO
July 17 1998
Page 2

Based upon Article IX of the 1995 Bylaws and the fact that the 1995 Bylaws' burden of proof applies, Dr Holmes appeals on the additional ground that

- the hospital's MEC failed to prove by a preponderance of the evidence the grounds for and reasonableness of its decision

Without limiting the generality of the forgoing, Dr Holmes appeals because of these grounds

- Under the 1997 Bylaws, the MRC Report does not, as required, include findings of fact and conclusions articulating the connection between the evidence produced at the hearing and the decision reached by the MRC in sufficient detail to allow the parties and the hospital's Governing Body to determine its basis

- The hospital failed to meet its burden to prove by a preponderance of the evidence the grounds for and the reasonableness of its adverse action 1995 Bylaws Art IX, § 4 G

- Evidence presented by Dr Holmes clearly showed that the adverse action lacks any substantial factual basis or the conclusions drawn from it are arbitrary, capricious, or unreasonable

- The evidence is clear that as of July 1995, Dr Holmes' initial, provisional status year was completed. There is no basis in the bylaws for imposing an additional "provisional" year, as was done by the MEC

- Dr Holmes was reappointed to the Courtesy Staff in July 1995 which appointment included admitting privileges and required less than 25 contacts per year. Dr Holmes' reappointment should have been for 2 years, she was given no notice of a shorter period as would have been required under the bylaws. Had she been properly afforded this period, her reappointment would not have arisen until August 1997 at which time she was entitled to 24 months (through August 1999) as Associate Staff to develop her patient contacts

- The hospital refused to grant Dr Holmes Courtesy Staff privileges in 1996, which privileges should have been granted pursuant to the bylaws. The MEC admits that a requirement to have active staff privileges elsewhere was not adopted into the Bylaws until July 20 1995, and after her reappointment in 1995, which according to the bylaws and standard practice should have been for two years (i.e., through July 1997). The 1995 Bylaws state that any physician requesting Courtesy Staff privileges must have active staff privileges at another local hospital before privileges are granted at ECRMC. Dr Holmes' privileges had already been granted by ECRMC. Under the 1995 and 1997 Bylaws, once a physician had privileges at ECRMC, that status could be switched to Courtesy

SINKLER & BOYD P A

Mr Jack Dusenbery, CEO
July 17, 1998
Page 3

regardless of whether the Practitioner had active privileges elsewhere

o The hospital refused to permit Dr Holmes to appeal her appointment to Associate Staff in August 1996, which appointment included a 24 patient contact requirement not authorized by the bylaws. Moreover, the undisputed evidence is that the Hospital's staff assured Dr Holmes that she would have an additional year (through August 1998) as Associate Staff, both orally and by letter dated September 3, 1996, Ex 17

o In August - September 1997 the hospital changed Dr Holmes' category to Consulting Staff (no admitting privileges, no contact requirement) without proper notice and revoked her admitting privileges, until they were reinstated November 25, 1997, pending this appeal. Without prior notice to Dr Holmes, the Credentials Committee met August 4, 1997, and changed her appointment from Associate Staff to Consulting Staff. Based on the Bylaws in effect in August 1997, the hospital should have provided Dr Holmes with information necessary for reappointment "prior to expiration of the present staff appointment," after which an application should have gone through the full committee process. None of these procedures were afforded to Dr Holmes

o Moreover, she was not offered the additional year to meet the patient contact requirement allowed even for provisional status appointees

o In violation of the Bylaws, the Hospital immediately terminated Dr Holmes' right to admit patients without having followed the procedures in the bylaws. Dr Holmes advised the Hospital of a patient in need of surgery by letter dated September 26, 1997, Ex 38. The Hospital terminated her admitting privileges pending appeal, taking the position that the MEC decision became effective immediately, Ex 38 at 1157. The clear evidence is that this action damaged her practice and professional reputation, and in essence nullified her medical degree, and restricting her practice to that of an optometrist

o The Hospital was clearly erroneous and took arbitrary and capricious action, by first taking the position (Ex 38) that the change to Consulting status was immediate because it was an adverse action under Art IX, § 2 B (Ex 24 at 36-37). That provision, however, only permits an automatic suspension when it is the result of the denial of a request of an applicant or of a medical staff member. Dr Holmes clearly did not request this action. The Hospital takes the position in its brief that it had the power to suspend Dr Holmes' admitting privileges immediately under Art IV § 2A (Brief at 8-9). That section, however, refers to the failure of active staff to have 24 patient contacts, which "shall automatically be deemed for modification of membership

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status as provided in Article III, Section 7 " Ex 24 p 10 That section, on p 9, states that requests for modification are processed as reappointments under Art VI, § 5 (p 25) None of the procedures under Article VI were followed by the MEC If Dr Holmes' privileges were being suspended under those bylaws sections, then the Hospital should have afforded her all the protections required for reappointment

• The Hospital also arbitrarily and capriciously claims that it could act in 1997 because the 1996 action was an "initial appointment" with "provisional" status The bylaws do permit the MEC's summary action and these same bylaws sections rebut the Hospital's position Not only was the hospital's form in 1996 entitled "reappointment" but the bylaws state that all modifications to staff category are processed as reappointments Dr Holmes was not put through the procedures for an "initial" appointment as set out in Art VI § 2

• The proposed modification to Dr Holmes' staff privileges does not involve any question of professional competence or conduct No claim of medical malpractice has been brought or threatened No agency has taken action concerning her license or credentials She has remained continuously insured and qualified to participate in health insurance programs The hospital's action was arbitrary, capricious, and lacked substantial rationality

• By the clear weight of the evidence, Dr Holmes proved that the hospital had substantially interfered with her practice, which materially affected her ability to meet an illegally imposed patient contact requirement On approximately May 15, 1996, unknown to Dr Holmes, Shirley T Thomas, a hospital marketing employee struck her name and listing from the yellow pages order sent to Southern Bell, causing her ad to be deleted from the yellow pages during the precise time period when the Hospital demanded that she increase her practice The hospital-owned practice continued to collect the fee for the advertisement notwithstanding its deletion

• It was undisputed that the hospital-employed receptionists at the Durst office were diverting patients to a hospital-employed family practice physician when new patients called to schedule an appointment either specifically with Dr Holmes or with the "eye" doctor

• In late 1997, the hospital changed the answering service for Durst Family Practice without notifying Dr Holmes, and without notifying the service that her practice also used that telephone number At least one patient was unable to reach Dr Holmes because of this

• Dr Holmes' agreement also requires the hospital-owned practice to perform insurance billings In January 1998 the

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hospital switched billing systems and refused to continue doing her insurance billing Dr Holmes must now pay a third party to perform that service

• When Dr Holmes was granted privileges in 1994, the Bylaws required 24 patients contacts per year only for the Active Staff, not the Associate Staff At the time of credentialling decisions in 1994-1997, Dr Holmes was not required to be, and was not, as familiar with the bylaws provisions and amendments as she has become since this appeal As a member of the Courtesy Staff, Dr Holmes was not a committee member and did not receive notice from the hospital of bylaws changes The hospital does not send meeting notices to courtesy staff, and did not deliver minutes of the Courtesy Staff Bylaws changes to Dr Holmes or to other members of the Courtesy Staff

• The hospital did not afford due process, and acted in an arbitrary and capricious manner by directing staff to advise Dr Holmes her application for reappointment to the Courtesy Staff would not be processed because she did not have privileges at another hospital and with it enclosing a form indicating that the Bylaws had been amended in May of 1994 to require members of the Courtesy Staff to have privileges at another hospital This misleading document calls into question Dr Holmes first appointment to Courtesy Staff and suggests she had never been in compliance with the requirements The requirement of active privileges at another hospital was not effective until July 20, 1995, and was adopted after Dr Holmes' 1995-97 reappointment to Courtesy Staff

• At the hearing before the MRC Dr Yantis admitted that the letter supplied in 1996, indicating appointment to a category not listed in the bylaws ("associate active") and requiring 24 patient contacts within 12 months, offered privileges that were not authorized by the bylaws

• The hospital never advised Dr Holmes that it considered her 1996 appointment to be "provisional," which was an unauthorized, adverse action that should have permitted appeal

• Reappointments are routinely for two years Upon being told she was not permitted to appeal Dr Holmes wanted clarification on the length of her reappointment and when the 24 patient contact requirement would be imposed Kara L Melin in the Medical Staff Office said that Associate Staff practitioners, consistent with the bylaws, have two years to meet the patient contact requirement Her statement was consistent with the bylaws relating to Associate Staff, and with the letter stating Dr Holmes would be reviewed as Associate Staff in 1997 Dr Holmes reasonably relied upon this interpretation of the bylaws by a trusted member of the medical staff office in arranging her practice The Hospital

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would not make Ms Melin available as a witness at the hearing The hospital acted in an arbitrary and capricious manner, and denied Dr Holmes due process

• Dr Holmes was advised to request a bylaw change She pursued an amendment to the bylaws, but the hospital acted arbitrarily and capriciously by, without notice to her of the meeting, rejecting the proposal

• The hospital violated the bylaws, due process, and acted in an unreasonable, arbitrary, and capricious manner by failing to grant Dr Holmes the same rights afforded all other physicians under the Bylaws The committees reviewing for reappointment must deem an application incomplete when further documentation or clarification is required Dr Holmes was not provided an opportunity (a) to submit "[d]etailed information concerning [her] professional qualifications, including education and training, current licensure and other information in satisfaction of the qualifications specified in these Bylaws", (b) to present patient contacts through consults with Hospital-owned practices, (c) to state the "department and clinical privileges for which [she] wish[ed] to be considered", (d) to propose that the bylaws requirement which required a physician requesting Courtesy Staff privileges to have privileges at elsewhere before privileges at ECRMC did not apply to a physician who already held such membership, (d) to submit references from physicians "who have worked with the applicant and directly observed [her] professional performance over a reasonable period of time and who can and will provide adequate and reliable information regarding [her] current clinical ability, ethical character, and ability to work with others" which would have afforded the opportunity to address any quality of patient care concerns, (e) to appear for an interview in regard to her application (f) to have the required information transmitted by the Medical Staff Office to the Credentials Committee for its consideration, (g) for an interview before the Credentials Committee, (h) to have the required information transmitted by the Credentials Committee to the MEC (i) to have a written report and recommendation, (j) to ask either the Credentials Committee or MEC to defer action on her reappointment, (k) in 1997 to have an application supplied her 60 days in advance of consideration, or (l) in 1997, to have notice of the review process prior to the committees taking action

• The hospital failed to enforce proper procedures for ER call, thus acting in a manner lacking substantive rationality In 1996 physicians at ECRMC learned that emergency room referrals were not being made to the physicians on the call roster This unchecked practice further deprived Dr Holmes of possible patient contacts

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o Dr Holmes had the right to expect that her reappointment would be processed as required under the Bylaws. On August 4, 1997, the Department Chairman and the chairman of the MEC approved her reappointment to the Associate Staff through August of 1998. Ex 22. The Hospital administration (Ms Melin) altered the document after the appeal was noticed. The Hospital's failure to follow its own procedures, and the administration's derision of department decisions, was unreasonable.

o The Hospital contends that Dr Holmes could not have until August 1998 as Associate Staff because she "was no longer eligible for any additional provisional time as an Associate Staff member because she had exhausted her second appointment to the Associate Staff, Provisional Status" (p 2, 5). Dr Holmes' only provisional status year ended in July 1995. The records are clear that she had one appointment to Associate Staff of 4 months (July - November 1994) and one reappointment as Associate Staff of 12 months (August 1996 - July 1997), that is, a total of 16 -- not 24 -- months. Dr Holmes had a right to at least an additional 8 months on Associate Staff. The 1996 reappointment was never designated provisional status, and there was no authority under the Bylaws to make it provisional status. The Hospital's actions were unreasonable, arbitrary, and capricious.

o The hospital's refusal to grant Dr Holmes additional time to meet the patient contact requirement lacked substantive rationality. Associate Staff members are expected "in the ordinary course of events" to meet the qualifications of and advance to the Active Staff within two years unless "he requests otherwise." The only reasonable course under the circumstances would have been to grant Dr Holmes additional time to meet the patient contact requirement for Active Staff.

o The new Bylaws eliminate Associate Staff appointments altogether, but allow any physician whose Active status is in question to request an additional year. It was unreasonable and lacking in substantive rationality for the Hospital to refuse to allow Dr Holmes an additional year to meet this requirement in light of the turmoil that has been created by the Hospital's actions.

o As Associate Staff, Dr Holmes should have been granted two full years - without hospital interference - to meet the patient contact requirement. The hospital's failure to award that relief was arbitrary, capricious, unreasonable and lacked substantive rationality.

o The bylaws state at p 5 (Ex 24) "Discrimination. No person shall be denied medical staff membership or particular clinical privileges on the basis of any other criterion lacking professional justification." The revocation of her

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privileges had no professional justification. The hospital's action was arbitrary, capricious, and unreasonable, and it lacked substantive rationality.

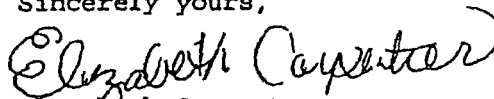
• The hospital did not apply the Bylaws as written, and imposed requirements on Dr Holmes that the Bylaws did not require, did not give any Courtesy Staff members notice of a bylaws change affecting them, reviewed Dr Holmes before her reappointment was up, failed to give Dr Holmes the normal 2 year reappointment cycle, misrepresented to Dr Holmes the date of the amendment for Courtesy Staff and the patient contact conditions for Associate Staff, refused to grant Dr Holmes an appeal in 1996, misrepresented to Dr Holmes what her status would be in 1997, changed Dr Holmes category without notice to her and without affording her an opportunity to apply for reappointment, and suspended her admitting and surgery privileges without following the Bylaws. By more than a preponderance of the evidence, these actions were unreasonable, arbitrary, and capricious.

• Although the Hospital agreed to act under the 1997 Bylaws hearing procedure, it refused to conduct settlement negotiations or mediation as provided in that procedure, despite Dr Holmes' attempt to resolve this matter short of hearing. The hospital's action was arbitrary, capricious, and unreasonable, and it lacked substantive rationality.

• The hospital's application in 1996 of the rules for Active staff to Dr Holmes as Associate Staff was unreasonable.

I would appreciate your advising me of the date of the appellate review meeting (§ 6(D)), and the identity of the people serving on the Governing Body.

Sincerely yours,


Elizabeth Carpentier

cc J Marshall Allen, Esq
James Y Becker Esq
Cynthia C Holmes, M D

115 7/17/98 12:32pm

**East Cooper
Regional Medical Center**

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August 13, 2007

Norman Khuory, MD
1240 Hospital Drive
Mount Pleasant, SC 29464

Dear Dr Khoury

The attached request for an appeal was received on August 13 2007 from Dr
Cynthia Holmes

Sincerely

Andrea L Wozniak

Andrea L. Wozniak
Chief Executive Officer

(ebm)

* Same letter to Jimmy Bagwell

September 17 2007

Via Hand Delivery

Hugh W Buyck, Esq
Buyck Law Firm LLC
129 Broad Street
Charleston, SC 29402 0630

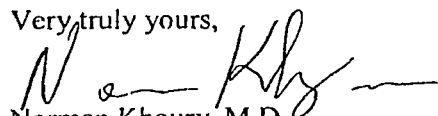
Re August 10 2007 Appellate Review Request

Dear Mr Buyck

The Medical Executive Committee hereby submits a written brief in support of its position on appeal in accordance with Art VIII Section 6 E 3 of the Medical Staff Bylaws of East Cooper Regional Medical Center Please provide a copy of the enclosed brief to the members of the Governing Body

The Medical Executive Committee believes the record in this matter speaks for itself and has therefore not made a request to appear personally before the Governing Body and make oral argument If the Governing Body wishes for the Medical Executive Committee to make an appearance, the Medical Executive Committee requests that the Governing Body use its authority under Art VIII Section 6 E 5 of the Medical Staff Bylaws to continue the appellate review meeting to another date and time as may be convenient for the Governing Body The Medical Executive Committee would be pleased to appear at such time and make a presentation or respond to questions

Very truly yours,


Norman Khoury, M D

cc Cynthia Holmes M D (w/ enclosures via hand delivery)

East Cooper Regional Medical Center

Peer Review Matter Cynthia Holmes M.D.

