

**UNIVERSITY OF SOUTH ALABAMA  
BOARD OF TRUSTEES**

**MINUTES OF MEETINGS HELD ON MARCH 6, 2020**

**COMMITTEE MEETINGS**

- [Audit Committee Minutes](#)
- [Development, Endowment and Investments Committee Minutes](#)
- [Health Affairs Committee Minutes](#)
- [Academic and Student Affairs Committee Minutes](#)
- [Budget and Finance Committee Minutes](#)
- [Committee of the Whole Minutes](#)

**BOARD OF TRUSTEES MEETING**

- Item 1    Approved: [Minutes](#)
- Item 2    Report:    [University President](#)
- Item 3    Report:    [Faculty Senate President](#)
- Item 4    Report:    [Student Government Association President](#)
- Item 5    Presented: [Certificates of Appreciation](#)
- Item 15   Approved: [Commendation of Ms. Jean Walker Tucker](#)

**[AUDIT COMMITTEE REPORT](#)**

**[DEVELOPMENT, ENDOWMENT AND INVESTMENTS COMMITTEE REPORT](#)**

**[HEALTH AFFAIRS COMMITTEE REPORT](#)**

- Item 9    Approved: [USA Hospitals Medical Staff Bylaws and Associated Documents](#)
- Item 10   Approved: [Directors of the University of South Alabama Health Care Authority, Inc.](#)
- Report:    [USA Health](#)

**[ACADEMIC AND STUDENT AFFAIRS COMMITTEE REPORT](#)**

- Report:    [Academic Affairs](#)

**[BUDGET AND FINANCE COMMITTEE REPORT](#)**

- Item 14   Approved: [Series 2020 Bond Issue](#)

**UNIVERSITY OF SOUTH ALABAMA  
BOARD OF TRUSTEES**

**March 6, 2020  
12:30 p.m.**

A meeting of the University of South Alabama Board of Trustees was duly convened by Mr. Jimmy Shumock, Chair *pro tempore*, on Friday, March 6, 2020, at 12:32 p.m. in the Board Room of the Frederick P. Whiddon Administration Building.

Members Present: Alexis Atkins, Scott Charlton, Steve Furr, Ron Graham, Ron Jenkins, Arlene Mitchell, Lenus Perkins, Jimmy Shumock, Ken Simon, Steve Stokes, Margie Tuckson, Mike Windom and Jim Yance.

Members Absent: Chandra Brown Stewart, Tom Corcoran and Kay Ivey.

Administration & Guests: Jere Austill, Owen Bailey, Gary Carley, Kristin Dukes, Joel Erdmann, Monica Ezell, Jeff Forshee, Paul Frazier, Kyle Goldsmith, Bill Guess, Mike Haskins, David Johnson, Don Langham, Nick Lawkis, Bob Lowry, John Marymont, Susan McCready (Faculty Senate), Abe Mitchell, Mike Mitchell, Jabari Robinson (BSU), Terry Silva, John Smith, Margaret Sullivan, Jean Tucker, Sahilee Waitman (SGA), Tony Waldrop and Scott Weldon.

The meeting came to order and the attendance roll was called. Chairman Shumock advised of Ms. Atkins' recognition in a feature article on women business leaders in the Mobile Area Chamber of Commerce's March 2020 *Business View* magazine. He called on Mr. Jenkins, who recounted that, while flying from Tucson to Dallas, a flight attendant introduced herself as the daughter of a Mitchell College of Business (MCOB) Management professor, suggesting that South Alabama's influence is widespread.

Chairman Shumock called for adoption of the minutes of the meeting held on December 5, 2019, **ITEM 1**. On motion by Ms. Atkins, seconded by Judge Simon, the minutes were adopted unanimously.

Chairman Shumock called for presentation of **ITEM 2**, the President's Report. President Waldrop recognized Emeritus Trustee Mr. Don Langham, Honorary Trustee Mr. Abe Mitchell and Black Student Union President Mr. Jabari Robinson.

President Waldrop discussed changes to the Spring Commencement schedule, advising that Commencement would be held on Friday, May 8, at 9:00 a.m. and college convocations would follow through Saturday, May 9.

President Waldrop called on Provost Johnson, who gave an overview of the strategic planning process underway that would culminate in the adoption of a new strategic plan for 2021-2025 in December 2020. He stated the membership of the Strategic Planning Committee was representative of the various University constituencies. President Waldrop thanked Provost Johnson and Dr. Smith for their leadership to advance this initiative. President Waldrop

called for an update on the search for an Executive Director of Internal Audit. Ms. Sullivan, Search Committee Chair, stated airport interviews were recently conducted in Atlanta, two candidates visited campus for interviews earlier in the week and feedback was being evaluated. She recognized Chairman Shumock and Mr. Graham for their participation in this process.

President Waldrop asked for an update on searches underway for positions with USA Health and the College of Medicine (COM). Dr. Marymont discussed the progress of searches for an Executive Director for the USA Mitchell Cancer Institute, Chair of Orthopedics, Associate Dean for Research and Associate Dean of Faculty Development for the COM. Mr. Bailey talked about searches taking place to fill the positions of Chief Financial Officer, Chief Information Officer and General Counsel for USA Health hospitals and clinics.

President Waldrop called on Mr. Haskins, who advised that Director of Media Relations and Communications Mr. Bob Lowry would retire at the end of March 2020 after 30 years of service to the University. He invited the group to attend a reception in his honor scheduled for March 17. He and President Waldrop conveyed their gratitude to Mr. Lowry. Mr. Lowry talked briefly about the rewards of his South Alabama career.

President Waldrop recognized Dr. Erdmann for his role in negotiating an agreement with the Reese's Senior Bowl for games to be played at Hancock Whitney Stadium. Dr. Erdmann expressed enthusiasm for the opportunity to host the Senior Bowl on campus and stated this partnership would be beneficial to both organizations. Among the advantages, he mentioned the national exposure that South would receive.

President Waldrop asked Director of Safety and Environmental Compliance Mr. Bill Guess and Director of Grounds Mr. Gary Carley to join him and Mr. Shumock for an announcement. Mr. Guess introduced Maintenance Repair Technician in the Grounds Department Mr. Terry Silva and read from his nomination of Mr. Silva as Employee of the Quarter. President Waldrop presented Mr. Silva with a plaque commemorating the honor. Mr. Silva extended his thanks for the opportunity to serve.

Chairman Shumock asked Dr. Erdmann for an update on basketball. Dr. Erdmann shared that the men's regular season ended in an eight-game winning streak and the final match secured South's spot as a number-two seed in the Sun Belt Conference championship the following week. He said the women would also compete in the Sun Belt tournament, giving both teams a chance to advance to the NCAA (National Collegiate Athletic Association) tournament. He urged Trustees and guests to make plans to attend the Sun Belt games in New Orleans.

Chairman Shumock called for a report from Faculty Senate President Dr. Susan McCready, **ITEM 3**. Dr. McCready discussed the Faculty Senate's continued work on policies that would provide a meaningful path for career advancement for instructors, as well as for certain assistant professors with certain engagement requirements. Chairman Shumock and President Waldrop joined Dr. McCready and presented her with a certificate of appreciation for her service as Faculty Senate President for the 2019-2020 academic year.

Chairman Shumock called for a report from Student Government Association (SGA) President Ms. Sahilee Waitman, **ITEM 4**. Ms. Waitman gave a brief overview on some of the SGA projects

that would launch during the 2020 summer or fall terms, including the Lyft safe ride program that will give students a 20 percent discount from Thursday to Saturday, a textbook lending initiative that will provide general education books to students at no cost, and a partnership with the Student Health Center that will waive copays for need-based students. She gave a demonstration of the DoubleMap JagTran tracking application that was a collaborative effort with the Computer Services Center, Transportation, and Marketing and Communications. Following Ms. Waitman's heartfelt words about her South Alabama journey, Chairman Shumock and President Waldrop presented her with a certificate of appreciation for her service as SGA President for 2019-2020.

Chairman Shumock and President Waldrop recognized Black Student Union President Mr. Jabari Robinson with a certificate of appreciation for his service over the 2019-2020 academic year. Judge Simon asked Mr. Robinson about his plans after graduation. Mr. Robinson said he would attend the University of Alabama at Birmingham to earn a master's degree in health administration.

Chairman Shumock asked Ms. Tucker to join him and President Waldrop. He read **ITEM 15** as follows, and on motion by Ms. Atkins, seconded by Mr. Graham, the Board voted unanimously to approve the resolution. Ms. Tucker shared warm remarks about her South Alabama career and the people with whom she worked. She stated she was delighted that Ms. Dukes was chosen to succeed her in the role of general counsel:

**RESOLUTION  
COMMENDATION OF MS. JEAN WALKER TUCKER**

**WHEREAS**, the University of South Alabama seeks to honor exceptional administrators who have devoted a substantial part of their careers to serving others and who have distinguished themselves through their professional contributions, and

**WHEREAS**, Ms. Jean Walker Tucker faithfully and honorably served the University of South Alabama during a career that spanned 22 years, and

**WHEREAS**, Ms. Tucker began working at South in 1997 in risk management after a career first as a labor and delivery nurse and later as a medical malpractice defense attorney, and

**WHEREAS**, Ms. Tucker stepped into her role as University Attorney during a critical time for the University of South Alabama upon her appointment by President V. Gordon Moulton, and

**WHEREAS**, Ms. Tucker was named Senior University Attorney in 2000, and as in-house counsel she brought a breadth of knowledge to a diverse set of issues, and

**WHEREAS**, Ms. Tucker's background in healthcare added immense value in cases, counsel and questions that involved USA Health, and

**WHEREAS**, Ms. Tucker developed close relationships both at South and with the local legal community, and has a disarming personality that could be particularly advantageous in her role as an attorney and leader, and

**WHEREAS**, Ms. Tucker's skills and talents extend beyond law and into baking, and she was well known for her cakes, toffee and shortbread during the holidays and for birthday celebrations, and

**WHEREAS**, as a Bronze Jaguar Society member, Ms. Tucker and her late husband, Dr. J. Allan Tucker, have given generously to USA and USA Health, and Ms. Tucker also was a longtime co-chair of USA Women United, helping the group raise more than \$700,000 to improve our community through the United Way of Southwest Alabama, and

**WHEREAS**, having retired to Florida, where she lives with her husband, Mr. Jeff Forshee, Ms. Tucker now can blame her late arrival on living on beach time,

**THEREFORE, BE IT RESOLVED**, that the Board of Trustees expresses its heartfelt appreciation to Ms. Jean Walker Tucker for her voluminous contributions to the University of South Alabama and offers its best wishes to her and Jeff in their future endeavors.

Chairman Shumock called for a report from the Audit Committee. Mr. Graham, Committee Chair, advised that Mr. Weldon presented the KPMG report on intercollegiate athletics at an earlier meeting, which fulfilled a requirement of the NCAA bylaws. He noted the report did not contain exceptions or findings.

Chairman Shumock called for a report from the Development, Endowment and Investments Committee. Mr. Yance, Committee Chair, gave a summation of the reports delivered at an earlier meeting. He advised of an endowment return of 5.4 percent for the quarter ended December 31, 2019, which outperformed the 5.38 percent benchmark index by two basis points and resulted in earnings of approximately \$8.5 million. He stated investment earnings since the inception of the endowment totaled approximately \$94.4 million. He thanked the Stokeses for their leadership of the Upward & Onward Campaign, and recognized the efforts of Ms. Sullivan and the Development team as well. He said campaign pledges and gifts as of March 5, 2020, totaled approximately \$151 million, surpassing the \$150 million campaign goal. He added that the USA Give Day and South Fund campaigns raised approximately \$534,700 and \$1.1 million, respectively, and shared details on Development and Alumni Relations programming scheduled for the coming months.

Chairman Shumock called for a report from the Health Affairs Committee. Dr. Charlton, Committee Chair, said Mr. Bailey announced at an earlier meeting that University Hospital had achieved the designation of Comprehensive Stroke Center. He stated the three-year certification was based on standards of the Brain Attack Coalition and the American Stroke Association.

Dr. Charlton stated the Committee voted unanimously to recommend approval of **ITEM 9** as follows. On motion by Mr. Yance, seconded by Ms. Mitchell, the Board voted unanimously to approve the resolution:

**RESOLUTION  
USA HOSPITALS MEDICAL STAFF BYLAWS AND ASSOCIATED DOCUMENTS**

**WHEREAS**, revisions to the USA Hospitals Medical Staff Bylaws and associated documents, approved January 21, 2020, by the active voting General Medical Staff members via email and attached hereto, are recommended for approval by the Medical Executive Committees, and the Executive Committee of the University of South Alabama Hospitals,

**THEREFORE, BE IT RESOLVED**, the University of South Alabama Board of Trustees authorizes the revisions as submitted.

Dr. Charlton stated the Committee voted unanimously to recommend approval of **ITEM 10** as follows. On motion by Mr. Shumock, seconded by Judge Simon, the Board voted unanimously to approve the resolution:

**RESOLUTION**  
**DIRECTORS OF THE UNIVERSITY OF SOUTH ALABAMA HEALTH CARE AUTHORITY, INC.**

**WHEREAS**, Article VII(b) of the Articles of Incorporation for the University of South Alabama Health Care Authority, Inc., (USAHCA) provides for six directors, whose positions are not in an ex-officio capacity, to be appointed by the University of South Alabama Board of Trustees, and

**WHEREAS**, the terms of three directors initially appointed to serve three-year terms will expire on April 30, 2020,

**THEREFORE, BE IT RESOLVED**, the University of South Alabama Board of Trustees authorizes the following individuals to serve as directors for six-year terms beginning May 1, 2020, and ending April 30, 2026:

Jinni L. Frisbey (reappointment)  
Bill Starling (reappointment)  
Charles Smith (appointment)

Mr. Bailey introduced USA Health Chief Medical Officer Dr. Michael Chang, who shared perspective on the University's response to the coronavirus pandemic. He talked briefly about treatment protocols; adherence to the guidelines of the Centers for Disease Control, the Alabama Department of Public Health and the Mobile County Department of Health; and the work of South's Pandemic Preparedness task force, and answered questions.

Chairman Shumock called for a report from the Academic and Student Affairs Committee. Mr. Windom, Committee Chair, gave an overview of the reports delivered at an earlier meeting. He said Provost Johnson introduced Interim Special Advisor to the Provost for Enrollment Management Mr. Salvatore Liberto; MCOB Dean Dr. Bob Wood introduced students for a report on the student-led Jaguar Investment Fund; and Dr. Mitchell introduced Director of Student Disability Services Mr. Laventrice Ridgeway and shared details about South's TRIO programs, Talent Search and Upward Bound.

Provost Johnson introduced MCOB graduates Mr. Kyle Goldsmith and Mr. Jere Austill, who, under the leadership of Dr. Reid Cummings, director of South's Center for Real Estate and Economic Development, participated with classmates in the national real estate investment competition REALizing Returns University Race and placed first with a 39.1 percent return. Mr. Goldsmith and Mr. Austill talked about the experience, their current employment and their aspirations. Mr. Windom shared that South beat more than 30 other teams representing such schools as Stanford University, the University of Chicago, Columbia University and the University of Alabama.

Mr. Shumock called for a report from the Budget and Finance Committee. Mr. Perkins, Committee Vice Chair, provided an overview of the proceedings of an earlier meeting, stating that Mr. Weldon discussed the quarterly financial statements for the first quarter of fiscal year 2020 and advised of an increase in net position of approximately \$22.1 million, and that Mr. Albano delivered information on the sale of Series 2020 bonds, the terms of which Mr. Perkins noted were set forth in the **ITEM 14** resolution as follows, on which the Committee voted unanimously to recommend ratification by the Board. On motion by Ms. Mitchell, seconded by Ms. Atkins, the Board voted unanimously to approve the resolution:

**A RESOLUTION AUTHORIZING THE ISSUANCE  
OF THE \$37,005,000 UNIVERSITY FACILITIES REVENUE BONDS, SERIES 2020**

**BE IT RESOLVED** by the Board of Trustees (herein called the "Board") of the **UNIVERSITY OF SOUTH ALABAMA** (herein called the "University") as follows:

**Section 1. (a) Findings.** The Board has determined and hereby finds and declares that the following facts are true and correct:

(1) it is necessary, advisable, in the interest of the University and the public that the University (i) design, acquire, construct, install, furnish and equip various capital improvements, equipment and assets on the campus of the University including, without limitation, at the USA Health University Hospital, USA Health Children's and Women's Hospital, and University Commons, including completion of a trauma center at University Hospital, University Commons Phase II and III, additional patient rooms, a new gastroenterology suite, a main campus warehouse and improvements to the main campus transportation building, and renovations and development of the Pediatric Emergency Department within UAS Health Children's and Women's Hospital, (ii) demolish an existing building near the USA Health buildings to provide space for possible expansion, (iii) develop infrastructure on a tract of real property and construct thereon a freestanding emergency room, (iv) acquire certain real property in the City of Fairhope, Alabama, and (v) construct, acquire and install various other public capital improvements, equipment and assets for the University (herein called the "2020 Improvements"); and

(2) it is necessary, advisable and in the interest of the University and the public that the University issue its \$37,005,000 University Facilities Revenue Bonds, Series 2020, in order to (i) pay the costs of the 2020 Improvements, (ii) pay the costs and expenses of issuing the said Series 2020 Bonds, and (iii) pay the premium for the municipal bond insurance policy respecting the Series 2020 Bonds.

**(b) Series 2020 Bonds to be Issued as Additional Bonds Under the Indenture; Special Findings Under Section 8.2(b) of the Indenture.** The Series 2020 Bonds shall be issued as additional parity bonds under Article VIII of the Indenture hereinafter referred to. In accordance with the provisions of Section 8.2(b) of the Indenture, the Board hereby finds and declares as follows:

(1) the University is not now in default under the Indenture, and no such default is imminent;

(2) the Series 2020 Bonds shall be designated "Series 2020";

(3) the persons to whom the Series 2020 Bonds are to be delivered are set forth in Section 6 hereof;

(4) the Series 2020 Bonds are to be issued by sale in accordance with, and at the sale price set forth in, Section 6 hereof;

(5) the only bonds that have previously been issued by the University under the Indenture are its (i) \$31,680,000 original principal amount University Tuition Revenue Refunding and Capital Improvement Bonds, Series 1996, dated February 15, 1996 (herein called the "Series 1996 Bonds"), which were issued under and pursuant to the Trust Indenture dated as of February 15, 1996 further described in Section 2 hereof; (ii) \$7,055,000 original principal amount University Tuition Revenue Refunding Bonds, Series 1996B, dated October 15, 1996 (herein called the "Series 1996B Bonds"), which were issued under and pursuant to the First Supplemental Trust Indenture dated as of October 15, 1996; (iii) \$40,130,000.70 original principal amount University Tuition Revenue Bonds, Series 1999, dated March 1, 1999 (herein called the "Series 1999 Bonds"), which were issued under and pursuant to the Second Supplemental Trust Indenture dated as of October 15, 1999; (iv) \$51,080,000 original principal amount Tuition Revenue Refunding and Capital Improvement Bonds, Series 2004, dated March 15, 2004 (herein called the "Series 2004 Bonds"), which were issued under and pursuant to the Fourth Supplemental Trust Indenture dated March 15, 2004; (v) \$100,000,000 original principal amount University Tuition Revenue Refunding and Capital Improvement Bonds, Series 2006, dated December 1, 2006 (herein called the "Series 2006 Bonds"), which were issued under and pursuant to the Fifth Supplemental Trust Indenture dated as of December 1, 2006; (vi) \$112,885,000 original principal amount University Facilities Revenue Capital Improvement Bonds, Series 2008, dated September 1, 2008 (herein called the "Series 2008 Bonds"), which were issued under and pursuant to the Sixth Supplemental University Facilities Revenue Trust Indenture dated as of September 1, 2008; (vii) \$29,750,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2010, dated June 16, 2010 (herein called the "Series 2010 Bond"), which was issued under and pursuant to the Seventh Supplemental University Facilities Revenue Trust Indenture dated as of June 16, 2010 and will be paid with proceeds of the Series 2019-C Bond hereinafter authorized; (viii) \$25,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2012-A, dated January 4, 2012 (herein called the "Series 2012-A Bond"), which was issued under and pursuant to an Eighth Supplemental University Facilities Revenue Trust Indenture dated as of January 4, 2012 (herein called the "Eighth Supplemental Indenture"); (ix) \$7,740,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2012-B, dated January 4, 2012 (herein called the "Series 2012-B Bond"), which was issued under and pursuant to the Eighth Supplemental Indenture; (x) \$32,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-A, dated June 28, 2013 (herein called the "Series 2013-A Bond"), which was issued under and pursuant to the Ninth Supplemental University Facilities Revenue Trust Indenture dated June 28, 2013 (herein called the "Ninth Supplemental Indenture"); (xi) \$8,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-B, dated June 28, 2013 (herein called the "Series 2013-B Bond"), which was issued under and pursuant to the Ninth Supplemental Indenture; (xii) \$10,000,000 original principal



amount University Facilities Revenue Capital Improvement Bond, Series 2013-C, dated June 28, 2013 (herein called the "Series 2013-C Bond"), which was issued under and pursuant to the Ninth Supplemental Indenture; (xiii) \$41,245,000 original principal amount University Facilities Revenue Refunding Bond, Series 2014-A, dated March 14, 2014 (herein called the "Series 2014-A Bond"), which was issued under and pursuant to the Tenth Supplemental University Facilities Revenue Trust Indenture dated March 14, 2014; (xiv) \$6,000,000 University Facilities Revenue Capital Improvement Bond, Series 2015, dated June 15, 2015 (herein called the "Series 2015 Bond"), which was issued under and pursuant to the Eleventh Supplemental University Facilities Revenue Trust Indenture dated June 15, 2015; (xv) \$85,605,000 University Facilities Refunding Revenue Bonds, Series 2016, dated September 14, 2016 (herein called the "Series 2016 Bonds") which were issued under and pursuant to the Twelfth Supplemental University Facilities Revenue Trust Indenture dated as of March 14, 2014; (xvi) \$20,000,000 original principal amount University Facilities Revenue Refunding Bond, Series 2016-B, dated December 7, 2016 (herein called the "Series 2016-B Bond") which was issued under and pursuant to the Thirteenth Supplemental University Facilities Revenue Trust Indenture dated as of December 7, 2016 (herein called the "Thirteenth Supplemental Indenture"), (xvii) \$35,000,000 original principal amount University Facilities Revenue Refunding Bond, Series 2016-C, dated December 7, 2016 (herein called the "Series 2016-C Bond") which was issued under the Thirteenth Supplemental Indenture, (xviii) \$45,000,000 original principal amount University Facilities Revenue Refunding Bond, Series 2016-D, dated December 7, 2016 (herein called the "Series 2016-D Bond") which was issued under the Thirteenth Supplemental Indenture, (xix) \$38,105,000 original principal amount University Facilities Revenue Bonds, Series 2017, dated June 15, 2017 (herein called the "Series 2017 Bonds") which were issued under a Fourteenth Supplemental University Facilities Revenue Trust Indenture dated June 15, 2017; (xx) \$47,750,000 original principal amount University Facilities Revenue Bonds, Series 2019-A, dated February 7, 2019 (herein called the "Series 2019-A Bonds") which were issued under a Fifteenth Supplemental University Facilities Revenue Trust Indenture dated February 7, 2019 (herein called the "Fifteenth Supplemental Indenture"), (xxi) \$18,440,000 original principal amount Taxable University Facilities Revenue Bonds, Series 2019-B, dated February 7, 2019 (herein called the "Series 2019-B Bonds") which were issued under the Fifteenth Supplemental Indenture, and (xxii) \$19,086,000 original principal amount University Facilities Revenue Bond, Series 2019-C, dated December 12, 2019 (herein called the "Series 2019-C Bond") which was issued under a Sixteenth Supplemental University Facilities Revenue Trust Indenture dated December 12, 2019. The Series 2012-A Bond, the Series 2013-A Bond, the Series 2013-B Bond, the Series 2013-C Bond, the Series 2014-A Bond, the Series 2015 Bond, the Series 2016 Bonds, the Series 2016-B Bond, the Series 2016-C Bond, the Series 2016-D Bond, the Series 2017 Bonds, the Series 2019-A Bonds, the Series 2019-B Bonds and the Series 2019-C Bond are herein collectively called the "Outstanding Bonds");

(6) the Outstanding Bonds are the only bonds heretofore issued under the Indenture that are at this time and upon issuance of the Series 2020 Bonds outstanding under the Indenture; and

(7) the Series 2020 Bonds will be issued for the purposes described in in paragraph (2) of Section 1 hereof.

The Trustee is hereby requested to authenticate and deliver the Series 2020 Bonds to the purchasers specified in Section 6 hereof upon payment of the purchase price designated therein.

**Section 2. Authorization of the Series 2020 Bonds.** For the purposes specified in Section 1 of this resolution, the Board does hereby authorize to be issued by the University its \$37,005,000 University Facilities Revenue Bonds, Series 2020, dated their date of initial issuance (herein called the "Series 2020 Bonds"), all under the terms, conditions and provisions set out in a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of issuance of the Series 2020 Bonds (herein called the "Seventeenth Supplemental Indenture"), between the University and The Bank of New York Mellon Trust Company, N.A., as trustee (herein called the "Trustee"), which is supplemental to the University Facilities Revenue Trust Indenture between the University and the Trustee dated as of February 15, 1996 (the said Trust Indenture, as heretofore supplemented and amended and as further supplemented and amended by the said Seventeenth Supplemental Indenture, herein called the "Indenture"). All the provisions of the Indenture respecting the Series 2020 Bonds are hereby adopted as a part of this resolution as fully as if set out at length herein.

**Section 3. Source of Payment of the Series 2020 Bonds.** The principal of and the interest on the Series 2020 Bonds shall be payable solely from Pledged Revenues as defined in the Indenture. Nothing contained in this resolution, in the Series 2020 Bonds or in the Indenture shall be deemed to impose any obligation on the University to pay the principal of or the interest on the Series 2020 Bonds except from and to the extent of the Pledged Revenues. The Series 2020 Bonds shall not represent or constitute obligations of any nature whatsoever of the State of Alabama (herein called the "State") and shall not be payable out of moneys appropriated to the University by the State. The agreements, covenants and representations contained in this resolution, in the Series 2020 Bonds and in the Indenture do not and shall never constitute or give rise to any personal or pecuniary liability or charge against the general credit of the University, and in the event of a breach of any such agreement, covenant or representation, no personal or pecuniary liability or charge payable directly or indirectly from the general revenues of the University shall arise therefrom. Neither the Series 2020 Bonds nor the pledge or any agreement contained in the Indenture or in this resolution shall be or constitute an obligation of any nature whatsoever of the State, and neither the Series 2020 Bonds nor any obligations arising from the aforesaid pledge or agreements shall be payable out of any moneys appropriated to the University by the State. Nothing contained in this section shall, however, relieve the University from the observance and performance of the several covenants and agreements on its part herein contained and contained in the Indenture.

**Section 4. Series 2020 Bonds Payable at Par.** All remittances of principal of and interest on the Series 2020 Bonds to the holders thereof shall be made at par without any deduction or exchange or other cost, fees or expenses. The bank at which the Series 2020 Bonds shall at any time be payable shall be considered by acceptance of its duties under the Indenture to have agreed that it will make or cause to be made remittances of principal of and interest on the Series 2020 Bonds, out of the moneys provided for that purpose, in bankable funds at par without any deduction for exchange or other cost, fees or expenses. The University will pay to such bank all reasonable charges made and expenses incurred by it in making such remittances in bankable funds at par.

**Section 5. Authorization of Seventeenth Supplemental Indenture.** The Board does hereby authorize and direct the President of the University to execute and deliver, for and in the name and behalf of the University, to The Bank of New York Mellon Trust Company, N.A., as Trustee under the aforesaid Indenture, the Seventeenth Supplemental Indenture in substantially the form presented to the meeting at which this resolution is adopted and attached as Exhibit I to the minutes of said meeting (which form is hereby adopted in all respects as if set out in full in this resolution), and does hereby authorize and direct the Secretary of the Board to affix to the Seventeenth Supplemental Indenture the corporate seal of the University and to attest the same.

**Section 6. Sale of the Series 2020 Bonds.** The Series 2020 Bonds are hereby sold and awarded to Raymond James & Associates, Inc. and Protective Securities, a Division of Proequities, Inc. (collectively herein called the "Underwriters"), at and for a purchase price equal to \$45,316,795.94 (representing the principal amount of the Series 2020 Bonds, less an underwriting discount of \$125,614.71, plus original issue premium of \$8,437,410.65). The Board does hereby approve, ratify and affirm that certain Bond Purchase Agreement dated February 25, 2020 (the "Bond Purchase Agreement") between the University and the Underwriters, a copy of which is presented to the meeting at which this resolution is adopted and attached as Exhibit II to the minutes of said meeting (which such Bond Purchase Agreement is hereby adopted in all respects as if set out in full in this resolution). The Board does hereby ratify and affirm the execution of the Bond Purchase Agreement on behalf of the University by the Vice President for Finance and Administration. The Series 2020 Bonds shall bear such date, shall mature at such times and in such manner, shall bear such rate or rates of interest, shall be payable at such place, shall be in such denomination, shall bear such numbers and shall be in such form and contain such provisions as are set out in the said Bond Purchase Agreement and the Seventeenth Supplemental Indenture authorized in Section 5 above.

**Section 7. Preliminary Official Statement; Official Statement. (a)** The actions of the Underwriters in circulating, on behalf of the University, a Preliminary Official Statement dated February 17, 2020, respecting the Series 2020 Bonds, a copy of which is attached hereto as Exhibit III, are hereby ratified and affirmed, and the said Preliminary Official Statement is hereby adopted as the Preliminary Official Statement of the University. The Board hereby ratifies and affirms the actions of the President and of other officers of the University in causing the said Preliminary Official Statement to be "deemed final" as of its date within the meaning of Rule 15c2-12(b)(1) promulgated by the U.S. Securities Exchange Commission (the "Rule").

**(b)** The Board does hereby authorize and direct the President of the University and the Vice President for Finance and Administration to execute, for and in the name and behalf of the University, an Official Statement dated February 25, 2020 with respect to the Series 2020 Bonds dated the date of sale of the Series 2020 Bonds, in substantially the form of Exhibit IV attached hereto, with such changes as shall be necessary to conform to the provisions of this resolution and to reflect such other changes as shall be approved by the President of the University or the Vice President for Finance and Administration and acceptable to the Underwriters (the "Official Statement"). The Board does hereby declare that the Official Statement so executed by the President of the University or the Vice President for Finance and Administration shall be the Official Statement of the University with respect to the Series 2020 Bonds.

**Section 8. Authorization of Continuing Disclosure Agreement.** The President of the University is hereby authorized and directed to execute and deliver, on behalf of the University, a Continuing Disclosure Agreement for the benefit of the beneficial owners of the Series 2020 Bonds, in substantially the form presented to the meeting at which this resolution is adopted (which form shall be attached as Exhibit V to the minutes of said meeting and which is hereby adopted in all respects as if set out in full in this resolution). The said Continuing Disclosure Agreement is to be entered into contemporaneously with the issuance of the Series 2020 Bonds in order to assist the Underwriters of the Series 2020 Bonds in complying with the Rule. The rights of enforcement of the said Continuing Disclosure Agreement shall be as provided therein, and in no event shall a default by the University thereunder constitute a default hereunder or under the Indenture.

**Section 9. Execution and Delivery of the Series 2020 Bonds.** The Board does hereby authorize the President of the University to execute the Series 2020 Bonds, in the name and on behalf of the University, by manually signing each said bond, and does hereby authorize the Secretary of the Board to cause the corporate seal of the University to be imprinted or impressed on each of the Series 2020 Bonds and to attest the same by signing the Series 2020 Bonds, and the President of the University is hereby authorized and directed to deliver the Series 2020 Bonds, subsequent to their execution as provided herein and in the Indenture, to the Trustee under the Indenture, and to direct the Trustee to authenticate all the Series 2020 Bonds and to deliver them to the Underwriters, upon payment to the University of the purchase price therefor in accordance with the provisions of Section 6 hereof.

**Section 10. Application of Proceeds.** The entire proceeds derived by the University from the sale of the Series 2020 Bonds, less the underwriter's discount in the amount of \$125,614.71 to be retained by the Underwriters and the \$102,490.74 premium for the municipal bond insurance policy to be wired directly by the Underwriters to Assured Guaranty Municipal Corp., the provider thereof, shall be paid to the Trustee under the Indenture, which is thereupon authorized and directed to apply and disburse such moneys for the purposes and in the order specified in Section 1.6 of the Seventeenth Supplemental Indenture herein authorized.

**Section 11. Resolution Constitutes Contract; Severability.** The provisions of this resolution shall constitute a contract between the University and the holders of the Series 2020 Bonds. The various provisions of this resolution are hereby declared to be severable. In the event any provision hereof shall be held invalid by a court of competent jurisdiction, such invalidity shall not affect any other portion of this resolution.

**Section 12. General Authorization.** The President of the University, the Vice President for Finance and Administration of the University, and the Secretary of the Board are hereby authorized to execute such further agreements, certifications, instruments or other documents, and to take such other actions as any of them may deem appropriate or necessary, for the consummation of the transactions covered by this resolution and to the end that the Series 2020 Bonds may be executed, issued and delivered. The Chair Pro Tempore of the Board and the Vice President for Finance and Administration of the University, or either of them, is hereby further authorized to (i) sign and deliver the Series 2020 Bonds, the Seventeenth Supplemental University Facilities Revenue Trust Indenture, the Continuing Disclosure Agreement, the Official Statement, and such other documents as have been authorized for signature by the President of the University in the event the said President is unavailable for such purpose, and (ii) affix the seal of the University to, and to attest the Series 2020 Bonds, the Seventeenth Supplemental University Facilities Revenue

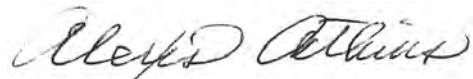
Trust Indenture, and such other documents as the Secretary of the Board has been so authorized in the event the said Secretary is unavailable for such purpose.