Brief in Support of the Medical Executive Committee on Appeal

The Medical Executive Committee (MEC") recommended that i) Dr Cynthia Holmes' application for associate staff status and core privileges at East Cooper Regional Medical Center, dated October 7 2006, be denied because of her failure to demonstrate current surgical competence, and ii) that she be continued in her present status as a member of the consulting medical staff. The MEC's reason for the adverse recommendation was straightforward: core privileges in ophthalmology at East Cooper Regional Medical Center include authority to perform surgical procedures on the eye. A physician who wishes to have privileges to perform surgical procedures at East Cooper must be able to demonstrate current competence in surgery. A physician who does not provide evidence of current competence in surgery will not be allowed to perform surgery. Because Dr. Holmes did not provide the MEC with evidence of her current competence to perform surgical procedures on the eye, the MEC recommended that her application for associate staff status – a status that would permit her to undertake operative procedures on the eye – be denied.

Dr. Holmes requested a hearing to contest the adverse recommendation of the MEC. Following a hearing on April 4, 2007, the Medical Review Committee (MRC) concluded that Dr. Holmes had failed to meet her burden to demonstrate by clear and convincing evidence that the MEC's recommendation was arbitrary, capricious or unreasonable. Specifically, the MRC found that Dr. Holmes did not submit documentation adequate to demonstrate current competence in ophthalmologic surgery. The documentation Dr. Holmes submitted consisted of undated office notes that did not indicate the performance of surgical procedures and could not be verified independently. (MRC Finding #8 Conclusion #3). The MRC affirmed the adverse recommendation of the MEC.

Following receipt of the decision from the MRC, Dr Holmes requested an appeal to the Governing Body. The Governing Body has the authority to affirm, reverse or modify the decision of the MRC if 1) there was substantial failure of the MRC or the MEC to comply with the Medical Staff Bylaws or to afford due process or a fair hearing, 2) the MEC's decision to deny Dr Holmes' advancement to associate staff status was arbitrary, capricious or clearly contrary to the weight of the evidence or 3) the MRC's decision was clearly contrary to the weight of the evidence.

As the appellant, the burden is on Dr Holmes to demonstrate that there was material and prejudicial error or that the adverse decision was clearly contrary to the weight of the evidence. For the reasons set forth below, Dr Holmes does not meet her burden and the decision of the MRC should be upheld. For convenience of reference, the unnumbered allegations made by Dr Holmes in her appeal request dated August 10, 2007 are numbered and addressed in the order submitted by Dr Holmes.

1 The allegation that Dr Holmes preserves and does not waive any objections previously made

The allegation does not provide a basis for asserting that the decision of the MRC was defective under the bylaws. Dr Holmes made multiple objections over the course of the hearing (identity of the hearing officer, participation of counsel). Some of her objections were upheld, others were not. The mere recitation of an objection does not demonstrate that the MRC decision was clearly erroneous.

2 The allegation that Tenet and its CEO failed and refused to provide the properly authorized bylaws to all parties as required under the bylaws

Dr Holmes has objected to the application of the Medical Staff Bylaws, dated October 19, 2006, ('October 19, 2006 Bylaws') to this proceeding. The October 19, 2006 Bylaws are the bylaws that were in effect as of the date the MEC took action on Dr Holmes's application and as such, are the bylaws that govern this matter. Dr Holmes argues that the bylaws, dated August 4, 2006 ('August 4, 2006 Bylaws'), the bylaws in effect as of the date she submitted her application (October 7, 2006), should have been applied to this proceeding.

In the letter from Dr Norman Khoury to Mr Massalon, dated April 3, 2007, (attached as Exhibit 1) the MEC noted that there were no changes to the August 4, 2006 Bylaws that would or could have affected the outcome of this matter. Both the initial hearing officer appointed to

preside over this matter as well as Mr Massalon concluded that the October 19, 2006 bylaws applied Tr p 19¹

The application of the October 19 2006 bylaws to this matter was appropriate Because there was no difference between the August 4, 2006 bylaws and the October 19, 2006 bylaws that would or could have influenced the outcome in this matter any error in applying the October 19, 2006 Bylaws (which the MEC does not concede) would have been harmless Application of the October 19 2006 Bylaws was not substantial or prejudicial error, did not deny Dr Holmes due process or a fair hearing and was neither arbitrary nor capricious Dr Holmes' allegation should be rejected

3 The allegation that a decision and report was not made and sent within the specified time period under the bylaws and is thereby waived

Article VIII, Section 4 of the Medical Staff Bylaws states that a written report and decision shall be rendered and delivered to the hospital administrator within thirty days after closure of the deliberations of the MRC The deliberations would have begun following submission of the post-hearing briefs, which was April 25, 2007 The MRC did not state the date it concluded its deliberations The MRC decision was issued July 11, 2007 There is no basis in fact to conclude that the MRC did not observe the timeline set forth in the bylaws

Dr Holmes' reference to waiver with regard to this allegation does not state an objection

Issuance of the MRC decision on July 11, 2007 was not substantial or prejudicial error, did not deny Dr Holmes due process or a fair hearing and was neither arbitrary nor capricious Dr Holmes' allegation should be rejected

4 The allegation that any decision and report was not made in accordance with the bylaws and is thereby waived

The mere allegation of failure to comply with the medical staff bylaws is insufficient Dr Holmes states no facts to demonstrate that there was a material violation of the medical staff bylaws The mere allegation of wrong doing does not demonstrate substantial or prejudicial error or the denial of due process or a fair hearing or arbitrary or capricious action Dr Holmes allegation should be rejected

¹ References to the transcript of the MRC hearing are marked Tr p _____

5 The allegation that there was a substantial and prejudicial failure of the Credentials Committee to comply with the bylaws

The mere allegation of failure to comply with the medical staff bylaws is insufficient. Dr Holmes states no facts to demonstrate that there was a material violation of the medical staff bylaws. The mere allegation of wrong doing does not demonstrate substantial or prejudicial error or the denial of due process or a fair hearing or arbitrary or capricious action. Dr Holmes' allegation should be rejected.

6 The allegation that there was a substantial and prejudicial failure of the MEC to comply with the bylaws

The mere allegation of failure to comply with the medical staff bylaws is insufficient. Dr Holmes states no facts to demonstrate that there was a material violation of the medical staff bylaws. The mere allegation of wrong doing does not demonstrate substantial or prejudicial error or the denial of due process or a fair hearing or arbitrary or capricious action. Dr Holmes' allegation should be rejected.

7 The substantial and prejudicial failure of the MRC to comply with the bylaws

The mere allegation of failure to comply with the medical staff bylaws is insufficient. Dr Holmes states no facts to demonstrate that there was a material violation of the medical staff bylaws. The mere allegation of wrong doing does not demonstrate substantial or prejudicial error or the denial of due process or a fair hearing or arbitrary or capricious action. Dr Holmes' allegation should be rejected.

8 The substantial and prejudicial failure of the MEC and MRC to afford a fair hearing

The mere allegation of a denial of fair hearing is insufficient. Dr Holmes states no facts to demonstrate that she was denied a fair hearing. The mere allegation of wrong doing does not demonstrate substantial or prejudicial error or the denial of due process or a fair hearing or arbitrary or capricious action. The MEC notes that Dr Holmes did not object to the appointment of Mr Massalon as hearing officer. Dr Holmes made multiple objections prior to the hearing. Mr Massalon granted some of Dr Holmes' objections and overruled others. He summarized the objections that were made and his rulings on the record. Tr pp 11-44. Dr Holmes also had the opportunity to subject the hearing officer and the MRC members to *voir dire* to determine any basis for challenging their objectivity. Tr pp 45-72. In the absence of facts demonstrating material error, Dr Holmes' allegation should be rejected.

9 The substantial and prejudicial failure of the MEC and MRC to afford due process

Dr Holmes was afforded the procedures required under the medical staff bylaws. She received written notice of the MEC's adverse recommendation. The initial notice gave her the reasons for the adverse recommendation, informed her of the right to request a hearing, informed her that she had 30 days to request a hearing and provided her with a summary of the rights afforded her at a hearing, including the right to legal counsel, and the right to examine and cross-examine witnesses (Exhibit 2, Letter from A. Wozniak to C. Holmes, December 20, 2006). Dr Holmes requested a hearing in timely fashion. A subsequent letter from the Hospital informed her of the time, date and place of the hearing as well as a list of the witnesses expected to testify at the hearing on behalf of the MEC (Exhibit 3, Letter from N. Khoury to C. Holmes, February 22, 2007). The hearing was conducted before a hearing officer acceptable to Dr Holmes. At the hearing she had the right to representation by counsel, to a verbatim transcription of the proceedings, to call, examine and cross-examine witnesses, to present evidence deemed relevant by the hearing officer and to submit a written statement at the close of the hearing. Upon completion of the hearing she received a written recommendation of the hearing panel which included a statement of the basis for the recommendation of the hearing panel.

Under these circumstances, Dr Holmes may be presumed to have received a fair hearing. See e.g., 42 U.S.C. § 11112 (Exhibit 4).

10 The allegations that the actions by the Credentials Committee and MEC were arbitrary, capricious or unreasonable

The mere allegation of arbitrary, capricious or unreasonable action is insufficient. Dr Holmes states no facts to demonstrate that the Credentials Committee or MEC engaged in such action. Dr Holmes' allegation should be denied.

11 The allegation that the MRC's decision or substantial parts of it are contrary to the weight of the evidence

The MRC stated the basis for its decision to affirm the recommendation of the MEC to deny Dr Holmes' request for advancement to associate staff status and surgical privileges. Specifically, the MRC found that a physician who requests core privileges for ophthalmology at East Cooper Regional Medical Center must be able to demonstrate current competence in surgery. Dr Holmes did not provide any evidence of current competence in ophthalmologic surgery. The sole documentation that she submitted consisted of undated office notes that did not demonstrate

her participation in surgical procedures within the past 24 months. The decision of the MRC was entirely consistent with the evidence presented. Dr. Holmes' allegation should be rejected.

12 The allegation that the Chief of Staff failed and refused to appoint a medical staff representative

Article VIII Section 2 H of the medical staff bylaws states that after a hearing has been properly requested, the Chief of Staff or the MEC shall promptly appoint a member of the medical staff to present the case against the physician on behalf of the medical staff. Dr. Khoury is the Chief of Staff at the Hospital and he is a member of the medical staff. Dr. Khoury stated that the MEC asked him to serve as the medical staff representative at the hearing and he did so. Tr. 75. There is no merit to Dr. Holmes' allegation and it should be rejected.

13 The allegation that the Chief of Staff engaged in ex parte communications with the MRC

Dr. Holmes does not state the factual basis for this allegation. The MEC denies that there were improper communications between Dr. Khoury and members of the MRC regarding this matter.

14 The allegation that Dr. Holmes was denied proper notice under the bylaws

Dr. Holmes objected to the Notice of Hearing and Statement of Charges on the grounds that she did not receive a copy of the bylaws in effect as of August 4, 2006 (August 4, 2006 Bylaws) thirty days in advance of the hearing. The Bylaws dated October 19, 2006 are the Bylaws that were in effect as of the date the MEC acted on Dr. Holmes' application and as such, they are the Bylaws that control this matter. Dr. Holmes received a copy of these Bylaws with the Notice of Hearing and Statement of Charges, dated February 22, 2007.

Under Article VIII Section 1 B of the Bylaws, any notice is deemed effective on the date it was first received or five (5) working days after it was mailed first-class postage prepaid, whichever occurs first. The Notice of Hearing and Statement of Charges and a copy of the Bylaws were mailed to Dr. Holmes, via registered mail on February 23, 2007. Under the bylaws, she is deemed to have received notice of these items thirty (30) days in advance of the April 4, 2007 hearing.

Dr. Holmes has asserted that she did not receive a copy of the bylaws. At the hearing, the MEC introduced the affidavit of Elaine Meuli stating that she was the person responsible for mailing the notice to Dr. Holmes and that the notice included a computer-generated copy of the complete text of the Medical Staff Bylaws in effect as of October 19, 2006. The hearing officer

concluded that based on the evidence at the hearing Dr Holmes did receive a copy of the October 19 2006 bylaws in timely fashion Tr pp 18-19

There is no merit to Dr Holmes allegation and it should be rejected

15 The allegation that Dr Holmes was not notified until the day on which the hearing was held

Dr Holmes received timely notice of the time, date and place of the hearing at least 30 days in advance of the hearing She interposed various objections to the procedures One of Dr Holmes objections related to whether she had received a copy of the bylaws thirty days in advance of the hearing The hearing officer ruled that she received a copy of the bylaws in timely fashion (See response to Allegation #14 above) That ruling was not made until the morning of the hearing Dr Holmes was well aware, however that the hearing had been scheduled and she had been on notice of such date for at least thirty days as the bylaws require Under these circumstances, there is no merit to her assertion that she did not receive timely notice

16 The allegation that Dr Holmes was not afforded any meaningful opportunity to prepare for the MRC review

Dr Holmes received notice of the MEC's decision to recommend denial of her request for privileges on December 20, 2006 She requested a hearing to contest the adverse action on January 15, 2007 She was sent notice of the hearing on February 22, 2007 pursuant to the bylaws of the medical staff Under the bylaws she may be deemed to have received that notice five working days later which was more than thirty days prior to the April 4, 2007 hearing Under these circumstances there is no merit to the allegation that Dr Holmes did not have a meaningful opportunity to prepare for the hearing she herself requested several months earlier

17 The allegation that Dr Holmes was not afforded any meaningful opportunity to call witnesses

Dr Holmes had every opportunity to call witnesses She called Dr Langley the chief medical officer of the hospital as her witness The hearing officer expressly asked Dr Holmes if she had any other witnesses She answered no Tr p 162 Under these circumstances, there is no merit to the allegation that Dr Holmes was denied a meaningful opportunity to call witnesses

18 The allegation that the medical staff bylaws, rules and regulations relied upon by the MRC lacked substantive rationality

The MRC based its decision on the requirement in the bylaws that Dr Holmes demonstrate by clear and convincing evidence that the MEC decision to recommend denial of her request for associate staff status and surgical privileges was arbitrary capricious or unreasonable. The MRC found that Dr Holmes did not meet her burden. The hospital requires a physician seeking surgical privileges in ophthalmology to demonstrate current surgical competence. Dr Holmes did not submit any evidence of current competence in ophthalmologic surgery. As a consequence the MEC recommended that her application be denied.

Dr Holmes submitted no evidence that the hospital's requirements are unreasonable. The hospital's expert, Dr Edward Wilson, Chairman of Ophthalmology at the Medical University of South Carolina, testified that it was reasonable for an ophthalmologist who wants hospital privileges in ophthalmology to be able to demonstrate current surgical competence prior to being granted privileges in ophthalmology. Tr p 90. Dr Wilson also testified that the office summaries that Dr Holmes submitted did not provide evidence of current clinical competence for core privileges in ophthalmology. Id.

19 The allegations that the witnesses did not provide truthful sworn testimony under oath

Dr Holmes makes the serious allegation that witnesses perjured themselves. She provides no facts in support of this allegation and it should be dismissed.

20 The allegation that there was no exchange of an accurate witness list prior to the hearing as required by the bylaws

Dr Holmes received notice of the hospital's witnesses by letter dated February 22, 2006. A supplemental notice was issued together with a copy of the MEC's exhibits by letter from Dr Khoury to Dr Holmes dated March 16, 2007 (Exhibit 5).

21 The allegation that the hearing officer failed and refused to follow the bylaws

The mere allegation that the hearing officer failed and refused to follow the bylaws is not sufficient to demonstrate that this occurred. The allegation should be rejected.

22 The assertion that grounds for appeal submitted in an earlier matter are relevant

Dr Holmes submits a letter, dated July 17 1998, for consideration by the governing board. The letter, which sets forth the grounds for appeal in another matter, is not relevant to the case at hand.

Medical Executive Committee Exhibit List

- 1 Exhibit 1 Letter from Dr Norman Khoury to Mr Massalon dated April 3, 2007,
- 2 Exhibit 2 Letter from Andrea Wozniak to Dr Cynthia Holmes dates December 20
2006
- 3 Exhibit 3 Letter from Dr Norman Khoury to Dr Cynthia Holmes dated February 22,
2007
- 4 Exhibit 4 Copy of 42 U S C A §11112, and
- 5 Exhibit 5 Letter from Dr Norman Khoury to Dr Cynthia Holmes dated March 16,
2007

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April 3, 2007

CONFIDENTIAL
PEER REVIEW INFORMATION
Protected from Disclosure Pursuant to
S C Code Ann §40-71-20 and Other Applicable Legal Privileges

Via Facsimile

John A Massalon Esq
Wills & Massalon, LLC
P O Box 859
Charleston, South Carolina 29402

Dear Mr Massalon

In light of Dr Holmes' most recent objections, the Medical Executive Committee wishes to submit this letter setting forth its position on certain objections raised by Dr Holmes in prior correspondence. These matters were previously addressed by counsel for the Medical Executive Committee in correspondence to the hearing officer and are being set forth in this letter to confirm that the matters set forth below represent the views of the Medical Executive Committee.

We write to respond to the various matters raised by Dr Holmes in her letters to Ms Wozniak, dated March 9, 2007 and March 16, 2007. A copy of the correspondence is enclosed. We had hoped that we would be able to address the issues raised by Dr Holmes in the previously scheduled telephone conferences that were requested by counsel and that were scheduled by the previous hearing officer with all parties for March 19, 2007 and March 21, 2007. Dr Holmes neither responded to the notice of the calls nor did she participate in the calls. Accordingly, we address the matters that she raises in this letter and ask that you make such pre hearing rulings as may be necessary.

Dr Holmes' Objection to Appointment of Hearing Officer

Article VIII, Section 2 F of the East Cooper Regional Medical Center Medical Staff Bylaws ("Bylaws") authorizes the administrator of East Cooper Regional Medical Center (Hospital)

or "ECRMC) to appoint a hearing officer to preside over a hearing conducted pursuant to Article VIII of the Bylaws. The role of the hearing officer is to conduct the hearing impartially. The hearing officer may not gain direct financial benefit from the outcome of the hearing and may not act as an advocate for either party. See Bylaws, Art. VIII, Section 2 F.

Ms. Wozniak originally requested that James J. Hinchey, Jr. serve as hearing officer in this matter. Mr. Hinchey subsequently withdrew as hearing officer by letter to Ms. Wozniak dated March 27, 2007. A copy of the letter from Mr. Hinchey withdrawing as hearing officer is also enclosed. Based on Mr. Hinchey's withdrawal, any objections by Dr. Holmes to his appointment as hearing officer in this matter are moot at this point.

Subsequent to Mr. Hinchey's withdrawal, Ms. Wozniak requested that you serve as the hearing officer. As to your appointment, Article VIII, Section 3 G 1 of the Bylaws affords Dr. Holmes a reasonable opportunity to challenge your appointment as hearing officer. The Medical Executive Committee requests that she submit any voir dire questions immediately and that you rule on any such objections as soon as possible so that this matter may go forward on April 4, 2007 as scheduled.

Dr. Holmes' Objection to Notice of Hearing and Application of the October 19, 2006 Bylaws

Dr. Holmes objects to the Notice of Hearing and Statement of Charges on the grounds that she did not receive a copy of the bylaws in effect as of August 4, 2006 ("August 4, 2006 bylaws") thirty days in advance of the hearing. The Bylaws, dated October 19, 2006, are the Bylaws that were in effect as of the date the Credentials Committee made its recommendation to the Medical Executive Committee and as such, they are the Bylaws that control this matter. Dr. Holmes received a copy of these Bylaws with the Notice of Hearing and Statement of Charges, dated February 22, 2007.

Under Article VIII, Section 1 B of the Bylaws, any notice is deemed effective on the date it was first received or five (5) working days after it was mailed first-class postage prepaid, whichever occurs first. The Notice of Hearing and Statement of Charges and a copy of the Bylaws were mailed to Dr. Holmes, via registered mail on February 23, 2007. She may, therefore, be deemed to have received notice of these items thirty (30) days in advance of the April 4, 2007 hearing.

Mr. Hinchey, as hearing officer requested on March 19, 2007, while waiting for Dr. Holmes to join the conference call, that the Medical Executive Committee provide Dr. Holmes with a copy of the August 4, 2006 bylaws. Without waiving any objection it may have to their relevance, the Medical Executive Committee, through counsel, included a copy of these bylaws with its March 12, 2007 correspondence to Mr. Hinchey. The Medical Executive Committee notes that there were no changes to the August 4, 2006 bylaws that would or could affect the outcome of this matter. The Medical Executive Committee also notes that a copy of the correspondence to Mr. Hinchey, with the August 4, 2006 bylaws, was sent by counsel to

Dr Holmes as directed by the hearing officer, however, Dr Holmes' copy was returned to counsel on March 28 2007

Finally, the Medical Executive Committee submits that Mr Hinchey, as the initial hearing officer ruled in correspondence dated March 22, 2007, that the Notice of Hearing and Statement of Charges was sufficient The Medical Executive Committee submits that the ruling of the initial hearing officer on this matter should stand

Dr Holmes' Objection to Appointment of the Hearing Panel by the Chief of Staff

Dr Holmes objects to the appointment of members of the Medical Review Committee by the ECRMC Chief of Staff, Dr Norman Khoury Dr Khoury appointed the members of the Medical Review Committee pursuant to his authority under Art VIII, Section 2 E of the Bylaws

Dr Holmes objects to Dr Khoury s role in appointing the members of the Medical Review Committee on the grounds that he "almost killed or maimed" her husband who had been referred for urgent medical care

The Hospital and Dr Khoury have diligently searched their records and find no record or indication of such matter Dr Holmes provides no names, records, or documentation to substantiate her inflammatory comments Under these circumstances her objection is not well taken

Dr Holmes states that she seeks the appointment of a mutually agreed upon hearing panel Article VIII, Section 3 G 1 of the Bylaws affords Dr Holmes a reasonable opportunity to conduct voir dire and challenge the appointment of any Medical Review Committee member The Medical Executive Committee requests that the Hearing Officer require Dr Holmes to propose questions of the hearing panel member in advance of the hearing and that every effort be made to resolve any issues in advance of the hearing

Dr Holmes' objection to the appointment of a hearing panel member solely on the grounds that such individual was appointed by Dr Khoury should be overruled Dr Holmes provides no-basis-in-fact to demonstrate that individual hearing panel members cannot be objective by reason of such appointment Absent more, they should be permitted to continue in their appointed roles

The Medical Executive Committee also submits that Mr Hinchey, as the initial hearing officer, ruled in correspondence dated March 22 2007, that Dr Khoury was authorized by the Medical Staff Bylaws to appoint the members of the Medical Review Committee and advised Dr Holmes of her right to submit voir dire questions The Medical Executive Committee submits that the ruling of the initial hearing officer on the matter of Dr Khoury's right to appoint the Medical Review Committee members should stand

Dr Holmes' Objection to Representation of the Medical Executive Committee by Legal Counsel

Dr Holmes states that she will not be represented at the hearing by legal counsel. The Medical Executive Committee will accordingly also not be represented at the hearing by legal counsel, meaning that legal counsel will not directly address the Medical Review Committee on the Medical Executive Committee's behalf, nor will legal counsel present evidence or conduct cross examination at the hearing. Legal counsel for the Medical Review Committee, will, however, be available to the Medical Review Committee prior to, throughout and after the hearing to assist as necessary.

Further, Dr Holmes states that an "impartial MSR [Medical Staff Representative] is mandated." In fact, the very nature of the role of the Medical Staff Representative is to advocate the position of the Medical Executive Committee and present its case at the hearing not to serve as an impartial participant in the proceeding. Article VIII, Section 2 H of the Bylaws gives the Chief of Staff or the Medical Executive Committee the authority to select a medical staff member to present the case on behalf of, and otherwise represent the Medical Executive Committee at the hearing. Contrary to Dr Holmes' assertion, the Bylaws do not permit Dr Holmes to object to or otherwise dictate who the Chief of Staff or the Medical Executive Committee chooses to represent the Medical Executive Committee at the hearing. The Medical Executive Committee requests that the Hearing Officer confirm that the Chief of Staff or the Medical Executive Committee is authorized to select a Medical Staff Representative of its own choosing and is not required to obtain the agreement of Dr Holmes to its selection.

Medical Executive Committee Request for Dr Holmes' Witness and Exhibit List

Dr Holmes was required to provide the Medical Executive Committee with any documents or exhibits she expects to submit on her behalf at the hearing at least ten days prior to the hearing. Dr Holmes failed to produce any documents or exhibits she expects to submit at the hearing on her behalf to the Medical Executive Committee at least ten days prior to the hearing. In fact, to date Dr Holmes has not submitted any documents or exhibits to the Medical Executive Committee. The Medical Executive Committee objects, therefore, to the introduction of any exhibits or documents by Dr Holmes at the hearing.

Voir Dire of Hearing Officer and MRC Members

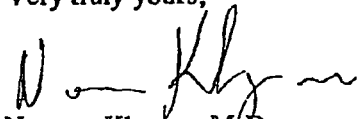
On March 27, 2007, counsel for the Medical Executive Committee submitted correspondence and voir dire questions to the hearing officer for the Medical Review Committee members received from Dr Holmes by Andrea Wozniak on Friday, March 23, 2007. Pursuant to the hearing officer's letter to the parties dated March 22, 2007, it was our understanding that the voir dire questions would be posed by the hearing officer to the MRC member on the record after the hearing is convened on April 4, 2007. A copy of the correspondence from Dr Holmes and the voir dire questions for the Medical Review Committee members is enclosed.

Counsel for the Medical Executive Committee also submitted correspondence and voir dire questions for the hearing officer received from Dr Holmes by Andrea Wozniak on Monday, March 26 2007. A copy of this correspondence to the hearing officer with both sets of voir dire questions was sent by counsel to Dr Holmes, however the correspondence was returned to counsel on April 2, 2007. It is also our understanding that the voir dire questions will be responded to in writing before the hearing is convened or on the record on April 4, 2007 once the hearing is convened based on the March 22, 2007 letter of the hearing officer to the parties. A copy of the correspondence from Dr Holmes and the voir dire questions for the hearing officer is also enclosed.

In addition, please accept this letter as confirmation that the Medical Executive Committee does not intend to submit any voir dire questions to the Medical Review Committee or to you as the hearing officer. This letter also confirms that the Medical Executive Committee will not have an objection if the size of the Medical Review Committee is reduced as a result of the voir dire process as long as the Medical Review Committee includes at least three (3) members upon conclusion of the voir dire process.

This information is respectfully submitted on behalf of the Medical Executive Committee.

Very truly yours,



Norman Khoury, M.D.

Chief of Staff

East Cooper Regional Medical Center

Enclosures

cc Cynthia E Holmes, M.D.
Julia Krebs-Markrich Esq
Cynthia B Hutto, Esq

East Cooper
Regional Medical Center

1200 Johnnie Dodds Blvd
Mt Pleasant SC 29464
Tel 843 881 0100
www.eastcoopermedctr.com

December 20 2006

VIA CERTIFIED MAIL R/R/R Article # 7005 1160 0005 4451 8797

Cynthia Holmes MD
P O Box 187
Sullivans Island SC 29482

Dear Dr Holmes

Your application for reappointment to the Medical Staff of East Cooper Regional Medical Center has been received and processed. Please be informed that the Medical Executive Committee (MEC) has recommended to the Governing Body that your application for associate status and surgical privileges be denied based upon inadequate documentation of current clinical competency. Under the Medical Staff Bylaws every applicant has the burden of producing adequate information for a proper evaluation of his or her current clinical competence to practice in the area of requested privileges. Also under the Medical Staff Bylaws the Hospital is required to confirm an applicant's current clinical competence. The MEC believes that the documentation of management of patients submitted with your application is inadequate to show clinical competency for the privileges requested in that the information is not dated, does not contain identifying patient information, was not compiled in a hospital or accredited surgical facility setting, and does not demonstrate your ability to competently perform the surgical procedures requested. Further, according to our records, you have not admitted or surgically treated any patients at East Cooper Regional Medical Center since 1998 and therefore there are no in-house records by which to evaluate your current clinical competency. The MEC, however, has determined that your application meets the requirements of consulting staff status and has recommended to the Governing Body that you be reappointed to the consulting Medical Staff.

Please be advised that pursuant to Article VIII of the Medical Staff Bylaws you have the right to request a hearing to appeal the action recommended by the MEC regarding the denial of associate status and surgical privileges. Accordingly, this letter will serve as a Notice of Adverse Recommendation. A request for hearing must be made in writing and received by me as Administrator of East Cooper Regional Medical Center within thirty (30) days of your receipt of this Notice. You have the right to representation by an attorney or other person of your choice should you request a hearing. Any request for legal representation must be made at the time a hearing request is made. Your hearing rights under the Medical Staff Bylaws also include the right to voir dire and challenge the impartiality of the Medical Review Committee (MRC) members or Hearing Officer presiding over the hearing. You will be provided with all information made available to the MRC, call and examine witnesses on relevant evidence, cross examine

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Cynthia Holmes MD
Page Two
December 20 2006

witnesses present evidence that tends to impeach any witness subject to the limitations set forth in the Medical Staff Bylaws and submit a written statement at the close of the presentation of evidence

Failure to request a hearing within the time frame and manner set forth above shall be deemed an acceptance of the recommendation of the MEC and a waiver of hearing and appellate rights under the Medical Staff Bylaws. If the action recommended by the MEC is formally adopted by the Governing Body the action may be reported to the National Practitioner Data Bank if so required by law. By copy of this letter the Notice of Adverse Recommendation has been forwarded to the Governing Body for its information.