Chairman Shumock reported that the Executive Committee met in recent weeks and voted unanimously to authorize a collaboration between the University and the Mobile County Commission, which made possible funding support from the Commission for the Campus to Career Initiative, a program that will promote the engagement and retention of students from underrepresented populations and be administered through the Office of Diversity and Inclusion under the direction of Dr. Frazier.

Chairman Shumock and others commented that the Distinguished Alumni and Service Awards Gala held on March 5 at the MacQueen Alumni Center was a fine event and everyone involved in the execution was deserving of appreciation.

There being no further business, the meeting was adjourned at 1:39 p.m.

Attest to:



Katherine Alexis Atkins, Secretary

Respectfully submitted:



James H. Shumock, Chair *pro tempore*

# **APPENDIX A**



UNIVERSITY OF SOUTH ALABAMA

**DISCLOSURE OF INFORMATION ON PURCHASE OF REAL PROPERTY  
PURSUANT TO ALABAMA ACT 2014-133**

**PROPERTY ADDRESS:**

3.44 acre addition North of MCI Fairhope  
Fairhope, Alabama 36532

**APPRAISAL INFORMATION:**

Appraised By: Cushman & Wakefield  
Date of Appraisal: January 2, 2020  
Appraised Value: \$14.25/psf or \$2,135,000.00

**CONTRACTS RELATED TO THE PURCHASE:**

Attached as Exhibit "A"

**PURCHASE TERMS:**

Cash Purchase

**SOURCES OF FUNDS USED IN THE PURCHASE:**

Unrestricted Funds

USA PROPERTIES

775 N. University Blvd. | Suite 150 | Mobile, Alabama 36608-4548  
TEL: (251) 460-6100 | FAX: (251) 461-1765 | SouthAlabama.edu

1287

BALDWIN COUNTY, ALABAMA  
HARRY D'OLIVE JR. PROBATE JUDGE  
Filed/cert. 3/ 6/2020 2:47 PM  
TOTAL \$ 28.00  
6 Pages

1815750



STATE OF ALABAMA

**STATUTORY WARRANTY DEED**

COUNTY OF BALDWIN

KNOW ALL MEN BY THESE PRESENTS: That A&A CORTE FAMILY LIMITED PARTNERSHIP and A&D CORTE FAMILY LIMITED PARTNERSHIP, hereinafter referred to as Grantors, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration this day cash in hand paid to them by the UNIVERSITY OF SOUTH ALABAMA, a public body corporate of the State of Alabama, hereinafter referred to as Grantee, receipt of which is hereby acknowledged, have granted, bargained, sold and conveyed and by these presents do hereby GRANT, BARGAIN, SELL and CONVEY unto the Grantee, subject to any matters set out below, the following described real estate (the "Property") situated in Baldwin County, Alabama, viz:

That part of Lot 1A owned by A&A Corte Family Limited Partnership and A&D Corte Family Limited Partnership of that replat of Lots 1A and 1B of the resubdivision of Lot 1 of Planters Plaza according to the plat thereof recorded on Slide No. 2717-B, of the records in the Office of the Judge of Probate of Baldwin County, Alabama.

SUBJECT, HOWEVER, to the following:

1. There is excepted from this conveyance and reserved unto the Grantors, their respective successors and assigns, in perpetuity, all of the oil, gas, minerals, and mineral rights in, under, and upon the property, and all rights in connection therewith, not previously reserved or conveyed, together with all rights under any existing leases. Provided, however, Grantors will, for themselves, their successors and assigns, surrender and release their right to use the surface of the property for any purpose related to their ownership of the oil, gas, minerals, and mineral rights reserved, including, but not necessarily limited to, their right to use the surface for and in connection with the exploration for and the development, production, and mining of oil, gas, or other minerals from the property, to the end that the Grantee may have the exclusive use of the surface of the property.
  
2. This conveyance is subject to all taxes levied, imposed or assessed after the date hereof and Grantee shall be responsible for any real property taxes or assessments resulting from any change or proposed change in the use, classification or zoning of the property (i.e., "roll-back taxes"), regardless of when levied or assessed.



3. All taxes for the year 2020 due but not payable until October 1, 2020, and subsequent years.
4. Any and all reservations or conveyances of oil, gas, and other minerals, or leases of same, reflected by the Records together with all mining rights and all other rights, privileges and immunities relating thereto.
5. Subject to the terms and conditions as set out in that Agreement attached to Ordinance No. 756 recorded in Miscellaneous Book 54, page 1268.
6. Building setback lines, drainage and utility easements, terms, conditions and restrictions as set out on the plat of the Resubdivision of Lot 1 of Planters Plaza Subdivision recorded on Slide 2544-F.
7. Building setback lines, drainage and utility easements, terms, conditions and restrictions as set out on the plat of said subdivision as contained on Slide 2717-B.
8. In the event Grantee intends to construct a building ("Improvements") on the Property within ten years following the date of this conveyance (the "Restriction Period"), the architectural design of the Improvements shall be in substantial conformity with nearby developments on other property formerly owned by Grantors, including the Shoppes at Fairhope Village, the Fairhope Satellite Courthouse located at 1100 Fairhope Avenue and the USA Health Mitchell Cancer Institute Kilborn Clinic, to the extent that such developments exist at the time of construction of the Improvements. The Improvements shall be designed so that each facade receives equal articulation and that no exterior elevation is considered secondary to any other, subject to necessary exceptions for service or delivery areas. Grantee shall landscape the Property in a manner commensurate with that of other properties in the vicinity. The obligations contained in this exception #8 shall constitute covenants running with the land and shall be binding upon Grantee and its successor and assigns, for the benefit of Grantors and their respective successors and assigns. Provided, however, said covenants shall terminate upon the expiration of the Restriction Period.

All references herein to the Records shall mean the records maintained in the Office of the Judge of Probate of Baldwin County, Alabama.

Together with, all and singular, the rights, benefits, privileges, improvements, tenements, hereditaments and appurtenances unto the same belonging or in any wise appertaining.

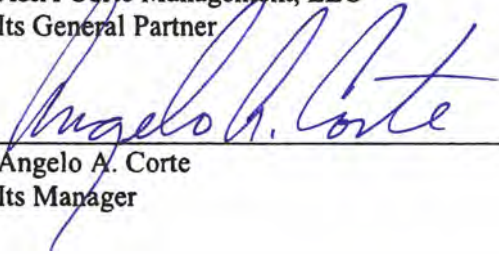
TO HAVE AND TO HOLD unto the said Grantee, its successors and assigns,  
FOREVER.

Grantors make no warranty or covenant respecting the nature of the quality of the title to the property hereby conveyed other than that the Grantors have neither permitted or suffered any lien, encumbrance or adverse claim to the property described herein since the date of the acquisition by the Grantors.

IN WITNESS WHEREOF, the Grantors have caused these presents to be executed on this the 5th day March, 2020.

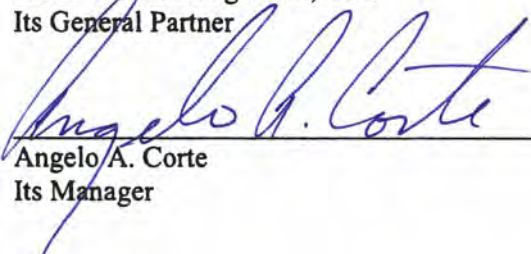
A&A CORTE FAMILY LIMITED PARTNERSHIP

By: A&A Corte Management, LLC  
Its General Partner

By:   
\_\_\_\_\_  
Angelo A. Corte  
Its Manager

A&D CORTE FAMILY LIMITED PARTNERSHIP

By: A&D Corte Management, LLC  
Its General Partner

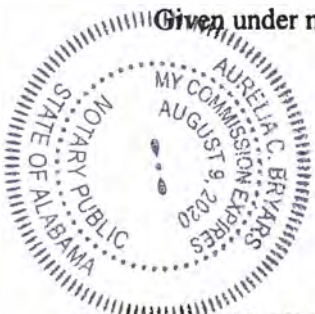
By:   
\_\_\_\_\_  
Angelo A. Corte  
Its Manager

STATE OF ALABAMA

COUNTY OF BALDWIN

I, Aurelia C. Bryars, a Notary Public, in and for said County in said State, hereby certify that ANGELO A. CORTE, whose name as Manager of A&A Corte Management, LLC, General Partner of A&A Corte Family Limited Partnership is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he in his capacity aforesaid, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 5<sup>th</sup> day of March, 2020.



Aurelia C. Bryars  
Notary Public, Baldwin County, Alabama  
My Commission Expires: \_\_\_\_\_

STATE OF ALABAMA

COUNTY OF BALDWIN

I, Aurelia C. Bryars, a Notary Public, in and for said County in said State, hereby certify that ANGELO A. CORTE, whose name as Manager of A&D Corte Management LLC, General Partner of A&D Corte Family Limited Partnership, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he in his capacity aforesaid, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 5<sup>th</sup> day of March, 2020.



Aurelia C. Bryars  
Notary Public, Baldwin County, Alabama  
My Commission Expires: \_\_\_\_\_

**GRANTORS' ADDRESS:**

23100 State Highway 181  
Fairhope, Alabama 36532

**GRANTEE'S ADDRESS:**

1660 Springhill Avenue  
Mobile, Alabama 36604

This instrument prepared by:

R. SCOTT LEWIS of

STONE CROSBY, P.C.  
Attorneys at Law  
126 Courthouse Square  
Bay Minette, Alabama 36507  
(251) 937-2417

638249wd



UNIVERSITY OF SOUTH ALABAMA

**DISCLOSURE OF INFORMATION ON PURCHASE OF REAL PROPERTY  
PURSUANT TO ALABAMA ACT 2014-133**

**PROPERTY ADDRESS:**

431 East Waringwood Drive  
Mobile, Alabama 36608  
Parcel Number/Key Number: R02-28-04-17-1-000-034.XXX (Key # 489475)

**APPRAISAL INFORMATION:**

\$13,000. The property was purchased at a price in line with comparable properties listed in the surrounding area.

**CONTRACTS RELATED TO THE PURCHASE:**

Attached as Exhibit "A"

**PURCHASE TERMS:**

Cash Purchase

**SOURCES OF FUNDS USED IN THE PURCHASE:**

Unrestricted Funds

USA PROPERTIES

775 N. University Blvd. | Suite 150 | Mobile, Alabama 36608-4548  
TEL: (251) 460-6100 | FAX: (251) 461-1765 | SouthAlabama.edu

Inst. # 2020019733 Pages: 1 of 21 Doc: D  
I certify this instrument filed on 3/31/2020 10:20 AM  
Don Davis, Judge of Probate  
Mobile County, AL. Rec: \$72.50  
DeedTx: \$0.00  
MinTx \$0.00 Clerk: BFRANKS

STATE OF ALABAMA  
COUNTY OF MOBILE

**WARRANTY DEED**

WHEREAS, Mose Manzy was the surviving Grantee named in that certain deed to the hereinafter described real property dated September 15, 1959 and recorded in Real Property Book 98, Page 650 of the records in the office of the Judge of Probate of Mobile County, Alabama, the other Grantee, Minnie L. Manzy, also known as Dollie Lee Manzy, having died on August 14, 2001 in Mobile County, Alabama; and

WHEREAS, Mose Manzy, died intestate on February 12, 2003, and left the following persons surviving him as his sole heirs and next of kin:

- Timothy Johnson, a married man (son)
- Annie Manzy Avery, a widow (daughter)
- Delores Manzy Purifoy, a married woman (daughter)
- Ronald Ernest Manzy, a single man (son)
- Manie Manzy, a single man (son)
- Kevin O'Neal Manzy, a single man (son)
- Thomas Marcus Manzy, a married man (son)
- Woodrow Terence Manzy, a married man (son)
- Ellen Beverly Manzy, a single woman (daughter)
- Annie Manzy Young, a single woman (daughter)
- Charles Manzy, deceased (son)
- Mose Manzy, Jr., deceased (son)
- Nehemiah Manzy, deceased (son); and

WHEREAS, Charles Manzy, son of Mose Manzy, died intestate in Mobile County, Alabama on August 5, 2015 survived by the following heirs at law and next of kin:

- Charlene D. Manzy Stewart, a married woman (daughter)
- Cassandra Manzy Manning, a married woman (daughter); and

WHEREAS, Mose Manzy, Jr., son of Mose Manzy, died intestate in Mobile County, Alabama on February 13, 2010, survived by the following heirs at law and next of kin:

- Catherine Manzy, a widow (wife)
- Laventrys Vanshone Manzy, a married man (son)
- Paul DeAngelo Manzy, a single man (son)
- Nicholas Moses Manzy, a single man (son)
- Kayla Manzy, a married woman (daughter); and

WHEREAS, Nehemiah Manzy, son of Mose Manzy, died intestate in Mobile County, Alabama on August 25, 2014, survived by the following heirs at law and next of kin:

- Lucille Manzy a/k/a Lucile Manzy a widow (wife)
- Tameko Shantel Manzy Niles, a single woman (daughter); and

WHEREAS, all of said heirs of Mose Manzy are desirous of conveying their interests in said real property to University of South Alabama as provided herein.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS that **Timothy Johnson**, a married man, **Annie Manzy Avery**, a widow **Delores Manzy Purifoy**, a married woman, **Ronald Ernest Manzy**, a single man, **Manie Manzy**, a single man, **Kevin O'Neal Manzy**, a single man, **Thomas Marcus Manzy**, a married man, **Woodrow Terence Manzy**, a married man, **Ellen Beverly Manzy**, a single woman, **Annie Manzy Young**, a single woman, **Charlene D. Manzy Stewart**, a married woman, **Cassandra Manzy Manning**, a married woman, **Catherine Manzy**, a widow, **Laventrys Vanshone Manzy**, a married man, **Paul DeAngelo Manzy**, a single man, **Nicholas Moses Manzy**, a single man, **Kayla Manzy**, a married woman, **Lucille Manzy a/k/a Lucile Manzy**, a widow, **Tameko Shantel Manzy Niles**, a single woman, **the Grantors**, who are conveying separate property that does not constitute a part of their or their spouses' homestead property within the meaning of §6-10-3, *Code of Alabama* (1975), for and in consideration of the sum of TWENTY FIVE THOUSAND AND NO/00 Dollars (\$25,000.00) and other good and valuable consideration hereby acknowledged to have been paid to the said Grantors by **UNIVERSITY OF SOUTH ALABAMA, the Grantee**, do hereby GRANT, BARGAIN, SELL AND CONVEY unto the said Grantee, subject to the provisions hereinafter contained, all their right, title and interest in and to that certain real property in the County of Baldwin, State of Alabama, described as follows:

**Lot 32, in Block 19, according to the Plat of Hillsdale Heights, as the same appears of record in the Office of the Judge of Probate, Mobile County, Alabama in Map Book 10, Page 183.**

**EXCEPTING THEREFROM such oil, gas and other minerals in, on and under said real property, together with all rights in connection therewith, as have previously been reserved by or conveyed to others; it being the intention of the Grantors to convey to Grantee only the interest Grantors own therein, if any.**

**The Property Address is: 431 Waringwood Drive, Mobile, Alabama 36608.**

TOGETHER WITH all and singular the rights, privileges, tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining; TO HAVE AND TO HOLD the same unto the said Grantee and to its successors and assigns FOREVER.

THIS CONVEYANCE IS MADE SUBJECT TO THE FOLLOWING:

1. Building setback line, drainage and utility easements, and notes or restrictions as shown on recorded plat of said subdivision.



2. Title to minerals within and underlying the premises, together with all mining rights and other rights, privileges, and immunities relating thereto as recorded in Real Property Book 83, Page 760.
3. Restrictive covenants as contained in instrument recorded in Map Book 10, Page 183.
4. Right of way granted to Alabama Power Company by instrument recorded in Deed Book 457, Page 638.
5. Right of way in favor of Southern Bell Telephone & Telegraph Company by instrument recorded in Real Property Book 7, Page 520.

RECORDING REFERENCES HEREIN REFER TO THE RECORDS IN THE OFFICE OF THE JUDGE OF PROBATE, MOBILE COUNTY, ALABAMA.

AND, except as to the above and the taxes hereafter falling due, the said Grantors, for themselves, and for their heirs and personal representatives, hereby covenant with the said Grantee, its successors and assigns, that they are seized of an indefeasible estate in fee simple in and to said property; that they have a good and lawful right to sell and convey the same in fee simple; that said property is free and clear of all liens and encumbrances; that they are in the quiet and peaceable possession of said property; and that they do hereby WARRANT AND WILL FOREVER DEFEND the title to said property, and the possession thereof, unto the said Grantee, and its successors and assigns, against the lawful claims of all persons, whomsoever.

This document was executed in any number of counterparts with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

IN WITNESS WHEREOF, the Grantors have hereunto set their hands and seals on the day their respective notary acknowledgments bear date.


  
 \_\_\_\_\_ (SEAL)  
**TIMOTHY JOHNSON**

STATE OF ALABAMA

COUNTY OF MOBILE

I, the undersigned Notary Public in and for said State and County, hereby certify that **TIMOTHY JOHNSON** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 18th day of February, 2020.

  
 \_\_\_\_\_  
 NOTARY PUBLIC, State at large  
 My Commission expires: 05/14/2023





Annie Manzy Avery (SEAL)  
ANNIE MANZY AVERY

STATE OF Alabama

COUNTY OF Mobile

I, the undersigned Notary Public in and for said State and County, hereby certify that ANNIE MANZY AVERY whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 18<sup>th</sup> day of February, 2020.

Lauren A. Blalock  
NOTARY PUBLIC, State at large



Delores Manzy Purifoy (SEAL)  
**DELORES MANZY PURIFOY**

STATE OF Alabama

COUNTY OF mobile

I, the undersigned Notary Public in and for said State and County, hereby certify that **DELORES MANZY PURIFOY** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 17<sup>th</sup> day of February, 2020.

Lauren A. Blalock  
NOTARY PUBLIC, State at large



Ronald Manzy (SEAL)  
RONALD ERNEST MANZY

STATE OF Alaska

COUNTY OF Katavken

I, the undersigned Notary Public in and for said State and County, hereby certify that **RONALD ERNEST MANZY** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 13 day of February, 2020.

Notary Public  
**SOPHIA M. SMITH**  
State of Alaska  
Commission No.: 190708007  
My Commission Expires 07/08/2023

[Signature]  
NOTARY PUBLIC, State at large  
My Commission expires: 07/08/2023

Manie Manzy (SEAL)  
MANIE MANZY

STATE OF Alabama

COUNTY OF Mobile

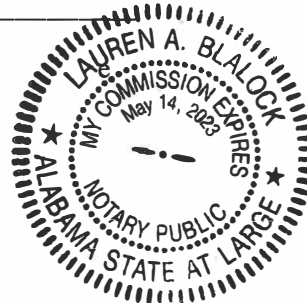
I, the undersigned Notary Public in and for said State and County, hereby certify that **MANIE MANZY** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 18<sup>th</sup> day of February, 2020.

LA

A. Blalock

NOTARY PUBLIC, State at large  
My Commission expires: \_\_\_\_\_



Kevin O'neal Manzy (SEAL)  
KEVIN O'NEAL MANZY

STATE OF Alabama  
COUNTY OF Mobile

I, the undersigned Notary Public in and for said State and County, hereby certify that **KEVIN O'NEAL MANZY** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 18<sup>th</sup> day of February, 2020.

Lauren A. Blalock  
NOTARY PUBLIC, State at large  
My Commission expires: \_\_\_\_\_



Thomas M Manzy (SEAL)  
**THOMAS MARCU MANZY**

STATE OF Virginia

COUNTY OF Hampton

I, the undersigned Notary Public in and for said State and County, hereby certify that **THOMAS MARCUS MANZY** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 20 day of February, <sup>2020</sup> ~~2019~~.

Kelly Bryce Zywna  
Notary Public  
Commonwealth of Virginia  
Reg. #7748232  
My Commission Expires 8/31/2021

Kelly Bryce Zywna  
\_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission expires: 8/31/2021

Woodrow Terence Manzy (SEAL)  
WOODROW TERENCE MANZY

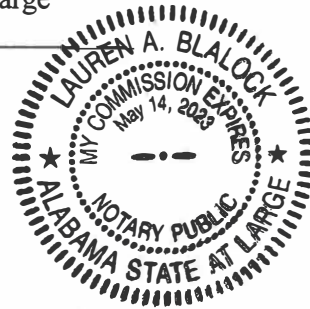
STATE OF Alabama  
COUNTY OF Mobile

I, the undersigned Notary Public in and for said State and County, hereby certify that **WOODROW TERENCE MANZY** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 14<sup>th</sup> day of February, 2020.

Lauren A. Blalock

NOTARY PUBLIC, State at large  
My Commission expires: \_\_\_\_\_



Ellen Beverly Manzy (SEAL)  
**ELLEN BEVERLY MANZY**

STATE OF Alabama

COUNTY OF Mobile

I, the undersigned Notary Public in and for said State and County, hereby certify that **ELLEN BEVERLY MANZY** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 14<sup>th</sup> day of February, 2020, ~~2019~~.

Lauren A. Blalock  
Notary Public

My Commission expires: \_\_\_\_\_

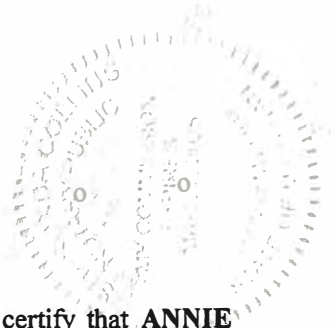




Annie Manzy Young (SEAL)  
ANNIE MANZY YOUNG

STATE OF Michigan

COUNTY OF Wayne



I, the undersigned Notary Public in and for said State and County, hereby certify that **ANNIE MANZY YOUNG** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 12 day of February, <sup>2020</sup>~~2019~~.

S. [Signature]  
NOTARY PUBLIC, State at large  
My Commission expires: March 31, 2020

*Charlene D. Manzy Stewart* (SEAL)  
CHARLENE D. MANZY STEWART

STATE OF Florida

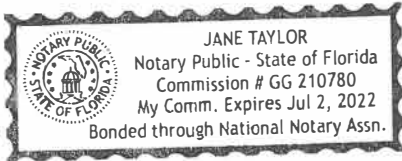
COUNTY OF Clay

I, the undersigned Notary Public in and for said State and County, hereby certify that **CHARLENE D. MANZY STEWART** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 8 day of Feb, <sup>2020</sup>~~2019~~.

*Jane Taylor*

NOTARY PUBLIC, State at large  
My Commission expires: 07/02/2022



  
CASSANDRA MANZY MANNING (SEAL)

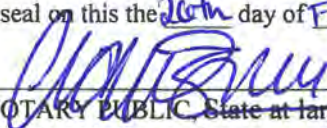
STATE OF ca Shif

COUNTY OF ca MILITARY NOTARY Shif

I, the undersigned Notary Public in and for said State and County, hereby certify that CASSANDRA MANZY MANNING whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 20th day of FEBRUARY, 2019. <sup>20CEP</sup> Shif



  
NOTARY PUBLIC State at large ca  
My Commission expires: IA Clare E. Fitzpatrick, U.S. Navy  
Judge Advocate General's Corps  
Notary Public  
Under the authority of 10 U.S.C. §1044a  
Commission Expires: Indefinite

Catherine Manzy (SEAL)  
CATHERINE MANZY

STATE OF Alabama

COUNTY OF Mobile

I, the undersigned Notary Public in and for said State and County, hereby certify that **CATHERINEMANZY** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 19th day of February, 2020.

Camp B. Powell  
NOTARY PUBLIC, State at large  
My Commission expires: 05/14/2023



Laundry VanShone Manzy (SEAL)  
LAVENTRYS VANSHONE MANZY

STATE OF Alabama

COUNTY OF Mobile

I, the undersigned, notary public in and for said state and county, hereby certify that LAVENTRYS VANSHONE MANZY whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on the 24<sup>th</sup>, day of February, 2020.

La A. Blalock  
Notary Public, State at Large

My commission expires \_\_\_\_\_



Paul DeAngelo Manzy (SEAL)  
PAUL DEANGELO MANZY

STATE OF Alabama  
COUNTY OF Mobile

I, the undersigned Notary Public in and for said State and County, hereby certify that **PAUL DEANGELO MANZY** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 26<sup>th</sup> day of February, 2020.

Lauren A. Blalock  
NOTARY PUBLIC, State at large  
My Commission expires: \_\_\_\_\_



Nicholas Manzy (SEAL)  
NICHOLAS MOSES MANZY

STATE OF ALABAMA

COUNTY OF MOBILE

I, the undersigned Notary Public in and for said State and County, hereby certify that **NICHOLAS MOSES MANZY** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 19<sup>th</sup> day of February, 2020.

Cary B. Howell  
NOTARY PUBLIC, State at large  
My Commission expires: 05/14/2023



Kayla Manzy (SEAL)  
KAYLA MANZY

STATE OF Alabama  
COUNTY OF Mobile

I, the undersigned, notary public in and for said state and county, hereby certify that KAYLA MANZY whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, she executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on the 24<sup>th</sup>, day of February, 2020.

Lauren A. Blalock

Notary Public, State at Large

My commission expires \_\_\_\_\_





Lucille Manzy aka Lucille Manzy (SEAL)  
LUCILLE MANZY aka LUCILE MANZY

STATE OF Alabama

COUNTY OF Mobile

I, the undersigned Notary Public in and for said State and County, hereby certify that **LUCILLE MANZY** whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance, she executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 19th day of February, 2020.

Lauren A. Blalock

NOTARY PUBLIC, State at large

My Commission expires: \_\_\_\_\_



Tameko Sharille Manzy Niles (SEAL)  
TAMEKO SHANTEL MANZY NILES

STATE OF ALABAMA

COUNTY OF MOBILE

I, the undersigned <sup>CS</sup>Notary Public in and for said State and County, hereby certify that TAMEKO SHANTEL MANZY <sup>NILES</sup> whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that being informed of the contents of said conveyance she executed the same voluntarily on the day the same bears date.

Given under my hand and notarial seal on this the 18th day of February, 2020.

Camp B. Howell  
NOTARY PUBLIC, State at large  
My Commission expires: 05/14/2023



The Grantor's address is:  
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THE GRANTOR'S ATTORNEY, LLC

**CONFIDENTIAL**

**MEMORANDUM**

TO: Members of the USA Health Hospitals' Medical Executive Committees

FROM: LeeAnne Mitchell  
Horty, Springer & Mattern, P.C.

DATE: November 15, 2019

SUBJECT: Bylaws Revision Project – Executive Summary of Major Changes

We would first like to acknowledge the hard work of the “joint” Bylaws Task Force as it conducted this comprehensive Bylaws revision project on behalf of the Medical Staffs. The Task Force members dedicated their time over the course of several months for extended review sessions and went above and beyond in analyzing and revising the draft documents. Ultimately, the Bylaws Task Force has arrived at Bylaws documents that we respectfully believe will serve USA Health University Hospital and USA Health Children’s & Women’s Hospital very well for years. Those documents include proposed discussion drafts of the following “joint” documents that would pertain to both Hospitals: (i) Medical Staff Bylaws, (ii) Medical Staff Credentials Policy, (iii) Policy on Advance Practice Professionals, and (iv) Medical Staff Organization Manual.

In order to assist the members of the Medical Executive Committees in the review of these draft documents, the Bylaws Task Force requested this memorandum outlining some of the key changes that are being recommended. The following summary briefly highlights the more significant changes/revisions that have been made as a part of the four newly proposed Medical Staff governance documents.

**A. GENERAL**

- New four-document approach to replace the current single “Medical Staff Bylaws” document in its entirety. The proposed new documents are as follows:
  - (i) Medical Staff Bylaws (staff categories, process for selection of Medical Staff officers and department chairs/service line chairs, Medical Executive Committee composition and duties, general Medical Staff functions, meetings);
  - (ii) Credentials Policy (criteria for membership, responsibilities of membership, appointment process, reappointment, clinical privileges, collegial intervention, investigations, hearings and appeals, conflicts of interest);

- (iii) Policy on Advance Practice Providers (categories of APPs, credentialing and investigation processes, conditions of practice, hearings and appeals); and
  - (iv) Medical Staff Organization Manual (clinical departments/service lines and committee structure).
- Each of the four documents are “jointly” adopted by, and binding on, both Hospitals as is the practice in the current Medical Staff Bylaws.
  - Many legal/regulatory updates (e.g., Joint Commission Medical Staff Standards (including, but not limited to, MS.01.01.01 revisions) and Centers for Medicare & Medicaid Services (“CMS”) Conditions of Participation).
  - Many “best practices” updates based on our firm’s work with Medical Staffs and Hospitals across the country.
  - All four documents contain a modified, more effective amendment process.

## **B. MEDICAL STAFF BYLAWS**

- Bylaws now contain much more refined and consistent Medical Staff categories: Active Staff, Courtesy Staff, Consulting Staff, Community Staff, Coverage Staff, Academic Staff, and Honorary Staff. The new categories better reflect the current realities at most hospitals and “best practices” in terms of the various ways in which physicians can relate to hospitals and how the Medical Staff and Hospital can best manage those relationships; however, they maintain the concept of patient contacts utilized in the current Medical Staff Bylaws as well as the current numeric requirements for the same.
- Bylaws now have a more streamlined and concise nomination process for Medical Staff Officers. This is coupled with expanded “eligibility” criteria that must be met in order to be considered to serve as a Medical Staff leader at the Hospitals.
- New global “Indemnification” provisions added to confirm the Hospital’s support of those physicians involved in credentialing and peer review activities.

## **C. CREDENTIALS POLICY**

- Much higher threshold “eligibility” criteria for initial appointment and reappointment at the Hospital (which will be prospectively applied to all new applicants moving forward). Only applications from eligible individuals will be processed.

- New, detailed “waiver” process to ensure that any exception to the eligibility criteria for Medical Staff membership is very thoughtfully considered and documented and used only in unusual/unique situations.
- Significantly clarified the responsibilities and requirements of Medical Staff membership to cover current issues that face Medical Staffs (including adherence to clinical protocols, use of e-mail technology for general notifications, screenings and health examinations should impairment or other health issues be suspected, consequences of misstatements/omissions during the application process, and the obligation to inform the Medical Staff Office of any changes in an individual’s status (e.g., licensure, DEA, insurance, litigation, criminal actions, adverse professional review actions)).
- Significantly expanded and strengthened the “release and immunity” provisions that are designed to better protect the Medical Staff, its leaders, and the Hospital as well as dissuade frivolous lawsuits from being filed.
- Policy now explicitly acknowledges the fact that the leadership can recommend that specific conditions be imposed on applicants as a condition of granting initial appointment in the efforts to increase transparency.
- Incorporates a comprehensive process to address clinical privileges that cross specialty lines and clinical privileges to perform new procedures to ensure proper credentialing, patient safety, and a fair, neutral, managed process for addressing these tough issues.
- Comprehensive new provisions to address, and manage, requests to relinquish selective privileges, which is one of the most daunting issues facing hospitals and Medical Staffs across the country.
- Expanded and made more transparent provisions dealing with “conditional reappointments” – a very effective technique to address quality and/or behavior concerns and hopefully avoid the need for a formal investigation and disciplinary action.
- Incorporation of an affirmative “Collegial Intervention” section that promotes (and protects) actions by the Medical Staff leaders to address issues involving clinical competence or professional conduct in an early, less formal, and more constructive manner. (Current Bylaws jump directly into a formal “Corrective Action” disciplinary process.)
- Removal of references to “Corrective Action,” which, by its very definition, presupposes that there is something wrong that should be corrected, even before it is investigated.

- Significant revisions to the investigation section to incorporate many best practices that reflect current Joint Commission requirements and help to better manage National Practitioner Data Bank reporting issues. Overall, much more guidance is provided to the leadership and the type of advance notice provided to affected practitioners.
- Change from the older, antiquated, and unclear “Automatic Suspension” language to the more accurate “Automatic Relinquishment,” as well as expansion of the issues which may trigger such a relinquishment; incorporation of an expedited review process for reinstatement, where appropriate.
- Significant revisions to incorporate “Precautionary Suspensions” rather than “Summary Suspension,” which is more practical and accurate in today’s world; now also provides option of “voluntary refraining” prior to a suspension.
- Many changes to the hearing and appeal process to ensure a fair, transparent and neutral hearing process for affected practitioners and also to minimize unnecessary disruption and lawyer tactics at hearings.

#### **D. POLICY ON ADVANCE PRACTICE PROFESSIONALS**

- A comprehensive policy addressing all aspects of APP practice provides concrete guidance to the Hospitals and Medical Staff leadership, which is helpful given that the current Bylaws are largely silent on this very integrated group of practitioners that Medical Staff leadership is responsible for credentialing, privileging, and providing appropriate oversight.
- Policy utilizes nomenclature that is consistent with national standards and addresses the three categories of APPs – Licensed Independent Practitioners, Advance Practice Clinicians, and Dependent Practitioners – and clearly states which practitioners are granted clinical privileges, which is consistent with Joint Commission and CMS requirements.
- Policy provides detailed guidance on the review process to be utilized for determining whether any “new” category of APP should be permitted access to the Hospital in the future.
- Policy provides a detailed credentialing process that is in compliance with the most recent guidance issued by the Joint Commission and by CMS.
- Policy contains very specific guidance on the respective roles of the Supervising/Collaborating Physicians and the APPs with respect to admitting privileges, consultations, emergency on-call coverage, calls regarding hospitalized inpatients, and daily inpatient rounds.

- The Policy also incorporates a process for addressing issues that may arise with APPs, as well as an appropriate hearing and appeal process for APPs.

#### **E. ORGANIZATION MANUAL**

- This document contains an updated listing of the clinical department and service line structure and an updated listing of all Medical Staff committees, including the composition and responsibilities of each.
- Updated committee structure includes the incorporation of a new Leadership Council comprised of key Medical Staff leaders, which is authorized to serve as a “triage” point for Medical Staff issues in accordance with the Medical Staff peer review policies and as the key group that will address issues related to professionalism and practitioner health. The Leadership Council is not authorized to take any disciplinary action, but generally becomes skilled in the constructive resolution of issues pursuant to the various peer review policies and procedures.

#### **F. FPPE POLICY TO CONFIRM PRACTITIONER COMPETENCE AND PROFESSIONALISM**

- Policy considers a practitioner’s professional behavior as well as clinical competence by incorporating a professionalism element but overall simplifies the FPPE process required by the Joint Commission to confirm practitioner competence.
- Policy provides detailed guidance regarding the various options available following a review of FPPE results. For example, the Credentials Committee may recommend a PIP for an individual whose FPPE results suggest that a concern exists or may extend the time frame for an individual to complete the FPPE process.

#### **G. MEDICAL STAFF PROFESSIONALISM POLICY**

- Policy provides a detailed description of examples of inappropriate conduct as well as an actual process for review, something that was lacking in the current process.
- Leadership Council, a small group of seasoned leaders, plays the key role in addressing conduct matters, which is beneficial in terms of keeping these matters at a level below the Medical Executive Committee in terms of reporting to the National Practitioner Data Bank. Matters are referred to the Medical Executive Committee only if the voluntary and responsive efforts of the Leadership Council are unsuccessful.
- Due to heightened concerns under federal civil rights laws, the Policy outlines a special process for dealing with sexual harassment and other forms of “identity-based” harassment.

## **H. PRACTITIONER HEALTH POLICY**

- Policy emphasizes support and treatment rather than discipline and outlines how the Leadership Council will take the lead on practitioner health issues.
- The Policy states that documentation created pursuant to the Policy will not be placed in the standard credentials file or quality file. Instead, the documentation will be maintained in a “Confidential Health File” that receives extra protection. The goal is to limit distribution of this sensitive information to the absolute minimum number of people possible. The credentials/quality file would include only a summary of the situation prepared by the Leadership Council. Of course, if any individual involved in the reappointment process (e.g., a member of the Credentials Committee) needed to see the entire file, that individual would have the right to do so.



**MEDICAL STAFF BYLAWS, POLICIES, AND  
RULES AND REGULATIONS OF  
USA HEALTH UNIVERSITY HOSPITAL AND  
USA HEALTH CHILDREN'S & WOMEN'S HOSPITAL**

**MEDICAL STAFF BYLAWS**

*Further Revised Final Discussion Draft  
January 13, 2020 (Only additional change is the addition of a new Section 2.A.3 (b))*

*Approved by both MECs on November 26, 2019  
Approved by the Active medical staff on January 21, 2020*

*Horty, Springer & Mattern, P.C.*

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**APPENDIX A: MEDICAL STAFF CATEGORIES SUMMARY**

**APPENDIX B: HISTORY AND PHYSICAL EXAMINATIONS**

## ARTICLE 1

### GENERAL

#### 1.A. DEFINITIONS

The definitions that apply to terms used in all the Medical Staff documents are set forth in the Medical Staff Credentials Policy.

#### 1.B. DELEGATION OF FUNCTIONS

- (1) When a function under these Bylaws is to be carried out by a member of Hospital management, by a Medical Staff member, or by a Medical Staff committee, the individual, or the committee through its chair, may delegate performance of the function to a qualified designee who is a Medical Staff member or an Advance Practice Professional or USA Health Hospital employee (or a committee of such individuals). Any such designee must treat and maintain all credentialing, privileging, and peer review information in a strictly confidential manner and is bound by all other terms, conditions, and requirements of the Medical Staff Bylaws and related policies. In addition, the delegating individual or committee is responsible for ensuring that the designee appropriately performs the function in question. Any documentation created by the designee are records of the committee that is ultimately responsible for the review in a particular matter.
- (2) When a Medical Staff member is unavailable or unable to perform a necessary function, one or more of the Medical Staff Leaders may perform the function personally or delegate it to another appropriate individual.

#### 1.C. MEDICAL STAFF DUES

- (1) Medical Staff dues shall be as may be recommended by the MEC and may vary depending upon staff category and/or privilege status.
- (2) Dues shall be payable upon request. The Medical Staff Office (or designee) shall collect dues from each member of the Active; Courtesy; Consulting; and Coverage Staff as well as Advance Practice Professionals in the amount of and on the date due as determined by the MEC, unless waived by the Hospital Administrator. Dues are waived for Full-Time and Part-Time USA College of Medicine Academic Staff. Additionally, dues are not requested for individuals granted temporary privileges, members of the Community Staff, and members of the Honorary Staff. The income from dues shall be used to offset the expenses associated with maintaining the credentialing and privileging process. The Hospital Administrator or designee is responsible for the maintenance of financial records associated with the dues.

- (3) Failure to pay dues shall result in ineligibility to apply for Medical Staff reappointment.



## ARTICLE 2

### CATEGORIES OF THE MEDICAL STAFF

Only those individuals who satisfy the qualifications and conditions for appointment to the Medical Staff contained in the Credentials Policy are eligible to apply for appointment to one of the categories listed below. All categories, with the respective rights and obligations of each, are summarized in the chart attached as Appendix A to these Bylaws. For purposes of tracking the number of patient contacts required in the various staff categories, patient contacts that occur at both Hospitals shall be utilized.

#### 2.A. ACTIVE STAFF

##### 2.A.1. Qualifications:

The Active Staff shall consist of physicians and oral and maxillofacial surgeons who:

- (a) are involved in at least 15 patient contacts per two-year appointment term; and
- (b) have expressed a willingness to contribute to Medical Staff functions and/or demonstrated a commitment to the Medical Staff and Hospital through service on committees and/or active participation in performance improvement or professional practice evaluation functions.

##### Guidelines:

Unless an Active Staff member can definitively demonstrate to the satisfaction of the Combined Credentials Committee at the time of reappointment that his or her practice patterns have changed and that he/she will satisfy the activity requirements of this category:

- \* Any member who has fewer than 15 patient contacts during his or her two-year appointment term shall not be eligible to request Active Staff status at the time of his or her reappointment.
- \*\* The member will be transferred to another staff category that best reflects his or her relationship to the Medical Staff and the Hospital (options – Courtesy, Consulting, Community, or Coverage).

##### 2.A.2. Prerogatives:

Active Staff members may:

- (a) admit patients without limitation, except as otherwise provided in their specific delineation of clinical privileges, the Bylaws or Bylaws-related documents, or as limited by the Board;

- (b) vote in all general and special meetings of the Medical Staff and applicable department or service line and committee meetings;
- (c) hold office, serve as department or service line chairs or section chiefs, serve on Medical Staff committees, and serve as chairs of committees; and
- (d) exercise such clinical privileges as are granted to them.

### 2.A.3. Responsibilities:

- (a) Active Staff members must assume all the responsibilities of membership on the Active Staff, including:
  - (1) serving on committees, as requested;
  - (2) providing specialty coverage for unassigned patients in the Emergency Department and accepting referrals from the Emergency Department for follow-up care of unassigned patients treated in the Emergency Department;
  - (3) participating in the evaluation of new members of the Medical Staff;
  - (4) participating in the professional practice evaluation and performance improvement processes (including constructive participation in the development of clinical practice protocols and guidelines pertinent to their medical specialties);
  - (5) accepting inpatient consultations, when requested;
  - (6) paying application fees, dues, and assessments; and
  - (7) performing assigned duties.
- (b) Members of the Active Staff who have served on the Active Staff for at least 10 years and who are 65 years of age or older may request removal from responsibility for providing specialty coverage in the Emergency Department. The department or service line chair and/or section chief shall recommend to the MEC whether to grant these requests based on need and the effect on others who serve on the call roster for that specialty. The MEC's recommendation shall be subject to final action by the Board. Any such request that is granted by the Board is subject to change if the MEC determines that there are insufficient Active Staff members in a particular specialty area to perform these responsibilities.

## 2.B. COURTESY STAFF

### 2.B.1. Qualifications:

The Courtesy Staff shall consist of physicians and oral and maxillofacial surgeons who:

- (a) are involved in at least four, but fewer than 15, patient contacts per two-year appointment term;
- (b) meet all the same threshold eligibility criteria as other Medical Staff members, including specifically those relating to availability and response times with respect to the care of their patients; and
- (c) at each reappointment time, provide such quality data and other information as may be requested to assist in an appropriate assessment of current clinical competence and overall qualifications for appointment and clinical privileges (including, but not limited to, information from another hospital, information from the individual's office practice, information from insurers or managed care organizations in which the individual participates, and/or receipt of confidential evaluation forms completed by referring/referred to physicians).

Guidelines:

Unless a Courtesy Staff member can definitively demonstrate to the satisfaction of the Combined Credentials Committee at the time of reappointment that his or her practice patterns have changed and that he/she will satisfy the activity requirements of this category:

- \* Any member who has fewer than four patient contacts during his or her two-year appointment term will be transferred to another staff category that accurately reflects his or her relationship to the Medical Staff and the Hospital (options – Consulting, Community, or Coverage).
- \*\* Any member who has 15 or more patient contacts during his or her two-year appointment term shall be automatically transferred to Active Staff status.

2.B.2. Prerogatives and Responsibilities:

Courtesy Staff members:

- (a) shall exercise such clinical privileges as are granted to them;
- (b) may attend and participate in Medical Staff and department or service line meetings (without vote);
- (c) may not hold office or serve as department or service line chairs or committee chairs;
- (d) may be invited to serve on committees (with vote);

- (e) are generally excused from providing specialty coverage for the Emergency Department for unassigned patients, but:
  - (1) must assume the care of any of their patients who present to the Emergency Department when requested to do so by an Emergency Department physician,
  - (2) must accept referrals from the Emergency Department for follow-up care of their patients treated in the Emergency Department, and
  - (3) will be required to provide specialty coverage if the MEC finds that there are insufficient Active Staff members in a particular specialty area to perform these responsibilities;
- (f) shall cooperate in the professional practice evaluation and performance improvement processes;
- (g) shall pay any applicable application fees, dues, and assessments.

## 2.C. CONSULTING STAFF

### 2.C.1. Qualifications:

The Consulting Staff shall consist of physicians and oral and maxillofacial surgeons who:

- (a) have one of the following clinical relationships with the Hospital:
  - (1) are of demonstrated professional ability and expertise who provide a service not otherwise available or in very limited supply on the Active Staff (should the service become readily available on the Active Staff, the Consulting Staff members would not be eligible to request continued Consulting Staff status at the time of their next reappointments and would have to transfer to a different staff category if they desire continued appointment); or
  - (2) are individuals who are appointed to this staff category because their employment contract with the University of South Alabama or a USA Health affiliated employer requires that they be appointed to the Consulting Staff (which shall be as assessed and confirmed by the Combined Credentials Committee); and
- (b) provide services at the Hospital only at the request of other members of the Medical Staff; and
- (c) at each reappointment time, provide such quality data and other information as may be requested to assist in an appropriate assessment of current clinical competence and overall qualifications for appointment and clinical privileges (including, but

not limited to, information from another hospital, information from the individual's office practice, information from insurers or managed care organizations in which the individual participates, and/or receipt of confidential evaluation forms completed by referring/referred to physicians).

## 2.C.2. Prerogatives and Responsibilities:

Consulting Staff members:

- (a) may evaluate and treat patients in conjunction with other members of the Medical Staff;
- (b) may not hold office or serve as department or service line chairs or committee chairs (unless waived by the MEC and ratified by the Board);
- (c) may attend meetings of the Medical Staff and applicable department or service line meetings (without vote);
- (d) may be invited to serve on committees (with vote);
- (e) are excused from providing specialty coverage for the Emergency Department and providing care for unassigned patients;
- (f) shall cooperate in the professional practice evaluation and performance improvement processes; and
- (g) shall pay any applicable application fees, dues, and assessments.

## 2.D. COMMUNITY STAFF

### 2.D.1. Qualifications:

The Community Staff consists of those physicians and oral and maxillofacial surgeons who:

- (a) desire to be associated with, but who do not intend to establish a clinical practice at, this Hospital and meet the eligibility criteria set forth in the Medical Staff Credentials Policy with the exception of those related to the exercise of clinical privileges (i.e., response time requirements, clinical activity within the past year, coverage arrangements, provision of on-call services); and
- (b) have indicated or demonstrated a willingness to assume all the responsibilities of membership on the Community Staff as outlined in Section 2.D.2.

The primary purpose of the Community Staff is to promote professional and educational opportunities, including continuing medical education, and to permit these individuals to

access Hospital services for their patients by referral of patients to Active Staff members for admission and care.

2.D.2. Prerogatives and Responsibilities:

Community Staff members:

- (a) may attend meetings of the Medical Staff and applicable departments or service lines (without vote);
- (b) may not hold office or serve as department or service line chairs or committee chairs (unless waived by the MEC and ratified by the Board);
- (c) shall generally have no staff committee responsibilities, but may be invited to serve on committees (with vote);
- (d) may attend educational activities sponsored by the Medical Staff and the Hospital;
- (e) may refer patients to members of the Active Staff for admission and/or care;
- (f) are encouraged to submit their relevant outpatient records for inclusion in the Hospital's medical records for any patients who are referred;
- (g) are encouraged to communicate directly with Active Staff members about the care of any patients referred, as well as to visit any such patients;
- (h) may review the medical records and test results (via paper or electronic access) for any patients who are referred;
- (i) may perform history and physical examinations in the office and have those reports entered into the Hospital's medical records;
- (j) may not: admit patients, attend patients, exercise inpatient or outpatient clinical privileges, write inpatient orders, perform consultations, assist in surgery, or otherwise participate in the provision or management of clinical care to patients at the Hospital;
- (k) may refer patients to the Hospital's diagnostic facilities and order such tests;
- (l) may actively participate in the professional practice evaluation and performance improvement processes; and
- (m) must pay any applicable application fees, dues, and assessments.

## 2.E. COVERAGE STAFF

### 2.E.1. Qualifications:

The Coverage Staff shall consist of physicians and oral and maxillofacial surgeons who:

- (a) desire appointment to the Medical Staff solely for the purpose of being able to provide coverage assistance to Active Staff members who are members of their group practice or coverage group;
- (b) at each reappointment time, provide such quality data and other information as may be requested to assist in an appropriate assessment of current clinical competence and overall qualifications for appointment and clinical privileges (including, but not limited to, information from another hospital, information from the individual's office practice, information from managed care organizations in which the individual participates, and/or receipt of confidential evaluation forms completed by referring/referred to physicians);
- (c) are not required to satisfy any defined response time requirements in place at the Hospital, except for those times when they are providing coverage; and
- (d) agree that their Medical Staff appointment and clinical privileges will be automatically relinquished, with no right to a hearing or appeal, if their coverage arrangement with the Active Staff member(s) terminates for any reason.

### 2.E.2. Prerogatives and Responsibilities:

Coverage Staff members:

- (a) when providing coverage assistance for an Active or Courtesy Staff member, shall be entitled to admit and/or treat patients who are the responsibility of the Active or Courtesy Staff member who is being covered (i.e., the Active or Courtesy Staff member's own patients or unassigned patients who present through the Emergency Department when the Active Staff member is on call);
- (b) shall assume all Medical Staff functions and responsibilities as may be assigned, including, where appropriate, care for unassigned patients, emergency service care, consultation, and teaching assignments when covering for members of their group practice or coverage group;
- (c) shall be entitled to attend Medical Staff and department or service line meetings (without vote);
- (d) may not hold office, serve as department or service line chairs, or committee chairs;

- (e) shall generally have no staff committee responsibilities, but may be invited to serve on committees (with vote); and
- (f) shall pay any applicable fees, dues, and assessments.

## 2.F. ACADEMIC STAFF

### 2.F.1. Qualifications:

The Academic Staff consists of those physicians and oral and maxillofacial surgeons who are members of USA Faculty, who do not actively admit patients to the Hospital but are available to provide consultations to members of the Medical Staff and to serve as Supervising Physicians for Advance Practice Professionals. Due to the limited scope of services provided, members of the Academic Staff are not required to maintain a cross coverage arrangement with another member of the Medical Staff.

### 2.F.2. Prerogatives and Responsibilities:

Academic Staff members:

- (a) may not admit or perform surgical or invasive procedures, but may exercise such clinical privileges as may be granted to them;
- (b) are encouraged to communicate directly with Active Staff members about the care of any patients referred, as well as to visit any such patients;
- (c) may review the medical records and test results (via paper or electronic access) for any patients who are referred and may document in progress notes;
- (d) may perform history and physical examinations in the office and have those reports entered into the Hospital's medical records;
- (e) may attend and participate in Medical Staff and department or service line meetings (without vote);
- (f) may not hold office or serve as department or service line chairs or committee chairs;
- (g) may be invited to serve on committees (with vote);
- (h) are excused from providing specialty coverage for the Emergency Department for unassigned patients;
- (i) may attend educational activities sponsored by the Medical Staff and the Hospital;



- (j) shall cooperate in the professional practice evaluation and performance improvement processes as may be requested; and
- (k) shall pay any applicable application fees, dues, and assessments.

## 2.G. HONORARY STAFF

### 2.G.1. Qualifications:

- (a) The Honorary Staff shall consist of practitioners who have retired from the practice of medicine in this Hospital, who are in good standing, and who have been recommended for Honorary Staff appointment by the MEC.
- (b) Once an individual is appointed to the Honorary Staff, that status is ongoing. As such, there is no need for the individual to submit a reappointment application/reappointment processing.

### 2.G.2. Prerogatives and Responsibilities:

Honorary Staff members:

- (a) may not consult, admit, or attend to patients;
- (b) may attend Medical Staff or department or service line meetings (without vote);
- (c) may be appointed to committees (with vote);
- (d) are entitled to attend educational programs of the Medical Staff and the Hospital;
- (e) may not hold office, serve as department or service line chairs, or committee chairs; and
- (f) are not required to pay any application fees, dues, or assessments.

## ARTICLE 3

### OFFICERS

#### 3.A. DESIGNATION

The officers of the Medical Staff shall be the Chair of the MEC, Chair-Elect/Secretary of the MEC, and the Immediate Past Chair of the MEC.

#### 3.B. ELIGIBILITY CRITERIA

Only those members of the Active Staff who satisfy the following criteria initially and continuously, as determined by the MEC, shall be eligible to serve as an officer of the Medical Staff, unless an exception is recommended by the MEC and approved by the Board. They must:

- (1) be appointed in good standing to the Active Staff, and have served on the Active Staff for at least two years;
- (2) have no past or pending adverse recommendations concerning Medical Staff appointment or clinical privileges;
- (3) not presently be serving as a Medical Staff officer, Board member or department chair at any other hospital not affiliated with USA Health and shall not so serve during their term of office;
- (4) be willing to faithfully discharge the duties and responsibilities of the position;
- (5) have experience in a leadership position or other involvement in performance improvement functions within USA Health;
- (6) attend continuing education relating to Medical Staff leadership, credentialing, and/or peer review functions as may be available;
- (7) have demonstrated an ability to work well with others; and
- (8) disclose any financial relationship (i.e., an ownership or investment interest or a compensation arrangement) with an entity that competes with the Hospital or any affiliate. This does not apply to services provided within a practitioner's office and billed under the same provider number used by the practitioner. The MEC shall assess any such conflicts to determine whether they are such that they render the individual ineligible for the position.

### 3.C. DUTIES

#### 3.C.1. Chair of the MEC:

The Chair of the MEC shall:

- (a) act in coordination and cooperation with Hospital Administration in matters of mutual concern involving the care of patients in the Hospital;
- (b) represent and communicate the views, policies and needs, and report on the activities, of the Medical Staff to the Hospital Administrator and the Board;
- (c) call, preside at, and be responsible for the agenda of all meetings of the Medical Staff and the MEC;
- (d) appoint all committee chairs and committee members;
- (e) chair the MEC (with vote, as necessary), serve on the Leadership Council with vote, and be a member of all other Medical Staff committees, *ex officio*, without vote;
- (f) promote adherence to the Bylaws, policies, Rules and Regulations of the Medical Staff and to the policies and procedures of the Hospital; and
- (g) perform all functions authorized in all applicable policies, including collegial intervention in the Credentials Policy.

#### 3.C.2. Chair-Elect/Secretary of the MEC:

The Chair-Elect of the MEC shall:

- (a) assume all duties of the Chair of the MEC and act with full authority as Chair of the MEC when the Chair of the MEC is unavailable within a reasonable period of time;
- (b) serve on the MEC and the Leadership Council, with vote;
- (c) assume all such additional duties as are assigned to him or her by the Chair of the MEC or the MEC;
- (d) become Chair of the MEC upon completion of his or her term;

#### 3.C.3. Immediate Past Chair of the MEC:

The Immediate Past Chair of the MEC shall:

- (a) serve on the MEC, when willing, and the Leadership Council, with vote;

- (b) serve as an advisor to other Medical Staff leaders; and
- (c) assume all duties assigned by the Chair of the MEC or the MEC.

### 3.D. NOMINATIONS

- (1) The Nominating Committee shall consist of the Chair of the MEC, the Chair-Elect/Secretary of the MEC, the Immediate Past Chair of the MEC, the Chair of the Performance Improvement Council (Children's and Women's Hospital only), the CMO, the Hospital Administrator, and the Quality Director. The Chair of the MEC shall serve as the Chair.
- (2) The committee shall convene at least 45 days prior to the election and shall submit the names of at least one qualified nominee for the office of Chair-Elect/Secretary of the MEC. Nominees must meet the eligibility criteria in Section 3.B and agree to serve, if elected. Notice of the nominees shall be provided to the Medical Staff at least 21 days prior to the election.
- (3) Additional nominations may also be submitted in writing by petition signed by at least five members of the Active Staff at least 14 days prior to the election. In order for a nomination to be added to the ballot, the candidate must meet the qualifications in Section 3.B, in the judgment of the Nominating Committee, and be willing to serve.
- (4) Nominations from the floor shall not be accepted.

### 3.E. ELECTION

- (1) Elections shall be held solely by written or electronic ballot returned to the Medical Staff Office in the manner as indicated on the ballot at the time it is distributed. Ballots shall be provided to all members of the Active Staff and completed ballots must be received in the Medical Staff Office by the date indicated on the ballot. Those who receive a majority of the votes cast shall be elected, subject to Board confirmation, which confirmation shall signify that the individual is entitled to legal protections and indemnification by the Board to the extent permitted by law, for acting within the course and scope of his/her Medical Staff leadership role.
- (2) In the alternative, and in the discretion of the MEC, elections may occur at called meetings of the Medical Staff. Candidates receiving a majority of votes cast at the meeting by those members of the Active Staff present and voting at that meeting shall be elected, subject to Board confirmation, which confirmation shall signify that the individual is entitled to legal protections and indemnification by the Board to the extent permitted by law, for acting within the course and scope of his/her Medical Staff leadership role. If no candidate receives a simple majority vote on the first ballot, a run-off election shall be held promptly between the two candidates receiving the highest number of votes.

### 3.F. TERM OF OFFICE

Officers shall serve for a term of two years or until a successor is elected or appointed.

### 3.G. REMOVAL

- (1) Removal of an elected officer may be effectuated by a two-thirds vote of the MEC or the Board for:
  - (a) failure to comply with applicable policies, Bylaws, or Rules and Regulations;
  - (b) failure to perform the duties of the position held;
  - (c) conduct detrimental to the interests of the Hospital and/or its Medical Staff;  
or
  - (d) an infirmity that renders the individual incapable of fulfilling the duties of that office.
- (2) At least 10 days prior to the initiation of any removal action, the individual shall be given written notice of the date of the meeting at which action is to be considered. The individual shall be afforded an opportunity to speak to the MEC or Board prior to a vote on removal.

### 3.H. VACANCIES

A vacancy in the office of Chair of the MEC shall be filled by the Chair-Elect of the MEC, who shall serve until the end of the Chair of the MEC's unexpired term. In the event there is a vacancy in the Chair-Elect/Secretary position, the MEC shall appoint an individual to fill the office for the remainder of the term or until a special election can be held, at the discretion of the MEC.

## ARTICLE 4

### CLINICAL DEPARTMENTS AND SERVICE LINES

#### 4.A. ORGANIZATION

The Medical Staff of University Hospital shall be organized into clinical departments and the Medical Staff of Children's & Women's Hospital shall be organized into service lines, all of which are as determined by the MEC and listed in the relevant Medical Staff Organization Manual. The MEC may create new departments or service lines, eliminate departments or service lines, or otherwise reorganize the department or service line structure, in accordance with the amendment provisions contained in the relevant Organization Manual.

#### 4.B. ASSIGNMENT TO DEPARTMENTS OR SERVICE LINES

- (1) Upon initial appointment to the Medical Staff, each Medical Staff member shall be assigned to a clinical department or service line. Assignment to a particular department or service line does not preclude a Medical Staff member from seeking and being granted clinical privileges typically associated with another department or service line.
- (2) A Medical Staff member may request a change in department or service line assignment to reflect a change in his or her clinical practice.
- (3) Department or service line assignment may be transferred at the discretion of the MEC.

#### 4.C. FUNCTIONS OF DEPARTMENTS OR SERVICE LINES

The departments and service lines shall be organized for the purpose of implementing processes (i) to monitor and evaluate the quality and appropriateness of the care of patients served by the departments or service lines, (ii) to monitor the practice of all those with clinical privileges in a given department or service line, and (iii) to assure emergency call coverage for all patients.

#### 4.D. QUALIFICATIONS OF DEPARTMENT CHAIRS AND SERVICE LINE CHAIRS

Each department chair or service line chair shall:

- (1) be an Active Staff member in the relevant clinical department or service line;
- (2) satisfy the eligibility criteria in Section 3.B (with the exception of the requirement that the individual has been a member of the Active Staff for at least two years); and

- (3) if seeking to serve as a department chair at University Hospital, maintain appointment to the faculty of the University of South Alabama College of Medicine.

#### 4.E. APPOINTMENT, TERMS, AND REMOVAL OF DEPARTMENT CHAIRS AND SERVICE LINE CHAIRS

##### 4.E.1. Appointment of USA Health University Hospital Department Chairs:

Academic department chairs shall serve as USA Health University Hospital department chairs.

##### 4.E.2. Appointment of USA Health Children's & Women's Hospital Service Line Chairs:

The Chair of the MEC, the Chair-Elect/Secretary of the MEC, and the Immediate Past Chair of the MEC, in consultation with the CMO and the Quality Director shall identify and appoint USA Health Children's and Women's Hospital service line chairs. If a vacancy occurs, the same individuals may appoint an interim service line chair to serve the remainder of the term.

##### 4.E.3. Terms of Office for Department Chairs and Service Line Chairs:

USA Health University Hospital department chairs shall serve until resignation or termination of academic department chair termination. USA Health Children's and Women's Hospital service line chairs shall serve for two-year terms.

##### 4.E.4. Removal of Department Chairs and Service Line Chairs:

- (a) USA Health University Hospital department chairs may be removed by the Vice President of Medical Affairs/Dean of the College of Medicine by termination of academic department chair appointment. Any conflict between the College of Medicine and the Hospital regarding department chair termination shall be resolved by the Vice President of Medical Affairs/Dean of the College of Medicine and the Chief Executive Officer.
- (b) USA Health Children's and Women's Hospital service line chairs may be removed by a majority vote of the Executive Committee, or a two-thirds vote of the MEC, upon approval of the Executive Committee after reasonable notice and opportunity to be heard. Grounds for removal shall be:
  - (1) failure to comply with applicable policies, Bylaws, or Rules and Regulations;
  - (2) failure to perform the duties of the position held;

- (3) conduct detrimental to the interests of the Hospital and/or its Medical Staff;  
or
- (4) an infirmity that renders the Medical Staff member incapable of fulfilling the duties of that office.

Prior to the initiation of any removal action, the Medical Staff member shall be given written notice of the date of the meeting at which such action shall be taken at least 10 days prior to the date of the meeting. The Medical Staff member shall be afforded an opportunity to speak to the Executive Committee or MEC, as applicable, prior to a vote on such removal being taken.

#### 4.F. DUTIES OF DEPARTMENT CHAIRS AND SERVICE LINE CHAIRS

Department chairs and service line chairs shall work in collaboration with Medical Staff Leaders and other Hospital personnel to collectively be responsible for the following:

- (1) all clinically-related activities of the department or service line;
- (2) all administratively-related activities of the department or service line, unless otherwise provided for by the Hospital;
- (3) continuing surveillance of the professional performance of all individuals in the department or service line who have delineated clinical privileges;
- (4) recommending criteria for clinical privileges that are relevant to the care provided in the department or service line;
- (5) evaluating requests for clinical privileges for each member of the department or service line;
- (6) the integration of the department or service line into the primary functions of the Hospital;
- (7) the coordination and integration of interdepartmental and intradepartmental services;
- (8) the development and implementation of policies and procedures that guide and support the provision of care, treatment and services;
- (9) determination of the qualifications and competence of department personnel who are not licensed independent practitioners and who provide patient care, treatment and services;
- (10) recommendations for a sufficient number of qualified and competent persons to provide care or services;



- (11) continuous assessment and improvement of the quality of care and services provided;
- (12) maintenance of quality monitoring programs, as appropriate;
- (13) recommendations for space and other resources needed by the department or service line;
- (14) assessing and recommending off-site sources for needed patient care services not provided by the department or service line or the Hospital;
- (15) the orientation and continuing education of all persons in the department or service line; and
- (16) performing all functions authorized in the Credentials Policy, including collegial intervention.

## ARTICLE 5

### MEDICAL STAFF COMMITTEES AND PERFORMANCE IMPROVEMENT FUNCTIONS

#### 5.A. MEDICAL STAFF COMMITTEES AND FUNCTIONS

This Article and the Medical Staff Organization Manual outline the Medical Staff committees that carry out ongoing and focused professional practice evaluations and other performance improvement functions that are delegated to the Medical Staff by the Board.

#### 5.B. APPOINTMENT OF COMMITTEE CHAIRS AND MEMBERS

- (1) Unless otherwise indicated, all committee chairs and members shall be appointed by the Chair of the MEC. Advance Practice Professionals may be appointed to serve as voting members of Medical Staff committees. Committee chairs shall be selected based on the criteria set forth in Section 3.B of these Bylaws, and all committee members must signify their willingness to meet basic expectations of committee membership as set forth in Section 3.B of the Organization Manual.
- (2) Committee chairs and members shall be appointed for initial terms of two years but may be reappointed for additional terms. All appointed chairs and members may be removed and vacancies filled by the Chair of the MEC.
- (3) Unless otherwise indicated, all Hospital and administrative representatives on the committees shall be appointed by the CMO or Hospital Administrator. All such representatives shall serve on the committees, without vote.
- (4) Unless otherwise indicated, the Chair of the MEC, CMO, and the Hospital Administrator shall be members, *ex officio*, without vote, on all committees.

#### 5.C. MEDICAL EXECUTIVE COMMITTEE

##### 5.C.1. Composition:

- (a) Each Hospital shall maintain its own MEC.
- (b) The individual MECs shall consist of the following voting members:
  - Chair of the MEC;
  - Chair-Elect/Secretary of the MEC;
  - Immediate Past Chair of the MEC;

- Department chairs or service line chairs, as applicable;
  - four at-large members of the Medical Staff to serve two-year terms, who shall be selected by the Nominating Committee as defined in Section 3.D.1 in a manner to be representative of the specialties of the Medical Staff as well as the relationships that Medical Staff members have with the Hospitals (i.e., employed, contracted, or independent);
  - Chair of the Combined Credentials Committee; and
  - For USA Health Children’s and Women’s Hospital MEC only, the Residency Program Directors (Primary Service).
- (c) The Hospital Administrator, CMO, CNO, College of Medicine Dean/Vice President of Medical Affairs, resident physicians, and Quality Management representatives shall serve as *ex officio*, non-voting members.
- (d) The Chair of the MEC will chair the MEC.
- (e) Other Medical Staff members or Hospital personnel may be invited to attend a particular MEC meeting (as guests, without vote) in order to assist the MEC in its discussions and deliberations regarding an issue on its agenda. These individuals shall be present only for the relevant agenda item and shall be excused for all others. Such individuals are an integral part of the committee’s functioning and are bound by the same confidentiality requirements as the standing members of the MEC.

5.C.2. Duties:

The MEC has the primary oversight authority related to professional activities and functions of the Medical Staff and performance improvement activities regarding the professional services provided by Medical Staff members with clinical privileges. This authority may be removed or modified by amending these Bylaws and related policies. The MEC is responsible for the following:

- (a) acting on behalf of the Medical Staff in the intervals between Medical Staff meetings;
- (b) recommending directly to the Board on at least the following:
  - (1) the Medical Staff’s structure;
  - (2) the mechanism used to review credentials and to delineate individual clinical privileges;
  - (3) applicants for Medical Staff appointment and reappointment;

- (4) delineation of clinical privileges for each eligible individual;
  - (5) participation of the Medical Staff in Hospital performance improvement activities and the quality of professional services being provided by the Medical Staff;
  - (6) the mechanism by which Medical Staff appointment may be terminated; and
  - (7) hearing procedures;
- (c) consulting with the Hospital Administrator on quality-related aspects of contracts for patient care services;
  - (d) receiving and acting on reports and recommendations from Medical Staff committees, departments or service lines, and other groups as appropriate, and making appropriate recommendations for improvement when there are significant departures from established or expected clinical practice patterns;
  - (e) reviewing (or delegating the review of) quality indicators to ensure uniformity regarding patient care services;
  - (f) providing leadership in activities related to patient safety;
  - (g) providing oversight in the process of analyzing and improving patient satisfaction;
  - (h) prioritizing continuing medical education activities;
  - (i) reviewing, or delegating to the Bylaws Committee the responsibility to review, at least once every five years, the Bylaws, policies, Rules and Regulations, and associated documents of the Medical Staff and recommending such changes as may be necessary or desirable; and
  - (j) performing such other functions as are assigned to it by these Bylaws, the Credentials Policy, the Board or other applicable policies.