Sincerely


Andrea L. Wozniak
Chief Executive Officer

cc Board of Directors East Cooper Regional Medical Center

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69-11

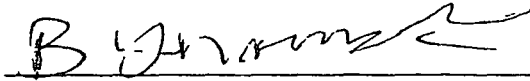
 East Cooper
Regional Medical Center

PERSONAL AND CONFIDENTIAL

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LETTER TO

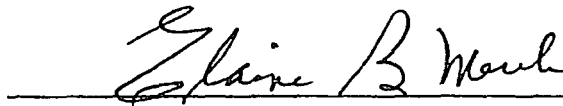
Dr Cynthia Holmes



Print Name/Signature of recipient

9 18 07

Date



Delivered by Elaine Meuli

CONFIDENTIAL PEER REVIEW INFORMATION

STATE OF SOUTH CAROLINA) BEFORE THE GOVERNING BODY OF
COUNTY OF CHARLESTON) EAST COOPER REGIONAL MEDICAL
In The Matter of) CENTER
Cynthia Holmes, M D)
_____))
Petitioner)

FINAL DECISION OF
THE GOVERNING BODY

This matter is before the Governing Body pursuant to the Notice of Request for Appellate Review by Cynthia Holmes, M D dated August 10, 2007 of the report and recommendation of the Medical Review Committee ('MRC') adopting the recommendation of the Medical Executive Committee ('MEC') Pursuant to Dr Holmes' request this matter was set for an appellate review meeting on September 19, 2007 in accordance with notice of the hearing officer dated September 4, 2007

On or about September 17, 2007, the MEC submitted a written brief in support of its position on appeal in accordance with Article VIII, § 6 E 3 of the Medical Staff Bylaws, Rules and Regulations of East Cooper Regional Medical Center No additional issues or evidence were submitted by Dr Holmes in accordance with the bylaws and as requested in the communication dated September 4, 2007 providing notice of the hearing As noticed, on September 19, 2007 at 6 00 p m , the appellate review meeting was conducted with no parties presenting additional issues, evidence or requesting to appear

The Governing Body has the authority to affirm, reverse, or modify the decision of the MRC only if the appellant demonstrates 1) substantial and prejudicial failure of the MRC or the MEC to comply with the Medical Staff Bylaws or to afford due process or a fair hearing, 2) the action of recommendation that prompted the hearing, or any substantial part was arbitrary or

*Certified Mail 10/17/07 (original)
and delivered (copy) 10/17/07*



capricious or the MRC's decision or any substantial part was clearly contrary to the weight of the evidence, and 3) the MRC's decision was clearly contrary to the weight of the evidence

In support of her position, Dr Holmes provides a recitation of objections without substantiating the basis of the MEC or MRC's decisions as being arbitrary, capricious, or clearly contrary to the weight of the evidence or specificity as to the allegations of denial of due process. The mere recitation of objections without factual support fails to provide this body with clear and objective evidence to modify or reverse the decision of the MRC.

Dr Holmes broadly indicates "that Tenet and its CEO failed and refused to provide the properly authorized bylaws to all parties as required under the bylaws." There is no specific recitation as to which purported bylaws substantiate her basis of a differing outcome or which provisions would clearly and convincingly provide alternative relief. Similarly, Dr Holmes contends that a decision and report was not made and sent within the specified time period under the bylaws and is thereby waived. Again, there is no specific indication as to which bylaw the allegation is referencing or how any alleged delay prejudicially effected the decision. Other issues include substantial and prejudicial failure of the Credentialing Committee, MEC, and MRC to comply with the bylaws. There again is no specific reference as to which bylaws would provide a differing result.

The Governing Body has considered the report and recommendation and transcript of the hearing from the prior meeting of the MRC and finds that extraordinary steps were undertaken to provide Dr Holmes with a fair hearing that afforded substantial due process. The Governing Body further finds that adequate and reasonable notification of the hearing was provided by the Medical Review Committee and Hospital Administration and that Notice to Dr Holmes of the hearing and bylaws were adequately provided in accordance with Article 8, § 1 B of the bylaws. The Notice of Hearing and statement of charges and a copy of the bylaws were mailed to Dr

Holmes, via registered mail on February 23, 2007. Therefore, she was deemed to have received the notification on or before February 28, 2007 and well within thirty days in advance of the April 4, 2007 hearing. She was, thus, provided not only adequate notice of the hearing, but also full opportunity to prepare for the review. Dr. Holmes also called a witness, Dr. John Langley, during her trial. She verbally communicated during the hearing that she had no desire to call other witnesses.

Dr. Holmes makes another bold assertion that the witnesses did not provide truthful testimony under oath. She has provided no affidavits, new evidence, or other basis for making such accusations of perjury. Likewise, she has failed to specify which portion of the testimony is materially false so that consideration of its impact upon the decision can be objectively evaluated.

Similar to the claim concerning the failure to receive adequate notice of the hearing, Dr. Holmes alleges failure to have received a witness list. During the MRC hearing, evidence was introduced that Dr. Khoury provided a witness list by letter dated February 22, 2006 as well as a supplemental copy of the exhibits by letter dated March 16, 2007.

Further allegations concern a belief that the hearing officer failed and refused to follow the bylaws. Again, this is a statement without any factual or evidentiary support. There is no reference to specific bylaws that Dr. Holmes contends should apply or which bylaws were not followed in a manner that denies due process.

Finally, Dr. Holmes attaches an eight page letter dated July 17, 1998 as further basis for her appeal. There are no evidentiary or factual assertions as to how or why any of the alleged issues raised in 1998 apply to the current credentialing decision. This ground for appeal was not raised in the earlier presentations nor is there any manner to determine its relevancy to the matters before the Governing Body.

The medical staff is responsible for the quality and appropriateness of patient care rendered by all Practitioners and Specified Professional Personnel authorized to provide patient care services. This responsibility is assumed, subject to the ultimate authority of the hospital's governing body and the best interest of the patient are better protected by a concerted effort of all involved. The Practitioners of the hospital are organized in conformity with the bylaws and the medical staff rules and regulations. The medical staff is mandated to provide quality and appropriate professional performance in ethical conduct and strive for achievable quality patient care efficiently delivered and maintained consistent with the available resources, to the degree reasonably possible as determined by the state of the healing or resources locally available. Dr Holmes failed to provide adequate documentation to support a change from consulting status to associate status with surgical privileges for ophthalmology surgery. Dr Holmes failed to demonstrate surgical ophthalmology treatment to at least twenty-five ophthalmological surgical patients or procedures in the past twenty-four months. The patient care records do not support her application and are inadequate. The records presented do not provide an opportunity for legitimate, independent peer review verification, and lack the necessary details to provide the ability to further investigate the method and specific manner of surgical procedures performed. Dr Holmes has failed to provide sufficient documentation or greater evidence to support the reversal of the prudent recommendations of the MEC and MRC.

THEREFORE, the Governing Body hereby provides its final decision that the report and recommendation of the Medical Review Committee and the Medical Executive Committee be affirmed. Pursuant to the Medical Staff Bylaws, Rules and Regulations of East Cooper Regional Medical Center, this decision shall be effective immediately and not subject to further hearing or appeal. A copy of this final decision shall be delivered to Dr Holmes by certified mail and first

class postage to the address listed within her appellate request Copies shall also be provided to the hospital administrator via hand delivery

James B Bagwell, III 10/12/07
Chairman of the Board

Charleston, South Carolina
~~September~~ 12, 2007
October

East Cooper
Regional Medical Center

MEDICAL STAFF BYLAWS

Revised July 20 2006



EAST COOPER REGIONAL MEDICAL CENTER
MEDICAL STAFF BYLAWS

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EAST COOPER REGIONAL MEDICAL CENTER
A Tenet HealthSystem Facility
MEDICAL STAFF BYLAWS

PREAMBLE

East Cooper Regional Medical Center a Tenet HealthSystem Facility is a corporation organized under the laws of the state of South Carolina and its purpose is to serve as a general acute care hospital providing patient care education and research

Recognizing that the Medical Staff is responsible for the quality of medical care in the Hospital and must accept and assume this responsibility, subject to the ultimate authority of the Hospital's Governing Body and that the best interests of the patient are better protected by concerted effort, the Practitioners of this Hospital are organized in conformity with these Bylaws and the Medical Staff Rules and Regulations These Medical Staff Bylaws Rules and Regulations create a framework within which medical staff members can act with a reasonable degree of freedom and confidence

These Bylaws were prepared for compliance and are to be construed in conformity with applicable hospital licensing laws applicable accreditation guidelines and regulatory requirements they do not constitute an express or implied contract between or among any individual, committee or entity, unless otherwise expressly determined by state law

DEFINITIONS

The use of the male pronoun (he/his/him) throughout these Bylaws is applicable to either male or female

- 1 **Administrator/Hospital President** the individual appointed by the Hospital to act on its behalf in the overall management of the Hospital
- 2 **Administrative Officer** a practitioner employed by the Hospital in a purely administrative capacity with no clinical duties or privileges and is subject to the regular personnel policies of the Hospital and to the terms of his contract or other conditions of employment and need not be a member of the Medical Staff
- 3 **Chief of Staff** a member of the active Medical Staff who is elected in accordance with these Bylaws to serve as chief officer of the Medical Staff of this Hospital
- 4 **Clinical Privilege/Privileges** specified diagnostic and therapeutic services that may be exercised by authorized individuals on approval of the Governing Body

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EAST COOPER REGIONAL MEDICAL CENTER
A Tenet HealthSystem Facility
MEDICAL STAFF BYLAWS

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- 3 **Chief of Staff** a member of the active Medical Staff who is elected in accordance with these Bylaws to serve as chief officer of the Medical Staff of this Hospital
- 4 **Clinical Privilege/Privileges** specified diagnostic and therapeutic services that may be exercised by authorized individuals on approval of the Governing Body

- 5 Completed Application an application, either for initial appointment or reappointment to the Medical Staff or for clinical privileges that has been determined by the applicable Medical Staff department (s) Credentials Committee Medical Executive Committee (MEC) and the Governing Body to meet the requirements of the Medical Staff Bylaws Rules and Regulations
- 6 Patient Contact a patient contact is defined as any (1) inpatient admission (2) outpatient admission requiring direct physician contact (3) consultation or (4) direct emergency room contact
- 7 Days calendar days unless otherwise noted
- 8 Dentist an individual, who has received a Doctor of Dental Surgery or a Doctor of Dental Medicine degree and has a current, unrestricted license to practice dentistry in this South Carolina Categorized as Specified Professional Personnel
- 9 Department a clinical division of the Medical Staff, grouping members in accordance with their specialty or major practice interest, as specified in these Bylaws
- 10 Department Chairman the member of the active Medical Staff who is duly selected in accordance with these Bylaws to serve as the head or director of a clinic department or service
- 11 Ex Officio service as a member of a body by virtue of an office or position held, and unless otherwise expressly provided and doesn't have voting rights
- 12 Good Standing the term "good standing" means a staff member whom at the time the issue is raised, has met the attendance and committee participation and has the appropriate patient contacts requirements during the previous Medical Staff year, and has not received a suspension or restriction of membership or privileges in the previous twelve- (12) months
- 13 Governing Body/Local Board the local Governing Body of the Hospital, is the Board of Directors of East Cooper Regional Medical Center
- 14 Hospital East Cooper Regional Medical Center A Tenet Healthcare System Facility
- 15 Medical Executive Committee/(MEC) the Medical Executive Committee of the Medical Staff unless otherwise specified
- 16 Medical Review Committee (MRC) the committee appointed pursuant to these Bylaws for the purpose of evaluating the evidence and making findings in a Medical Staff hearing

- 17 Medical Staff the formal organization of all physicians (M D or D O) who hold an unrestricted license in the state of South Carolina and who are privileged to provide patient care services at East Cooper Regional Medical Center within the scope of their licensure and approved clinical privileges
- 18 Medical Staff Term/Year two years
- 19 Medico-Administrative Staff/CMO - The Medico Administrative Staff category shall consist of Practitioners who serve the hospital in an administrative capacity without consistent clinical responsibilities Medico Administrative Staff shall attain staff membership through the same procedure required for other Medical Staff categories Their clinical privileges will be determined by the Credentials Committee and approved by the Medical Executive Committee on an individual basis when and if the need arises for clinical duties They will not hold Medical Staff office nor have a vote on departmental or hospital wide matters They will not be responsible for Emergency Room call unless performing approved consistent clinical duties with appropriate on call coverage with other physicians on the Medical Staff The right to Fair Hearing and Appeal process shall apply under these Bylaws only to clinical duties which are independent of the Practitioner's contract with the hospital
- 20 Member a practitioner who has been granted and maintains Medical Staff membership and (except for honorary staff) clinical privileges and who is in good standing pursuant to these Bylaws
- 21 Physician an individual who holds a current, unrestricted license as a M D or D O in this state
- 22 Podiatrist an individual who has a doctor of podiatric medicine degree and a current, unrestricted license to practice podiatry in this state
Categorized as Specified Professional Personnel
- 23 Practitioner a physician as defined in these Bylaws with a current, unrestricted license issued by the state of South Carolina
- 24 Service a subdivision of either the Medical Staff or a clinical department grouping members in accordance with their specialty or major practice interest, as specified in these Bylaws
- 25 Specified Professional Personnel (SPP) aka Allied Health Professional individuals other than those defined under "Practitioner" who provide direct patient care services in the Hospital under a defined degree of supervision exercising judgment within the areas of documented professional competence and consistent with applicable law These are individuals who are designated as SPP's by the Governing Body to be credentialed through the Medical Staff system SPP's are not eligible for Medical Staff membership

- 26 **Telemedicine** Telemedicine involves the use of electronic communication or other communication technologies to provide or support clinical care at a distance. Diagnosis and treatment of a patient may be performed via telemedicine link.
- 27 **Telemedicine Practitioner** Any licensed and appropriately credentialed practitioner who prescribes, renders a diagnosis or otherwise provides clinical treatment to a patient who has expressly applied for and been granted telemedicine privileges.

ARTICLE I

NAME

These are the Bylaws of the Medical Staff of East Cooper Regional Medical Center a Tenet Healthcare System Facility

ARTICLE II

PURPOSES AND RESPONSIBILITIES

SECTION I - PURPOSES OF THE MEDICAL STAFF

The purposes of the Medical Staff are to

- A provide an organized body through which the benefit of Medical Staff membership (mutual education consultation, and professional support) may be obtained by each Medical Staff member and the obligations of Medical Staff membership may be fulfilled
- B serve as the primary means for accountability to the Governing Body for the quality and appropriateness of the professional performance and ethical conduct of its members as well as of Specified Professional Personnel
- C to strive for achievable quality patient care, efficiently delivered and maintained consistent with available resources, to the degree reasonably possible as determined by the state of the healing arts and resources locally available,
- D develop a structure, reflected in Medical Staff Bylaws, Rules and Regulations policies, protocols, and other applicable documents, that adequately defines the responsibility and when appropriate the authority and accountability of each Medical Staff component and provide a means through which the Medical Staff may provide recommendations to the hospital's policy making and planning process

SECTION 2 - RESPONSIBILITIES OF THE MEDICAL STAFF

The responsibilities of the Medical Staff are to account for the quality and appropriateness of patient care rendered by all Practitioners and Specified Professional Personnel authorized to provide patient care services in the Hospital by

- A processing credentials in a manner that matches verified qualifications performance and competence with clinical privileges for all Medical Staff applicants and

members and practice prerogatives for all Specified Professional Personnel

B making recommendations to the Governing Body with respect to Medical Staff appointments reappointments, staff category provisional status, clinical privilege delineation and as appropriate department service and/or unit assignment and corrective actions

C participating in the Hospital quality performance improvement program by conducting objectively all required peer evaluation activities through Medical Staff and/or department service review, specific (committee) monitoring processes and a comprehensive occurrence screening program,

D providing an effective utilization review program for allocation of medical services based upon patient specific determinations of individual medical needs

E providing continuing education that is relevant to patient care provided in the Hospital as determined to the degree reasonably possible, from the findings of quality/performance related activities,

F initiating and pursuing corrective action when indicated

G enforcing the Medical Staff Bylaws, Rules and Regulations uniformly and consistently and

H providing the Medical Staff Office a copy of their current State Medical license or Dental license current State DEA and Federal DEA registration certificates and appropriate verification of malpractice insurance coverage annually

ARTICLE III

MEDICAL STAFF MEMBERSHIP

SECTION I - MEMBERSHIP AS A PRIVILEGE

A Membership on the Medical Staff of this Hospital and/or assignment of clinical privileges shall only be granted and maintained by those professionally qualified and currently competent practitioners who continuously meet the qualifications standards and requirements set forth in these Bylaws and the Rules and Regulations and policies of the Hospital Appointment to and membership on the Medical Staff shall confer on the member only such clinical privileges which the Governing Body in accordance with these Bylaws has granted rights as

B No individual is automatically entitled to initial or continued membership on the