### 5.C.3. Meetings:

The MEC shall meet as often as necessary to fulfill its responsibilities and shall maintain a permanent record of its proceedings and actions.

### 5.D. PERFORMANCE IMPROVEMENT FUNCTIONS

The Medical Staff is actively involved in performance improvement functions, including reviewing data and recommending and implementing processes to address the following:

- (1) patient safety, including processes to respond to patient safety alerts, meet patient safety goals and reduce patient safety risks;
- (2) the Hospital's and individual practitioners' performance on Joint Commission and Centers for Medicare & Medicaid Services ("CMS") core measures;
- (3) medical assessment and treatment of patients;
- (4) use of information about adverse privileging determinations regarding any practitioner;
- (5) medication usage, including review of significant adverse drug reactions, medication errors and the use of experimental drugs and procedures;
- (6) the utilization of blood and blood components, including review of significant transfusion reactions;
- (7) operative and other procedures, including tissue review and review of discrepancies between pre-operative and post-operative diagnoses;
- (8) appropriateness of clinical practice patterns;
- (9) significant departures from established patterns of clinical practice;
- (10) education of patients and families;
- (11) coordination of care, treatment and services with other practitioners and Hospital personnel;
- (12) accurate, timely and legible completion of medical records;
- (13) the required content and quality of history and physical examinations, as well as the time frames required for completion, all of which are set forth in Appendix B of these Bylaws;
- (14) the use of developed criteria for autopsies;
- (15) sentinel events, including root cause analyses and responses to unanticipated adverse events;
- (16) nosocomial infections and the potential for infection;
- (17) unnecessary procedures or treatment; and
- (18) appropriate resource utilization.

#### 5.E. CREATION OF STANDING COMMITTEES

In accordance with the amendment provisions in the Organization Manual, the MEC may establish additional committees to perform one or more staff functions and may dissolve or rearrange committee structure, duties, or composition as needed to better accomplish Medical Staff functions. Any function required to be performed by these Bylaws which is not assigned to an individual Medical Staff member, a standing committee, or a special task force shall be performed by the MEC.

#### 5.F. SPECIAL COMMITTEES

Special committees shall be created and their Medical Staff members and chairs shall be appointed by the Chair of the MEC. Such task forces shall confine their activities to the purpose for which they were appointed and shall report to the MEC.

## ARTICLE 6

### MEETINGS

#### 6.A. MEDICAL STAFF YEAR

The Medical Staff year is January 1 to December 31.

#### 6.B. MEDICAL STAFF MEETINGS

##### 6.B.1. Regular Meetings:

The Medical Staff shall meet as needed.

##### 6.B.2. Special Meetings:

Special meetings of the Medical Staff may be called by the Chair of the MEC, the MEC, the Board, or by a petition signed by not less than 10% of the Active Staff.

#### 6.C. DEPARTMENT OR SERVICE LINE MEETINGS AND COMMITTEE MEETINGS

##### 6.C.1. Regular Meetings:

Except as otherwise provided in these Bylaws or in the Medical Staff Organization Manual, each department, service line and committee shall meet as often as necessary to fulfill their responsibilities, at times set by the Presiding Officer (Medical Staff Officer, department chair, service line chair, or committee chair, as applicable).

##### 6.C.2. Special Meetings:

A special meeting of any department, service line or committee may be called by or at the request of the Presiding Officer, the Chair of the MEC, or by a petition signed by not less than 10% of the Active Staff members of the department or committee, but not by fewer than two members.

#### 6.D. PROVISIONS COMMON TO ALL MEETINGS

##### 6.D.1. Notice of Meetings:

- (a) Medical Staff members shall be provided notice of all regular meetings of the Medical Staff and regular meetings of departments, service lines, and committees at least seven days in advance of the meetings. The primary mechanism utilized for providing notice will be e-mail; however, notice may also be provided by mail, facsimile, hand delivery, posting in a designated electronic or physical location, or telephone at least seven days prior to the meetings. All notices shall provide the date, time, and place of the meetings.

- (b) When a special meeting of the Medical Staff, a department, service line, and/or a committee is called, all of the provisions in paragraph (a) shall apply except that the notice period shall be reduced to 48 hours and posting may not be the sole mechanism used for providing notice of a special meeting.
- (c) The attendance of any individual Medical Staff member at any meeting shall constitute a waiver of that individual's objection to the notice given for the meeting.

6.D.2. Quorum and Voting:

- (a) For any regular or special meeting of the Medical Staff, department, or committee, those voting members present (but not fewer than two) shall constitute a quorum. Exceptions to this general rule are that for meetings of the MEC and the Leadership Council the presence of at least 50% of the voting members of the committee shall constitute a quorum.
- (b) Once a quorum is established, the business of the meeting may continue and all actions taken shall be binding, even if attendance drops below a quorum during the course of the meeting.
- (c) Recommendations and actions of the Medical Staff, departments, service lines, and committees shall be by consensus. In the event it is necessary to vote on an issue, that issue will be determined by a majority vote of those individuals present. Voting may be by written ballot at the discretion of the Presiding Officer.
- (d) The voting members of the Medical Staff, a department, service line, or a committee may also be presented with a question by mail, facsimile, e-mail, hand delivery, website posting, or telephone and their votes returned to the Presiding Officer by the method designated in the notice. Except for actions by the MEC and the Leadership Council (which require a 50% quorum), a quorum for purposes of these votes shall be the number of responses returned to the Presiding Officer by the date indicated. The question raised shall be determined in the affirmative if a majority of the responses returned has so indicated.
- (e) When determining whether a specific percentage or a majority has been achieved with respect to a vote of the Medical Staff or a department, service line or committee, an individual who has recused himself or herself from participation in the vote shall not be counted as a voting member (for example, if there are ten voting members of a committee and one recuses himself or herself on a particular matter, the majority vote for that matter would be calculated as five of the remaining nine votes).
- (f) At the discretion of the Presiding Officer, one or more Medical Staff members may participate in a meeting by telephone conference.



#### 6.D.3. Agenda:

The Presiding Officer for the meeting shall set the agenda for any regular or special meeting of the Medical Staff, department, service line, or committee.

#### 6.D.4. Rules of Order:

The latest edition of Robert's Rules of Order Revised may be used for reference at all meetings and elections but shall not be binding. Specific provisions of these Bylaws and Medical Staff, department, or committee custom shall prevail at all meetings, and the Presiding Officer shall have the authority to rule definitively on all matters of procedure.

#### 6.D.5. Minutes, Reports, and Recommendations:

- (a) Minutes of all meetings of the Medical Staff, departments, service lines, and committees shall be prepared and shall include a record of the attendance of Medical Staff members and the recommendations made and the votes taken on each matter. The minutes shall be signed by the Presiding Officer.
- (b) A summary of all recommendations and actions of the Medical Staff, departments, service lines, and committees shall be transmitted to the MEC and to the Hospital Administrator for purposes of keeping the Board apprised of the activities of the Medical Staff and its departments and committees.
- (c) A permanent file of the minutes of all meetings shall be maintained by the Hospital.

#### 6.D.6. Confidentiality:

All Medical Staff business conducted by committees, departments, and service lines is considered confidential and proprietary and should be treated as such. However, members of the Medical Staff who have access to, or are the subject of, credentialing and/or peer review information understand that this information is subject to heightened sensitivity and, as such, agree to maintain the confidentiality of this information. Credentialing and peer review documents, and information contained therein, must not be disclosed to any individual not involved in the credentialing or peer review processes, except as authorized by the Credentials Policy or other applicable Medical Staff or Hospital policy. A breach of confidentiality with regard to any Medical Staff information may result in the imposition of disciplinary action.

#### 6.D.7. Attendance Requirements:

- (a) Attendance at meetings of the MEC, the Leadership Council, and the Combined Credentials Committee is required. All members are required to attend at least 50% of all regular and special meetings of these committees. Failure to attend the required number of meetings may result in replacement of the member.

- (b) Each Active Staff member is expected to attend and participate in all Medical Staff meetings and applicable department and committee meetings each year.

## ARTICLE 7

### INDEMNIFICATION

The Hospital shall indemnify all Medical Staff members who act within the course and scope of their Medical Staff leadership role, for and on behalf of the Hospital in discharging their responsibilities and professional review activities pursuant to these Bylaws, the Credentials Policy, the Medical Staff Organization Manual, and/or the Policy on Advance Practice Professionals, to the fullest extent permitted by law, in accordance with applicable provisions of the Hospital's corporate bylaws.

## ARTICLE 8

### BASIC STEPS AND DETAILS

The details associated with the following Basic Steps are contained in the Credentials Policy and the Advance Practice Professionals Policy in a more expansive form.

#### 8.A. QUALIFICATIONS FOR APPOINTMENT

To be eligible to apply for initial appointment or reappointment to the Medical Staff or for the grant of clinical privileges, an applicant must demonstrate appropriate education, training, experience, current clinical competence, professional conduct, licensure, and ability to safely and competently perform the clinical privileges requested as set forth in the Credentials Policy and the Advance Practice Professionals Policy.

#### 8.B. PROCESS FOR PRIVILEGING

Requests for privileges are provided to the applicable department chair or service line chair, who reviews the individual's education, training, and experience and prepares a form provided by the Medical Staff Office stating whether the individual meets all qualifications. The Combined Credentials Committee then reviews the chair's assessment, the application, and all supporting materials and makes a recommendation to the MEC. The MEC may accept the recommendation of the Combined Credentials Committee, refer the application back to the Combined Credentials Committee for further review, or state specific reasons for disagreement with the recommendation of the Combined Credentials Committee. If the recommendation of the MEC to grant privileges is favorable, it is forwarded to the Board for final action. If the recommendation of the MEC is unfavorable, the individual is notified by the Hospital Administrator of the right to request a hearing.

#### 8.C. PROCESS FOR CREDENTIALING (APPOINTMENT AND REAPPOINTMENT)

Complete applications are provided to the applicable department chair or service line chair, who reviews the individual's education, training, and experience and prepares a form provided by the Medical Staff Office stating whether the individual meets all qualifications. The Combined Credentials Committee then reviews the chair's assessment, the application, and all supporting materials and makes a recommendation to the MEC. The MEC may accept the recommendation of the Combined Credentials Committee, refer the application back to the Combined Credentials Committee for further review, or state specific reasons for disagreement with the recommendation of the Combined Credentials Committee. If the recommendation of the MEC to grant appointment or reappointment is favorable, it is forwarded to the Board for final action. If the recommendation of the MEC is unfavorable, the individual is notified by the Hospital Administrator of the right to request a hearing.

#### 8.D. DISASTER PRIVILEGING

When the disaster plan has been implemented, the Hospital Administrator, CMO, or Chair of the MEC may use a modified credentialing process to grant disaster privileges after verification of the volunteer's identity and licensure.

#### 8.E. INDICATIONS AND PROCESS FOR AUTOMATIC RELINQUISHMENT OF APPOINTMENT AND/OR PRIVILEGES

- (1) Appointment and clinical privileges may be automatically relinquished if an individual:
  - (a) fails to do any of the following:
    - (i) timely complete medical records;
    - (ii) satisfy threshold eligibility criteria;
    - (iii) provide requested information;
    - (iv) complete and/or comply with educational or training requirements;  
or
    - (v) attend a special conference to discuss issues or concerns.
  - (b) is involved or alleged to be involved in defined criminal activity;
  - (c) makes a misstatement or omission on an application form; or
  - (d) remains absent on leave for longer than one year, unless an extension is granted.
- (2) Automatic relinquishment shall take effect immediately and shall continue until the matter is resolved, if applicable.

#### 8.F. INDICATIONS AND PROCESS FOR PRECAUTIONARY SUSPENSION

- (1) Whenever failure to take action may result in imminent danger to the health and/or safety of any individual, the MEC OR any Medical Staff Officer or a chair of a clinical department or a service line chair, acting in conjunction with the Hospital Administrator or the CMO, is authorized to suspend or restrict all or any portion of an individual's clinical privileges as a precaution pending an investigation.
- (2) A precautionary suspension is effective immediately and will remain in effect unless it is modified by the MEC or Hospital Administrator.

- (3) The individual shall be provided a brief written description of the reason(s) for the precautionary suspension.
- (4) The MEC will review the reasons for the suspension within a reasonable time under the circumstances, not to exceed 14 days.
- (5) Prior to, or as part of, this review, the individual may be given an opportunity to meet with the MEC.

**8.G. INDICATIONS AND PROCESS FOR RECOMMENDING TERMINATION  
OR SUSPENSION OF APPOINTMENT AND PRIVILEGES  
OR REDUCTION OF PRIVILEGES**

Following an investigation or a determination that there is sufficient information upon which to base a recommendation, the MEC may recommend suspension or revocation of appointment or clinical privileges based on concerns about (a) clinical competence or practice; (b) safety or proper care being provided to patients; (c) violation of ethical standards or the Bylaws, policies, or Rules and Regulations of the Hospital or the Medical Staff; or (d) conduct that is considered lower than the standards of the Medical Staff Professionalism Policy or is disruptive to the orderly operation of the Hospital or its Medical Staff.

**8.H. HEARING AND APPEAL PROCESS, INCLUDING PROCESS FOR  
SCHEDULING AND CONDUCTING HEARINGS AND THE  
COMPOSITION OF THE HEARING PANEL**

- (1) The hearing will begin no sooner than 30 days after the notice of the hearing, unless an earlier date is agreed upon by the parties.
- (2) The Hearing Panel will consist of at least three members or there will be a Hearing Officer.
- (3) The hearing process will be conducted in an informal manner; formal rules of evidence or procedure will not apply.
- (4) A stenographic reporter will be present to make a record of the hearing.
- (5) Both sides will have the following rights, subject to reasonable limits determined by the Presiding Officer: (a) to call and examine witnesses, to the extent they are available and willing to testify; (b) to introduce exhibits; (c) to cross-examine any witness on any matter relevant to the issues; (d) to have representation by counsel who may advise but may not call, examine, and cross examine witnesses or present the case; and (e) to submit proposed findings, conclusions, and recommendations to the Hearing Panel in the form of a post-hearing statement submitted at the close of the hearing.

- (6) The personal presence of the affected individual is mandatory. If the individual who requested the hearing does not testify, he or she may be called and questioned.
- (7) The Hearing Panel may question witnesses, request the presence of additional witnesses, and/or request documentary evidence.
- (8) The affected individual and the MEC may request an appeal of the recommendations of the Hearing Panel to the Board.

## ARTICLE 9

### AMENDMENTS

#### 9.A. MEDICAL STAFF BYLAWS

- (1) Amendments to these Bylaws may be proposed by a petition signed by at least ten voting members of the Medical Staffs, by the Bylaws Committee, or by the MECs.
- (2) All proposed amendments to these Bylaws must be reviewed by the Bylaws Committee, the Executive Committee, and both MECs prior to a vote by the Medical Staff. The MECs may hold a Medical Staff meeting with the relevant Medical Staff to discuss proposed amendments; however, voting shall not take place at a meeting but, rather, will be accomplished in accordance with this section. The MECs shall present all proposed amendments to the voting staffs by written or electronic ballot to be returned to the Medical Staff Office by the date indicated on the ballot, which date shall be at least 14 days after the proposed amendment was provided to the voting staffs. Along with the proposed amendments, the MEC may, in its discretion, provide a written report on them either favorably or unfavorably. To be adopted, the amendment must receive a majority of the votes cast.
- (3) The MECs shall have the power to adopt such clarifications to these Bylaws which are needed because of renumbering, punctuation, spelling or errors of grammar, change of name(s) or title(s), or as mandated by law as determined by Hospital legal counsel.
- (4) All amendments shall be effective only after approval by the Board.
- (5) If the Board has determined not to accept a recommendation submitted to it by the MECs or the Medical Staffs, the MECs may request a conference between the officers of the Board and the officers of the Medical Staff(s). Such conference shall be for the purpose of further communicating the Board's rationale for its contemplated action and permitting the officers of the Medical Staff(s) to discuss the rationale for the recommendation. Such a conference will be scheduled by the Hospital Administrator within two weeks after receipt of a request for same submitted by the President of the Medical Staff, to the extent possible.
- (6) Neither the Medical Staffs nor the Board shall unilaterally (without seeking the advice of the other party) amend these Bylaws.
- (7) The Appendices to the Bylaws may be modified or supplemented by action of the Board, after receiving the recommendation of the MECs, without the necessity of formal amendment of these Bylaws.

#### 9.B. OTHER MEDICAL STAFF DOCUMENTS



- (1) In addition to the Medical Staff Bylaws, there shall be policies, procedures and Rules and Regulations that shall be applicable to all members of the Medical Staff and other individuals who have been granted clinical privileges or a scope of practice. All Medical Staff policies, procedures, and Rules and Regulations shall be considered an integral part of the Medical Staff Bylaws but will be amended in accordance with this section. These additional documents are the Medical Staff Credentials Policy, the Advance Practice Professionals Policy, the Medical Staff Organization Manual, and the Medical Staff Rules and Regulations.
- (2) An amendment to the Credentials Policy, Medical Staff Organization Manual, Advance Practice Professionals Policy, or the Medical Staff Rules and Regulations may be made by a majority vote of the members of each MEC present and voting at any meeting of that Committee where a quorum exists. Notice of all proposed amendments shall be provided to each voting staff member of the Medical Staff at least 14 days prior to the respective MEC meeting, and any voting staff member may submit written comments to the MEC. If there is any disagreement between the MECs for the two Hospitals with respect to an amendment(s), a joint meeting shall be scheduled to discuss and resolve the disagreement.
- (3) The present Medical Staff Rules and Regulations are hereby readopted and placed into effect insofar as they are consistent with these Bylaws, until such time as they are amended in accordance with the terms of these Bylaws. To the extent any present Rules and Regulations are inconsistent with these Bylaws, they are of no force or effect.
- (4) All other policies of the Medical Staff may be adopted and amended by a majority vote of the MEC. No prior notice is required.
- (5) Amendments to the Medical Staff policies and to the Rules and Regulations may also be proposed by a petition signed by at least 20% of the voting members of the Medical Staff. Any such proposed amendments will be reviewed by the MEC, which shall report on the proposed amendments either favorably or unfavorably before they are forwarded to the Board for its final action.
- (6) Adoption of and changes to the Credentials Policy, Medical Staff Organization Manual, Advance Practice Professionals Policy, Medical Staff Rules and Regulations, and other Medical Staff policies will become effective only when approved by the Board.

#### 9.C. CONFLICT MANAGEMENT PROCESS

- (1) When there is a conflict between the Medical Staff and the MEC with regard to:
  - (a) proposed amendments to the Medical Staff Rules and Regulations,
  - (b) a new policy proposed or adopted by the MEC, or

- (c) proposed amendments to an existing policy that is under the authority of the MEC,

a special meeting of the Medical Staff to discuss the conflict may be called by a petition signed by at least 20% of the voting staff. The agenda for that meeting will be limited to attempting to resolve the differences that exist with respect to the amendment(s) or policy at issue.

- (2) If the differences cannot be resolved, the MEC shall forward its recommendations, along with the proposed recommendations pertaining to the amendment or policy at issue offered by the voting staff members, to the Board for final action.
- (3) This conflict management section is limited to the matters noted above. It is not to be used to address any other issue, including, but not limited to, professional review actions concerning individual members of the Medical Staff.
- (4) Nothing in this section is intended to prevent individual Medical Staff members from communicating positions or concerns related to the adoption of, or amendments to, the Medical Staff Bylaws, the Medical Staff Rules and Regulations, or other Medical Staff policies directly to the Board. Communication from Medical Staff members to the Board will be directed through the Hospital Administrator, who will forward the request for communication to the Chair of the Board. The Hospital Administrator will also provide notification to the MEC by informing the Chair of the MEC of all such exchanges. The Chair of the Board will determine the manner and method of the Board's response to the Medical Staff member(s).

ARTICLE 10

ADOPTION

These Medical Staff Bylaws are adopted and made effective upon approval of the Board, superseding and replacing any and all previous Medical Staff Bylaws, Rules and Regulations, policies, manuals or Hospital policies pertaining to the subject matter thereof.

**University Hospital**

Adopted by the Medical Staff:

Approved by the Board:

**Children's & Women's Hospital**

Adopted by the Medical Staff:

Approved by the Board:

## APPENDIX A

### MEDICAL STAFF CATEGORIES SUMMARY

	Active	Courtesy	Consulting	Community	Coverage	Honorary
<b>Basic Requirements</b>						
Number of hospital contacts/2-year	≥ 15	≥ 4 & < 15	NA	N	NA	N
<b>Rights</b>						
Admit	Y	≥ 4 & < 15	N	N	P	N
Exercise clinical privileges	Y	Y	Y	N	P	N
May attend meetings	Y	Y	Y	Y	Y	Y
Voting privileges	Y	P	P	N	P	P
Hold office	Y	N, unless waiver	N, unless waiver	N, unless waiver	N, unless waiver	N, unless waiver
<b>Responsibilities</b>						
Serve on committees	Y	Y	Y	Y	Y	Y
Meeting requirements	Y	N	N	N	N	N
Dues	Y	Y	Y	Y	Y	N
Comply w/ guidelines	Y	Y	Y	N	Y	N

Y = Yes

N = No

NA = Not Applicable

P = Partial (with respect to voting, only when appointed to a committee)

## APPENDIX B

### HISTORY AND PHYSICAL EXAMINATIONS

(a) General Documentation Requirements

- (1) A complete medical history and physical examination must be performed and documented in the patient's medical record within 24 hours after admission or registration (but in all cases prior to surgery or an invasive procedure requiring anesthesia services) by an individual who has been granted privileges by the Hospital to perform histories and physicals.
- (2) The scope of the medical history and physical examination will include, as pertinent:
  - patient identification;
  - chief complaint;
  - history of present illness;
  - review of systems;
  - personal medical history, including medications and allergies;
  - family medical history;
  - social history, including any abuse or neglect;
  - physical examination, to include pertinent findings in those organ systems relevant to the presenting illness and to co-existing diagnoses;
  - data reviewed;
  - assessments, including problem list;
  - plan of treatment; and
  - if applicable, signs of abuse, neglect, addiction, or emotional/behavioral disorder, which will be specifically documented in the physical examination, and any need for restraint or seclusion which will be documented in the plan of treatment.

- (3) In the case of a pediatric patient, the history and physical examination report must also include: (i) developmental age; (ii) length or height; (iii) weight; (iv) head circumference (if appropriate); and (v) immunization status.

(b) Individuals Who May Perform H&Ps

The following types of practitioners may generally perform histories and physicals at the Hospital pursuant to appropriately granted Medical Staff appointment or permission to practice and clinical privileges:

- (1) physicians;
- (2) oral and maxillofacial surgeons;
- (3) podiatrists (in accordance with the Advance Practice Professionals Policy);
- (4) dentists (in accordance with the Advance Practice Professionals Policy)
- (5) certified nurse midwives;
- (6) certified nurse practitioners;
- (7) certified registered nurse anesthetists; and
- (8) physician assistants.

(c) H&Ps Performed Prior to Admission

- (1) Any history and physical performed more than 30 days prior to an admission or registration is invalid and may not be entered into the medical record.
- (2) If a medical history and physical examination has been completed within the 30-day period prior to admission or registration, a durable, legible copy of this report may be used in the patient's medical record. However, in these circumstances, the patient must also be evaluated within 24 hours of the time of admission/registration or prior to surgery/invasive procedure, whichever comes first, and an update recorded in the medical record by an individual who has been granted clinical privileges to complete histories and physicals.
- (3) The update of the history and physical examination shall be based on an examination of the patient and must (i) reflect any changes in the patient's condition since the date of the original history and physical that might be significant for the planned course of treatment or (ii) state that there have been no changes in the patient's condition.

- (4) In the case of readmission of a patient, all previous records will be made available by the Hospital for review and use by the attending physician.

(d) Cancellations, Delays, and Emergency Situations

- (1) When the history and physical examination is not recorded in the medical record before a surgical or other invasive procedure (including, but not limited to, procedures performed in the operating suites, endoscopy, colonoscopy, bronchoscopy, cardiac catheterizations, radiological procedures with sedation, and procedures performed in the Emergency Room), the operation or procedure will be canceled or delayed until an appropriate history and physical examination is recorded in the medical record, unless the attending physician states in writing that an emergency situation exists.
- (2) In an emergency situation, when there is no time to record either a complete or a Short Stay history and physical, the attending physician will record an admission or progress note immediately prior to the procedure. The admission or progress note will document, at a minimum, an assessment of the patient's heart rate, respiratory rate, and blood pressure. Immediately following the emergency procedure, the attending physician is then required to complete and document a complete history and physical examination.

(e) Ambulatory Documentation Requirements

Ambulatory patients who receive treatment based upon an outpatient prescription for administration of medication (e.g., outpatient chemotherapy administration visits, apheresis, blood transfusion, use of contrast media or medication in diagnostic testing) are required to have a discipline-specific History & Physical examination from their referring physician or a detailed office visit note which provides the clinical justification. An updated discipline-specific History & Physical examination or office visit note is only required when a new prescription is generated for that ambulatory patient. No History & Physical examination is required for a change in medication use (e.g., post-operative pain medication, Coumadin clinic visit) or for outpatient counseling about treatment options.

# **USA HEALTH HOSPITALS**

## **MEDICAL STAFF PROFESSIONALISM POLICY**

*Second Discussion Draft*

*October 28, 2019*

*Approved by both MECs on November 26, 2019*

*Approved by the Active medical staff on January 21, 2020*

*Horty, Springer & Mattern, P.C.*



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**MEDICAL STAFF  
PROFESSIONALISM POLICY**

**1. POLICY STATEMENT**

**1.A *Policy Objectives.***

- (1) This Policy outlines progressive steps, beginning with collegial and educational efforts, which can be used by \_\_\_\_\_ Hospital (the “Hospital”) and its Medical Staff Leaders to address conduct that does not meet expected standards. The goal of these efforts is to arrive at voluntary, responsive actions by the Practitioner to resolve the concerns that have been raised in a constructive manner, and thus avoid the necessity of proceeding through the disciplinary process outlined in the Medical Staff Credentials Policy.
- (2) This Policy is not intended to interfere with a Practitioner’s ability to express, in a professional manner and in an appropriate forum:
  - (a) opinions on any topic that are contrary to opinions held by other Practitioners, Medical Staff Leaders, or Hospital personnel;
  - (b) disagreement with any Medical Staff or Hospital Bylaws, policies, procedures, proposals, or decisions; or
  - (c) constructive criticism of the care provided by any Practitioner, nurse, or other Hospital personnel.

**1.B *Scope of Policy.***

- (1) This Policy applies to all Practitioners (as defined in Section 1.D) who provide patient care services at the Hospital.
- (2) If a matter involves both clinical and behavioral concerns, the Chairs of the Leadership Council and the relevant peer review committee shall coordinate the reviews. The behavioral concerns may either be:
  - (a) addressed by the Leadership Council pursuant to this Policy, with a report to the peer review committee; or
  - (b) addressed by the peer review committee as part of its review under relevant peer review policies, using the provisions in this Policy for guidance.

- (3) All efforts undertaken pursuant to this Policy are part of the Hospital's performance improvement and professional practice evaluation/peer review activities and are confidential and privileged in accordance with applicable state and federal law.

1.C ***Expectations for Professional Conduct/Culture of Safety.*** Communication, collegiality, and collaboration are essential for the provision of safe and competent patient care. As such, all Practitioners must treat others with respect, courtesy, and dignity, and conduct themselves in a professional and cooperative manner.

In dealing with occurrences of unprofessional conduct, the following are paramount considerations:

- (1) the protection of patients, employees, Practitioners, and others and the orderly operation of the Medical Staff and Hospital;
- (2) compliance with the law and providing an environment free from harassment and other forms of discrimination; and
- (3) assisting Practitioners in resolving conduct issues in a constructive, educational, and successful manner.

1.D ***Definitions.***

- (1) "Collegial Intervention" means a formal, planned, face-to-face discussion between the Practitioner and one or more Medical Staff Leaders. Collegial Intervention only occurs after a Practitioner has had an opportunity to provide input regarding a concern. A Collegial Intervention shall be followed by a letter that summarizes the discussion and, when applicable, the expectations regarding the Practitioner's future practice in the Hospital. A copy of the follow-up letter will be included in the Practitioner's file along with any response that the Practitioner would like to offer.

In contrast, informal discussions, mentoring, counseling, sharing of comparative data, and similar efforts that do not meet the criteria for a Collegial Intervention are referred to as "initial collegial leadership efforts." This Policy encourages the use of initial collegial leadership efforts to assist Practitioners in continually improving their practices. There is no expectation that input be obtained prior to initial collegial leadership efforts or that they be documented, though documentation may be created in the discretion of the Medical Staff Leader and maintained in the Practitioner's confidential file.

- (2) "Employed Practitioner" means a Practitioner who is employed by an Employer.

- (3) “Employer” means:
  - (a) USA Health;
  - (b) a USA Health-related entity that has a formal peer review/professional practice evaluation process and an established peer review committee, as evidenced by internal bylaws or policy; or
  - (c) a private entity that has: (i) a formal peer review/professional practice evaluation process and an established peer review committee, as evidenced by internal bylaws or policy; and (ii) information sharing provisions in a professional services contract or in a separate agreement with USA Health.
- (4) “Medical Staff Leader” means any Medical Staff Officer, Department Chair, Service Line Chair, or committee chair.
- (5) “Practitioner” means any individual who has been granted clinical privileges and/or membership by the Board, including, but not limited to, members of the Medical Staff and Advance Practice Professionals.
- (6) “Quality Specialists” means the clinical and non-clinical staff who support the professional practice evaluation (“PPE”) process generally and the review of issues related to professionalism described in this Policy. This may include, but is not limited to, staff from the quality department, Medical Staff office, human resources, and/or patient safety department.

**2. EXAMPLES OF UNPROFESSIONAL CONDUCT.** To aid in both the education of Practitioners and the enforcement of this Policy, examples of “unprofessional conduct” include, but are not limited to:

- (a) abusive or threatening language or actions directed at patients, nurses, students, volunteers, visitors, Hospital personnel, or Practitioners (e.g., belittling, berating, and/or non-constructive criticism that intimidates, undermines confidence, or implies stupidity or incompetence);
- (b) degrading, demeaning, or condescending comments or actions regarding patients, families, nurses, Practitioners, Hospital personnel, or the Hospital;
- (c) refusal or failure to answer questions, or return phone calls or pages in a timely manner as defined in the Medical Staff Bylaws documents or other applicable policies;

- (d) intentional misrepresentation to Hospital administration, Medical Staff Leaders, other Practitioners, or their representatives, in an attempt to gain a personal benefit or to avoid responsibility for an action taken;
- (e) offensive language (which may include profanity or similar language) while in the Hospital and/or while speaking with patients, nurses, or other Hospital personnel;
- (f) retaliating against any individual who may have reported a quality and/or behavior concern about a Practitioner, provided information related to such a matter, or otherwise been involved in the professional practice evaluation/peer review process in any way (this means a Practitioner may not, under any circumstances, discuss the matter with any such individual, nor may the Practitioner engage in any other retaliatory or abusive conduct such as confronting, ostracizing, or discriminating against such individual);
- (g) inappropriate physical contact with another individual or other aggressive behavior that is threatening or intimidating;
- (h) throwing an object of any kind, including but not limited to any medical/surgical instrument or supply;
- (i) repeatedly failing to renew legally-required credentials prior to expiration;
- (j) derogatory comments about the quality of care being provided by the Hospital, another Practitioner, or any other individual outside of appropriate Medical Staff and/or Hospital administrative channels;
- (k) inappropriate medical record entries impugning the quality of care being provided by the Hospital, Practitioners, or any other individual, or criticizing the Hospital or the Hospital's policies or processes, or accreditation and regulatory requirements;
- (l) imposing idiosyncratic requirements on Hospital staff that have no impact on improved patient care, but serve only to burden the Hospital or Hospital employees with "special" techniques and procedures;
- (m) altering or falsifying any medical record entry or hospital document (including, but not limited to, incorrectly dating or timing an entry or document to give the impression it was completed prior to when it was actually completed);
- (n) completing medical record entries based on a template without considering the care actually provided to the patient, or using the "copy and paste" or "pull forward" functions of the medical record to populate fields without verifying that the information is accurate for the patient in question;
- (o) refusal or failure to use or use properly documentation technology (e.g., CPOE, EHR, and other approved technology);

- (p) inappropriate access, use, disclosure, or release of confidential patient information;
- (q) audio, video, or digital recording that is not consented to by others present, including patients and other members of the care team;
- (r) use of social media in a manner that involves unprofessional conduct as defined in this Policy or other Medical Staff or Hospital policies;
- (s) disruption of hospital operations, hospital or medical staff committees, or departmental affairs;
- (t) disregard of or refusal to abide by Medical Staff requirements as delineated in this Policy, the Medical Staff Bylaws, Credentials Policy, Rules and Regulations, or other Medical Staff policies (including, but not limited to, emergency call issues, response times, medical recordkeeping, other patient care responsibilities, failure to participate on assigned committees, failure to cooperate with utilization oversight activities, and an unwillingness to work cooperatively and harmoniously with other members of the Medical Staff and Hospital employees); and/or
- (u) engaging in identity-based harassment as described in Section 8 of this Policy.

### **3. GENERAL GUIDELINES/PRINCIPLES**

**3.A *Immediate Referrals to Medical Executive Committee.*** This Policy outlines collegial and progressive steps (e.g., counseling, warnings, meetings, and behavior modification education) that can be taken to address concerns about unprofessional conduct by Practitioners. However, a single occurrence of unprofessional conduct or a pattern of unprofessional conduct may be of such concern that more significant action is required. Therefore, nothing in this Policy precludes an immediate referral of a matter being addressed through this Policy to the Medical Executive Committee or the elimination of any particular step in the Policy.

**3.B *Coordination with Other Policies That Govern Professional Conduct.*** If a report of unprofessional behavior involves an issue that is also governed by another Hospital policy that governs professional conduct (including, but not limited to, alleged violations of the Hospital's HIPAA or corporate compliance policies by a Practitioner), the Chair of the MEC or the CMO will notify the person or committee responsible for that other policy of the substance of the report. Efforts will be made to coordinate the review that occurs under this Policy with the review under such other policy. For example, individuals responsible for such other policies (such as the Hospital's HIPAA Privacy Officer or Corporate Compliance Officer) may be invited to take part in the witness interviews described in this Policy or may discuss the matter with the Leadership Council or its representatives.

**3.C *No Legal Counsel or Recordings During Collegial Meetings.***

- (1) To promote the collegial and educational objectives of this Policy, all discussions and meetings with a Practitioner shall generally involve only the Practitioner and the appropriate Medical Staff Leaders and Hospital personnel. No counsel representing the Practitioner or the Medical Staff or the Hospital shall attend any of these meetings. In their discretion, Medical Staff Leaders may permit a Practitioner to invite another Practitioner to the meeting. In such case, the invited Practitioner may not participate in the discussion or in any way serve as an advocate for the Practitioner under review, must sign a Confidentiality Agreement, and may be required to leave the meeting at any time.
- (2) No recording (audio or video) of a meeting shall be permitted or made. In their discretion, Medical Staff Leaders may require that smart phones, iPads, and similar devices be left outside the meeting room.

3.D ***Education Regarding Appropriate Professional Behavior.*** Medical Staff and Hospital leaders shall educate all Practitioners regarding appropriate professional behavior, make employees and other personnel aware of this Policy, and shall encourage the prompt reporting of unprofessional conduct.

3.E ***Delegation of Functions.*** When a function under this Policy is to be carried out by a member of Hospital management, by a Medical Staff Leader, or by a Medical Staff committee, the individual, or the committee through its chair, may delegate performance of the function to a qualified designee who is a Practitioner or Hospital employee (or a committee of such individuals). Any such designee must treat and maintain all information in a strictly confidential manner and is bound by all other terms, conditions, and requirements of this Policy. However, the delegating individual or committee is responsible for ensuring the designee performs the function as required by this Policy.

3.F ***Supervising Physicians and Advance Practice Professionals.*** A physician who is the primary supervising or collaborating physician pursuant to a written agreement with an Advance Practice Professional shall be kept apprised of any concerns that are reviewed pursuant to this Policy. Without limiting the foregoing, the supervising or collaborating physician will be copied on all correspondence that an Advance Practice Professional is sent under this Policy and may be invited to participate in any meetings or interventions. The supervising or collaborating physician shall maintain in a confidential manner all information related to reviews under this Policy.

#### **4. REPORTING OF UNPROFESSIONAL CONDUCT AND INITIAL REVIEW**

4.A ***Reports of Unprofessional Conduct.*** Any Hospital employee or Practitioner who observes, or is subjected to, unprofessional conduct by a Practitioner shall report the occurrence in a timely manner by submitting a completed Professional Conduct



Reporting Form to the Quality Specialists (see **Appendix A**) or through some other approved Hospital reporting mechanism. The Quality Specialists shall log the referral into the confidential peer review database.

4.B ***Follow-up with Individual Who Filed Report.*** The Quality Specialists or CMO shall follow up with individuals who file a report by:

- (1) thanking them for reporting the matter and participating in the Hospital's culture of safety and quality care;
- (2) informing them that:
  - (a) the matter will be reviewed in accordance with this Policy and that they may be contacted for additional information;
  - (b) no retaliation is permitted against any individual who raises a concern and they should immediately report any retaliation or any other occurrences of inappropriate conduct;
  - (c) due to confidentiality provisions under state law, it is important that they maintain confidentiality and only discuss the matter with individuals who are a formal part of the review process; and
  - (d) due to those same confidentiality provisions, the Hospital is not permitted to disclose the outcome of the review to them, but they can be assured a thorough review will be conducted.

A letter or e-mail that can be used for this purpose is attached as **Appendix B**. As an alternative to sending a letter or e-mail, the content of **Appendix B** and the provisions outlined in this section may be used as talking points to discuss these issues verbally with the individual who reported a concern.

4.C ***Initial Triage.*** The Chair of the MEC and CMO will review the circumstances as reported and determine to proceed in one of the following two ways:

- (1) ***Conduct additional fact-finding*** to determine if the reported concern is credible and further action is necessary. In such case, the Chair of the MEC and CMO will follow the steps set forth in Sections 4.D through 4.F of this Policy; or
- (2) ***Resolve informally and promptly*** because the allegations as reported, even if true, do not rise to the level that further review under this Policy is necessary because: (1) the concern is minor in nature; and (2) there is no history or pattern with the Practitioner in question.

For matters that qualify for informal resolution, the Chair of the MEC or CMO will speak with the Practitioner about the concern and either dismiss the matter altogether (if the concern does not appear credible based on the Practitioner's input) or counsel the Practitioner. If the Practitioner is counseled, the Chair of the MEC or CMO may follow up with a brief note to the Practitioner memorializing the conversation. The Quality Specialists will provide periodic reports to the Leadership Council of matters that have been informally resolved under this subsection.

The initial triage that occurs pursuant to this section may also be documented on the form that is attached as **Appendix C**.

#### 4.D *Employed Practitioner Triage.*

- (1) If a reported concern about behavior: (i) is not resolved informally as set forth in Section 4.C(2); and (ii) involves an Employed Practitioner, then Medical Staff Leaders will consult with appropriate representatives (as defined below) of the Employer and then determine which of the two processes described in this Section will be used for the review. A form that may be used to document this decision is attached as **Appendix D**.
- (2) The reported concern may be reviewed under either the Medical Staff process or the Employer's process, as follows:
  - (a) If the matter will be reviewed using the Medical Staff process as set forth in this Policy, an appropriate representative of the Employer will be invited to attend relevant portions of committee meetings involving the Practitioner, as well as participate in any interventions that may be necessary following the review. The chair of the Leadership Council may recuse the representative of the Employer during any deliberations or vote on a matter. Documentation from the Medical Staff process will not be disclosed to the Employer for inclusion in the employment file, but the Employer will be permitted access to such documentation as needed to fulfill its operational and legal responsibilities; or
  - (b) If the matter will be reviewed by the Employer pursuant to its policies and/or the relevant contract:
    - (i) the Medical Staff process shall be held in abeyance and the Leadership Council notified;
    - (ii) the Quality Specialists will assist the Employer with witness interviews, document review, data compilation, and similar fact-finding. Documentation of such fact-finding will be maintained in the Practitioner's confidential Medical Staff

peer review/quality file consistent with the state peer review statute, but the Employer will be permitted access to such documentation as needed to fulfill its operational and legal responsibilities;

(iii) the Leadership Council will be kept informed of the progress and outcome of the review by the Employer; and

(iv) the Leadership Council may choose, at any time and in its sole discretion, that the matter shall also be reviewed pursuant to this Policy. However, neither such a review by the Leadership Council nor any other provision of this Policy shall be interpreted to affect the right of the Employer to take any action authorized by the relevant contract with the Practitioner.

(3) For purposes of this Section, an “appropriate representative of the Employer” includes Hospital representatives with employment responsibilities (if the Hospital is the Employer), the Department Chair, or a peer review committee within the Employer (if the Employer is a Hospital-related entity or a qualifying private entity).

4.E ***Preliminary Notification to Practitioner.*** If a reported concern about behavior is not resolved informally as set forth in Section 4.C(2), the Chair of the MEC or CMO should notify the Practitioner that a concern has been raised and the matter is being reviewed. Generally, this preliminary communication should occur via a telephone call or a personal discussion as soon as practical. The Practitioner should be notified that he or she will be invited to provide input regarding the matter if the facts underlying the occurrence are determined to be credible, but that he or she is also free to submit input at any time. The Practitioner should also be reminded to avoid any action that could be perceived as retaliation (including any attempt to discuss the matter with an individual who the Practitioner believes may have raised the concern or provided information about it). Instructions and a form that may be used to help prepare for and document the preliminary notification described in this section are attached as **Appendix E**.

4.F ***Additional Fact-Finding to Determine Credibility.*** If a matter is not resolved informally as set forth in Section 4.C(2), the Quality Specialists, the CMO, and/or Chair of the MEC shall interview witnesses or others who were involved in the occurrence and gather any other necessary documentation or information (e.g., interviews with core leaders or nurse/area leaders) needed to assess the credibility of the report. **Appendix G** contains a script that may be used for interviews, along with sample interview questions.

(1) ***Report Not Credible.*** The CMO and Chair of the MEC may determine that a report is not credible. In such case, the matter shall be closed and the

Practitioner will be notified of this determination. The individual who filed the report may be notified that the report was not substantiated, at the discretion of the Leadership Council. Intentionally false reports will be grounds for disciplinary action. False reports by Practitioners will be referred to the Leadership Council, while false reports by Hospital employees will be referred to human resources.

- (2) ***Report Credible, Further Review Required.*** The CMO and Chair of the MEC may determine that a report is credible and that the matter should be reviewed further in accordance with this Policy. In such case, input will be obtained from the Practitioner as set forth in Section 5. The Quality Specialists shall then prepare a summary report of the matter for review by the Leadership Council.

The Leadership Council will be notified of determinations made pursuant to this subsection, to allow it to conduct oversight and monitor the process for consistency.

## **5. OBTAINING INPUT FROM THE PRACTITIONER**

5.A ***General.*** For reports that are determined to be credible and require further review under this Policy, the President of the Medical Staff, CMO, and/or Quality Specialists will provide details of the concern to the Practitioner and ask the Practitioner to provide a written explanation of what occurred and his or her perspective on the occurrence.

### 5.B ***Identity of Reporter.***

- (1) ***General Rule.*** Since this Policy does not involve disciplinary action or “restrictions” of privileges, the specific identity of the individual reporting a concern or otherwise providing information about a matter (the “reporter”) generally will not be disclosed to the Practitioner.

- (2) ***Exceptions.***

- (a) ***Consent.*** The Leadership Council may, in its discretion, disclose the identity of the reporter to the Practitioner if the reporter specifically consents to the disclosure (with the reporter being reassured that he or she will be protected from retaliation).

- (b) ***Medical Staff Hearing.*** The identity of the reporter shall be disclosed to the Practitioner if information provided by the reporter is used to support an adverse professional review action that results in a Medical Staff hearing.

- (3) ***Practitioner Guessing the Identity of Reporter.*** This section does not prohibit notification to a Practitioner that a concern has been raised even if

the description of the concern would allow the Practitioner to guess the identity of the reporter (e.g., where the reporter and the Practitioner were the only two people present when an occurrence occurred). In such case, the identity of the reporter will not be disclosed or confirmed and particular attention should be paid to reminding the Practitioner to avoid any action that could be perceived as retaliation.

- 5.C ***Confidentiality.*** The Practitioner must maintain all information related to the review in a strictly confidential manner, consistent with Alabama law. The Practitioner may not disclose information to, or discuss it with, anyone outside of the review process set forth in this Policy without first obtaining the written permission of the Leadership Council, except for any legal counsel who may be advising the Practitioner. The Practitioner must also continue to abide by any and all applicable HIPAA policies and procedures of USA Health in any consultations with legal counsel.
- 5.D ***Retaliation.*** The Practitioner may not retaliate against anyone who he or she believes may have raised a concern, provided information regarding the matter, or otherwise been involved in the review process. This means a Practitioner may not, under any circumstances, discuss the matter with any such individual, nor may the Practitioner engage in any other retaliatory or abusive conduct such as confronting, ostracizing, or discriminating against such individual. If a Practitioner wishes to offer an apology to any individual, the Practitioner must contact the Leadership Council and comply with its requirements regarding the manner in which the apology is provided.
- 5.E ***Reminder of Practitioner’s Obligations.*** The Quality Specialists, CMO, or Chair of the MEC will remind the Practitioner of the obligations set forth in this section as part of seeking his or her input. A cover letter similar to the one set forth in **Appendix G** shall be used for this purpose. The Practitioner may also be asked to sign the “Confidentiality and Non-Retaliation Agreement” that is attached as **Appendix H** before such a letter is sent if there are particular concerns about maintaining confidentiality or ensuring a professional, non-threatening environment for the individuals involved in a specific situation.
- 5.F ***Discussions Outside Committee Meetings.*** Practitioners and individual members of the Leadership Council should not engage in separate discussions of a matter unless the Leadership Council has asked the individual committee member to speak with the Practitioner on its behalf. Similarly, unless formally requested to do so, Practitioners may not provide verbal input to a Quality Specialist or to any other individual and ask him or her to relay that verbal input to the Leadership Council. The goal of these requirements is to ensure that all individuals and committees involved in the review process receive the same, accurate information. Finally, Practitioners must refrain from any discussion or lobbying with other Medical Staff members or Board members outside the authorized review process outlined in this Policy.

## 6. LEADERSHIP COUNCIL PROCEDURE

- 6.A ***Initial Review.*** The Leadership Council shall review the summary prepared by the Quality Specialists and all supporting documentation, including the response from the Practitioner. If necessary, the Leadership Council may also meet with the individual who submitted the report and/or any witnesses to the occurrence. If it determines that it would be necessary or helpful in addressing the reported concern, the Leadership Council may also consult with or include the appropriate Department Chair or Service Line Chair in the review or may appoint an ad hoc committee to review the occurrence and report back to it.
- 6.B ***Meeting Between Practitioner and Leadership Council.*** A meeting may be held between the Practitioner and the Leadership Council to discuss the circumstances further if either the Leadership Council or the Practitioner believes that such a meeting would be helpful prior to the Leadership Council concluding its review and making a determination. In its discretion, the Leadership Council may designate one or more committee members to attend the meeting rather than the full committee, regardless of who requested the meeting. The Leadership Council may also obtain additional written input from the Practitioner using the process set forth in Article 5.
- 6.C ***Leadership Council's Determination and/or Intervention.***
- (1) Based on all of the information received, the Leadership Council may:
    - (a) determine that no further review or action is required;
    - (b) send the Practitioner a letter of guidance or counsel;
    - (c) send the Practitioner a letter of warning or reprimand;
    - (d) engage in a formal Collegial Intervention with the Practitioner as described in the Definitions section of this Policy, with such meeting being documented via a letter to the Practitioner that is maintained in the Practitioner's file;
    - (e) develop a Performance Improvement Plan for Conduct, as described in Section 6.D below; or
    - (f) refer the matter to the Medical Executive Committee.
  - (2) The Leadership Council shall inform the relevant Department Chair or Service Line Chair of its determination and intervention.

- (3) Any of the determinations or interventions described above may include education and coaching efforts with the Practitioner, including, when appropriate, education about administrative channels that are available for registering concerns about quality or services, if the Practitioner's conduct suggests that such concerns led to the behavior. Other sources of support may also be identified for the Practitioner, if appropriate.

6.D ***Performance Improvement Plan for Conduct.***

- (1) ***General.*** The Leadership Council may determine it is necessary to develop a Performance Improvement Plan ("PIP") for the Practitioner to bring about sustained improvement in the individual's behavior. One or more members of the Leadership Council should personally discuss the PIP with the Practitioner to help ensure a shared and clear understanding of the elements of the PIP. The PIP will also be presented in writing, with a copy being placed in the Practitioner's file, along with any statement the Practitioner would like to offer.
- (2) ***Voluntary Nature of PIPs.*** If a Practitioner agrees to participate in a PIP developed by the Leadership Council, such agreement will be documented in writing. If a Practitioner disagrees with the need for a PIP developed by the Leadership Council, the Practitioner is under no obligation to participate in the PIP. In such case, the Leadership Council cannot compel the Practitioner to agree with the PIP. Instead, the Leadership Council will refer the matter to the Medical Executive Committee for its independent review and action pursuant to the Medical Staff Credentials Policy.
- (3) ***PIPs Not Disciplinary.*** PIPs are part of the Hospital's performance improvement and professional practice evaluation/peer review process. PIPs are not disciplinary in nature. Because a PIP is recommended by a non-disciplinary committee that has no authority to restrict privileges and is voluntarily accepted by the Practitioner, the PIP is not reportable to the National Practitioner Data Bank or any state licensing board.
- (4) ***PIP Options.*** A PIP for conduct may include, but is not limited to, one or more of the actions in this Section. None of these actions entitles the Practitioner to a hearing or appeal as described in the Medical Staff Credentials Policy, nor do they require that reports be made to any state licensing board or the National Practitioner Data Bank. **Appendix I** provides additional guidance regarding these and other PIP options for conduct and their related implementation issues.
  - (a) ***Meeting with Designated Group.*** The Practitioner may be required to meet with a designated group (including a department or service line committee, another Medical Staff committee, or an ad hoc group) to discuss the concerns with the Practitioner's conduct and

the need to modify the conduct. An ad hoc group may include any combination of current or past Medical Staff Leaders, Hospital leaders, outside consultants, and/or the Board Chair or other Board members if the Leadership Council determines that Board member involvement is reasonably likely to impress upon the Practitioner involved the seriousness of the matter and the necessity for the Practitioner's conduct to improve. A letter outlining the discussion and expectations for conduct shall be sent to the Practitioner after the meeting;

- (b) ***Periodic Meetings with Medical Staff Leaders or Mentors.*** The Practitioner may be required to meet periodically with one or more Medical Staff Leaders or a mentor designated by the Leadership Council. The purpose of these meetings is to provide input and updates on the Practitioner's performance, as well as to offer assistance and support with any challenging issues the Practitioner may be encountering;
- (c) ***Review of Literature Concerning the Connection Between Behavior and Patient Safety.*** The Leadership Council may require the Practitioner to review selected literature concerning the established connection between behavior and patient care and safety and then provide a report to the Leadership Council summarizing the information reviewed and how it can be applied to the individual's practice;
- (d) ***Behavior Modification Course.*** The Leadership Council may require the Practitioner to complete a behavior modification course that is acceptable to the Leadership Council;
- (e) ***Personal Code of Conduct.*** The Leadership Council may develop a "personal" code of conduct for the Practitioner, make continued appointment and clinical privileges contingent on the Practitioner's adherence to it, and outline the specific consequences of the Practitioner's failure to abide by it; and/or
- (f) ***Other.*** Elements not specifically listed above may be included in a PIP. The Leadership Council has wide latitude to tailor PIPs to the specific concerns identified, always with the objective of helping the Practitioner to improve his or her performance and to protect patients and staff.

6.E ***Practitioner's Refusal to Provide Information or Meet with Leadership Council.***

- (1) If the Practitioner fails or refuses to provide written input in response to a request for information sent by the Leadership Council, the Practitioner will



be required to meet with the Leadership Council. The purpose of the meeting is to discuss the Practitioner's obligation to participate in the review process, permit the Practitioner to explain why the information was not provided, and inform the Practitioner of the consequences of continuing to not provide the information. Failure of the Practitioner to either:

- (a) meet with the Leadership Council and persuade it that the requested information is not necessary; or
- (b) provide the requested written information prior to the meeting

will result in the automatic relinquishment of the Practitioner's clinical privileges. Such automatic relinquishment will continue until the Practitioner either meets with the Leadership Council and persuades it that the written information is not necessary or provides the requested written information.

- (2) If the Leadership Council requests that the Practitioner attend a meeting with it or a designated individual for any reason (e.g., to obtain the Practitioner's verbal input, participate in a Collegial Intervention, etc.) and the Practitioner fails or refuses to attend such a meeting, the Practitioner's clinical privileges will be automatically relinquished until the meeting occurs.
- (3) If the Practitioner fails to meet with the Leadership Council or provide requested input within thirty (30) days of the automatic relinquishment, the Practitioner's Medical Staff membership and clinical privileges will be deemed to have been automatically resigned.
- (4) The automatic relinquishment or resignation of appointment and/or clinical privileges described in this section are administrative actions that occur by operation of this Policy. They are not professional review actions that must be reported to the National Practitioner Data Bank or to any state licensing board or agency, nor do they entitle the Practitioner to a hearing or appeal.

6.F ***Correspondence Placed in Practitioner's Confidential File.*** Correspondence sent to the Practitioner as part of the efforts to address the Practitioner's conduct shall be placed in the Practitioner's confidential file. The Practitioner shall be permitted to respond in writing, and the Practitioner's response shall also be kept in the Practitioner's confidential file.

6.G ***Additional Reports of Unprofessional Conduct.*** If additional reports of unprofessional conduct are received concerning a Practitioner, the Leadership Council may continue to use the collegial and progressive steps outlined in this Section 6 as long as it believes that there is a reasonable likelihood that those efforts will resolve the concerns.

6.H ***Determination to Address Concerns through Practitioner Health Policy.*** The Leadership Council may determine to address the conduct concerns through the Practitioner Health Policy if it believes that there may be a legitimate, underlying health issue that is causing the concerns, and the review process outlined in the Practitioner Health Policy is more likely to resolve the concerns.

6.I ***Documentation.*** Any documentation created pursuant to this Policy, including but not limited to memos to file, notes of interviews, and notes of telephone conversations, shall be maintained in the Practitioner's confidential file. Such documentation shall not be maintained in a Medical Staff Leader's personal computer or filing cabinet.

## **7. REFERRAL TO THE MEDICAL EXECUTIVE COMMITTEE**

7.A ***Referral to the Medical Executive Committee.*** At any point, the Leadership Council may refer the matter to the Medical Executive Committee for review and action because:

- (1) the Practitioner refuses to participate in a Performance Improvement Plan developed by the Leadership Council;
- (2) the Performance Improvement Plan options for conduct were unsuccessful;  
or
- (3) the Leadership Council otherwise determines that Medical Executive Committee review is required.

The Medical Executive Committee shall be fully apprised of the actions taken previously by the Leadership Council to address the concerns. When it makes such a referral, the Leadership Council may also suggest a recommended course of action.

7.B ***Medical Executive Committee Review.*** The Medical Executive Committee shall review the matter and take appropriate action in accordance with the Medical Staff Credentials Policy. These actions include all of the Performance Improvement Plan options set forth in **Appendix I**, as well as short-term suspensions, long-term suspensions, and/or the revocation of appointment and clinical privileges, subject to any procedural rights as set forth in the Medical Staff Credentials Policy.

## **8. REVIEW OF REPORTS OF IDENTITY-BASED HARASSMENT**

8.A ***Definition.***

- (1) Identity-based harassment is verbal or physical conduct that: (i) is unwelcome and offensive to an individual who is subjected to it or who

witnesses it; (ii) could be considered harassment from the objective standpoint of a “reasonable person”; and (iii) is covered by applicable Alabama or federal laws governing discrimination. Identity-based harassment includes, but is not limited to, discrimination on the basis of race, color, national origin, sex, pregnancy, sexual orientation, gender identity and gender expression, religion, age, genetic information, disability, protected veteran status, or any other applicable protected basis.

- (2) Depending on the circumstances, any of the examples of unprofessional conduct described in Section 2 of this Policy may also qualify as identity-based harassment. Additional examples of identity-based harassment include, but are not limited to, the following:
  - (a) **Verbal:** innuendoes, epithets, derogatory slurs, off-color jokes, propositions, graphic commentaries, threats, and suggestive or insulting sounds;
  - (b) **Visual/Non-Verbal:** derogatory posters, cartoons, or drawings; suggestive objects or pictures; leering; and obscene gestures;
  - (c) **Physical:** unwanted physical contact, including touching, interference with an individual’s normal work movement, and assault;
  - (d) **Quid Pro Quo:** suggesting that submission to an unwelcome sexual advance will lead to a positive employment action or avoid a negative employment action; and
  - (e) **Retaliation:** retaliating or threatening retaliation as a result of an individual’s complaint regarding harassment.
- (3) Tests and standards used by courts to determine if conduct violates federal or state law (e.g., Title VII of the Civil Rights Act) are not dispositive in determining whether conduct is “unprofessional conduct” for purposes of this Policy. Instead, the standard set forth in this section shall govern, as interpreted by the Leadership Council, Medical Executive Committee, and/or Board of Directors. The intent of this provision is to create higher expectations for professional behavior than the minimum required by federal and state law.

8.B **General.** All reports of potential identity-based harassment will be reviewed by the Leadership Council in the same manner as outlined earlier in this Policy. In addition, while a Practitioner may be asked to voluntarily refrain from exercising clinical privileges pending the review of any behavioral matter under this Policy, particular attention will be paid to determining if an agreement to voluntarily refrain is appropriate while an allegation of identity-based harassment is being reviewed.

- 8.C ***Personal Meeting and Letter of Admonition and Warning.*** Because of the unique legal implications surrounding identity-based harassment, a single confirmed occurrence requires the actions set forth in this section. Two or more members of the Leadership Council shall personally meet with the Practitioner to discuss the occurrence. If the Practitioner acknowledges the seriousness of the matter and agrees that there will be no repeat of such conduct, the meeting shall be followed with a formal letter of admonition and warning to be placed in the Practitioner’s confidential file. This letter shall also set forth any additional actions or conditions imposed on the Practitioner’s continued practice in the Hospital as a result of the meeting.
- 8.D ***Performance Improvement Plan.*** In addition to the letter of admonition and warning, concerns about identity-based harassment may also be addressed by a Performance Improvement Plan for conduct as described in this Policy.
- 8.E ***Referral to Medical Executive Committee.*** The matter shall be immediately referred to the Medical Executive Committee if:
- (1) the Practitioner refuses to acknowledge the concern, does not recognize the seriousness of it, or will not agree that there will be no repeat of such conduct; or
  - (2) there are confirmed reports of retaliation or further occurrences of identity-based harassment, after the Practitioner agreed there would be no further improper conduct.

The Medical Executive Committee shall conduct its review in accordance with the Medical Staff Credentials Policy. Such referral shall not preclude other action under applicable Human Resources policies.

Adopted by the Medical Executive Committee on \_\_\_\_\_, 2019.

Approved by the Board on \_\_\_\_\_, 2019.

**APPENDIX A**

**PROFESSIONAL CONDUCT REPORTING FORM**

*For Use by Employees and Practitioners*

**Instructions:** Please use this form to report all occurrences of unprofessional conduct and unprofessional behavior. Attach additional sheets if necessary. Please provide the following information as *specifically* and as *objectively* as possible and submit the completed form to the Hospital Quality Specialists.

<b>DATE, TIME, AND LOCATION OF INCIDENT</b>			
Date of occurrence:	Time of occurrence:	a.m.	
		p.m.	
Location of occurrence:			
Range of dates if your concerns are not limited to one particular event: ____/____/20____ to ____/____/20____			
<b>PRACTITIONER INFORMATION</b>			
Name of Practitioner exhibiting unprofessional professional conduct: _____			
<b>PATIENT INFORMATION</b>			
Was a patient directly or indirectly involved in the event?	<b>Yes</b> <input type="checkbox"/>	<b>No</b> <input type="checkbox"/>	Medical Record # _____
Patient's Last Name: _____	Patient's First Name: _____		
<b>DESCRIPTION OF INCIDENT</b>			
Describe what happened as <i>specifically</i> and <i>objectively</i> as possible [attach additional pages if necessary]: _____ _____ _____			
<b>OTHER INDIVIDUALS INVOLVED/WITNESSES</b>			
Name(s) of other Practitioner(s) and/or Hospital employee(s) who witnessed this event: _____ _____			
Name(s) of any other person(s) who were involved in or witnessed this event (e.g., visitors; family members, representatives): _____ _____			

**EFFECT OF CONDUCT**

How do you think this behavior affected patient care, Hospital operations, your work, or your team members' work?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

	Yes	No
Did you experience or witness any retaliation or threatened retaliation by the Practitioner?	<input type="checkbox"/>	<input type="checkbox"/>

If yes, please explain:

\_\_\_\_\_  
\_\_\_\_\_

**RESPONSE TO CONDUCT**

Are you aware of any attempts that were made to address this behavior with the Practitioner when it occurred?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

If yes, please explain and indicate by whom:

\_\_\_\_\_  
\_\_\_\_\_

**CONTACT INFORMATION**

Your name:	Department:
Phone #:	Date this form completed:

E-mail address:

**Note:** Your report will be treated with the utmost confidentiality. Your identity will not be disclosed to the subject of the report unless: (a) you consent; or (b) information provided by you is later used to support an adverse professional review action that results in a Medical Staff hearing (which is an extremely rare occurrence). In any event, as part of our culture of safety and quality care, no retaliation is permitted against you for reporting this matter. This means that the Practitioner at issue may not approach you directly to discuss this matter or engage in any abusive or unprofessional conduct directed at you. If you believe that you have been subjected to any retaliation as a result of raising these concerns, please report that immediately to your supervisor, the President of the Medical Staff, or another Medical Staff leader.

## APPENDIX B

### LETTER TO RESPOND TO INDIVIDUAL WHO REPORTS AN INCIDENT OF UNPROFESSIONAL CONDUCT\*

Dear \_\_\_\_\_:

Thank you for reporting your concerns. We appreciate your participation in our efforts to promote and maintain a culture of safety and quality care at our Hospital.

Your concerns will be reviewed in accordance with the Medical Staff Professionalism Policy or other applicable policy. We will contact you if we need additional information.

Because your report may involve confidential matters under Alabama law, it is important that you maintain confidentiality and only discuss this matter with individuals who are a formal part of the review process. Due to these same confidentiality requirements, we may not be permitted to inform you of the specific outcome of the review. However, please be assured that your report will be fully reviewed and appropriate steps will be taken to address the matter.

Your report will be treated with the utmost confidentiality. Your identity will not be disclosed to the subject of the report unless:

- (a) you consent; or
- (b) information provided by you is later used to support an adverse professional review action that results in a Medical Staff hearing (which is an extremely rare occurrence).

Every effort will be made to protect your identity, however as some level of information must be provided to the practitioner in order to review the matter with him or her, it is possible that the practitioner may guess your identity. In any event, as part of our culture of safety and quality care, no retaliation is permitted against you for reporting this matter. This means that the individual who is the subject of your report may not approach you directly to discuss this matter or engage in any abusive or unprofessional conduct directed at you. If you believe that you have been subjected to any retaliation as a result of raising these concerns, please report it immediately to *[me/the Quality Specialists/and/or CMO]*.

Once again, thank you for bringing your concerns to our attention. If you have any questions or wish to discuss this matter further, please do not hesitate to call me at \_\_\_\_\_.

Sincerely,

Quality Specialists, Chair of the MEC, or CMO

\* *As an alternative to sending a letter or e-mail, the content of this Appendix C may be used as talking points to respond verbally to the individual who reported a concern regarding conduct.*

**APPENDIX C**  
**CONFIDENTIAL PEER REVIEW DOCUMENT**  
**INITIAL TRIAGE DOCUMENTATION FORM**

*This form may be used to document the initial triage decision that will be made pursuant to Section 4.C of the Professionalism Policy.*

Practitioner under review: \_\_\_\_\_

Department: \_\_\_\_\_

1. The initial triage decision was that (please ***check only one***):

- Additional fact-finding*** was needed to determine if the reported concern was credible and further action was necessary. Preliminary notification will be provided to the Practitioner that a concern has been raised (see Appendix F) and additional fact-finding will occur (see Section 4.D of the Professionalism Policy and Appendix G for additional guidance).
- Informal resolution was appropriate*** because the allegations as reported, even if true, did not rise to the level that further review under this Policy was necessary because: (1) the concern was minor in nature; and (2) there was no history or pattern with the Practitioner in question.

2. ***If informal resolution was selected:***

(a) The matter was discussed with the Practitioner.

Date of conversation: \_\_\_\_\_

(b) The following decision was made (please ***check only one***):

- The matter was ***dismissed*** because, based on input provided by the Practitioner during the conversation and other available information, the concern was not credible; or
- The Practitioner was ***counseled***.

(c) ***If the Practitioner was counseled***, the matter was documented as follows:

- a brief note was sent to the Practitioner and included in the Practitioner's file; and/or



the following comments provide additional documentation:

---

---

---

---

---

Names and titles of individuals participating in informal resolution

---

Signature of individual completing form

---

Date

**APPENDIX D**

**EMPLOYED PRACTITIONER ROUTING FORM**

*Note: The purpose of this form is to document which of the following two review processes will be used when a behavioral concern is raised about an Employed Practitioner: (1) the Medical Staff process as set forth in this Professionalism Policy; or (2) the policies or employment contract of the Employer. See Section 4.D of this Professionalism Policy for additional information and requirements.*

Name of Practitioner: \_\_\_\_\_

Entity that Employs the Practitioner: \_\_\_\_\_

Representative(s) of Employer involved in routing discussion: \_\_\_\_\_

\_\_\_\_\_

Medical Staff Leader(s) involved in routing discussion: \_\_\_\_\_

\_\_\_\_\_

A decision was made that:

- The process outlined in the *Medical Staff Professionalism Policy* will be used to review the behavioral concern.
  
- The Employer's policies and/or employment contract* will be used to review the behavioral concern.

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature of individual completing form

\_\_\_\_\_  
Date

## APPENDIX E

### PRELIMINARY NOTIFICATION TO PRACTITIONER (INSTRUCTIONS AND FORM)

#### ***I. PREPARATION PRIOR TO CONVERSATION BY INDIVIDUAL PROVIDING PRELIMINARY NOTIFICATION***

1. Review Section 4.D of the Professionalism Policy (dealing with preliminary notification to the Practitioner).
2. Decide whether to provide preliminary notification in person (preferred) or over the telephone. *E-mail is strongly discouraged.*
3. If the Chair of the MEC or CMO is not able to provide preliminary notification in a timely manner, the Professionalism Policy permits delegation of this function to a qualified designee.
4. Be cognizant that no information should be provided to the Practitioner during the discussion that would identify anyone who filed the complaint or provided information about the matter.
5. Be prepared to document any information the Practitioner provides about the occurrence in question on the Preliminary Notification Form, which is to be completed as soon as the notification is provided.
6. Review and revise, as necessary, the general script for the conversation, which follows.