Medical Staff or to exercise any clinical privilege in the Hospital merely because he is licensed to practice in this or any other state or because he has previously been a member of this Medical Staff or because he had or now has membership or privileges at this or another health care facility or another practice setting or because he is a member of any professional organization

C Medical Staff membership does not create an employment or agency relationship between the Practitioner and the Hospital

D No physician shall admit or provide services to patients in the Hospital unless he is a member of the staff or has been granted temporary privileges in accordance with the procedures set forth in these Bylaws

SECTION 2 - GENERAL CRITERIA FOR MEMBERSHIP

Subject to exceptions provided by law or stated herein, Medical Staff membership and/or clinical privileges shall not be denied on the basis of sex, age, race, religion, creed, color, disability or national origin, but shall be related to professional ability and judgment relevant training and experience health status (subject to any necessary reasonable accommodation to the extent required by law), current competence and to the Hospital's purposes, needs, and non exclusive capabilities. When the determination is based on the Hospital's needs or its non-exclusive ability to provide the facilities, beds and support staffing/services consideration will be given, or as otherwise provided by law, to utilization patterns, and actual and planned allocations of physical, financial and human resources to general and specialized clinical and support services, and to the Hospital's specific goals and objectives as reflected in the Hospital's short and long range plans. It is recognized that some patient care services at the Hospital may be provided exclusively by a limited number of Practitioners selected by the Hospital and who have been properly processed and granted Medical Staff membership and/or clinical privileges

SECTION 3 - QUALIFICATIONS AND OBLIGATIONS OF MEMBERSHIP OR PRIVILEGES

A Qualification In addition to the general criteria for membership, only physicians with a current unrestricted license to practice in this state who can document their background professional experience, worthy character, education, relevant training, judgment, and demonstrated current competence, adherence to the ethics of their profession good reputation, health status (subject to any necessary reasonable accommodation to the extent required by law), the ability to work with others (staff members, members of other health care disciplines Hospital management and employees visitors patients and the community in general) and refrain from disruptive behavior which has or could interfere with patient care or the orderly operation of the Hospital so as to demonstrate to the Medical Staff and Governing Body that any patient treated by them in the Hospital or in any of its facilities will be given care of the professional level of quality and efficiency as established by the Medical Staff and Hospital, shall be qualified for membership on the Medical Staff

B Obligations In addition to the other obligations listed in these Bylaws each applicant by applying for or being granted membership or clinical privileges (temporary or otherwise) thereby agrees to

- 1 adhere to the generally recognized standards of professional ethics of his profession
- 2 not participate in fee splitting or "ghost" surgical or medical care
- 3 participate as required in peer evaluation activities
- 4 provide continuous care for his patients and delegate the responsibility for diagnosis or care of patients only to a member in good standing who has unrestricted clinical privileges to undertake that responsibility
- 5 obtain and document in the patient's medical record appropriate informed consent
- 6 abide by the Medical Staff Bylaws, Rules and Regulations and applicable Hospital policies
- 7 complete adequately, and in a timely fashion, the medical and any other required records for all patients he admits or in any way provides care for in the Hospital. This will include timely completion of medical history and physical examinations for each patient admitted to the hospital
- 8 seek consultation whenever necessary
- 9 maintain the required amount of professional liability insurance in an amount and with a carrier approved by Tenet and the Governing Body and provide the hospital with a current certificate of insurance. The required coverage is \$1 million/\$3 million. The insurance must cover the types of privileges requested
- 10 reasonably assist the Hospital in fulfilling its uncompensated or partially compensated patient care obligations in the areas of professional competence and privileges
- 11 reasonably cooperate with the Hospital in its efforts to comply with accreditation reimbursement and legal or other regulatory requirements
- 12 supply requested information and appear for interviews with regard to membership or privileges

- 13 immediately notify the Administrator of the revocation or suspension of the applicant's professional license or the imposition of terms of probation or limitation of practice by any state licensing agency or the DEA or of any actions pending with regard to such adverse licensure activity of the voluntary or involuntary loss of staff membership or clinical privileges at any health care institution of the cancellation or restriction of professional liability coverage of any adverse determination by a peer review organization or a third party payer reimbursement program concerning quality of care of the commencement of a formal investigation or the filing of charges by the Department of Health and Human Services or any law enforcement agency or health regulatory agency of the United States or of any state of the notice of intent to file or the filing of a claim alleging professional liability or the filing of any criminal charges
- 14 maintain the confidentiality of all Medical Staff peer review matters pursuant to these Bylaws
- 15 provide patients with care at the professional level of quality and efficiency as defined by the Medical Staff and Governing Body
- 16 discharge staff department committee and hospital functions for which he is responsible by staff category assignment appointment and election or otherwise
- 17 authorize the Hospital to consult with members of the Medical Staffs of other Hospitals with which the applicant has been associated and with others who may have information bearing on his competence, skill, character, ethical and other qualifications
- 18 consent to the Hospital's inspection of all records and documents that may be material to an evaluation of his professional qualifications for the clinical privileges he requests as well as his moral and ethical qualifications for staff membership
- 19 release from any liability to the fullest extent permitted by law all persons for their acts performed in connection with the investigation and evaluation of the applicant and his credentials
- 20 release from any liability, to the fullest extent permitted by law all individuals and organizations who provide information regarding the applicant including otherwise confidential information
- 21 consent to the disclosure to other health care entities medical associations licensing boards and other organizations any information regarding his professional or clinical standing that the hospital or medical staff may have and release the medical staff and hospital from liability to the fullest

extent permitted by law

22 comply with Medical Staff policies rules and regulations

SECTION 4 - PARTICULAR QUALIFICATIONS

A Physicians An applicant for physician membership in the Medical Staff must hold an M D or D O degree issued by a medical or osteopathic school approved at the time of issuance of such degree by the State Board of Medical Examiners of the State of South Carolina and must also hold a valid, unrevoked and unsuspended certificate to practice medicine issued to him by the Board of Medical Examiners of the State of South Carolina. The clinical departments will establish specific qualifications for the granting of clinical privileges. Applicant must possess Board Certification recognized by the American Board of Medical Specialties (ABMS) within the specified time frame as determined by the applicant's respective board. If a specialty board does not specify a time frame for certification, the physician will have five (5) years from the time of completion of residency training to obtain specialty board certification. Physicians not only must obtain board certification by the ABMS but they must maintain board certification in order to maintain medical staff membership. The requirement to maintain board certification will only apply to physicians appointed to the medical staff after February 1, 2004.

B Oral and Maxillofacial Surgeons An applicant for oral and maxillofacial surgeon membership in the Medical Staff must hold a D D S or equivalent degree issued by a dental school approved, at the time of issuance of such degree by the Board of Dental Examiners of South Carolina and must hold a valid, unrevoked and unsuspended certificate to practice dental medicine as well as, a specialty certificate in oral and maxillofacial surgery, issued to him by the Board of Dental Examiners of South Carolina and must have successfully completed a post graduate program in oral and maxillofacial surgery accredited by a nationally recognized accredited body approved by the United States Department of Education.

C Specified Professional Personnel Specified Professional Personnel are not eligible for membership in the Medical Staff but may be granted appropriate practice privileges in the Hospital because they are duly licensed to practice in this or any state or because they had or presently have, staff membership or privileges at another health care facility or in another practice setting.

SECTION 5 - REQUEST FOR MODIFICATION OF MEMBERSHIP STATUS OR PRIVILEGES

A staff member may either in connection with reappointment or at any other time request modification of his staff category department assignment or clinical privileges by submitting a written request application to the Hospital President. Such request application shall be processed as noted in Article VI Section 5.

ARTICLE IV

CATEGORIES OF THE MEDICAL STAFF

SECTION 1 - MEDICAL STAFF

The Medical Staff shall be divided into the following categories active associate courtesy consultative and honorary

SECTION 2 - ACTIVE STAFF

A Qualifications The active staff category shall consist of physicians and oral surgeons who regularly admit or personally provide services other than written consultation, to patients in the Hospital and who are located (primary or satellite office and temporary or permanent residence) within a reasonable distance and/or travel time to the Hospital in order to provide continuous care to their patients. Active staff members shall admit or provide the above-described services to at least 24 patient contacts per calendar year and any less than this shall ordinarily be deemed a request for modification of membership status. Hospital based Practitioners who do not admit patients may be members of the active Medical Staff if otherwise qualified. Active staff members assume the functions and responsibilities of membership including, when appropriate, emergency service care, disaster plan assignment, and consultation assignments. Members of the active staff shall be eligible to vote, hold staff and departmental office, serve on Medical Staff departmental and Governing Body committees, and shall attend not less than the 50% of the Quarterly Medical Staff meetings. Departmental meeting attendance will be determined by each department. Attendance at departmental meetings is required for a member of the medical staff when one of the member's cases is being reviewed or when the member is assigned to review cases of his peers. Active staff members shall participate in the performance improvement activities required of the Medical Staff and shall serve, when qualified and required to do so, as proctors for other practitioners during any period of temporary privileges pending membership processing or during initial membership provisional status period. Active staff will be required to participate in the Emergency Room call schedule if their specialty has one. Active staff applicants will be on a provisional status for one year following Board approval. At that one-year anniversary date they will be re-evaluated to determine their status.

B Request for Provisional Status Change A physician can request in writing to the Medical Staff Office to be placed on a one year probation when his Active status is in question. The Medical Staff Office will issue a letter stating the probationary period and the requirements. The requesting physician will read and sign the letter and return it back to the Medical Staff Office. The request will be forwarded to the Credentials Committee Medical Executive Committee and the Board of Directors for final approval. If after one

year the physician fails to meet the requirements set forth in the Bylaws for Active staff he will be placed on Courtesy or Consulting staff until his next reappointment

SECTION 3 - ASSOCIATE

A Qualifications The Associate staff category shall consist of practitioners who meet all the criteria for Active staff membership except the minimum required number of patient's contacts per year. These practitioners shall not have active privileges at any other hospital.

In order to allow adequate medical peer review of the smaller number of patient contacts by members of the Associate staff, all patient contacts will be reviewed by the department to which the practitioner is assigned. In addition, if the applicant desires privileges for surgical or invasive medical procedures, he will be required to submit documentation of current clinical competence to the satisfaction of the appropriate Department Chairman and Credentials Committee. Members of the Associate staff must fulfill all requirements of the Active staff including, when appropriate, emergency service, care, disaster plan assignment, and consultation assignments. They may serve on medical staff departmental and Governing Body committees and shall attend not less than 50% of the Quarterly Medical Staff meetings. Departmental meeting attendance will be determined by each department. Attendance at departmental meetings is required for a member of the medical staff when one of the member's cases is being reviewed or when the member is assigned to review cases of his peers. Members of the Associate staff shall be eligible to vote at departmental and assigned committee meetings only. They may not vote at Quarterly Medical Staff meetings. Associate staff will be required to participate in the Emergency Room call schedule if their specialty has one. Associate staff members shall participate in the performance improvement activities of the medical staff.

If their number of patient's contacts should be 24 or more in any calendar year, the Associate staff practitioner will be advanced to Active staff membership. If the practitioner should attain Active staff privileges at any other hospital, he will be placed on Courtesy staff.

SECTION 4 - COURTESY STAFF

A Qualifications The Courtesy staff category shall consist of Practitioners who are located (primary or satellite office) within a reasonable distance and/or travel time to the Hospital to provide continuous care for their patients but who do not admit or provide services other than written consultation for more than twenty-four (24) patient contacts per calendar year. Patient care services of more than the specified number of patients in a year by any member will require that the member be appointed to the active staff category. Courtesy staff members shall be members of the active or associate active staff of another hospital in which their regular participation in performance improvement activities is documented and their performance evaluated.

Courtesy staff membership shall provide satisfactory evidence to the Credentials

Committee of such membership participation and evaluation. Courtesy staff members are not eligible to vote on Medical Staff or departmental matters or hold Medical Staff office. They may serve as non voting members of designated departmental and Hospital committees in which they participate, except for the Credentials Committee and the Medical Executive Committee. They shall not be required to attend Quarterly Medical Staff meetings or serve on the emergency roster.

SECTION 5 - CONSULTING STAFF

Qualifications The Consulting Medical Staff consists of physicians who do not admit patients to the hospital but who do desire privileges to provide consultative services to patients at the request of active or courtesy staff physicians. Consulting staff generally provides expertise in a specialty or subspecialty that is not otherwise available through active or courtesy membership. Consulting staff members are not eligible to admit patients, perform surgery, vote, or hold office. They are not required to serve on committees or to take part in the emergency room call schedule. Consulting staff members may render assistance in the operating room at the specific request of a surgeon who has admitting and operative privileges at East Cooper Regional Medical Center. They are required to abide by the Bylaws, Rules and Regulations of the Medical Staff and Governing Body and applicable hospital policies.

SECTION 6 - HONORARY STAFF

Qualifications The Honorary staff category shall consist of Practitioners who are not active in the Hospital or who are honored for emeritus positions. These Practitioners may have retired from active practice and may no longer reside in the immediate community. They are not eligible to vote on Medical Staff matters, hold Medical Staff or departmental office, serve on committees, or admit or care for patients. They must discharge the basic responsibilities of all Medical Staff members, abide by all policies, Bylaws, Rules and Regulations and uphold the ethical principles of their profession. They are not required to have professional liability insurance or to attend Medical Staff or departmental meetings, but may do so if they wish.

SECTION 7 - LIMITATIONS

The prerogatives set forth under each staff category are general in nature and may be subject to limitations by special conditions attached to a Practitioner's staff membership by other Sections of these Bylaws and by other policies of the Hospital. The Board of Directors will have the prerogatives to waive and/or amend particular qualification only after due consideration and documentation of an individual's physical limitations.

SECTION 8 - WAIVER OF QUALIFICATIONS

Any qualifications may be waived at the discretion of the Board upon determination that such waiver will serve the best interests of the patients

ARTICLE V

PROCEDURES FOR APPOINTMENT AND REAPPOINTMENT

SECTION 1 - CONDITIONS AND DURATION OF APPOINTMENT AND REAPPOINTMENT

Initial appointment and reappointments to the Medical Staff shall be made by the Governing Body upon a recommendation from the MEC, and shall be for a period up to, but not to exceed two (2) years. However, in the event of unusual delay or inappropriate recommendation on the part of the MEC, the Governing Body may act without or contrary to such recommendation on the basis of documented evidence of the applicant's or member's professional and ethical conduct. Prior to taking such action, however, the Governing Body shall notify the MEC of its intent and shall designate an action date prior to which the MEC may still fulfill its responsibility. Peer input shall be obtained and considered for all applicants for appointment and reappointment.

SECTION 2 - PROCEDURE FOR APPOINTMENT

A Application for Initial Appointment Each application for appointment to the Medical Staff shall be in writing, submitted on the prescribed form, and signed by the applicant. When an applicant is provided an application, he shall also be given access to a copy of these Bylaws, the Medical Staff and departmental Rules and Regulations, and applicable Hospital policies.

B Applicant's Responsibility The applicant shall have the burden of producing adequate information for a proper evaluation of his competence, character, skill, ethics, health status (subject to necessary reasonable accommodation to the extent required by law), ability to work with others, and other qualifications. Neither the Governing Body nor any Medical Staff committee shall have any obligation to review any application until the applicant completes it in all respects and submits all required information and supporting material. The applicant shall provide accurate, up to date information on the application. The applicant shall be responsible for resolving any doubts regarding the application and qualifications for membership and privileges requested. The application process must be completed within one (1) year from the time application was received by the Medical Staff Office. The applicant agrees to report immediately to the Administrator any change in the information that occurs after an application has been submitted. Any committee or its designee may request the applicant to appear for an interview with regard to the application. Failure to comply with any of these provisions, including failure to appear for any requested interview, may result in the application being deemed incomplete or in the denial of membership or privileges or may subject the practitioner to disciplinary action.

The information shall include, but not be limited to

- 1 identifying information
- 2 undergraduate education
- 3 postgraduate education and professional degrees (need source verification)
- 4 internship (need source verification)
- 5 residency/fellowship (need source verification)
- 6 all past and present Hospital and other health care entity affiliations (need source verification)
- 7 memberships in professional associations societies, academies colleges and faculty/training appointments (need source verification)
- 8 specialty board certification status (need source verification)
- 9 state licensure with expiration date(s) (need source verification)
- 10 Drug Enforcement Administration (DEA) registration with expiration date (Both state and Federal DEA's)
- 11 professional references consisting of three (3) references two must be physicians one in the same medical specialty as the applicant and preferably one from an active ECRMC physician For applicants recently completing medical training the third reference will be the head of the clinical department where the applicant trained For applicants recently employed by a teaching or training hospital the third reference must be from the head of that clinical department For applicants who have not recently been associated with a teaching center the third reference must be a physician familiar with the applicant's medical expertise All references must have recently worked with the applicant and directly observed his professional performance over a reasonable period of time They must be willing to provide reliable information regarding the applicant's current clinical ability ethical character and ability to work with others
- 12 previous practice data
- 13 continuing medical education for the past two years

14 bibliography of publications speeches and meetings attended with dates

15 professional liability insurance including carrier amount and dates of coverage (need source verification) and past and present professional liability history

16 Responses to the following questions can and may be asked

(a) Has any professional license of yours in any jurisdiction or your DEA registration ever been denied, limited (either voluntarily or involuntarily) suspended revoked voluntarily or involuntarily surrendered or otherwise acted against or is any such action pending?

(b) Have your clinical privileges (including but not limited to temporary, locum tenens, admitting consulting, and assisting) or membership at any health care facility ever been limited suspended reduced denied modified revoked not renewed, voluntarily or involuntarily relinquished or limited or otherwise adversely acted upon, or is any such action pending?

(c) Have your clinical privileges or membership in any managed care organization, or medical or professional group (e.g. HMO PPO IPA etc.) ever been (either voluntarily or involuntarily) limited, suspended, reduced denied modified, revoked not renewed voluntarily relinquished or otherwise adversely acted upon, or is any such action pending?

(d) Have you ever been denied or voluntarily or involuntarily relinquished membership or renewal thereof or had your membership or affiliation revoked or otherwise acted against or been subject to disciplinary action at any health care facility medical group in any medical or professional group or organization, or is any such action pending?

(e) Have you ever been notified of an investigation or to appear before any licensing agency (State Board of Examiners, DEA etc.) for a hearing or complaint with regard to your professional license or DEA registration?

(f) Have you ever been convicted of a felony or misdemeanor (other than minor traffic offenses) or is any such action pending?

(g) Has any judgment or settlement been made against you in a professional liability case? If so on a separate sheet list the complete case name the court in which the case was filed the date of loss the date you first received notice of the claim the date of resolution your insurance carrier and the amount of judgment or settlement paid on your

behalf for each judgment or settlement

(h) Has any professional liability insurance claim been filed against you or have you reported any malpractice claim to your insurance carrier or have you received any letter of intent to sue?

(i) Are there any professional liability cases pending against you? If so on a separate sheet, list the complete case name court in which it was filed date of loss date you received notice of the claim, its current status the name of your insurance carrier, and an explanation of the nature of the case

(j) Has any professional liability insurance carrier canceled, refused coverage, excluded specific procedures from your coverage, or has your insurance been rated up or has a surcharge been imposed by your insurance carrier, or is any such action pending?

(k) Have you ever discontinued practice for any reason (other than for routine vacation or formal education/training) for one month or more?

(l) Have you ever been sanctioned, suspended, or otherwise restricted from participation in Medicare, Medicaid or any government or private insurance plan?

The Medical Staff and Governing Body shall inquire to the extent and in a manner permitted by law, into the physical and mental health status of the applicant so as to determine the practitioner's qualifications to render the privileges requested

- 17 a request for staff membership category and if such exists, the department or clinical service assignment desired
- 18 clinical privileges desired
- 19 a specific signed consent for immunity and release from liability for all individuals involved in and performing the credentialing function
- 20 a small photo for identification purposes only
- 21 a list of medical staff physicians who have agreed to provide patient coverage in the absence of the applicant

C Submission of the Application The application shall be submitted through the Administrator to the Medical Staff Office for the purpose of assisting the Credentials Committee chairman or designee to have all information verified. The Hospital shall query the National Practitioner Data Bank (NPDB) and applicable state licensing board

if required in compliance with existing laws and hospital policy for all practitioners who are applying for privileges or membership. The applicant must immediately report to the Medical Staff Office any change in the information in the application that occurs after the application has been submitted.

D Significant Misrepresentation If an applicant supplies information in the application process that contains significant misrepresentations or omissions, this may be grounds for denial of the application or if membership or privileges have been granted for corrective action under these Bylaws.

E Incomplete Application - Further Information - Application Withdrawn From Processing Any committee or individual charged under these Bylaws with the responsibility of reviewing an application for appointment, reappointment, or new clinical privileges, may, upon review of the application, deem any such application incomplete. The fact that an application is deemed complete by the Medical Staff Office or a department or committee does not preclude the medical staff office or a committee or department which subsequently reviews the application from deeming it incomplete. If an application is deemed incomplete, it will not be processed. The individual or committee that deems an application incomplete shall request further documentation or clarification from the applicant. Such committee or individual requesting further documentation or clarification shall notify the applicant in writing and shall afford the applicant a set period of time to provide the requested information and clarification. Such period of time shall be as deemed appropriate by the individual or committee requesting the information, but shall not exceed sixty (60) calendar days from receipt of the request to provide the requested information. Failure of an applicant to timely produce all of the requested information, documentation and clarification shall result in the application being deemed incomplete and voluntarily withdrawn. Such action will not result in the filing of a report with the applicable state-licensing agency nor with the National Practitioner Data Bank. Any subsequent application submitted by this Practitioner shall be processed as an initial application under these Bylaws. Notwithstanding any other provision of these Bylaws, any Practitioner whose application is discontinued from processing pursuant to this section will not be entitled to the hearing and appeal rights under these Bylaws.

F Departmental Review Within sixty (60) days of receipt of the completed application, the Chairman of each department in which the applicant seeks privileges shall provide the Credentials Committee with a specific written or oral recommendation relating to staff category, clinical privileges, department affiliation, and any conditions, or recommend that the application be deferred for further consideration.

G Credential Committee Review Within sixty (60) days of receipt of the completed application and recommendation of the department(s), the Credentials Committee shall make a written recommendation to the MEC as to membership and, if membership is recommended, as to staff category, privilege delineation, department service assignment, and any conditions attached to the appointment.

H MEC Review and Recommendation At its next regular meeting after receipt of the recommendations of the Credentials Committee the MEC shall submit its recommendation to the Governing Body relating to membership and if appointment is recommended to staff category clinical privileges and department affiliation and any special requirements or conditions. The recommendation shall be based on the review of all available information. The MEC may take action by recommending that the Governing Body either

- (a) defer making a recommendation,
- (b) appoint the applicant to a medical staff category in provisional status clinical privileges and department affiliation or
- (c) reject the applicant's request for membership and/or privileges

- 1 The MEC may defer action on a complete application for a period not to exceed thirty (30) days except for good cause
- 2 When the recommendation of the MEC is favorable to the applicant the Administrator will forward it, together with all supporting documentation, to the Governing Body for consideration at its next scheduled meeting
- 3 When the recommendation of the MEC is adverse to the applicant the Administrator shall so inform the applicant within seven (7) working days advising him of his hearing and appeal rights under these Bylaws
- 4 Notice of an adverse recommendation shall be forwarded to the Governing Body for its information, but shall not be acted upon until after the affected individual has exercised or waived the right to a hearing and appeal under these Bylaws

I Action by the Governing Body

- 1 Unless subject to the provisions of Hearing and Appellate Review Procedures of these Bylaws, the Governing Body or its duly authorized committee shall act on the matter at its next regular meeting following receipt of the recommendation of the MEC
 - (a) If the Governing Body adopts the recommendation of the MEC it shall become the final action of the Hospital
 - (b) If the Governing Body does not adopt the recommendation of the MEC the Governing Body may refer the matter to the MEC with instructions for further review and recommendation and a time frame for responding to the Governing Body. The MEC shall review the matter and shall forward its recommendation to the Governing Body. If the Governing Body adopts the recommendation of the MEC it shall become the final action of the Hospital

- (c) If the action of the Governing Body is adverse to the applicant the Administrator shall send written notice to the applicant within seven (7) working days advising the applicant if he is entitled to the hearing and appeal rights under these Bylaws
- (d) An adverse decision of the Governing Body shall not become final until the applicant has exercised or waived his hearing and appeal rights under these Bylaws. Except for corrective action taken pursuant to Article VII Section 3 adverse action recommended by the MEC shall not take effect until the Governing Body has made its final decision. The fact that such adverse decision is not yet final shall not be deemed to confer membership or privileges when none existed before

- 2 At its next regular meeting, after all of the affected individual's hearing and appeal rights under these Bylaws have been exhausted or waived the Governing Body shall take final action. All decisions to appoint shall include a delineation of clinical privileges, staff category, department affiliation and any applicable conditions and the applicant shall be so notified

Subject to any applicable provisions of the Fair Hearing and Appellate Review Procedures, notice of the Governing Body's final decision shall be given in writing through the Administrator to the applicant within seven (7) working days of the final decision. The Chief of Staff shall give notice to the MEC, the Credentials Committee, and the department chairman. In the event a hearing and/or appeal was held, Fair Hearing and Appellate Review Procedures, Appeal to Governing Body shall govern notice of the Governing Body's final decision.

J Provisional Status All initial appointments to any category of the Medical Staff shall be provisional for twelve (12) months. The care observed shall be relevant to the privileges granted. The purpose of observation is to determine the individual's eligibility for advancement from provisional status and for exercising the clinical privileges provisionally granted. The Chairman shall complete a provisional form with comments on the appointee's performance. Each provisional report will be evaluated when the provisional year is completed in order to track the physician's compliance with the requirements of the Medical Staff. A Practitioner may request an additional year on provision to meet the Active staff requirements. If after that one (1) year the practitioner fails to meet the necessary requirements, he'll be assigned to the Courtesy or Consulting staff category and will not be able to apply to the Active staff for one (1) year. No member may be on provisional status for a total period longer than twenty four (24) months. Unless excused for good cause by the MEC and Governing Body, a Practitioner's failure to complete the required number of Patient Contacts, Quarterly Medical Staff meetings or required peer review assignments shall be deemed voluntary relinquishment of Active staff privileges and membership. Such affected practitioner shall not be entitled to the hearing and appeal rights under these Bylaws.

K. Previously Denied or Terminated Applicants Notwithstanding any other provision of these Bylaws if an application is tendered by an applicant who has been previously denied membership and/or privileges or who has had membership and/or privileges terminated or whose prior application was deemed incomplete and withdrawn and it appears that the application is based on substantially the same information as when previously denied, terminated, or deemed withdrawn, then the application shall be deemed insufficient by the Credentials Committee and returned to the applicant as unacceptable for processing. No such application shall be processed and no right of hearing or appeal shall be available in connection with the return of such application. Applicant must then wait one calendar year before reapplying.

L. Telemedicine Practitioner An appropriately credentialed practitioner who is responsible for the care of a patient via telemedicine link is subject to the credentialing and privileging process of the originating site that recommends the clinical services to be provided by the practitioner through a telemedicine link at their respective site.

SECTION 3 - THE REAPPOINTMENT PROCESS

A. Application At least ninety (90) days prior to a Practitioner's privileges expiring (based on a two year reappointment) the Medical Staff Office shall provide each member with an approved "Application for Reappointment" form which must be completed and returned within thirty (30) days to the Medical Staff Office for review. A late fee will be charged for the continued processing of the application past the 30-day deadline. Information to be available for review shall include at least objective evidence of the individual's clinical competence based on peer review activities,

- 1 evidence of the individual's support of the Medical Staff and Hospital (e.g., medical record deficiency/delinquency status, meeting attendance, committee service, satisfaction of minimum patient care requirements to maintain staff category, compliance with the Bylaws, Rules and Regulations and applicable hospital policies),
- 2 any request or recommendation for changes in staff category, clinical privileges or department assignment citing the reasons and supporting information,
- 3 evidence of consideration of the staff member's health status (subject to necessary reasonable accommodation to the extent required by law),
- 4 information regarding any sanctions imposed by another health care facility, professional organization or licensing authority,
- 5 malpractice claims experience since the last reappraisal including at a minimum final judgments and settlements against the applicant identifying the case name, court, date of loss, date of disposition.

amount paid in judgment or settlement and a description of the case

- 6 evidence of current licensure and DEA registration
- 7 evidence of professional liability coverage (carrier type, policy number amount and expiration date) and any limitations
- 8 information regarding previously successful or currently pending challenges to any licensure or registration (DEA) or the voluntary or involuntarily relinquishment of such licensure or registration
- 9 information regarding voluntary or involuntary termination of membership or the voluntary or involuntary limitation reduction, or loss of clinical privileges at another health care facility
- 10 evidence of a query sent to the National Practitioner Data Bank, information regarding any pending criminal charges or criminal convictions,
- 11 As of January 1, 2000, All staff members are required to complete forty (40) CME credit hours every two (2) years in Category I AMA approved credit within the staff member's medical specialty. Any staff member who fails to meet this requirement shall be given six (6) months to complete the required CME hours. He will be on Provisional staff until the hours are accomplished. Failure to complete the required hours in six (6) months will result in loss of staff privileges, and
- 12 List of staff member's physician to cover patients in his absence

B Failure to Complete Application/Incomplete Application A Practitioner who fails to return the form or to supply all of the required information within thirty (30) days prior to the expiration of the current appointment period or respond in a timely manner to a request for information shall be deemed to have resigned his Medical Staff membership, effective as of the date of the expiration of his current appointment. A Practitioner who is deemed to have resigned under this section shall not be entitled to the hearing and appeal rights under these Bylaws.

C Applicant's Responsibility The applicant shall have the burden of producing adequate information for a proper evaluation of his current competence, character, skill, ethics, health status in terms of his ability to practice in the area in which privileges are sought (subject to necessary reasonable accommodation to the extent required by law), ability to work with others, and other qualifications. By applying for appointment or reappointment to the Medical Staff or for clinical privileges, the Practitioner agrees to comply with the Medical Staff Bylaws, the Medical Staff and departmental Rules and Regulations, and applicable Hospital policies.

D Processing Delays The time periods specified are to guide the parties in

accomplishing their tasks. If reappointment processing has not been completed by an appointment expiration date through no fault of the member, the member shall maintain his current membership status and privileges until such processing is completed, except to the extent that corrective action is taken. If the processing delay is attributable to the member's failure to provide required information, his membership shall terminate pursuant to Section 6 in this Article. Any extension of an appointment pursuant to this Section does not create a vested right in the member for continued appointment through the entire next cycle but only until such time as processing of the application is concluded.

E Department Review The Medical Staff Office shall forward to the department Chairman the reappointment application and all relevant information. The department Chairman shall render to the Credentials Committee within thirty (30) days of receipt, an individual specific written statement regarding the department member's reappointment and clinical privileges based on the above information and any other pertinent information available. The reason for any change shall be documented.

F Credentials Committee Review The Credentials Committee shall review all pertinent information and within thirty (30) days make its written recommendation to the MEC concerning the member's reappointment and clinical privilege delineation. The reason for any change of such recommendation shall be stated and documented. Action by the Governing Body shall be governed by Section 21 of Article V of these Bylaws.