#### ***II. GENERAL SCRIPT FOR CONVERSATION WITH PRACTITIONER***

1. Notify the Practitioner that a concern about professionalism has been raised and that the purpose of this conversation is to provide a **BRIEF PRELIMINARY** notification to the Practitioner, in accordance with the Professionalism Policy.
2. Inform the Practitioner that the matter is being reviewed and summarize how the review process works/next steps. (*See next two statements.*) Offer to provide the Practitioner with a copy of the Professionalism Policy.
3. Explain that if the report is determined to **NOT BE CREDIBLE**, the Practitioner will be informed and the review will be closed.
4. Explain that if the report is determined to be **CREDIBLE**, the Practitioner will be given details of the concern and asked to provide his or her perspective on the occurrence, prior to the Leadership Council taking any further action. However,

the Practitioner is also free to submit written input at any time, if the Practitioner would like to do so.

5. Remind the Practitioner to avoid any action that could be perceived as **RETALIATION**. This includes speaking with anyone who the Practitioner believes may have raised the concern or provided information about the matter, because even well-intentioned conversations can be perceived as intimidating.
6. Remind the Practitioner of the crucial importance of **CONFIDENTIALITY** to avoid waiving the protections offered by the state peer review protection law.

*After the conversation, complete the Preliminary Notification Form that is set forth on the next page and include it in the Practitioner's Confidential File.*

APPENDIX E (cont.)

CONFIDENTIAL PEER REVIEW DOCUMENT

PRELIMINARY NOTIFICATION FORM  
FOR PROFESSIONALISM ISSUE

(to be completed by individual providing preliminary notification)

Practitioner: \_\_\_\_\_

Department: \_\_\_\_\_

Date of Conversation: \_\_\_\_\_

Approximate Time of Conversation: \_\_\_\_\_

Did this conversation occur in person or via telephone call?       In person       Telephone

Was the script outlined in the Appendix F "Instruction" form  
substantially followed during the discussion?       Yes       No

Was the Practitioner advised not to retaliate?       Yes       No

Was the Practitioner advised of confidentiality requirements?       Yes       No

Was the Practitioner notified that there will be an opportunity  
to provide input once the matter has been reviewed?       Yes       No

Additional comments (e.g., response or demeanor of Practitioner receiving notification):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Signature

## APPENDIX F

### INTERVIEW TOOL (SCRIPT AND QUESTIONS)

#### I. *SCRIPT FOR INTRODUCTORY STATEMENTS*

*Instructions:* Prior to the interview, the following information should be provided to each individual who is interviewed.

1. A concern about a Practitioner's behavior is being reviewed under the Hospital's Professionalism Policy. We would like to speak with you because you [*raised the concern*] **or** [*may have relevant information*].
2. Any information you provide will be treated with the utmost confidentiality. It will not be shared with anyone outside the Hospital's peer review process. Also, Hospital policy states that your identity will generally not be disclosed to the Practitioner whose behavior is being reviewed except in extremely rare situations (for example, a Medical Staff hearing). While every effort will be made to protect your identity, as some level of information must be provided to the practitioner in order to review the matter with him or her, it is possible that the practitioner may guess your identity.
3. However, as part of our culture of safety and quality care, no retaliation is permitted against you for [*reporting this matter*] **or** [*providing information about this matter*]. This means that the Practitioner under review may not approach you to discuss this matter or engage in any abusive or unprofessional conduct directed at you. If you believe you have been retaliated against, please report immediately to your supervisor or any Medical Staff Leader.
4. The state peer review protection law requires the Hospital to maintain any information related to this review in a **strictly confidential** manner, so we may not be able to inform you of the outcome of the review. However, if you have any questions about this review process following the interview, please direct them to the President of the Medical Staff, CMO, or Quality Specialists.

#### II. *SAMPLE INTERVIEW QUESTIONS*

*Note:* The following questions are intended to elicit basic information about an occurrence. These questions may be modified as appropriate and should be supplemented with additional questions that specifically pertain to the occurrence being reviewed.

1. What was the date of the occurrence?
2. What time did the occurrence occur?

3. Where did the occurrence take place?
4. What is the name of the Practitioner involved?
5. Who else was involved or witnessed this event? What are their titles and duties?
6. What happened? What did you see and hear?
7. Are you aware of any attempts that were made to address this behavior with the Practitioner when it occurred?
8. Are there any notes or other documentation regarding the occurrence(s)?
9. Was a patient or a patient's family member directly or indirectly involved in the event? If so, name and medical record number.
10. Did you tell anyone about the occurrence?
  - a. Whom did you tell?
  - b. When and where did you tell them?
  - c. What did you tell them?
11. How did you react to this occurrence at the time?
12. Did you experience or witness any retaliation or threatened retaliation by the Practitioner?
13. How do you think this occurrence affected patient care generally, Hospital operations, the work of your team, or your ability to do your job?
14. Have other occurrences taken place, either before or after this occurrence? ***[If yes, repeat above questions for each occurrence.]***
15. How would you like to see the situation resolved?
16. Do you have any other information we should know about this matter? Please contact me if you recall or learn something new after we are finished talking.

APPENDIX G

COVER LETTER TO PRACTITIONER  
ENCLOSING INFORMATION ABOUT REPORTED CONCERNS

VIA HAND DELIVERY

*[Date]*

*[Name]*

*[Address]*

Re: Information Related to Behavioral Concerns

Dear \_\_\_\_\_:

As you know from our recent conversation, concerns have been raised about your professional conduct at \_\_\_\_\_ Hospital (the "Hospital"). As part of the review process, the Leadership Council would like you to be fully aware of the relevant issues and have an opportunity to respond to them. *Accordingly, enclosed is information that summarizes the concerns that have been raised. [Alternatively, the concerns could be summarized in this letter.]*

The Leadership Council would appreciate your perspective on these issues and any other information that you believe would be helpful to our review. Please provide your written response to me by \_\_\_\_\_ *[date]*, so that it may be considered by the Leadership Council at its next meeting. *Optional: Specifically, please respond to the following questions: \_\_\_\_\_ [list specific questions, if any].*

Your input into these issues is essential as we attempt to achieve our goal of having a timely, fair, and constructive review process. ***Please recognize that if you do not respond to this request for written input prior to the date set forth above, a process will commence (as set forth in the Professionalism Policy) that could result in the automatic relinquishment of your clinical privileges until the information is provided.*** We trust this will not occur, and look forward to your participation in the review.

Once the Leadership Council reviews your written input, it will decide whether it believes a meeting with you would be helpful to discuss this matter further. If so, we will contact you to arrange a meeting. If the Leadership Council believes a meeting is not necessary but you would nonetheless like to meet with the Council, you are welcome to meet with us at the next scheduled meeting of the Leadership Council.

Finally, the Leadership Council has an obligation to ensure that all peer review information such as this is maintained in a confidential manner. The Leadership Council also has an obligation to



maintain a professional, non-threatening environment for all who work and practice at the Hospital. Accordingly, as a courtesy, we wanted to remind you of the following obligations that apply to all Medical Staff members, as set forth in the Medical Staff Professionalism Policy:

- (1) Like the Leadership Council, you must maintain all information related to this review in a strictly confidential manner, as required by Alabama law. Specifically, you may not disclose this information to, or discuss it with, anyone *except* the following individuals without first obtaining the written permission of the Hospital: (i) the Leadership Council or its designees, or (ii) any legal counsel who may be advising you.
- (2) You may not retaliate against anyone who you believe may have raised a concern about you, provided information regarding this matter, or otherwise been involved in the review process. ***This means that you may not, under any circumstances, discuss this matter with any such individual, because even well-intentioned conversations can be perceived as intimidating. Nor may you engage in any other retaliatory or abusive conduct such as confronting, ostracizing, or discriminating against such individual.***

Please recognize that any retaliation by you, as described in the previous paragraph, is a very serious matter and will be grounds for referral for an independent review under the Medical Staff Professionalism Policy.

Thank you for your anticipated cooperation with our review process. We look forward to an expeditious and constructive resolution of this matter. Please don't hesitate to contact me if you have any questions.

Sincerely,

*Quality Specialists, CMO or Chair of the MEC*

## APPENDIX H

### CONFIDENTIALITY AND NON-RETALIATION AGREEMENT

Concerns have been raised about my professional conduct at \_\_\_\_\_ Hospital (the “Hospital”). As part of the review process, the Leadership Council would like me to be fully aware of the concerns. It would also like me to provide my perspective and any response I believe may be appropriate.

However, the Leadership Council also wants to take appropriate steps to maintain the confidentiality of the information under Alabama and federal law, as well as to ensure a professional, non-threatening environment for all who work and practice at the Hospital. Accordingly, I agree to the following:

1. I will maintain all information that I review in a ***strictly confidential*** manner. Specifically, I will not disclose or discuss this information ***except*** to the following individuals: (i) the Leadership Council or its designees; or (ii) any legal counsel who may be advising me. I will not share or discuss this information with any other individual without first obtaining the express written permission of the Leadership Council or CMO.
2. I understand that this information is being provided to me as part of the Medical Staff’s and Hospital’s policy of attempting to utilize collegial intervention and progressive steps, where possible, to address any questions or concerns that may arise with my practice. In addition to discussing these matters directly with the Medical Staff and Hospital leadership, I understand that I may also prepare a written response and that this response will be maintained in my file.
3. I understand that the Hospital and the Medical Staff have a responsibility to provide a safe, non-threatening workplace for my physician colleagues and for Hospital employees. I therefore agree that:
  - (a) ***I will not discuss the information that I review from my file with any individual who I believe may have provided the information*** because even well-intentioned conversations with such individuals can be perceived as intimidating. ***Accordingly, I understand that any such discussions will be viewed as retaliation and a violation of the Medical Staff Professionalism Policy.***
  - (b) ***I will not engage in any other retaliatory or abusive conduct with respect to these individuals.*** This means that I will not confront, ostracize, discriminate against, or otherwise mistreat any such individual with respect to any information that the individual may have provided.
4. I understand that any retaliation by me, as described in the previous paragraph, is a very serious matter, constitutes unprofessional conduct, and cannot be tolerated. Any such conduct by me will represent independent grounds for review pursuant to the Medical Staff Professionalism Policy.

By signing this Agreement, I understand that I am **not waiving** any of the rights or privileges afforded me under the Medical Staff Bylaws and related documents. I also remain free to raise legitimate concerns regarding the care being provided, or the conduct being exhibited, by a nurse or other Hospital employee, another physician, or the Hospital itself. **However, like everyone else, I must use the established and confidential Medical Staff and administrative channels in order to register any such concerns.** These channels are part of the Hospital's ongoing performance improvement and peer review activities, and permit the appropriate Medical Staff or Hospital leadership to fully review and address the issue, as may be necessary.

\_\_\_\_\_, M.D./D.O.                      \_\_\_\_\_  
\_\_\_\_\_, M.D./D.O.                      Date

*Note: This form shall be retained in the Practitioner's confidential file. A copy shall be provided to the Practitioner for reference.*

**APPENDIX I**

**PERFORMANCE IMPROVEMENT PLAN OPTIONS FOR CONDUCT**

**IMPLEMENTATION ISSUES CHECKLIST**

*(For use by the Leadership Council  
and Medical Executive Committee)*

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Note: The Implementation Issues Checklists in this Appendix may be used by the Leadership Council and Medical Executive Committee in developing and monitoring Performance Improvement Plans (“PIPs”). Checklists may be used individually or in combination with one another, depending on the nature of the PIP.

A copy of a completed Checklist may be provided to the Practitioner who is subject to the PIP, so that the Leadership Council/Medical Executive Committee and the Practitioner have a shared and clear understanding of the elements of the PIP. While Checklists may serve as helpful guidance, there is no requirement that they be used. Failure to use a Checklist or to answer one or more questions on a Checklist will not affect the validity of a PIP.

<b>PIP OPTION</b>	<b>IMPLEMENTATION ISSUES</b>
<p><b>Meeting with Designated Group</b></p>	<p><b>Who Should Meet with Practitioner?</b></p> <p><input type="checkbox"/> Medical Staff committee: _____</p> <p><input type="checkbox"/> Other designated ad hoc group (may include Board Chair or other Board members), including: _____</p> <p><input type="checkbox"/> May Practitioner bring a colleague (<u>not</u> legal counsel) to the meeting?  <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Is pre-meeting to plan intervention necessary? <input type="checkbox"/> Yes <input type="checkbox"/> No  If yes, where and when: _____</p> <hr/> <p><b>Scheduling Meeting with Practitioner</b></p> <p><input type="checkbox"/> Date of meeting: _____</p> <p><input type="checkbox"/> Time of meeting: _____</p> <p><input type="checkbox"/> Location of meeting: _____</p> <p><b>Notice of Meeting</b></p> <p><input type="checkbox"/> Notice of meeting sent by:  <input type="checkbox"/> Chair of the MEC  <input type="checkbox"/> CMO  <input type="checkbox"/> Hospital Administrator  <input type="checkbox"/> Other: _____</p> <p><input type="checkbox"/> Practitioner notified that this is a peer review meeting with colleagues, therefore:  <input type="checkbox"/> No attorneys allowed at the meeting  <input type="checkbox"/> No audio or video recording of meeting</p> <p><input type="checkbox"/> Does notice state that failure to appear results in automatic relinquishment of clinical privileges? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Method of Delivery</b></p> <p><input type="checkbox"/> In person/hand-delivered (preferred)  <input type="checkbox"/> Certified mail, return receipt requested  <input type="checkbox"/> Other: _____</p> <p><b>Documentation</b></p> <p><input type="checkbox"/> If not already provided, will documentation/substance of reports regarding unprofessional conduct be shared before or during meeting?  <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> If yes, has Practitioner been provided a cover letter or agreement explaining his/her obligation to maintain the confidentiality of the information and not to retaliate against any individual who may have reported?  <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Follow-Up</b></p> <p><input type="checkbox"/> Monitor for additional occurrences  <input type="checkbox"/> Through standard reported concerns process  <input type="checkbox"/> More focused (e.g., interviews with Hospital personnel or Medical Staff Leaders at regular intervals): _____</p>

<b>PIP OPTION</b>	<b>IMPLEMENTATION ISSUES</b>
<b>Behavior Modification Course</b>	<p><b>Scope of Behavior Modification Course</b></p> <p><input type="checkbox"/> Acceptable programs include: _____</p> <p><input type="checkbox"/> Leadership Council or Medical Executive Committee approval required before Practitioner enrolls:  <input type="checkbox"/> Program approved: _____  <input type="checkbox"/> Date of approval: _____</p> <p><input type="checkbox"/> Who pays for the behavior modification course?  <input type="checkbox"/> Practitioner subject to PIP  <input type="checkbox"/> Medical Staff  <input type="checkbox"/> Hospital  <input type="checkbox"/> Combination  _____</p> <p><input type="checkbox"/> Time Frame  <input type="checkbox"/> Practitioner must enroll by: _____ Date  <input type="checkbox"/> Program must be completed by: _____ Date</p> <p><b>Practitioner's Responsibilities</b></p> <p><input type="checkbox"/> Sign release allowing Leadership Council or Medical Executive Committee to provide information to the behavior modification course (if necessary) and allowing the course to provide a report to Leadership Council or Medical Executive Committee  _____</p> <p><input type="checkbox"/> Practitioner must submit  <input type="checkbox"/> Documentation of successful completion signed by course director  <input type="checkbox"/> Other: _____</p> <p><b>Follow-Up</b></p> <p><input type="checkbox"/> Monitor for additional occurrences  <input type="checkbox"/> Through standard reported concerns process  <input type="checkbox"/> More focused (e.g., interviews with Hospital personnel or Medical Staff Leaders at regular intervals): _____</p>

<b>PIP OPTION</b>	<b>IMPLEMENTATION ISSUES</b>
<p align="center"><b>Personal Code of Conduct</b></p> <p align="center"><b>(Conditional Continued Appointment/ Conditional Reappointment)</b></p>	<p><b>Drafting/Contents of Personal Code of Conduct</b></p> <p><input type="checkbox"/> Who will draft the Personal Code of Conduct?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> President of the Medical Staff</li> <li><input type="checkbox"/> CMO</li> <li><input type="checkbox"/> Hospital Administrator</li> <li><input type="checkbox"/> Legal Counsel</li> <li><input type="checkbox"/> Other: _____</li> </ul> <p><input type="checkbox"/> Practitioner informed that he/she may provide response for inclusion in file.</p> <p><input type="checkbox"/> Copy of personal code of conduct included in Practitioner's credentials/ quality file.</p> <p><input type="checkbox"/> Is Practitioner required to agree in writing to abide by the personal code of conduct? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, written agreement to abide by personal code of conduct received on:</p> <p align="right">_____</p> <p align="right">Date</p> <p><input type="checkbox"/> Does the personal code of conduct describe the following consequences of a confirmed violation? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Consequence of first violation (e.g., final warning):</b> _____</p> <p>_____</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Practitioner notified of possible violation on: _____</li> <p align="right">Date</p> <li><input type="checkbox"/> Practitioner provided opportunity for input on: _____</li> <p align="right">Date</p> <li><input type="checkbox"/> Violation confirmed on: _____</li> <p align="right">Date</p> </ul> <p><b>Consequence of second violation (e.g., short-term suspension):</b></p> <p>_____</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Practitioner notified of possible violation on: _____</li> <p align="right">Date</p> <li><input type="checkbox"/> Practitioner provided opportunity for input on: _____</li> <p align="right">Date</p> <li><input type="checkbox"/> Violation confirmed on: _____</li> <p align="right">Date</p> </ul>

<b>PIP OPTION</b>	<b>IMPLEMENTATION ISSUES</b>
<p><b>Personal Code of Conduct</b></p> <p><b>(Conditional Continued Appointment/ Conditional Reappointment)</b></p> <p><b>(cont'd.)</b></p>	<p><b>Consequence of third violation (e.g., recommendation for disciplinary action, perhaps limited hearing):</b></p> <p>_____</p> <p>_____</p> <p><input type="checkbox"/> Practitioner notified of possible violation on: _____ Date</p> <p><input type="checkbox"/> Practitioner provided opportunity for input on: _____ Date</p> <p><input type="checkbox"/> Violation confirmed on: _____ Date</p> <p><b>Review/Signature</b></p> <p><input type="checkbox"/> Who must review and approve the letter outlining the personal code of conduct?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Chair of the MEC</li> <li><input type="checkbox"/> CMO</li> <li><input type="checkbox"/> Full Leadership Council</li> <li><input type="checkbox"/> MEC</li> <li><input type="checkbox"/> Other Individuals: _____</li> </ul> <p><input type="checkbox"/> Who signs/sends the letter outlining the personal code of conduct?</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Chair of the MEC</li> <li><input type="checkbox"/> CMO</li> <li><input type="checkbox"/> Hospital Administrator</li> <li><input type="checkbox"/> Other: _____</li> </ul> <p><b>Method of Delivery</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> In person/hand-delivered (preferred)</li> <li><input type="checkbox"/> Certified mail, return receipt requested</li> <li><input type="checkbox"/> Other: _____</li> </ul> <p><b>Follow-Up</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Monitor for additional occurrences <ul style="list-style-type: none"> <li><input type="checkbox"/> Through standard reported concerns process</li> <li><input type="checkbox"/> More focused (e.g., interviews with Hospital personnel or Medical Staff Leaders at regular intervals): _____</li> </ul> </li> </ul>





**MEDICAL STAFF BYLAWS, POLICIES, AND  
RULES AND REGULATIONS OF  
USA HEALTH UNIVERSITY HOSPITAL AND  
USA HEALTH CHILDREN'S & WOMEN'S HOSPITAL**

**MEDICAL STAFF  
CREDENTIALS POLICY**

***Final Discussion Draft***

***November 15, 2019***

***Approved by both MECs on November 26, 2019***

***Approved by the Active medical staff on January 21, 2020***

***Horty, Springer & Mattern, P.C.***

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**APPENDIX A: CONFLICT OF INTEREST GUIDELINES**

## ARTICLE 1

### GENERAL

#### 1.A. DEFINITIONS

The following definitions shall apply to terms used in this Policy:

- (1) "BOARD" means the University of South Alabama Board of Trustees, or its designated committee.
- (2) "CHIEF MEDICAL OFFICER" ("CMO") means the individual who acts as the chief medical officer of the Hospital, in cooperation with the Chair of the MEC.
- (3) "CLINICAL PRIVILEGES" or "PRIVILEGES" means the authorization granted by the Board to render specific patient care services, for which the Medical Staff Leaders and Board have developed eligibility and other credentialing criteria and focused and ongoing professional practice evaluation standards.
- (4) "CORE PRIVILEGES" means a defined grouping of privileges for a specialty or subspecialty that includes the fundamental patient care services that are routinely taught in residency and/or fellowship training for that specialty or subspecialty and which have been determined by the Medical Staff Leaders and Board to require closely related skills and experience.
- (5) "DAYS" means calendar days.
- (6) "HOSPITAL" means USA Health University Hospital or USA Health Children's & Women's Hospital, as applicable, and any outpatient facilities that bill under each respective hospital's Medicare certification number.

- (7) "HOSPITAL ADMINISTRATOR" means the individual appointed to act on behalf of the Board in the overall management of the Hospital.
- (8) "MEDICAL EXECUTIVE COMMITTEE" ("MEC") means the Medical Staff Executive Committee.
- (9) "MEDICAL STAFF" means all physicians and oral and maxillofacial surgeons who have been appointed to the Medical Staff by the Board.
- (10) "MEDICAL STAFF LEADER" means any Medical Staff Officer, department chair or service line chair, and committee chair.
- (11) "MEMBER" means any physician or oral and maxillofacial surgeon who has been granted Medical Staff appointment by the Board.
- (12) "NOTICE" means written communication by regular U.S. mail, Hospital mail, hand delivery, e-mail, facsimile, website, or other electronic method.
- (13) "ORAL AND MAXILLOFACIAL SURGEON" means an individual with a D.D.S. or a D.M.D. degree, who has completed additional training in oral and maxillofacial surgery.
- (14) "PATIENT CONTACTS" means any admission, consultation, procedure, physical response to emergency call, evaluation, treatment or service performed in the Hospital or its outpatient facilities. Patient contacts do not include referrals for diagnostic or laboratory tests or x-rays.
- (15) "PHYSICIAN" means both doctors of medicine ("M.D.s") and doctors of osteopathy ("D.O.s").
- (16) "SPECIAL NOTICE" means hand delivery, certified mail (return receipt requested), or overnight delivery service providing receipt.

- (17) "SPECIAL PRIVILEGES" means privileges that fall outside of the core privileges for a given specialty, which require additional education, training, and/or experience beyond that required for core privileges in order to demonstrate competence.
- (18) "TELEMEDICINE" means the exchange of medical information from one site to another via electronic communications for the purpose of providing patient care, treatment, and services.
- (19) "UNASSIGNED PATIENT" means any individual who comes to the Hospital for care and treatment who does not have an attending physician, or whose attending physician or designated alternate is unavailable to attend the patient, or who does not want the prior attending physician to provide him/her care while a patient at the Hospital.

#### 1.B. DELEGATION OF FUNCTIONS

- (1) When a function under this Policy is to be carried out by a member of Hospital management, by a Medical Staff member, or by a Medical Staff committee, the individual, or the committee through its chair, may delegate performance of the function to a qualified designee who is a Medical Staff member or an Advance Practice Professional or USA Health Hospital employee (or a committee of such individuals). Any such designee must treat and maintain all credentialing, privileging, and peer review information in a strictly confidential manner and is bound by all other terms, conditions, and requirements of the Medical Staff Bylaws and related policies. In addition, the delegating individual or committee is responsible for ensuring that the designee appropriately performs the function in question. Any documentation created by the designee are records of the committee that is ultimately responsible for the review in a particular matter.
- (2) When a Medical Staff member is unavailable or unable to perform a necessary function, one or more of the Medical Staff Leaders may perform the function personally or delegate it to another appropriate individual.

ARTICLE 2

QUALIFICATIONS, CONDITIONS, AND RESPONSIBILITIES

2.A. QUALIFICATIONS

2.A.1. Threshold Eligibility Criteria:

To be eligible to apply for initial appointment or reappointment to the Medical Staff, physicians must:

- (a) have a current, unrestricted license to practice in Alabama that is not subject to any disciplinary action-based restrictions, probationary terms, or conditions;\*
- (b) not currently be under investigation by any state licensing agency and have never had a license to practice denied, revoked, restricted or suspended by a state licensing agency;\*
- (c) where applicable to their practice, have a current, unrestricted DEA registration and have never had a DEA registration or state controlled substance license denied, revoked, restricted or suspended;\*
- (d) be available on a continuous basis, either personally or by arranging appropriate coverage, to (i) respond to the needs of any of their patients who have been admitted to the Hospital and (ii) respond to Emergency Department patients during those times when they are on call in a prompt, efficient, and conscientious manner. (“Appropriate coverage” means coverage by another credentialed practitioner with appropriate specialty-specific privileges as determined by the Combined Credentials Committee.) Compliance with this eligibility requirement means that the practitioner must document that he or she is willing and able to:
  - (1) respond within 15 minutes, via phone, to an initial contact from the Hospital;  
and



- (2) appear in person to attend to a patient within 45 minutes of being requested to do so (or more quickly based upon (i) the acute nature of the patient's condition or (ii) as required for a particular specialty as recommended by the MEC and approved by the Board);
  
- (e) have current, valid professional liability insurance coverage in a form and in amounts satisfactory to the Hospital;
  
- (f) have not been convicted of, or entered a plea of guilty or no contest to, Medicare, Medicaid, or other federal or state governmental or private third-party payer fraud or program abuse, nor have been required to pay civil monetary penalties for the same;\*
  
- (g) have not been, and are not currently, excluded, precluded, or debarred from participation in Medicare, Medicaid, or other federal or state governmental health care program;\*
  
- (h) have not been terminated from a post-graduate training program (residency or fellowship) for reasons related to professional conduct or clinical competence, nor resigned from such a program during an investigation or in exchange for the program not conducting an investigation;\*
  
- (i) have not had Medical Staff appointment or clinical privileges denied, suspended, revoked, or terminated by any health care facility or health plan for reasons related to clinical competence or professional conduct;\*
  
- (j) have not resigned Medical Staff appointment or relinquished privileges during a Medical Staff investigation or in exchange for not conducting such an investigation;\*
  
- (k) not currently be subject to a criminal investigation, and have not been convicted of, or entered a plea of guilty or no contest to, any felony; or to any misdemeanor relating to controlled substances, illegal drugs, insurance or health care fraud or abuse, child abuse, elder abuse, violence, or the practitioner-patient relationship;\*

- (l) agree to personally fulfill all responsibilities regarding emergency service call coverage for their specialty or to obtain appropriate coverage (as determined by the Combined Credentials Committee) by another member of the Medical Staff;
- (m) have or agree to make appropriate coverage arrangements (as determined by the Combined Credentials Committee) with other members of the Medical Staff for those times when the individual will be unavailable;
- (n) demonstrate recent clinical activity in their primary area of practice during the last year;
- (o) meet any current or future eligibility requirements that are applicable to the clinical privileges being sought;
- (p) if applying for privileges in an area that is covered by an exclusive contract, meet the specific requirements set forth in that contract;
- (q) document compliance with all applicable training and educational protocols as well as orientation requirements that may be adopted by the MEC or required by the Board, including, but not limited to, those involving electronic medical records, computerized physician order entry ("CPOE"), the privacy and security of protected health information, infection control, and patient safety;
- (r) document compliance with any health screening requirements (i.e., mandatory flu vaccines, and infectious agent exposures);
- (s) have successfully completed a residency or fellowship training program approved by the Accreditation Council for Graduate Medical Education ("ACGME") or the American Osteopathic Association ("AOA") in the specialty in which the applicant seeks clinical privileges;\*\*
- (t) be certified in their primary area of practice at the Hospital by the appropriate specialty/subspecialty board of the American Board of Medical Specialties ("ABMS") or the AOA. Those applicants who are not board certified at the time of application but who have completed their residency or fellowship training within the last five years shall be eligible for Medical Staff appointment. However, in order to remain eligible, those

applicants must achieve board certification in their primary area of practice within five years from the date of completion of their residency or fellowship training; and\*\*

- (u) maintain board certification in their primary area of practice at the Hospital on a continuous basis, and satisfy all requirements of the relevant specialty/subspecialty board necessary to do so (board certification status will be assessed at reappointment).\*\*

\* The eligibility criteria set forth in these provisions shall apply to all members of the Medical Staff on a prospective basis following the adoption of this Policy. The eligibility criteria shall not be applied to existing members of the Medical Staff in a retrospective manner that would render such individuals ineligible for continued appointment on the basis of actions that took place prior to the adoption of this Policy (e.g., licensure or DEA actions).

\*\* The requirements pertaining to residency training and board certification are applicable to those individuals who apply for initial staff appointment after January 1, 2013 who were not board certified at that time and had never achieved board certification prior to that point. Those Medical Staff members shall be grandfathered and shall only be governed by any residency training and board certification requirements that may have been in effect at the time of their initial appointments. Individuals who were members of the Medical Staff prior to January 1, 2013 and were at that time or had ever been previously granted Board certification with a time-limited certificate, are required to comply with provision (u) above pertaining to maintaining ongoing board certification.

In addition, in exceptional circumstances, the five-year time frame for initial applicants and the time frame for recertification by existing members may be extended for one additional period, not to exceed two years, in order to permit an individual an additional opportunity to obtain certification. In order to be eligible to request an extension in these situations, an individual must, at a minimum, satisfy the following criteria:

- (1) the individual has been on the Hospital's Medical Staff for at least two full years;
- (2) there have been no significant documented peer review concerns related to the individual's competence or behavior at the Hospital during the individual's tenure;

- (3) the individual provides a letter from the appropriate certifying board confirming that the individual remains eligible to take the certification examination within the next two years; and
- (4) the appropriate department chair or service line chair at the Hospital provides a favorable report concerning the individual's qualifications.

#### 2.A.2. Waiver of Threshold Eligibility Criteria:

- (a) Any applicant who does not satisfy one or more of the threshold eligibility criteria outlined above may request that it be waived. The applicant requesting the waiver bears the burden of demonstrating (i) that he or she is otherwise qualified, and (ii) **exceptional** circumstances exist (e.g., when there is a demonstrated Hospital or Medical Staff need for the services in question). Exceptional circumstances generally do not include situations where a waiver is sought for the convenience of an applicant (e.g., applicants who wish to defer taking board examinations).
- (b) A request for a waiver shall be submitted to the Combined Credentials Committee for consideration. In reviewing the request for a waiver, the Combined Credentials Committee may consider the specific qualifications of the applicant in question, input from the relevant department chair or service line chair, and the best interests of the Hospital and the communities it serves. Additionally, the Combined Credentials Committee may, in its discretion, consider the application form and other information supplied by the applicant. The Combined Credentials Committee's recommendation will be forwarded to the MEC. Any recommendation to grant a waiver must include the specific basis for the recommendation.
- (c) The MEC shall review the recommendation of the Combined Credentials Committee and make a recommendation to the Board regarding whether to grant or deny the request for a waiver. Any recommendation to grant a waiver must include the specific basis for the recommendation.
- (d) No applicant is entitled to a waiver or to a hearing if the Board determines not to grant a waiver. A determination that an applicant is not entitled to a waiver is not a "denial" of appointment or clinical privileges. Rather, that individual is ineligible to request appointment or clinical privileges. A determination of ineligibility is not a matter that is reportable to either the state licensure board or the National Practitioner Data Bank.

- (e) The granting of a waiver in a particular case does not set a precedent for any other applicant or group of applicants.
- (f) An application for appointment that does not satisfy an eligibility criterion will not be processed until the Board has determined that a waiver should be granted.
- (g) If a waiver is granted that does not specifically include a time limitation, the waiver is considered to be permanent and the individual does not have to request a waiver at subsequent reappointment cycles.

### 2.A.3. Factors for Evaluation:

The six ACGME general competencies (patient care, medical knowledge, professionalism, system-based practice, practice-based learning, and interpersonal communications) will be evaluated as part of the appointment and reappointment processes, as reflected in the following factors:

- (a) relevant training, experience, and demonstrated current competence, including medical/clinical knowledge, technical and clinical skills, and clinical judgment, and an understanding of the contexts and systems within which care is provided;
- (b) adherence to the ethics of their profession, continuous professional development, an understanding of and sensitivity to diversity, and responsible attitude toward patients and their profession;
- (c) good reputation and character;
- (d) ability to safely and competently perform the clinical privileges requested;
- (e) ability to work harmoniously with others, including, but not limited to, interpersonal and communication skills sufficient to enable them to maintain professional relationships with patients, families, and other members of health care teams; and

- (f) recognition of the importance of, and willingness to support, the Hospital's and Medical Staff's commitment to quality care and a recognition that interpersonal skills and collegiality are essential to the provision of quality patient care.

2.A.4. No Entitlement to Appointment:

No individual is entitled to receive an application or to be appointed or reappointed to the Medical Staff or to be granted particular clinical privileges merely because he or she:

- (a) is employed by the Hospital or its subsidiaries or has a contract with the Hospital;
- (b) is or is not a member or employee of any particular physician group;
- (c) is licensed to practice a profession in this or any other state;
- (d) is a member of any particular professional organization;
- (e) has had in the past, or currently has, Medical Staff appointment or privileges at any hospital or health care facility;
- (f) resides in the geographic service area of the Hospital; or
- (g) is affiliated with, or under contract to, any managed care plan, insurance plan, HMO, PPO, or other entity.

2.A.5. Nondiscrimination:

No individual shall be denied appointment or reappointment on the basis of race, color, national origin, sex, pregnancy, sexual orientation, gender identity and gender expression, religion, age, genetic information, disability, protected veteran status, or any other applicable protected basis.

## 2.B. GENERAL CONDITIONS OF APPOINTMENT AND REAPPOINTMENT

### 2.B.1. Basic Responsibilities and Requirements:

As a condition of being granted appointment or reappointment, and as a condition of ongoing membership, every member specifically agrees to the following:

- (a) to provide continuous and timely quality care to all patients for whom the individual has responsibility;
- (b) to abide by all Bylaws, policies, and Rules and Regulations of the Hospital and Medical Staff and System in force during the time the individual is appointed;
- (c) to participate in Medical Staff affairs through committee service, participation in quality improvement and professional practice evaluation activities, and by performing such other reasonable duties and responsibilities as may be assigned;
- (d) within the scope of his or her privileges, to provide emergency service call coverage, consultations, and care for unassigned patients (a member must complete all scheduled emergency service call obligations or arrange appropriate coverage);
- (e) to comply with clinical practice or evidence-based medicine protocols that are established by, and must be reported to, regulatory or accrediting agencies or patient safety organizations, including those related to national patient safety initiatives and core measures, or clearly document the clinical reasons for variance;
- (f) to comply with clinical practice or evidence-based medicine protocols pertinent to his or her medical specialty, as may be adopted by the Medical Staff or the Medical Staff Leadership, or to clearly document the clinical reasons for variance;
- (g) to comply with all applicable training and educational protocols as well as orientation requirements that may be adopted by the MEC or required by the Board, including, but not limited to, those involving electronic medical records, computerized physician order

entry (“CPOE”), the privacy and security of protected health information, infection control, and patient safety;

(h) to inform the Medical Staff Office, in writing, as soon as possible, but in all cases within 10 days, of any change in the practitioner’s status or any change in the information provided on the individual’s application form. This information shall be provided with or without request and shall include, but not be limited to:

- any and all complaints regarding, or changes in, licensure status or DEA controlled substance authorization,
- adverse changes in professional liability insurance coverage,
- the filing of a professional liability lawsuit against the practitioner,
- changes in the practitioner’s status (appointment or privileges) at any other hospital or health care entity as a result of peer review activities or in order to avoid initiation of peer review activities,
- changes in the practitioner’s employment status at any medical group or hospital as a result of issues related to clinical competence or professional conduct,
- knowledge of a criminal investigation involving the individual, arrest, charge, indictment, conviction, or a plea of guilty or no contest in any criminal matter other than a misdemeanor traffic citation,
- exclusion or preclusion from participation in Medicare/Medicaid or any state or federal healthcare program, or any sanctions imposed,
- any changes in the practitioner’s ability to safely and competently exercise clinical privileges or perform the duties and responsibilities of appointment because of health status issues, including, but not limited to, a physical, mental, or emotional condition that could adversely affect the practitioner’s ability to



practice safely and competently, or impairment due to addiction, alcohol use, or other similar issue (all of which shall be referred for review under the *Practitioner Health Policy*),

- any referral to a state board health-related program,
  - any charge of, or arrest for, driving under the influence (“DUI”) (which shall be referred for review under the *Practitioner Health Policy*),
  - any changes in board certification status, whether voluntary or involuntary, and
  - any changes in credentialing by an insurer or an individual’s acceptance of a given health insurance payor or program, whether voluntary or involuntary;
- (i) to immediately submit to an appropriate evaluation, which may include diagnostic testing (including, but not limited to, a blood and/or urine test) and/or a complete physical, mental, and/or behavioral evaluation, if at least two Medical Staff Leaders (or one Medical Staff Leader and one member of the Administrative team) are concerned with the individual’s ability to safely and competently care for patients. The health care professional(s) to perform the testing and/or evaluations shall be determined by the Medical Staff Leaders, and the Medical Staff member must execute all appropriate releases to permit the sharing of information with the Medical Staff Leaders;
- (j) to meet with Medical Staff Leaders and/or Hospital administration upon request, to provide information regarding professional qualifications upon written request, and to participate in collegial efforts with Medical Staff leaders and/or Hospital administration as may be requested;
- (k) to appear for personal or phone interviews in regard to an application for initial appointment or reappointment, if requested;
- (l) to maintain and monitor a current e-mail address with the Medical Staff Office, which will be the primary mechanism used to communicate all Medical Staff information to the member;

- (m) to provide valid contact information in order to facilitate practitioner-to-practitioner communication (e.g., mobile phone number or valid answering service information);
- (n) to refrain from illegal fee splitting or other illegal inducements relating to patient referral;
- (o) to refrain from delegating responsibility for hospitalized patients to any individual who is not qualified or adequately supervised;
- (p) to refrain from deceiving patients as to the identity of any individual providing treatment or services;
- (q) to seek consultation whenever required or necessary;
- (r) to complete in a timely and legible manner all medical and other required records, containing all information required by the Hospital, and to utilize the electronic medical record as required;
- (s) to cooperate with all care management activities;
- (t) to participate in an Organized Health Care Arrangement with the Hospital and abide by the terms of the Hospital's Notice of Privacy Practices with respect to health care delivered in the Hospital;
- (u) to perform all services and conduct himself or herself at all times in a cooperative and professional manner;
- (v) to promptly pay any applicable dues, assessments, and/or fines;
- (w) to satisfy continuing medical education requirements; and

- (x) that, if there is any misstatement in, or omission from, the application, the Hospital may stop processing the application (or, if appointment has been granted prior to the discovery of a misstatement or omission, appointment and privileges may be deemed to be automatically relinquished). In either situation, there shall be no entitlement to a hearing or appeal. The individual will be informed in writing of the nature of the misstatement or omission and permitted to provide a written response for the Combined Credentials Committee's consideration. If the determination is made to not process an application or that appointment and privileges should be automatically relinquished pursuant to this provision, the individual may not reapply to the Medical Staff for a period of at least two years.

#### 2.B.2. Burden of Providing Information:

- (a) Individuals seeking appointment and reappointment have the burden of producing information deemed adequate by the Hospital for a proper evaluation of current competence, character, ethics, and other qualifications and for resolving any doubts about an individual's qualifications. The information to be produced includes such quality data and other information as may be needed to assist in an appropriate assessment of overall qualifications for appointment, reappointment, and current clinical competence for any requested clinical privileges, including, but not limited to, information from other hospitals, information from the individual's office practice, information from insurers or managed care organizations in which the individual participates, and/or receipt of confidential evaluation forms completed by referring/referred to physicians.
- (b) Individuals seeking appointment and reappointment have the burden of providing evidence that all the statements made and information given on the application are accurate and complete.
- (c) Complete Application: An application shall be complete when all questions on the application form have been answered, all supporting documentation has been supplied, all information has been verified from primary sources, and any required application fees and applicable fines have been paid. An application shall become incomplete if the need arises for new, additional, or clarifying information at any time during the credentialing process. Any application that continues to be incomplete 30 days after the individual has been notified of the additional information required shall be deemed to be withdrawn.

- (d) The individual seeking appointment or reappointment is responsible for providing a complete application, including adequate responses from references. An incomplete application shall not be processed.

## 2.C. APPLICATION

### 2.C.1. Information:

- (a) Applications for appointment and reappointment shall contain a request for specific clinical privileges and shall require detailed information concerning the individual's professional qualifications. The applications for initial appointment and reappointment existing now and as may be revised are incorporated by reference and made a part of this Policy.
  
- (b) In addition to other information, the applications shall seek the following:
  - (1) information as to whether the applicant's Medical Staff appointment or clinical privileges have been voluntarily or involuntarily relinquished, withdrawn, denied, revoked, suspended, subjected to probationary or other conditions, reduced, limited, terminated, or not renewed at any other hospital, health care facility, or other organization, or are currently being investigated or challenged;
  
  - (2) information as to whether the applicant's license to practice any relevant profession in any state, DEA registration, any state's controlled substance license, or board certification status has been voluntarily or involuntarily suspended, modified, terminated, restricted, or relinquished or is currently being investigated or challenged;
  
  - (3) information concerning the applicant's professional liability litigation experience, including past and pending claims, final judgments, or settlements; the substance of the allegations as well as the findings and the ultimate disposition; and any additional information concerning such proceedings or actions as the Combined Credentials Committee, the MEC, or the Board may request;

- (4) current information regarding the applicant's ability to safely and competently exercise the clinical privileges requested; and
  - (5) a copy of a government-issued photo identification.
- (c) The applicant shall sign the application and certify that he or she is able to perform the privileges requested and the responsibilities of appointment.

2.C.2. Grant of Immunity and Authorization to Obtain/Release Information:

By requesting an application and/or applying for appointment, reappointment, or clinical privileges, the individual expressly accepts the conditions set forth in this Section:

(a) Immunity:

The individual releases from any and all liability, extends immunity to, and agrees not to sue the Hospital or the Board, any member of the Medical Staff or the Board, their authorized representatives, and third parties who provide information for any matter relating to appointment, reappointment, clinical privileges, or the individual's qualifications for the same. This immunity covers any actions, recommendations, communications, and/or disclosures involving the individual that are made or taken by the Hospital, its authorized agents, or third parties in the course of credentialing and peer review activities. This immunity also extends to any reports that are made to government regulatory and licensure boards or agencies pursuant to federal or state law.

(b) Authorization to Obtain Information from Third Parties:

The individual specifically authorizes the Hospital, Medical Staff Leaders, and their authorized representatives (1) to consult with any third party who may have information bearing on the individual's professional qualifications, credentials, clinical competence, character, ability to perform safely and competently, ethics, behavior, or any other matter reasonably having a bearing on his or her qualifications for initial and continued appointment to the Medical Staff, and (2) to obtain any and all communications, reports, records, statements, documents, recommendations or

disclosures of third parties that may be relevant to such questions. The individual also specifically authorizes third parties to release this information to the Hospital and its authorized representatives upon request. Further, the individual agrees to sign necessary consent forms to permit a consumer reporting agency to conduct a criminal background check on the individual and report the results to the Hospital.

(c) Authorization to Release Information to Third Parties:

The individual also authorizes Hospital representatives to release information to (i) other hospitals, health care facilities, managed care organizations, and their agents when information is requested in order to evaluate his or her professional qualifications for appointment, privileges, and/or participation at the requesting organization/facility, and (ii) government regulatory and licensure boards or agencies pursuant to federal or state law.

(d) Authorization to Share Information among USA Health Entities:

The individual specifically authorizes USA Health Entities (as defined below) to share credentialing, peer review, and other information and documentation pertaining to the individual's clinical competence, professional conduct and health. This information and documentation may be shared at any time, including, but not limited to, any initial evaluation of an individual's qualifications, any periodic reassessment of those qualifications, or when a question is raised about the individual. For purposes of this Section, a USA Health Entity means:

- (1) any entity which, directly or indirectly, through one or more intermediaries, is controlled by USA Health. This includes, but is not limited to, USA Health hospitals, ambulatory surgery centers, and USA Health affiliated physician groups. It also includes a joint venture in which USA Health has an interest of 50 percent or more; and
- (2) any physician group not included in subsection (1) whose members provide patient care services at USA Health or at a USA Health Entity, provided:
  - (i) the physician group has a formal professional practice evaluation/peer review process, as evidenced by internal bylaws or policy; and

- (ii) the physician group has information sharing provisions consistent with this Policy, in a professional services contract, or in another contract with USA Health or a USA Health Entity.

(e) Hearing and Appeal Procedures:

The individual agrees that the hearing and appeal procedures set forth in this Policy are the sole and exclusive remedy with respect to any professional review action taken by the Hospital.

(f) Legal Actions:

If, despite this Section, an individual institutes legal action challenging any credentialing, privileging, peer review, or other action affecting appointment or privileges, or any report that may be made to a regulatory board or agency, and does not prevail, he or she shall reimburse the Hospital and any member of the Medical Staff or Board involved in the action for all costs incurred in defending such legal action, including reasonable attorney's fees, expert witness fees, and lost revenues.

(g) Scope of Section:

All of the provisions in this Section 2.C.2 are applicable in the following situations:

- (1) whether or not appointment or clinical privileges are granted;
- (2) throughout the term of any appointment or reappointment period and thereafter;
- (3) should appointment, reappointment, or clinical privileges be revoked, reduced, restricted, suspended, and/or otherwise affected as part of the Hospital's professional review activities;

- (4) as applicable, to any third-party inquiries received after the individual leaves the Medical Staff about his or her tenure as a member of the Medical Staff; and
  
- (5) as applicable, to any reports that may be made to government regulatory and licensing boards or agencies pursuant to federal or state law.



## ARTICLE 3

### PROCEDURE FOR INITIAL APPOINTMENT

#### 3.A. PROCEDURE FOR INITIAL APPOINTMENT

##### 3.A.1. Request for Application:

- (a) Applications for appointment shall be approved by the Board, upon recommendation by the MEC and Combined Credentials Committee.
- (b) An individual seeking initial appointment will be sent information that (i) outlines the threshold eligibility criteria for appointment outlined earlier in this Policy, (ii) outlines the applicable criteria for the clinical privileges being sought, and (iii) provides access to the application form.
- (c) Residents or fellows who are in the final six months of their training may apply to the Medical Staff. Such applications may be processed, but final action on the applications shall not become effective until all applicable threshold eligibility criteria are satisfied.

##### 3.A.2. Initial Review of Application:

- (a) A completed application form with copies of all required documents must be returned to the Medical Staff Office and/or the Credentials Verification Organization (“CVO”).
- (b) As a preliminary step, the application shall be reviewed by the Medical Staff Office and/or CVO to determine that all questions have been answered and that the individual satisfies all threshold eligibility criteria. Incomplete applications shall not be processed. Individuals who fail to return completed applications or fail to meet the threshold eligibility criteria shall be notified that their applications shall not be processed. A determination of ineligibility does not entitle the individual to the hearing and appeal rights outlined in this Policy and is not reportable to any state agency or to the National Practitioner Data Bank.

- (c) The Medical Staff Office and/or CVO shall oversee the process of gathering and verifying relevant information and confirming that all references and other information or materials deemed pertinent have been received.

#### 3.A.3. Steps to Be Followed for All Initial Applicants:

- (a) Evidence of the applicant's character, professional competence, qualifications, behavior, and ethical standing shall be examined. This information may be contained in the application and obtained from peer references (from the same discipline where practicable) and from other available sources, including the applicant's past or current department chair or service line chairs at other health care entities, residency training director, and others who may have knowledge about the applicant's education, training, experience, and ability to work with others.
- (b) An interview(s) with the applicant may be conducted. The purpose of the interview is to discuss and review any aspect of the applicant's application, qualifications, and requested clinical privileges. This interview may be conducted by a combination of any of the following: the department chair or service line chair, the Combined Credentials Committee, a Combined Credentials Committee representative, the MEC, the Chair of the MEC, the CMO, and/or the Hospital Administrator. Applicants do not have the right to be accompanied by counsel to interviews being requested by any of the individuals or committees referenced above.

#### 3.A.4. Department Chair or Service Line Chair Procedure:

- (a) The Medical Staff Office shall transmit the complete application and all supporting materials to the chair of each department in which the applicant seeks clinical privileges. The department chair or service line chair shall prepare a written report regarding whether the applicant has satisfied all of the qualifications for appointment and the clinical privileges requested on a form provided by the Medical Staff Office.
- (b) The department chair or service line chair shall be available to the Combined Credentials Committee, the MEC, and the Board to answer any questions that may be raised with respect to the report and findings of that individual.

### 3.A.5. Combined Credentials Committee Procedure:

- (a) The Combined Credentials Committee shall review and consider the report prepared by the relevant department chair or service line chair and shall make a recommendation.
- (b) The Combined Credentials Committee may use the expertise of the department chair or service line chair or any member of the department, or an outside consultant, if additional information is required regarding the applicant's qualifications.
- (c) After determining that an applicant is otherwise qualified for appointment and privileges, the Combined Credentials Committee may require the applicant to undergo a physical, mental, and/or behavioral examination by a physician(s) satisfactory to the Combined Credentials Committee if there is any question about the applicant's ability to perform the privileges requested and the responsibilities of appointment. The results of this examination shall be made available to the committee for its consideration. Failure of an applicant to undergo an examination within a reasonable time after being requested to do so in writing by the Combined Credentials Committee shall be considered a voluntary withdrawal of the application and all processing of the application shall cease. The cost of the health assessment will be borne by the applicant.
- (d) The Combined Credentials Committee may recommend specific conditions on Medical Staff appointment and/or clinical privileges. These conditions may relate to behavior (e.g., personal code of conduct) or to clinical issues (e.g., general consultation requirements, appropriate documentation requirements, proctoring). The Combined Credentials Committee may also recommend that appointment be granted for a period of less than two years in order to permit closer monitoring of an individual's compliance with any conditions. Unless these matters involve the specific recommendations set forth in Section 7.A.1(a) of this Policy, such conditions do not entitle an individual to request the procedural rights set forth in Article 7 of this Policy.

### 3.A.6. MEC Recommendation:

- (a) At its next regular meeting after receipt of the written findings and recommendation of the Combined Credentials Committee, the MEC shall:

- (1) adopt the findings and recommendation of the Combined Credentials Committee, as its own; or
  - (2) refer the matter back to the Combined Credentials Committee for further consideration and responses to specific questions raised by the MEC prior to its final recommendation; or
  - (3) state its reasons in its report and recommendation, along with supporting information, for its disagreement with the Combined Credentials Committee's recommendation.
- (b) If the recommendation of the MEC is to appoint, the recommendation shall be forwarded to the Board.
- (c) If the recommendation of the MEC is unfavorable and would entitle the applicant to request a hearing in accordance with Section 7.A.1(a) of this Policy, the MEC shall forward its recommendation to the Hospital Administrator, who shall promptly send Special Notice to the applicant. The Hospital Administrator shall then hold the application until after the applicant has completed or waived a hearing and appeal.

3.A.7. Board Action:

- (a) Expedited Review: The Board may delegate to a committee, consisting of at least two Board members, action on appointment, reappointment, and clinical privileges if there has been a favorable recommendation from the Combined Credentials Committee and the MEC and there is no evidence of any of the following:
- (1) a current or previously successful challenge to any license or registration;
  - (2) an involuntary termination, limitation, reduction, denial, or loss of appointment or privileges at any other hospital or other entity; or
  - (3) an unusual pattern of, or an excessive number of, professional liability actions resulting in a final judgment against the applicant.

Any decision reached by the Board Committee to appoint shall be effective immediately and shall be forwarded to the Board for ratification at its next meeting.

- (b) Full Board Review: When there has been no delegation to the Board Committee, upon receipt of a recommendation that the applicant be granted appointment and clinical privileges, the Board may:
  - (1) appoint the applicant and grant clinical privileges as recommended; or
  - (2) refer the matter back to the Combined Credentials Committee or MEC or to another source inside or outside the Hospital for additional research or information; or
  - (3) reject or modify the recommendation.
- (c) If the Board determines to reject a favorable recommendation, it should first discuss the matter with the Chair of the Combined Credentials Committee and the Chair of the MEC. If the Board's determination remains unfavorable to the applicant, the Hospital Administrator shall promptly send Special Notice to the applicant that the applicant is entitled to request a hearing.
- (d) Any final decision by the Board to grant, deny, revise or revoke appointment and/or clinical privileges will be disseminated to appropriate individuals and, as required, reported to appropriate entities.

#### 3.A.8. Time Periods for Processing:

Once an application is deemed complete and verified, it is expected to be processed within 120 days, unless it becomes incomplete. This time period is intended to be a guideline only and shall not create any right for the applicant to have the application processed within this precise time period.

#### 3.A.9. Duration of Appointment:

All initial appointments and any other initial grants of clinical privileges pursuant to this Policy shall be for a duration of not more than two years.

### 3.B. FPPE TO CONFIRM COMPETENCE AND PROFESSIONALISM

All initially-granted clinical privileges, whether at the time of initial appointment, reappointment, or during the term of appointment, will be subject to focused professional practice evaluation (“FPPE”) in order to confirm competence. The FPPE process for these situations is outlined in the FPPE Policy to Confirm Practitioner Competence and Professionalism.

ARTICLE 4

CLINICAL PRIVILEGES

4.A. CLINICAL PRIVILEGES

4.A.1. General:

- (a) Appointment or reappointment shall not confer any clinical privileges or right to admit or treat patients at the Hospital. Each individual who has been appointed to the Medical Staff is entitled to exercise only those clinical privileges specifically granted by the Board.
- (b) For privilege requests to be processed, the applicant must satisfy any applicable threshold eligibility criteria.
- (c) Requests for clinical privileges that are subject to an exclusive contract will not be processed except as consistent with the contract.
- (d) Requests for clinical privileges that have been grouped into core privileges will not be processed unless the individual has applied for the full core and satisfied all threshold eligibility criteria (or has obtained a waiver in accordance with Section 4.A.2).
- (e) The clinical privileges recommended to the Board shall be based on consideration of the following factors:
  - (1) education, relevant training, experience, and demonstrated current competence, including medical/clinical knowledge, technical and clinical skills, clinical judgment, interpersonal and communication skills, and professionalism with patients, families, and other members of the health care team and peer evaluations relating to these criteria;

- (2) appropriateness of utilization patterns;
- (3) ability to perform the privileges requested competently and safely;
- (4) information resulting from ongoing and focused professional practice evaluation and other performance improvement activities, as applicable;
- (5) availability of other qualified staff members with appropriate privileges (as determined by the Combined Credentials Committee) to provide coverage in case of the applicant's illness or unavailability;
- (6) adequate professional liability insurance coverage for the clinical privileges requested;
- (7) the Hospital's available resources and personnel;
- (8) any previously successful or currently pending challenges to any licensure or registration, or the voluntary or involuntary relinquishment of such licensure or registration;
- (9) any information concerning professional review actions or voluntary or involuntary termination, limitation, reduction, or loss of appointment or clinical privileges at another hospital;
- (10) practitioner-specific data as compared to aggregate data, when available;
- (11) morbidity and mortality data related to the specific individual, and when statistically and qualitatively significant and meaningful, when available; and
- (12) professional liability actions, especially any such actions that reflect an unusual pattern or excessive number of actions.



- (f) Core privileges, special privileges, privilege delineations, and/or the criteria for the same shall be developed by the relevant department chair or service line chair and shall be forwarded to the Combined Credentials Committee for review and recommendation. The Combined Credentials Committee will forward its recommendations to the MEC, which will review the matter and forward its recommendations to the Board for final action.
- (g) The applicant has the burden of establishing his or her qualifications and current competence for all clinical privileges requested.
- (h) The report of the chair of the clinical department in which privileges are sought shall be forwarded to the Chair of the Combined Credentials Committee and processed as a part of the initial application for staff appointment.

#### 4.A.2. Privilege Modifications and Waivers:

- (a) Scope. This Section applies to all requests for modification of clinical privileges during the term of appointment (increases and relinquishments), resignation from the Medical Staff, and waivers related to eligibility criteria for privileges or the scope of those privileges.
- (b) Submitting a Request. Requests for privilege modifications, waivers, and resignations must be submitted in writing or electronically to the Medical Staff Office.
- (c) Increased Privileges.
  - (1) Requests for increased privileges must state the specific additional clinical privileges requested and provide information sufficient to establish eligibility, as specified in applicable criteria, and current clinical competence.
  - (2) If the individual is eligible and the application is complete, it will be processed in the same manner as an application for initial clinical privileges.
- (d) Waivers.

- (1) Any individual who does not satisfy one or more eligibility criteria for clinical privileges may request that it be waived. The individual requesting the waiver bears the burden of demonstrating **exceptional** circumstances and that his or her qualifications are equivalent to, or exceed, the criterion in question. All such requests shall be processed in accordance with Section 2.A.2 of this Policy. In addition to the factors defined in Section 2.A.2, the Medical Staff leadership may also consider the additional factors set forth in Section 4.A.2(f) in considering all such requests.
  
- (2) If the individual is requesting a waiver of the requirement that each member apply for the full core of privileges in his or her specialty, the process set forth in this paragraph shall apply.
  - (i) Formal Request: The individual must forward a written or electronic request to the Medical Staff Office, which must indicate the specific patient care services within the core that the member does not wish to provide, state a good cause basis for the request, and include evidence that the individual does not provide the patient care services at issue in any health care facility.
  
  - (ii) Review Process: A request for a waiver shall be submitted to the Combined Credentials Committee for consideration. In reviewing the request for a waiver, the Combined Credentials Committee shall specifically consider the factors outlined in Paragraph (f) below and may obtain input from the relevant department chair or service line chair. The Combined Credentials Committee's recommendation will be forwarded to the MEC, which shall review the recommendation of the Combined Credentials Committee and make a recommendation to the Board regarding whether to grant or deny the request for a waiver. Any recommendation to grant a waiver must include the specific basis for the recommendation.
  
  - (iii) On-Call Obligations: By applying for a waiver related to limiting the scope of core privileges, the individual nevertheless agrees to participate in the general on-call schedule for the relevant specialty and to maintain sufficient competency to assist other physicians on the Medical Staff in assessing and stabilizing patients who require services within that specialty, if this call responsibility is required by the Medical

Staff Leadership after review of the specific circumstances involved. If, upon assessment, a patient needs a service that is no longer provided by the individual pursuant to the waiver, the individual shall work cooperatively with the other physicians in arranging for another individual with appropriate clinical privileges to care for the patient or, if such an individual is not available, in arranging for the patient's transfer.

(e) Relinquishment and Resignation of Privileges.

- (1) Relinquishment of Individual Privileges. A request to relinquish any individual clinical privilege, whether or not part of the core, must provide a good cause basis for the modification of privileges. All such requests will be processed in the same manner as a request for waiver, as described above.
  
- (2) Resignation of Appointment and Privileges. A request to resign Medical Staff appointment and relinquish all clinical privileges must specify the desired date of resignation, which must be at least 30 days from the date of the request, and be accompanied by evidence that the individual will be able to accomplish the following by the specified end date:
  - (i) completion of all medical records;
  
  - (ii) appropriate discharge or transfer of responsibility for the care of any hospitalized patient who is under the individual's care at the time of resignation; and
  
  - (iii) completion of scheduled emergency service call or formal arrangement for appropriate coverage to satisfy this responsibility.

After consulting with the CMO, the Chair of the Combined Credentials Committee will act on the resignation request with a report on the matter forwarded to the Combined Credentials Committee, MEC, and Board for informational purposes. If an individual fails to complete the tasks listed above prior to the effective date of the resignation, he or she will not be considered to have left the Medical Staff "in good standing" for purposes of future reference responses.

- (f) Factors for Consideration. The Medical Staff Leaders and Board may consider the following factors, among others, when deciding whether to recommend or grant a modification (increases and/or relinquishments) or waiver related to privileges:
- (1) the Hospital's mission and ability to serve the health care needs of the community by providing timely, appropriate care within its facilities;
  - (2) whether sufficient notice has been given to provide a smooth transition of patient care services;
  - (3) fairness to the individual requesting the modification or waiver, including past service and the other demands placed on the individual;
  - (4) fairness to other Medical Staff members who serve on the call roster in the relevant specialty, including the effect that the modification would have on them;
  - (5) the expectations of other members of the Medical Staff who are in different specialties but who rely on the specialty in question in the care of patients who present to the Hospital;
  - (6) any perceived inequities in modifications or waivers being provided to some, but not others;
  - (7) any gaps in call coverage that might/would result from an individual's removal from the call roster for the relevant privilege and the feasibility and safety of transferring patients to other facilities in that situation; and
  - (8) how the request may affect the Hospital's ability to comply with applicable regulatory requirements, including the Emergency Medical Treatment and Active Labor Act.

- (g) Effective Date. If the Board grants a modification or waiver related to privileges, it shall specify the date that the modification or waiver will be effective. Failure of a member to request privilege modifications or waivers in accordance with this section shall, as applicable, result in the member retaining Medical Staff appointment and clinical privileges and all associated responsibilities.
  
- (h) Procedural Rights. No individual is entitled to a modification or waiver related to privileges. Individuals are also not entitled to a hearing or appeal or other process if a waiver or a modification related to a relinquishment of privileges is not granted.

#### 4.A.3. Clinical Privileges for New Procedures:

- (a) Requests for clinical privileges to perform either a procedure not currently being performed at the Hospital or a new technique to perform an existing procedure (hereafter, “new procedure”) shall not be processed until (1) a determination has been made that the procedure shall be offered by the Hospital, and (2) criteria to be eligible to request those clinical privileges have been established as set forth in this Section.
  
- (b) As an initial step in the process, the individual seeking to perform the new procedure will prepare and submit a report to the CMO addressing the following:
  - (1) appropriate education, training, and experience necessary to perform the new procedure safely and competently;
  
  - (2) clinical indications for when the new procedure is appropriate;
  
  - (3) whether there is empirical evidence of improved patient outcomes with the new procedure or other clinical benefits to patients;
  
  - (4) whether proficiency for the new procedure is volume-sensitive and if the requisite volume would be available;
  
  - (5) whether the new procedure is being performed at other similar hospitals and the experiences of those institutions; and

- (6) whether the Hospital currently has the resources, including space, equipment, personnel, and other support services, to safely and effectively perform the new procedure.

Hospital administration shall review this report and consult with the Chair of the MEC, the department chair or service line chair, and the Combined Credentials Committee (any of which may conduct additional research as may be necessary) and shall make a preliminary determination as to whether the new procedure should be offered to the community.

- (c) If the preliminary determination of the Hospital is favorable, the Combined Credentials Committee will determine whether the request constitutes a “new procedure” as defined by this Section or if it is an extension of an existing privilege. If it is determined that it does constitute a “new procedure,” the Combined Credentials Committee will then develop threshold credentialing criteria to determine those individuals who are eligible to request the clinical privileges at the Hospital. In developing the criteria, the Combined Credentials Committee may conduct additional research and consult with experts, as necessary, and develop recommendations regarding:
  - (1) the appropriate education, training, and experience necessary to perform the procedure or service;
  - (2) the clinical indications for when the procedure or service is appropriate;
  - (3) the manner of addressing the most common complications that may arise in the performance of the new procedure;
  - (4) the extent (time frame and mechanism) of focused monitoring and supervision that should occur if the privileges are granted in order to confirm competence; and
  - (5) the manner in which the procedure would be reviewed as part of the Hospital’s ongoing and focused professional practice evaluation activities.

- (d) The Combined Credentials Committee will forward its recommendations to the MEC, which will review the matter and forward its recommendations to the Board for final action.
- (e) The Board will make a reasonable effort to render the final decision within 60 days of receipt of the MEC's recommendation. If the Board determines to offer the procedure or service, it will then establish the minimum threshold qualifications that an individual must demonstrate in order to be eligible to request the clinical privileges in question.
- (f) Once the foregoing steps are completed, specific requests from eligible Medical Staff members who wish to perform the procedure or service may be processed.

#### 4.A.4. Clinical Privileges That Cross Specialty Lines:

- (a) Requests for clinical privileges that previously at the Hospital have been exercised only by individuals from another specialty shall not be processed until the steps outlined in this Section have been completed and a determination has been made regarding the individual's eligibility to request the clinical privileges in question.
- (b) As an initial step in the process, the individual seeking the privilege will prepare and submit a report to the Combined Credentials Committee that specifies the minimum qualifications needed to perform the procedure safely and competently, whether the individual's specialty is performing the privilege at other similar hospitals, and the experiences of those other hospitals in terms of patient care outcomes and quality of care.
- (c) The Combined Credentials Committee shall then conduct additional research and consult with experts, as necessary, including those on the Medical Staff (e.g., department chair or service line chairs, individuals on the Medical Staff with special interest and/or expertise) and those outside the Hospital (e.g., other hospitals, residency training programs, specialty societies).
- (d) The Combined Credentials Committee may or may not recommend that individuals from different specialties be permitted to request the privileges at issue. If it does, the committee may develop recommendations regarding:

- (1) the appropriate education, training, and experience necessary to perform the clinical privileges in question;
  - (2) the clinical indications for when the procedure is appropriate;
  - (3) the manner of addressing the most common complications that arise which may be outside of the scope of the clinical privileges that have been granted to the requesting individual;
  - (4) the extent (time frame and mechanism) of focused monitoring and supervision that should occur if the privileges are granted in order to confirm competence;
  - (5) the manner in which the procedure would be reviewed as part of the Hospital's ongoing and focused professional practice evaluation activities (which may include assessment of both long-term and short-term outcomes for all relevant specialties); and
  - (6) the impact, if any, on emergency call responsibilities.
- (e) The Combined Credentials Committee shall forward its recommendations to the MEC, which shall review the matter and forward its recommendations to the Board for final action. The Board shall make a reasonable effort to render the final decision within 60 days of receipt of the MEC's recommendation.
- (f) Once the foregoing steps are completed, specific requests from eligible Medical Staff members who wish to exercise the privileges in question may be processed.

#### 4.A.5. Physicians in Training:

- (a) Physicians in residency training shall not hold appointments to the Medical Staff and shall not be granted clinical privileges. The program director, clinical faculty, and/or attending staff member shall be responsible for the direction and supervision of the on-site and/or day-to-day patient care activities of each trainee, who shall be permitted to perform only those clinical functions set out in curriculum requirements, affiliation



agreements, and/or training protocols approved by the Hospital and the MEC or their designee(s). The applicable program director shall be responsible for verifying and evaluating the qualifications of each physician in training.

- (b) A physician in training at the fellowship level may request clinical privileges in an area for which he or she has already completed residency training if he or she can demonstrate that all necessary eligibility criteria as set forth in this Policy have been met. Requests for privileges shall be reviewed in accordance with the initial credentialing process outlined in this Policy and, if granted, shall be subject to all relevant oversight provisions, including ongoing and focused professional practice evaluation. Physicians in training at the fellowship level may only be granted clinical privileges in those areas for which they can demonstrate current clinical qualifications and competencies.