SECTION 4 - CLOSED-STAFF, EXCLUSIVE CONTRACTS

A Exclusive Contracts The Governing Body may determine as a matter of policy that certain Hospital clinical facilities may be used only on an exclusive basis in accordance with written contracts between the Hospital and qualified professionals. These may include, but are not limited to, emergency care services, anesthesiology services, radiology services, pathology and clinical laboratory services. Applications for initial appointment or for privileges related to those Hospital facilities and services specified in such contract(s) will not be accepted for processing unless submitted with confirmation from the Administrator that they are from applicants that have an existing or proposed contract with the Hospital.

B Contract Practitioners A Practitioner who is providing contract services pursuant to Section 4 A, must meet the same membership qualifications, must be processed for appointment, reappointment, and clinical privilege delineation in the same manner, and must fulfill all of the obligations for membership category and clinical privileges as any other applicant or member.

C Termination/Reduction of Privileges Practice at the Hospital is always contingent upon continued staff membership and is also dependent on the clinical privileges granted. The right of a Practitioner who is providing contract services to practice at the Hospital is automatically terminated when his staff membership expires or

is terminated. Similarly, his right to render services under the contract is automatically limited to the extent that his clinical privileges are reduced, restricted or terminated.

D Expiration/Termination of Contract The effect of expiration or other termination of a contract upon a Practitioner's staff membership and clinical privileges will be governed solely by the terms of the Practitioner's contract. If the contract is silent on the matter, then contract expiration or termination will not affect the Practitioner's staff membership or clinical privileges, except that the Practitioner may not thereafter exercise any clinical privileges for which the Hospital has made exclusive contractual arrangements with another Practitioner.

SECTION 5 - MEDICO-ADMINISTRATIVE PRACTITIONERS

Practitioners who have a contract with the Hospital, either full time or part-time, in a Medico Administrative position that includes staff clinical responsibilities or functions must be members of the Medical Staff. In addition to any applicable terms of the contract, such Practitioners shall achieve staff membership and clinical privilege delineation through the same procedure as is required for other Medical Staff members. The right to the hearing and appeal procedures under these Bylaws shall apply if the Practitioner's clinical privileges, which are independent of the Practitioner's contract, are also terminated, removed, or suspended.

SECTION 6 - LEAVE OF ABSENCE FOR EDUCATIONAL, MEDICAL OR PERSONAL REASONS

A Request for Leave of Absence A member may request a voluntary leave of absence from the Medical Staff by submitting a written request to the Administrator, whom will transmit this request to the Credentials Committee and the MEC. The request shall state the reason for the request and the specific time period that may not exceed the member's current term of appointment. The MEC and the Governing Body must approve all leaves. By requesting a leave of absence, the member understands and agrees that he will be treated as an initial applicant for the purpose of evaluating his qualifications for reinstatement and he shall bear the burden of proof to demonstrate to the satisfaction of the MEC and the Governing Body that he is qualified for reinstatement. During the period of leave, the member's clinical privileges shall be inactive.

B Request for Reinstatement At least thirty (30) days prior to termination of leave or at any earlier time, the member may request reinstatement of privileges by submitting a written notice to that effect to the Administrator, who will transmit this notice to the Credentials Committee and the MEC. The member must also submit a written summary detailing his professional and patient care activities during the leave. The Credentials Committee shall evaluate the request and may deem it incomplete if any necessary information is not provided. The MEC, on receipt of the recommendation of the Credentials Committee, may deem the request incomplete, may request further

information from the member may defer action on the request or may make a recommendation to the Governing Body concerning the reinstatement of the member's privileges and any conditions that should be attached. Thereafter the procedure provided in Article V Section 2 shall apply.

C Failure to Request Reinstatement Failure without good cause to request reinstatement to supply sufficient information for the request to be deemed complete, or failure to provide a summary of professional and other activities as above required shall constitute a voluntary resignation from the staff effective immediately. The MEC shall in its sole discretion, and after giving the Practitioner an opportunity to address the MEC determine whether good cause exists. Such voluntary resignation shall not entitle the Practitioner to the hearing and appeal rights under these Bylaws. A request for staff membership subsequently received from this Practitioner shall be treated and processed as an application for initial appointment.

D Routine Observation Requirement In the discretion of the MEC reinstatement may be made subject to an observation requirement for a period of time during which the Practitioner's clinical performance is observed by one (1) or more designated Medical Staff members. Such routine observation shall not be considered disciplinary action and shall not entitle the practitioner to the hearing and appeal rights under these Bylaws.

E Request for Leave of Absence for Medical Reasons If a member of the medical staff is absent from his usual practice of medicine for greater than 30 days for medical reasons, a request for medical leave of absence must be submitted to the Chief of Staff who will refer the request to the Credentials Committee and the MEC. The request must state the reason for the medical leave and the anticipated length of leave. The request must be approved by the MEC and the Governing Body. Upon return to active medical practice, the member must submit a letter from his physician to the Chief of Staff stating the member's physical and mental competence to return to hospital medical practice. The MEC and the Governing Board will approve the member's return to the medical staff. If a significant period of time elapses between the time the competency letter is received and the next meeting of the MEC, the administrator in collaboration with the Chief of Staff can grant reinstatement pending approval at the next scheduled meeting of the MEC and Governing Board.

SECTION 7 - IMPAIRED PHYSICIAN POLICY

For the purpose of these Bylaws the term impaired is hereby defined as any physical, mental or pharmacologically induced disability that interferes with a practitioner's ability to perform his medical or administrative duties. This policy is separate from any disciplinary action towards the practitioner for any reason other than impairment. If any individual working in the medical center has a reasonable suspicion that a practitioner appointed to the medical staff exhibits signs of physical and/or mental impairment the following steps should be taken:

The individual who suspects the Practitioner of being impaired must give a written report to the Chief Executive Officer (CEO) and Chief of Staff (COS). The individual making the reports does not need to have definitive proof of the impairment, but a factual report must be submitted to include a description of the actions or incident(s) that led to the belief that a Practitioner might be impaired. The CEO will forward any reports received to the COS, and the COS will forward any reports received to the CEO for information. Initial informal resolution may be attempted with the involvement of the COS and CEO, the individual making the report and the Practitioner. The Practitioner and the individual making the report may each meet separately with the COS and CEO in an attempt to resolve the issue. The name(s) of the individual(s) who filed the report will be kept confidential until such time as formal action is undertaken to address the incident or documented pattern of impairment. If after discussion of the incident(s) with the parties involved, the COS believes there is enough information to warrant an investigation, an investigation shall be conducted and a report of the findings rendered by an investigating committee consisting of one of the following:

- 1 The COS and appropriate Department Chairman
- 2 A sub-committee of the medical staff as appointed by the COS

The Practitioner will be notified in writing by the COS that an investigation will occur in connection with obtaining the facts of the investigation; the Practitioner shall have the opportunity for an interview with the investigating committee. At this meeting, the Practitioner will be informed of the nature of the matter(s) being investigated and shall be invited to discuss, explain, or refute the allegations.

The interview is considered part of the investigation of the facts and does not constitute a hearing. This interview is preliminary to the taking of any professional review action, and the hearing procedural rules of the Fair Hearing and Appellate Review shall not apply to the interview. A written and/or audio tape recording of this interview shall be made. No video records will be made.

After the facts have been gathered and interview(s) conducted, the committee will meet to take action on the results of the investigation. The committee's investigation report and recommendations will then be prepared.

If the investigation produces sufficient evidence that the Practitioner is impaired, the COS shall meet personally with that Practitioner or designate another appropriate individual to do so. The Practitioner shall be informed that the results of the investigation identified that the Practitioner suffers from an impairment that affects his clinical judgment and/or competence to provide quality patient care.

The Practitioner has the right to be informed of the substantive details of the specific incident(s) in question. The name(s) of the individual(s) who filed the report will be kept confidential until such time as formal action is undertaken to address the incident or documented pattern of impairment.

A copy of the investigating committee's report and recommendations will be provided to the Practitioner who will then be permitted to submit a response. If the Practitioner does not feel the report is a fair representation of the investigation, they may submit an addendum to be attached to the report.

The investigating committee will then submit its report and the Practitioner's response to the Medical Executive Committee (MEC). A copy of both documents will also be provided to the CEO.

Depending upon the severity of the problem and the nature of the impairment, the MEC may recommend one or more of the following actions:

1. Require the Practitioner to undertake a rehabilitation program as a condition of continued appointment and clinical privileges.
2. Impose appropriate restrictions on the Practitioner's clinical practice.
3. Immediately suspend the Practitioner's clinical privileges to the medical center until rehabilitation has been successfully accomplished.
4. Accept the Practitioner's voluntary relinquishment of clinical privileges.
5. Any other action which the MEC and/or the Board in consultation with the CEO, determines will best serve the interests of the Practitioner, medical staff and/or medical center, and/or patients.

A report shall be made to all administrative bodies as required by law. The MEC shall seek the advice of the medical center's legal counsel to determine whether any conduct

must be reported to the law enforcement authorities or other government agencies, and what further steps must be taken.

If an 'adverse action' is recommended by the MEC with respect to the Practitioner's privileges, the physician is entitled to procedural rights defined in the Fair Hearing and Appellate Review section of the Medical Staff Bylaws.

The original report and a description of the actions will be included in the Practitioner's peer review file. If the investigation reveals that there is no merit to the report, all copies of the report and all pertinent documents shall be removed from the practitioner's file and 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 the peer review file. The Practitioner's activities and clinical privileges shall be monitored until it can be established whether there is an impairment problem.

The COS shall notify the individual in writing that filed the report and any action taken. The COS shall inform the CEO when the notification has taken place. Throughout this process, all parties shall avoid speculation, conclusions, gossip, and any discussions of this matter to anyone not involved in the investigation and review process described in this policy. All reports and information gathered during the course of the investigation and review process will be treated by all parties as strictly confidential.

Rehabilitation

If a program of rehabilitation is necessary the COS or designee shall assist the Practitioner in locating a suitable rehabilitation program. The MEC shall not reinstate a Practitioner until it is established to the Board's satisfaction that the Practitioner has successfully completed a rehabilitation program approved in writing by the MEC.

The MEC must be provided with a letter from the Medical Director of the rehabilitation program where the Practitioner was treated. This letter must be submitted monthly and must state:

- 1 whether the Practitioner is participating in the program
- 2 whether the Practitioner is in compliance with all the terms of the program,
- 3 whether the Practitioner attends program meetings regularly (if appropriate),
- 4 to what extent the Practitioner's behavior and conduct are monitored,
- 5 whether, in the opinion of the Medical Director of the rehabilitation program, the Practitioner is rehabilitated
- 6 whether an after care program has been recommended to the Practitioner and if so a description of the after-care program
- 7 whether in the Medical Director's opinion, the Practitioner is capable of resuming medical practice and providing continuous, competent care to patients

The Practitioner must inform the MEC of the name, address and phone number of his primary care physician, and must authorize the physician to provide the MEC with information regarding the Practitioner's condition and treatment. The MEC has the right to require an opinion from other physician consultants of their choice. The MEC shall request the primary care physician to provide information regarding the precise nature of the Practitioner's condition and treatment as it related to the impairment.

Failure to comply with all of the above conditions may result in suspension or revocation of the Practitioner's medical staff privileges.

Reinstatement

If the MEC is satisfied that the Practitioner has successfully completed a rehabilitation program, the MEC may recommend to the Board consideration of the reinstatement of that Practitioner to the medical staff.

When considering an impaired Practitioner for reinstatement, the MEC and the Board must consider interests concerning the quality of patient care to be paramount. If all information received by the MEC indicates that a Practitioner is rehabilitated and capable of resuming patient care, the Board must take the following additional precautions when considering restoration of the clinical privileges:

The Practitioner must identify two physicians who are willing to certify in writing their willingness to assume responsibility for the care of the Practitioner's patients in the event the Practitioner is unable or unavailable to care for them. The MEC shall require the Practitioner to provide periodic reports from the Practitioner's primary care physician for a period of time specified by the CEO and the COS stating that the Practitioner is continuing treatment or therapy as appropriate and his ability to treat and care for patients in the medical center is not impaired.

The Department Chairman or a medical staff member appointed by the department chairman should monitor the Practitioner's exercise of clinical privileges in the medical center. The MEC shall determine the nature of the monitoring after reviewing all of the circumstances.

The Practitioner must agree to submit to an alcohol, blood, or other substance screening test appropriate to the impairment at the request of the COS or designee, if there is reasonable suspicion that the Practitioner may be under the influence of drugs, alcohol, or other substance.

Failure to comply with all the above conditions may result in suspension or revocation of the Practitioner's medical staff privileges.

All requests for information concerning the impaired Practitioner shall be forwarded to the COS for response.

SECTION 8 - RESIGNATION FROM THE MEDICAL STAFF

Any Practitioner who desires to resign from the Medical Staff must submit a letter of resignation, through the assigned department chairman, to the MEC and the Administrator. Such a Practitioner's subsequent application for Medical Staff membership or clinical privileges will not be processed if he has any unfulfilled obligations under these Bylaws or the Rules and Regulations, including, but not limited to, the need to complete delinquent medical records. Subsequent application for staff membership or clinical privileges will not be processed while outstanding obligations remain, and this status will be reported in response to any requests for references.

SECTION 9 - HOSPITAL EMPLOYEES

The Hospital may determine as a matter of policy that certain Practitioners may be employed in accordance with a written contract between the Hospital and the Practitioner. An employed Practitioner must meet the same membership qualifications, must be processed for appointment, reappointment, and clinical privilege delineation in the same manner, and must fulfill all of the obligations for membership category as any other member of the medical staff. Corrective action of an employed Practitioner shall be handled in accordance with the provisions of the Fair Hearing and Appellate Review Procedures. Exception to Hearing and Appeal Rights, Article VIII, Section 11g, termination of Hospital employed Practitioners.

ARTICLE VI
CLINICAL PRIVILEGES

SECTION 1 - EXERCISE OF PRIVILEGES

Every Practitioner providing direct clinical services at this Hospital by virtue of membership or otherwise shall in connection with such practice and except as provided in Sections 3 and 4 below be entitled to exercise only those privileges specifically granted to him by the Governing Body. The privileges must be within the scope of the license authorizing the Practitioner to practice in this state. Regardless of the privileges granted each Practitioner must obtain consultation when necessary for the safety of his patients or when required by these Bylaws, the Medical Staff and departmental Rules and Regulations and other policies of the Medical Staff and the Hospital.

SECTION 2 - DELINEATION OF CLINICAL PRIVILEGES

A Application Clinical privileges may be granted only upon formal request on forms provided by the hospital with subsequent processing and approval. Telemedicine practitioners must submit an application for telemedicine privileges. Every application for staff appointment and reappointment must contain a request for the specific clinical privileges desired by the applicant. A request by a Practitioner for a modification of privileges must be supported by documentation of additional training and/or experience supportive of the request.

B Basis for Privilege Determination Requests for clinical privileges shall be evaluated on the basis of the Practitioner's training, experience, education, demonstrated current competence, any required references, other relevant information, and to include an appraisal by the chairman of the department or by the chief of staff, and health status (subject to necessary reasonable accommodation to the extent required by law). In granting privileges, consideration must be given to objective information received from sources outside the Hospital, to the need for an adequate ongoing successful experience to maintain proficiency, to the Hospital's ability to support such patient care services, and to the objective findings of patient care evaluation and peer review activities. Peer input shall be obtained and considered in determining clinical privileges.

C Procedure All requests for clinical privileges shall be processed pursuant to the procedures outlined in Article III for Medical Staff membership.

D Special Conditions for Clinical Privileges Requests for practice privileges for Licensed Independent Practitioners shall be processed in the manner specified in the Specified Professional Personnel section of the Rules and Regulations and shall be based

on their training experience education health status in terms of the applicant's ability to practice in the area in which privileges are sought demonstrated current competence and the need for their services in the hospital Surgical procedures that each dentist and podiatrist may perform shall be under the overall supervision of the Chairman of Surgery An adequate history and physical examination on all dental and podiatric patient admissions shall be performed and recorded in the medical record by a physician member of the Medical Staff or in some cases by a physician approved by the Medical Staff The dentist or podiatrist shall be responsible for completing the part of the history and physical examination related to any dental or podiatric problem justifying the reason for admission A physician member of the Medical Staff must be assigned the responsibility for the care of any medical problem present at the time of admission or that arises during hospitalization

E Unavailable Clinical Privileges Notwithstanding any other provisions of these Bylaws to the extent that any requested clinical privilege is not available at the Hospital (whether because of exclusive contract lack of facilities, policy decision of the governing body, or otherwise) the request shall be rejected without the necessity of processing pursuant to Section 2C above Because such a rejection is unrelated to the applicant's qualifications an applicant whose request is so rejected shall not be entitled to the hearing and appeal rights under these bylaws

SECTION 3 - TEMPORARY PRIVILEGES

A Qualifications for Temporary Privileges Prior to temporary privileges being granted the Medical Staff Office must receive all application requirements and primary verification The application must have been approved by the Credentials Committee and be awaiting approval by the Medical Executive Committee and the Governing Board By applying for temporary privileges all Practitioners agree to be bound by the Medical Staff Bylaws Rules and Regulations, departmental rules and regulations and applicable Hospital policies

B Authority to Grant Temporary Privileges/Condition

1 The Administrator or his designee, with the written concurrence of the Chairman of the applicable department or in his absence the Chief of Staff may grant temporary privileges under the circumstances noted below In all cases temporary privileges shall be granted for a specific period of time not to exceed ninety (90) days The practitioner will automatically lose his temporary privileges unless an extension is granted through a written request by the Practitioner to the Credentials Committee for a specific reason Temporary privileges shall terminate automatically at the end of the ninety (90) days or the specific period for which they were granted without the hearing and appeal rights set forth in these bylaws Special requirements of supervision and consultation may be imposed upon the granting of temporary privileges

2 In all cases if temporary privileges are granted prior to the Medical Staff and

Governing Board's receipt and review of a report from the National Practitioner Data Bank (NPDB) the Practitioner agrees as a condition of applying for or being granted temporary privileges that such privileges are strictly conditional upon the receipt and review of a response from the NPDB deemed favorable by both the MEC and the Governing Body. In the event that a response is received which the MEC or the Governing Body believes warrants further investigation and then the practitioner's conditional temporary privileges shall automatically expire and his application for temporary privileges shall be deemed incomplete. Irrespective of any other provision under these Bylaws, any Practitioner whose temporary privileges automatically expire under this provision shall not be entitled to the hearing and appeal rights under these Bylaws.

3 Temporary privileges may be granted for

(a) Care of a Specific Patient Temporary privileges may be granted to a Practitioner who is not an applicant for staff membership but whose services are required for the care of a specific patient who is not transportable and his required expertise is not available through the Medical Staff membership.

(b) Locum Tenens Temporary privileges may be granted to a qualified Practitioner serving as locum tenens for a member of the Medical Staff. Such privileges shall be limited based on the locum tenens Practitioner's individual training, experience, and qualifications. The locum tenens Practitioner will not be granted privileges in excess of those granted to the Practitioner being temporarily replaced, unless the Medical Staff and the Governing Body grant an exception.

(c) Pending Appointment to the Medical Staff In addition to the requirements noted in Section 3 A above, the applicant's professional degree must be verified (e.g., M.D., D.O.) as well as his current license, current DEA registration, any specialty training claimed, at least two (2) references relating positively to professional and ethical status, and documentation of the required professional liability insurance coverage. Temporary privileges may be granted for no more than three (3) separate and successive thirty (30) day periods (a maximum period of ninety (90) days) at which time they automatically expire. The Practitioner will automatically lose temporary privileges unless an extension has been granted by a written request from the Practitioner to the Credentials Committee for a specific reason. The applicant shall be under the supervision of the Chairman of the department to which he will be assigned. All of the care provided by the Practitioner shall be reviewed during this period. The supervising Practitioner may impose special consultation requirements and reporting.

(d) Organ/Tissue Harvesting Team Temporary privileges may be granted to Practitioners who need to attend the patient as part of their duties as a member of an Organ/Tissue Harvesting Team. If a physician is registered by any certified organ procurement agency, they may have temporary privileges without submitting the usual required information as set forth in Article VI,

Section 3A

(e) Participant in a Medical Review Committee In the rare situation where there are no qualified members of the Medical Staff to act as a member of a Medical Review Committee temporary privileges may be granted to a qualified individual for the limited purpose of participating as a member of a Medical Review Committee as defined under the fair hearing and appellate review article of these Bylaws

(f) Participate as a Consultant on Peer Review Matters In those cases where a peer review committee or department deems it necessary to obtain a review of a practitioner's practice by an outside consultant who is not a member of the Medical Staff, the outside consultant may be granted temporary privileges for the limited purpose of conducting the review, reporting to the peer review committee or department, and for testifying at a hearing or appeal with regard to that review

C Denial, Termination or Restriction of Temporary Privileges Temporary privileges, unless acted upon pursuant to other provisions of these bylaws shall terminate automatically at the end of ninety (90) days or the specific period for which they were granted, without the hearing and appeal rights under these bylaws. The Administrator, Chief of Staff or department Chairman or their designees may terminate or restrict temporary privileges in the event of the discovery of questionable qualifications/ability or false information provided by the Practitioner or when the life or health of a patient could be endangered by the treatment by that Practitioner or for similar reasons. No Practitioner is entitled to the hearing and appeal rights set forth in these Bylaws for the denial, nonrenewal, restriction or termination of temporary privileges based on the Practitioner's professional conduct or competence. In the event a Practitioner's temporary privileges are terminated or restricted the Practitioner's patients then in the Hospital shall be assigned to another Practitioner by the department Chairman responsible for supervision or by the Chief of Staff. The wishes of the patient shall be considered, when feasible, in choosing a substitute practitioner

SECTION 4 - EMERGENCY PRIVILEGES

A Privileges In an emergency, any Practitioner to the degree permitted by his license shall be permitted to do everything he deems reasonably necessary and appropriate to save the life or limb of a patient. The Administrator shall be notified promptly in such cases

B Conclusion of Emergency When the emergency no longer exists the practitioner must request the privileges necessary to continue to treat the patient if he so desires. In the event such privileges are denied or he does not desire to request privileges the patient shall be assigned to an appropriate member of the Medical Staff

C Definition of Emergency For the purpose of this Section an 'emergency' is defined as a condition in which serious harm would result to a patient or in which the life

or limb of a patient is in immediate danger and any delay in administering treatment would add to that danger

SECTION 5 - CHANGE IN MEMBERSHIP, PRIVILEGES OR STAFF CATEGORY

A staff member may at any time request a change of staff category or department affiliation by submitting a written notification to the Medical Staff Office. The Medical Staff Office will issue a letter requiring the physician to read and sign the letter stating the requirements of the provisional change in status. The request will be forwarded to the department Chairman then to the Credentials Committee. The Credentials Committee will recommend to the MEC the request and the MEC will forward their recommendation to the Board of Directors for final approval. After final approval, the medical staff office will notify the physician of the final decision. The Medical Staff Office will track the provisional change for one (1) year and the Credentials Committee will evaluate the physician at that time to determine if he meets the necessary requirements set forth by the requested status change. If a physician requests privileges addition/change/deletion, such application shall be processed in substantially the same manner as an initial appointment application. The physician must give supporting documentation of his additional training/experience. The physician's request will be forwarded to the department Chairman, Credentials Committee, MEC and the Board of Directors for approval.

ARTICLE VII

CORRECTIVE ACTIONS

SECTION 1 - ALTERNATIVES TO CORRECTIVE ACTION

Under certain circumstances, routine monitoring and education of a Practitioner in accordance with Departmental procedures as described in Article X, Section 2 may be an appropriate alternative to corrective action.

SECTION 2 - CORRECTIVE ACTION

A Grounds/Initiation Whenever the conduct of any Medical Staff member ("affected Practitioner") is considered to be lower than the standards of the Medical Staff, or to be disruptive to the operations of the Hospital or to constitute fraud or abuse or to be detrimental to the quality of patient care at the Hospital, or to be detrimental to the Hospital's licensure or accreditation or to be detrimental to Hospital or Medical Staff efforts to comply with any professional review organization, third party payer (private or governmental) or utilization review requirements or to be in violation of the Medical Staff Bylaws, rules and regulations or policies of the Hospital, Medical Staff or any Department or committee thereof or to be in violation of the ethics of their profession or

if any affected Practitioner is believed to have engaged in criminal conduct corrective action may be requested against such Practitioner by the requesting party who may be any member of the Medical Staff or the Governing Body or the Administrator All requests for corrective action shall be in writing, shall be submitted to the MEC through its Chairman and shall set forth the specific conduct constituting the basis for the request

B Investigation The MEC before taking action on the request shall conduct such investigation as it deems necessary, which may in its discretion include informal interviews with the requesting party and the affected Practitioner (each out of the presence of the other) informal interviews with or reports from other persons any required or requested departmental review and chart reviews if applicable Neither the investigation nor any other activities of the MEC in acting upon a request for corrective action shall constitute a hearing they shall be informal, and none of the hearing and appeal rights under these Bylaws shall apply

C Time for Taking Action/Notice/Right to Hearing Within sixty (60) days after receipt by the MEC of a request for corrective action, or within such reasonable additional time as the MEC deems necessary, the MEC shall take action upon the request Within five (5) days after taking action the MEC shall give written notice to the affected Practitioner and the Governing Body stating which of the actions set forth in this Section the MEC has taken or recommended If the action is of a type requiring notice as described Article VIII Section 2, the notice shall comply with the applicable Sections of Article VIII In no event shall the Practitioner be entitled to the rights under Article VIII when the only action of the MEC was to issue a letter of admonition or reprimand

D Possible Action The action of the MEC on a request for corrective action may be to (1) reject the request (2) issue a letter of admonition or reprimand, (3) impose terms of probation or require proctoring co-admitting or consultation (4) recommend reduction, suspension proctoring, co-admitting, consultation, or revocation of clinical privileges (5) recommend that an already imposed summary suspension of membership or clinical privileges be terminated, modified, or sustained, (6) recommend that the Practitioner's membership be suspended or revoked, or (7) take or recommend other actions deemed appropriate by the MEC

E Notice to Administrator The chairman of the MEC shall promptly notify the Administrator in writing of each request for corrective action received by the MEC and the date of its receipt, and shall keep the Administrator fully informed of all communications meetings, and actions in connection with each request

F Governing Body Action At any time that it believes corrective action to be warranted the Governing Body or its designee, may initiate it Before initiating such corrective action the Governing Body or its designee shall consult with the Chief of Staff Thereafter the Governing Body or its designee may direct the MEC to conduct an investigation or otherwise initiate corrective action In the event the MEC fails to take action in response to a direction from the Governing Body or its designee the Governing Body or its designee, may conduct an investigation or otherwise initiate corrective action

proceedings. If applicable, such proceedings shall afford the affected Practitioner the hearing and appeal rights described in these Bylaws.

G Use of Membership/Privileges The affected Practitioner shall retain the use of his membership and privileges pending final action by the Governing Body unless such membership and/or privileges are otherwise suspended as provided in this Article.

SECTION 3 - SUMMARY SUSPENSION OR SUMMARY RESTRICTION

A Grounds/Authority All or any portion of a Practitioner's clinical privileges may be summarily suspended or restricted where the failure to take summary action may result in imminent danger to the health of any individual. The following persons are authorized by the Medical Staff to take summary action: the Chief of Staff, the Chairman of a clinical department, the MEC or the Administrator. Suspension or restriction pursuant to this paragraph shall be temporary and effective only until further action is taken by the MEC pursuant to Section 3. When no person or committee referenced above is available to impose a summary suspension or restrict clinical privileges, the Governing Body, or its designee, may take such action if a failure to do so would be likely to result in an imminent danger to the health of any individual.

B Effective Date/Notice A summary suspension or restriction shall become effective immediately upon imposition and the person or body imposing same shall promptly give written or verbal notice of the suspension or restriction to the suspended Practitioner, stating by whom it was imposed and the reasons for same. The notice shall be deemed to have been given on the date on which it is either personally delivered or sent by certified mail to the suspended or restricted Practitioner, whichever occurs first. The notice, or a written confirmation of it, shall inform the suspended or restricted Practitioner (1) of his right to an informal interview upon his written request under Section 3C, and (2) if the summary suspension or restriction could be reportable to the National Practitioner Data Bank and to any state licensing agency, and (3) that unless the suspension or restriction is terminated when the MEC takes further action under Section 3D, the Practitioner will be entitled to the hearing and appeal rights under these Bylaws. In the event that the suspension or restriction is terminated when the MEC takes further action, the practitioner shall be entitled to a hearing and appeal under these Bylaws, however, the sole issue shall be whether there was probable cause for the summary suspension or restriction. A copy of the notice shall promptly be delivered to the Administrator, the MEC, and the Governing Body.

C Investigation The MEC, before taking further action, shall conduct such investigation as it deems necessary, which shall include at least one (1) meeting of the MEC and may include an informal interview with the suspending party. An informal interview with the affected Practitioner (out of the presence of the suspending party, if other than the MEC) may be held if the affected practitioner delivers a request for an informal interview in writing within seven (7) days after notice of the suspension was given to him or if requested in writing by the MEC. The MEC's investigation may include chart reviews, if applicable, and informal interviews with or reports from other

persons or relevant departments or committees. Neither the investigation nor any other activities of the MEC in taking its further action shall constitute a hearing. They shall be informal and none of the hearing and appeal rights under these Bylaws shall apply.

D Further Action/Time Within fourteen (14) days after the date of the suspension or restriction, the MEC shall take further action with respect to the suspension and may modify, continue for a definite or indefinite period, or terminate the summary suspension or restriction. Such further action shall remain in effect unless and until altered or terminated pursuant to other provisions of these Bylaws. If the MEC upholds a summary suspension or restriction, it shall also decide if the affected Practitioner's medical staff membership and clinical privileges should be terminated. The MEC shall promptly give written notice of its further action to the suspended Practitioner, the Administrator, and the person or body who imposed the suspension or restriction (if other than the MEC).

E Rights to Hearing Following the decision of the MEC regarding further action, the provisions of Article VIII shall govern the hearing and appeal rights under these Bylaws.

F Alternate Patient Coverage Immediately upon the imposition of a summary suspension or restriction, the Chief of Staff or responsible departmental Chairman shall provide for alternate medical coverage by a member of the Medical Staff for the patients of the suspended Practitioner remaining in the Hospital at the time of such suspension, if the privileges to provide such coverage were suspended. The wishes of the patients shall be considered in the selection of such alternate coverage.

SECTION 4 - AUTOMATIC SUSPENSION, TERMINATION

The following shall result in the automatic suspension and possible termination of medical staff membership and/or clinical privileges and shall not entitle the affected Practitioner to the hearing and appeal rights specified in these Bylaws, unless otherwise expressly provided:

A Medical Records/Suspension Practitioners must complete their patients' medical records within 30 days of each patient's discharge or within such time, as the Governing Body requires. Medical records that the Practitioner fails to complete within the required period will be considered delinquent. The Director of Health Information Services shall send a written notice to a Practitioner who has incomplete medical records near delinquent status. This notice may be sent by either personal delivery or by certified mail, return receipt requested, and a phone call to remind the Practitioner that his clinical privileges will be automatically suspended if such records are not completed. If the Practitioner completes the records within the time allotted, the Director of Health Information Services shall notify the Chief of Staff who shall immediately reinstate the Practitioner's clinical privileges. If the Practitioner does not complete the medical records within the time provided, then the Administrator shall automatically impose a temporary suspension of all privileges. Such suspension shall be effective as of the first