#### 4.A.6. Telemedicine Privileges:

- (a) A qualified individual may be granted telemedicine privileges regardless of whether the individual is appointed to the Medical Staff.
- (b) Requests for initial or renewed telemedicine privileges shall be processed through one of the following options, as determined by the Hospital Administrator in consultation with the Chair of the MEC:
  - (1) A request for telemedicine privileges may be processed through the same process for Medical Staff applications, as set forth in this Policy. In such case, the individual must satisfy all qualifications and requirements set forth in this Policy, except those relating to geographic location, coverage arrangements, and emergency call responsibilities.
  - (2) If the individual requesting telemedicine privileges is practicing at a distant hospital that participates in Medicare or a telemedicine entity (as that term is defined by Medicare), a request for telemedicine privileges may be processed using an abbreviated process that relies on the credentialing and privileging decisions made by the distant hospital or telemedicine entity. In such cases, the Hospital must ensure, through a written agreement, that the distant hospital or telemedicine entity will comply with all applicable Medicare regulations and accreditation standards. The distant hospital or telemedicine entity must provide:

- (i) confirmation that the practitioner is licensed in Alabama;
- (ii) a current list of privileges granted to the practitioner;
- (iii) information indicating that the applicant has actively exercised the relevant privileges during the previous 12 months and has done so in a competent manner;
- (iv) a signed attestation that the applicant satisfies all of the distant hospital or telemedicine entity's qualifications for the clinical privileges granted;
- (v) a signed attestation that all information provided by the distant hospital or telemedicine entity is complete, accurate, and up-to-date; and
- (vi) any other attestations or information required by the agreement or requested by the Hospital.

This information shall be provided to the MEC for review and recommendation to the Board for final action. Notwithstanding the process set forth in this subsection, the Hospital may determine that an applicant for telemedicine privileges is ineligible for appointment or clinical privileges if the applicant fails to satisfy the threshold eligibility criteria set forth in this Policy.

- (c) Telemedicine privileges, if granted, shall be for a period of not more than two years.
- (d) Individuals granted telemedicine privileges shall be subject to the Hospital's peer review activities. The results of the peer review activities, including any adverse events and complaints filed about the practitioner providing telemedicine services from patients, other practitioners or staff, will be shared with the hospital or entity providing telemedicine services.
- (e) Telemedicine privileges granted in conjunction with a contractual agreement shall be incident to and coterminous with the agreement.

## 4.B. TEMPORARY CLINICAL PRIVILEGES

### 4.B.1. Eligibility to Request Temporary Clinical Privileges:

- (a) Applicants. Temporary privileges for an applicant for initial appointment may be granted by the CMO under the following conditions:
- (1) the applicant has submitted a complete application, along with any application fee;
  - (2) the verification process is complete, including verification of current Alabama licensure, relevant training or experience, current competence, ability to exercise the privileges requested, and current professional liability coverage; compliance with privileges criteria; and consideration of information from the National Practitioner Data Bank, from a criminal background check, and from OIG queries;
  - (3) the applicant demonstrates that (i) there are no current or previously successful challenges to his or her licensure or registration, and (ii) he or she has not been subject to involuntary termination of Medical Staff membership or involuntary limitation, reduction, denial, or loss of clinical privileges, at another health care facility;
  - (4) the application is pending review by the MEC and the Board, following a favorable recommendation by the Chair of the MEC and the Combined Credentials Committee or its Chair, and after considering the evaluation of the department chair or service line chair; and
  - (5) temporary privileges for a Medical Staff applicant will be granted for a maximum period of 120 consecutive days.
- (b) Visiting. The CMO, upon recommendation of the Chair of the MEC and the applicable department chair or service line chair, may also grant temporary privileges in other

limited situations when there is an important patient care, treatment, or service need, under the following circumstances:

- (1) the temporary privileges are needed (i) for the care of a specific patient; (ii) when a proctoring or consulting physician is needed, but is otherwise unavailable; or (iii) when necessary to prevent a lack or lapse of services in a needed specialty area;
- (2) the following factors are considered and/or verified prior to the granting of temporary privileges: current licensure (providers may have non-Alabama licensure as defined by the Alabama Board of Medical Examiners Chapter 540-X-16; however, such individuals are limited to participating in the care of not more than ten patients in any calendar year), relevant training or experience, current competence (verification of good standing in the individual's most recent hospital affiliation), current professional liability coverage acceptable to the Hospital, and results of a query to the National Practitioner Data Bank, and from OIG queries; and
- (3) the grant of clinical privileges in these situations will not exceed 120 days.

The verifications for such grants of privileges shall generally be accomplished in advance; however, in an emergency situation, where life-threatening circumstances exist, the verifications listed above may be completed immediately after the grant of privileges. In exceptional situations, this period of time may be extended in the discretion of the CMO and the Chair of the MEC. Any individual currently appointed in good standing to another USA Health Hospital with a grant of clinical privileges relevant to the request for visiting privileges shall be immediately authorized to exercise a grant of visiting privileges upon the completion of a query to the National Practitioner Data Bank.

- (c) Automatic Expiration. All grants of temporary privileges shall automatically expire upon the date specified at the time of initial granting unless further affirmative action is taken to renew such temporary privileges by the relevant department chair or service line chair, the Chair of the Combined Credentials Committee, the Chair of the MEC, and the CMO.

- (d) Compliance with Bylaws and Policies. Prior to any temporary privileges being granted, the individual must agree in writing to be bound by the Bylaws, Rules and Regulations, policies, procedures, and protocols of the Medical Staff and the Hospital.
- (e) FPPE. Individuals who are granted temporary privileges will be subject to the Hospital policy regarding focused professional practice evaluation.

#### 4.B.2. Supervision Requirements:

Special requirements of supervision and reporting may be imposed on any individual granted temporary clinical privileges.

#### 4.B.3. Withdrawal of Temporary Clinical Privileges:

- (a) The Hospital Administrator or CMO may withdraw temporary admitting privileges at any time, after consulting with the Chair of the MEC, the Chair of the Combined Credentials Committee, the department chair or service line chair. Clinical privileges shall then expire as soon as patients have been discharged or alternate care has been arranged.
- (b) If the care or safety of patients might be endangered by continued treatment by the individual granted temporary privileges, the Hospital Administrator, the department chair or service line chair, the Chair of the MEC, or the CMO may immediately withdraw all temporary privileges. The department chair or service line chair or the Chair of the MEC shall assign to another member of the Medical Staff responsibility for the care of such individual's patients until they are discharged or an appropriate transfer arranged. Whenever possible, consideration shall be given to the wishes of the patient in the selection of a substitute physician.

#### 4.C. LOCUM TENENS PRIVILEGES

- (1) Individuals who are seeking locum tenens privileges shall not be considered to be members of the Medical Staff; however, they shall be required to complete the full Medical Staff application process and are subject to the same primary source verification procedures as members of the Medical Staff.

- (2) Applicants seeking locum tenens privileges must agree in advance to be bound by the Bylaws, policies, and rules and regulations of the Medical Staff.
- (3) Applicants requesting locum tenens privileges will be reviewed in the same manner as members of the Medical Staff and shall require a favorable evaluation by the department chair as well as favorable recommendations by the Credentials Committee and MEC and final action by the Board.
- (4) Locum tenens privileges shall be granted for no more than a 24-month period. Individuals granted locum tenens privileges who exercise those privileges on a recurring basis agree to the following:
  - (i) the individual must notify the Medical Staff Office at least 10 days prior to each time that he or she will be exercising these privileges (exceptions for shorter notice periods may be considered in situations involving health issues); and
  - (ii) along with this notification, the individual must inform the Medical Staff Office of any change that has occurred to any of the information provided on the initial application for locum tenens privileges.
- (5) If locum tenens privileges have been granted in connection with a contract for services, the privileges will be coterminous with the contract and shall expire automatically once the locum tenens contract is terminated.
- (6) Individuals granted locum tenens privileges shall be subject to the Hospital policies regarding focused and ongoing professional practice evaluation.

#### 4.D. EMERGENCY SITUATIONS

- (1) For the purpose of this section, an “emergency” is defined as a condition which could result in serious or permanent harm to a patient(s) and in which any delay in administering treatment would add to that harm.

- (2) In an emergency situation, a member of the Medical Staff may administer treatment to the extent permitted by his or her license, regardless of department status or specific grant of clinical privileges.
- (3) When the emergency situation no longer exists, the patient shall be assigned by the department chair or service line chair or the Chair of the MEC to a member with appropriate clinical privileges, considering the wishes of the patient.

#### 4.E. DISASTER PRIVILEGES

- (1) When the disaster plan has been implemented and the immediate needs of patients in the facility cannot be met, the Hospital Administrator, the CMO, or the Chair of the MEC may use a modified credentialing process to grant disaster privileges to eligible volunteer licensed independent practitioners (“volunteers”). Safeguards must be in place to verify that volunteers are competent to provide safe and adequate care.
- (2) Disaster privileges are granted on a case-by-case basis after verification of identity and licensure.
  - (a) A volunteer’s identity may be verified through a valid government-issued photo identification (i.e., driver’s license or passport).
  - (b) A volunteer’s license may be verified in any of the following ways: (i) current Hospital picture ID card that clearly identifies the individual’s professional designation; (ii) current license to practice; (iii) primary source verification of the license; (iv) identification indicating that the individual has been granted authority to render patient care in disaster circumstances or is a member of a Disaster Medical Assistance Team, the Medical Reserve Corps, the Emergency System for Advance Registration of Volunteer Health Professionals, or other recognized state or federal organizations or groups; or (v) identification by a current Hospital employee or Medical Staff member who possesses personal knowledge regarding the individual’s ability to act as a volunteer during a disaster.
- (3) Primary source verification of a volunteer’s license will begin as soon as the immediate situation is under control and must be completed within 72 hours from the time the volunteer begins to provide service at the Hospital.

- (4) In extraordinary circumstances when primary source verification cannot be completed within 72 hours, it should be completed as soon as possible. In these situations, there must be documentation of the following: (a) the reason primary source verification could not be performed in the required time frame; (b) evidence of the volunteer's demonstrated ability to continue to provide adequate care; and (c) an attempt to obtain primary source verification as soon as possible. If a volunteer has not provided care, then primary source verification is not required.
- (5) The Medical Staff will oversee the care provided by volunteer licensed independent practitioners. This oversight shall be conducted through direct observation, mentoring, clinical record review, or other appropriate mechanism developed by the Medical Staff and Hospital.

#### 4.F. CONTRACTS FOR SERVICES

- (1) From time to time, the Hospital may enter into contracts with practitioners and/or groups of practitioners for the performance of clinical and administrative services at the Hospital. All individuals providing clinical services pursuant to such contracts will obtain and maintain clinical privileges at the Hospital, in accordance with the terms of this Policy.
- (2) To the extent that:
  - (a) any such contract confers the exclusive right to perform specified services to one or more practitioners or groups of practitioners, or
  - (b) the Board by resolution limits the practitioners who may exercise privileges in any clinical specialty to employees of the Hospital, the University, or an affiliate,

no other practitioner except those authorized by or pursuant to the contract or resolution may exercise clinical privileges to perform the specified services while the contract or resolution is in effect. This means that only authorized practitioners are eligible to apply for appointment or reappointment to the Medical Staff and for the clinical privileges in question. No other applications will be processed.



- (3) Prior to the Hospital signing any exclusive contract and/or passing any Board resolution described in paragraph (2) in a specialty service and/or specialty area that has not previously been subject to such a contract or resolution, the Board will request the MEC's review of the matter. The MEC (or a subcommittee of its members appointed by the Chair of the MEC) will review the quality of care and service implications of the proposed exclusive contract or Board resolution and provide a report of its findings and recommendations to the Board within 30 days of the Board's request.

As part of its review, the MEC (or subcommittee) may obtain relevant information concerning quality of care and service matters from (i) members of the applicable specialty involved, (ii) members of other specialties who directly utilize or rely on the specialty in question, and (iii) Hospital administration. However, the actual terms of any such exclusive arrangement or employment contract, and any financial information related to them, including but not limited to the remuneration to be paid to Medical Staff members who may be a party to the arrangement, are not relevant and shall neither be disclosed to the MEC nor discussed as part of the MEC's review.

- (4) After receiving the MEC's report, the Board shall determine whether or not to proceed with the exclusive contract or Board resolution. If the Board determines to do so, and if that determination would have the effect of preventing an existing Medical Staff member from exercising clinical privileges that had previously been granted, the affected member is entitled to the following notice and review procedures (Note: If more than one physician in a relevant specialty area will be affected by the determination of the Board, the following procedures will be coordinated to address all requested meetings in a combined and consolidated manner):
  - (a) The affected member shall be given at least 30 days' advance notice of the anticipated effective date of the exclusive contract or Board resolution and shall have the right to meet with the Board or a committee designated by the Board to discuss the matter prior to the contract in question being signed by the Hospital or the Board resolution becoming effective. Any such meeting must be requested by the affected member and held within 30 days of the notice, unless this time frame is extended by mutual agreement.
  - (b) At the meeting, the affected member shall be entitled to present any information that he or she deems relevant to the Board's initial determination to enter into the exclusive contract or enact the resolution.

- (c) If, following this meeting, the Board confirms its initial determination to enter into the exclusive contract or enact the Board resolution, the affected member shall be notified that he or she is ineligible to continue to exercise the clinical privileges covered by the exclusive contract or Board resolution. In that circumstance, the ineligibility begins as of the effective date of the exclusive contract or Board resolution and continues for as long as the contract or Board resolution is in effect.
  - (d) The affected member shall not be entitled to any procedural rights beyond those outlined above with respect to the Board's decision or the effect of the decision on his or her clinical privileges, notwithstanding the provisions in Article 7 of this Policy.
  - (e) The inability of a physician to exercise clinical privileges because of an exclusive contract or resolution is not a matter that requires a report to the state licensure board or to the National Practitioner Data Bank.
- (5) Except as provided in paragraph (1), in the event of any conflict between this Policy or the Medical Staff Bylaws and the terms of any contract, the terms of the contract shall control.

## ARTICLE 5

### PROCEDURE FOR REAPPOINTMENT

#### 5.A. PROCEDURE FOR REAPPOINTMENT

All terms, conditions, requirements, and procedures relating to initial appointment shall apply to continued appointment and clinical privileges and to reappointment.

##### 5.A.1. Eligibility for Reappointment:

To be eligible to apply for reappointment and renewal of clinical privileges, an individual must have, during the previous appointment term:

- (a) completed all medical records and be current at the time of reappointment;
- (b) satisfied all Medical Staff responsibilities, including payment of dues, fines, and assessments;
- (c) continued to meet all qualifications and criteria for appointment and the clinical privileges requested, including those set forth in Section 2.A.1 of this Policy;
- (d) if applying for clinical privileges, had sufficient patient contacts to enable the assessment of current clinical judgment and competence for the privileges requested. Any individual seeking reappointment who has minimal activity at the Hospital must submit such information as may be requested (such as a copy of his or her confidential quality profile from his or her primary hospital, clinical information from the individual's private office practice, and/or a quality profile from a managed care organization or insurer) before the application shall be considered complete and processed further; and
- (e) paid the reappointment processing fee, if any.

#### 5.A.2. Factors for Evaluation:

In considering an individual's application for reappointment, the factors listed in Section 2.A.3 of this Policy will be considered. Additionally, the following factors will be evaluated as part of the reappointment process:

- (a) compliance with the Bylaws, Rules and Regulations, and policies of the Medical Staff and the Hospital;
- (b) participation in Medical Staff duties, including committee assignments, emergency call, consultation requests, quality of medical record documentation, cooperation with case management, participation in quality improvement, utilization activities, and professional practice evaluation activities, and such other reasonable duties and responsibilities as assigned;
- (c) the results of the Hospital's performance improvement and professional practice evaluation activities, taking into consideration practitioner-specific information compared to aggregate information concerning other individuals in the same or similar specialty (provided that, other practitioners will not be identified);
- (d) any focused professional practice evaluations;
- (e) verified complaints received from patients, families, and/or staff; and
- (f) other reasonable indicators of continuing qualifications.

#### 5.A.3. Reappointment Application:

- (a) An application for reappointment shall be furnished to members at least five months prior to the expiration of their current appointment term. A completed reappointment application must be returned to the CVO and/or Medical Staff Office within 30 days.

- (b) Failure to submit a complete application at least three months prior to the expiration of the member's current term may result in the automatic expiration of appointment and clinical privileges at the end of the then current term of appointment unless the application can still be processed in the normal course, without extraordinary effort on the part of the CVO and/or Medical Staff Office and the Medical Staff Leaders. If an individual's privileges lapse due to a processing delay, subsequent Board action may be to grant reappointment and renewal of clinical privileges using the filed application, in accordance with the expedited process set forth in Section 3.A.7(a).
- (c) Reappointment shall be for a period of not more than two years.
- (d) The application shall be reviewed by the CVO and/or Medical Staff Office to determine that all questions have been answered and that the individual satisfies all threshold eligibility criteria for reappointment and for the clinical privileges requested.
- (e) The CVO and/or the Medical Staff Office shall oversee the process of gathering and verifying relevant information and shall also be responsible for confirming that all relevant information has been received.

#### 5.A.4. Processing Applications for Reappointment:

- (a) The Medical Staff Office shall forward the application to the relevant department chair or service line chair and the application for reappointment shall be processed in a manner consistent with applications for initial appointment.
- (b) Additional information may be requested from the applicant if any questions or concerns are raised with the application or if new privileges are requested.

#### 5.A.5. Conditional Reappointments:

- (a) Recommendations for reappointment and renewed privileges may be contingent upon an individual's compliance with certain specific conditions that have been recommended. These conditions may relate to behavior (e.g., personal code of conduct) or to clinical issues (e.g., general consultation requirements, appropriate documentation requirements, including timely completion of medical records,

proctoring). Unless the conditions involve the matters set forth in Section 7.A.1(a) of this Policy, such conditions do not entitle an individual to request the procedural rights set forth in Article 7 of this Policy.

- (b) Reappointments may be recommended for periods of less than two years in order to permit closer monitoring of an individual's compliance with any conditions that have been recommended. A recommendation for reappointment for a period of less than two years does not, in and of itself, entitle an individual to the procedural rights set forth in Article 7.
- (c) In addition, in the event the applicant for reappointment is the subject of an unresolved professional practice evaluation concern, a formal investigation, or a hearing at the time reappointment is being considered, a conditional reappointment for a period of less than two years may be granted pending the completion of that process.

#### 5.A.6. Potential Adverse Recommendation:

- (a) If the Combined Credentials Committee or MEC is considering a recommendation to deny reappointment or to reduce clinical privileges, the Chair will notify the member of the possible recommendation and invite the member to meet prior to any final recommendation being made.
- (b) Prior to this meeting, the member will be notified of the general nature of the information supporting the recommendation contemplated.
- (c) At the meeting, the member will be invited to discuss, explain, or refute this information. A summary of the interview will be made and included with the Combined Credentials Committee's and/or MEC's recommendation.
- (d) This meeting is not a hearing, and none of the procedural rules for hearings will apply. The member will not have the right to be accompanied by legal counsel at this meeting and no recording (audio or video) of the meeting shall be permitted or made.

#### 5.A.7. Time Periods for Processing:

Once an application is deemed complete and verified, it is expected to be processed within 120 business days, unless it becomes incomplete. This time period is intended to be a guideline only and shall not create any right for the applicant to have the application processed within this precise time period.

#### 5.B. FPPE TO CONFIRM COMPETENCE AND PROFESSIONALISM

All initially-granted clinical privileges, whether at the time of initial appointment, reappointment, or during the term of appointment, will be subject to focused professional practice evaluation (“FPPE”) in order to confirm competence. The FPPE process for these situations is outlined in the FPPE Policy to Confirm Practitioner Competence and Professionalism.

## ARTICLE 6

### QUESTIONS INVOLVING MEDICAL STAFF MEMBERS

#### 6.A. INITIAL COLLEGIAL LEADERSHIP EFFORTS AND PROGRESSIVE STEPS

- (1) This Policy encourages the use of initial collegial leadership efforts and progressive steps by Medical Staff Leaders and Hospital management to address questions relating to an individual's clinical practice, professional conduct, and/or health. The goal of these efforts is to arrive at voluntary, responsive actions by the individual to resolve questions that have been raised. Medical Staff Leaders and Hospital administration have been authorized by the MEC, Leadership Council, the Peer Review Committee, and Department/Service Line Committees to engage in initial collegial leadership efforts and progressive steps and all of these activities are undertaken on behalf of these committees as part of their professional practice evaluation functions.
  
- (2) Initial collegial leadership efforts include activities such as:
  - (a) informal mentoring, coaching, or counseling by a Medical Staff Leader (e.g., advising an individual of policies regarding appropriate behavior, communication issues, emergency call obligations, or the timely and adequate completion of medical records); and
  
  - (b) sharing comparative data, including any variations from clinical practice or evidence-based protocols or guidelines, in order to assist the individual with conforming his or her practice to appropriate norms.

There is no expectation that these efforts be documented, though documentation may be created in the discretion of the Medical Staff Leader and maintained in the individual's confidential file.

- (3) Progressive steps are defined as follows:



- (a) addressing minor performance issues through informational letters;
- (b) sending an educational letter that describes opportunities for improvement and provides specific guidance and suggestions;
- (c) facilitating a formal collegial intervention (i.e., a planned, face-to-face meeting between an individual and one or more Medical Staff Leaders) in order to directly discuss a matter and the steps needed to be taken to resolve it; and
- (d) developing a performance improvement plan, which may include a wide variety of tools and techniques that can result in a constructive and successful resolution of the concern.

All progressive steps shall be documented in a constructive manner and included in an individual's confidential file. Any written responses to any of these progressive steps by the individual shall also be included in the individual's confidential file.

- (4) All of these efforts are fundamental and integral components of the Hospital's professional practice evaluation activities and are confidential and protected in accordance with state law.
- (5) Initial collegial leadership efforts and progressive steps are encouraged, but are not mandatory, and shall be within the discretion of the appropriate Medical Staff Leaders and Hospital management. When a question arises, the Medical Staff Leaders and/or Hospital management may:
  - (a) address it pursuant to the initial collegial leadership efforts and progressive steps provisions of this Section;
  - (b) refer the matter for review in accordance with peer review policies, the Professionalism Policy, the Practitioner Health Policy, and/or other relevant policy; or

(c) refer it to the MEC for its review and consideration in accordance with Section 6.D of this Article.

(6) Should any recommendation be made or an action taken that entitles an individual to a hearing in accordance with this Policy, the individual is entitled to be accompanied by legal counsel at that hearing. However, Medical Staff members do not have the right to be accompanied by counsel when the Medical Staff Leaders and Hospital management are engaged in initial collegial leadership efforts or other progressive steps. These efforts are intended to resolve issues in a constructive manner and do not involve the formal hearing process. In addition, there shall be no recording (audio or video) or transcript made of any meetings that involve informal leadership efforts or progressive steps activities.

#### 6.B. PROFESSIONAL PRACTICE EVALUATION ACTIVITIES

Professional practice evaluation activities shall be conducted in accordance with peer review policies, the Professionalism Policy, the Practitioner Health Policy, and/or other relevant policy. Matters that are not satisfactorily resolved through collegial intervention efforts or through one of these policies shall be referred to the MEC for its review in accordance with Section 6.D below. Such interventions and evaluations, however, are not mandatory prerequisites to MEC review.

#### 6.C. REQUEST TO REFRAIN FROM PRACTICING/PRECAUTIONARY SUSPENSION OR RESTRICTION OF CLINICAL PRIVILEGES

##### 6.C.1. Grounds for Requests to Voluntarily Refrain/Precautionary Suspension or Restriction:

- (a) Whenever, in their sole discretion, failure to take such action may result in imminent danger to the health and/or safety of any individual, the MEC OR any Medical Staff Officer or a chair of a clinical department or a service line chair, acting in conjunction with the Hospital Administrator or the CMO, shall have the authority to proceed as follows:
- (1) request that the individual agree to voluntarily refrain from exercising privileges pending further review of the circumstances by the Leadership Council in accordance with Section 6.C.2 of this Policy (agreements to voluntarily refrain

may also be utilized in other professional practice evaluation contexts such as voluntary performance improvement plans, the details of which are addressed in the relevant professional practice evaluation policy); or

- (2) if the individual is unwilling to voluntarily refrain from practicing pending further review, to suspend or restrict all or any portion of the individual's clinical privileges as a precaution, which actions shall be reviewed by the MEC in accordance with Section 6.C.3 of this Policy.
  
- (b) The above actions can be taken at any time, including, but not limited to, immediately after the occurrence of an event that causes concern, following a pattern of occurrences that raises concern, or following a recommendation of the MEC that would entitle the individual to request a hearing.
  
- (c) Precautionary suspension or restriction, or an agreement to refrain, is an interim step in the professional review activity, but it is not a complete professional review action in and of itself. It shall not imply any final finding of responsibility for the situation that caused the suspension, restriction, or agreement.
  
- (d) These actions shall become effective immediately, shall promptly be reported in writing to the Hospital Administrator, the CMO, and the Chair of the MEC, and shall remain in effect unless the action is modified by the Hospital Administrator or MEC.
  
- (e) The individual in question shall be provided a letter via Special Notice that memorializes the individual's agreement to voluntarily refrain from practicing or the imposition of a precautionary suspension and terms related to the same. The correspondence shall also contain a brief written description of the reason(s) for the action, including the names and medical record numbers of the patient(s) involved (if any), within three days of the action.

#### 6.C.2. Leadership Council Review Process for an Agreement to

##### Voluntarily Refrain from Practicing:

- (a) The Leadership Council shall review the matter resulting in an individual's agreement to voluntarily refrain from exercising clinical privileges within a reasonable time under the circumstances, not to exceed 14 days. As part of this review, the individual shall be

given an opportunity to meet with the Leadership Council. Neither the Leadership Council nor the individual shall be accompanied by legal counsel at this meeting, and no recording (audio or video) or transcript of the meeting shall be permitted or made; however, minutes of the meeting shall be prepared.

- (b) After considering the matter resulting in an individual's agreement to voluntarily refrain and the individual's response, if any, the Leadership Council shall determine the appropriate next steps, which may include, but not be limited to, commencing a focused review, referring the matter for review pursuant to another policy, referring the matter to the MEC with a recommendation to initiate a formal investigation, or taking some other action that is deemed appropriate under the circumstances. The Leadership Council shall also determine whether the agreement to voluntarily refrain from practicing should be continued throughout any further review process.
- (c) There is no right to a hearing based on an individual's agreement to voluntarily refrain from practicing in accordance with this Section.

#### 6.C.3. MEC Review Process for Precautionary Suspensions or Restrictions:

- (a) The MEC shall review the matter resulting in a precautionary suspension or restriction within a reasonable time under the circumstances, not to exceed 14 days. As part of this review, the individual shall be given an opportunity to meet with the MEC. The individual may propose ways other than precautionary suspension or restriction to protect patients and/or employees, depending on the circumstances. Neither the MEC nor the individual shall be accompanied by legal counsel at this meeting, and no recording (audio or video) or transcript of the meeting shall be permitted or made; however, minutes of the meeting shall be prepared.
- (b) After considering the matters resulting in the suspension or restriction and the individual's response, if any, the MEC shall determine the appropriate next steps, which may include, but not be limited to, commencing a focused review or a formal investigation, or recommending some other action that is deemed appropriate under the circumstances. The MEC shall also determine whether the precautionary suspension or restriction should be continued, modified, or terminated pending the completion of the focused review or investigation (and hearing and appeal, if applicable).

- (c) There is no right to a hearing based on the imposition or continuation of a precautionary suspension or restriction.

#### 6.C.4. Care of Patients:

- (a) Immediately upon the imposition of a precautionary suspension or restriction, the department chair or service line chair or the Chair of the MEC shall assign to another individual with appropriate clinical privileges responsibility for care of the suspended individual's hospitalized patients, or to otherwise aid in implementing the precautionary restriction, as appropriate. The assignment shall be effective until the patients are discharged. The wishes of the patient shall be considered in the selection of a covering physician.
- (b) All members of the Medical Staff have a duty to cooperate with the Chair of the MEC, the department chair or service line chair, the MEC, and the Hospital Administrator in enforcing precautionary suspensions or restrictions.

#### 6.D. INVESTIGATIONS

##### 6.D.1. Initial Review:

- (a) Where initial collegial leadership efforts or progressive steps under one or more of the policies referenced in this Article have not resolved an issue and/or when there is a single instance of such severity that in the discretion of Medical Staff Leaders it requires further review, regarding:
  - (1) the clinical competence or clinical practice of any member of the Medical Staff, including the care, treatment or management of a patient or patients;
  - (2) the safety or proper care being provided to patients;
  - (3) the known or suspected violation by any member of the Medical Staff of applicable ethical standards or the Bylaws, Rules and Regulations, and policies of the Hospital or the Medical Staff; and/or

- (4) conduct by any member of the Medical Staff that is considered lower than the standards of the Hospital or disruptive to the orderly operation of the Hospital or its Medical Staff, including the inability of the member to work harmoniously with others,

the matter may be referred to the Chair of the MEC, the chair of the department, the chair of the service line, the chair of a standing committee, or the Hospital Administrator.

- (b) In addition, if the Board becomes aware of information that raises concerns about any Medical Staff member, the matter shall be referred to the Chair of the MEC, the chair of the department, the chair of the service line, the chair of a standing committee, or the Hospital Administrator for review and appropriate action in accordance with this Policy.
- (c) The person to whom the matter is referred shall conduct or arrange for an inquiry to determine whether the question raised has sufficient credibility to warrant further review and, if so, shall forward it in writing to the MEC.
- (d) No action taken pursuant to this Section shall constitute an investigation.

#### 6.D.2. Initiation of Investigation:

- (a) When a question involving clinical competence or professional conduct is referred to, or raised by, the MEC, the MEC shall review the matter and determine whether to conduct an investigation, to direct the matter to be handled pursuant to another policy (e.g., peer review policies, the Professionalism Policy, the Practitioner Health Policy, and/or other relevant policy), or to proceed in another manner. Prior to making its determination, the MEC may discuss the matter with the individual. An investigation shall begin only after a formal determination by the MEC to do so. The MEC's determination shall be recorded in the minutes of the meeting where the determination is made.
- (b) The MEC shall inform the individual that an investigation has begun. The notification shall include:

- (1) the date on which the investigation was commenced;
- (2) the committee that will be conducting the investigation, if already identified;
- (3) a statement that the physician will be given the opportunity to meet with the committee conducting the investigation before the investigation concludes; and
- (4) a copy of Section 6.D.3 of this Policy, which outlines the process for investigations.

This notification may be delayed if, in the MEC's judgment, informing the individual immediately would compromise the investigation or disrupt the operation of the Hospital or Medical Staff.

#### 6.D.3. Investigative Procedure:

(a) Selection of Investigating Committee.

Once a determination has been made to begin an investigation, the MEC shall either investigate the matter itself or appoint an ad hoc committee of at least three and not more than five members to conduct the investigation, keeping in mind the conflict of interest guidelines outlined in Article 8. Any ad hoc committee may include individuals not on the Medical Staff. Whenever the questions raised concern the clinical competence of the individual under review, the ad hoc committee shall include a peer of the individual (e.g., physician or oral surgeon).

(b) Investigating Committee's Review Process.

- (1) The committee conducting the investigation ("investigating committee") shall have the authority to review relevant documents and interview individuals. A summary of each interview will be prepared and the interviewee will be asked to review, revise, and sign his or her summary, which will then be included as an attachment to the investigating committee's report.

- (2) The investigating committee shall also have available to it the full resources of the Medical Staff and the Hospital, including the authority to arrange for an external review, if needed. An external review may be used whenever the Hospital and investigating committee determine that:
- (i) there are ambiguous or conflicting findings by internal reviewers;
  - (ii) the clinical expertise needed to conduct the review is not available on the Medical Staff;
  - (iii) an external review is advisable to prevent allegations of bias, even if unfounded; or
  - (iv) the thoroughness and objectivity of the investigation would be aided by such an external review.

If a decision is made to obtain an external review, the individual under investigation shall be notified of that decision and the nature of the external review. Upon completion of the external review, the individual shall be provided a copy of the reviewer's report.

- (3) The investigating committee may require a physical, mental, and/or behavioral examination of the individual by a health care professional(s) acceptable to it. The individual being investigated shall execute a release (in a form approved or provided by the investigating committee) allowing (i) the investigating committee (or its representative) to discuss with the health care professional(s) conducting the examination the reasons for the examination; and (ii) the health care professional(s) conducting the examination to discuss and provide documentation of the results of such examination directly to the investigating committee. The cost of such health examination shall be borne by the individual.

(c) Meeting with the Investigating Committee.



- (1) The individual under investigation shall have an opportunity to meet with the investigating committee before it makes its report. Prior to this meeting, the individual shall be informed of the general questions being investigated. The investigating committee may also ask the individual to provide written responses to specific questions related to the investigation and/or a written explanation of his or her perspective on the events that led to the investigation for review by the investigating committee prior to the meeting.
- (2) This meeting is not a hearing, and none of the procedural rules for hearings shall apply. No recording (audio or video) or transcript of the meeting shall be permitted or made. Neither the individual being investigated nor the investigating committee will be accompanied by legal counsel at this meeting.
- (3) At the meeting, the individual shall be invited to discuss, explain, or refute the questions that gave rise to the investigation or that have been identified by the investigating committee during its review. A summary of the interview shall be prepared by the investigating committee and included with its report. The interview summary will be shared with the individual prior to the investigating committee finalizing its report, so that he or she may review it and recommend suggested changes. A suggested change should only be accepted if the investigating committee believes it more accurately reflects what occurred at the meeting.

(d) Time Frames for Investigation.

The investigating committee shall make a reasonable effort to complete the investigation and issue its report within 30 days of the commencement of the investigation, provided that an external review is not necessary. When an external review is necessary, the investigating committee shall make a reasonable effort to complete the investigation and issue its report within 30 days of receiving the results of the external review. These time frames are intended to serve as guidelines and, as such, shall not be deemed to create any right for an individual to have an investigation completed within such time periods.

(e) Investigating Committee's Report.

- (1) At the conclusion of the investigation, the investigating committee shall prepare a report of the investigation. The report should include a summary of the

review process (e.g., a list of documents that were reviewed, any individuals who were interviewed, etc.), specific findings and conclusions regarding each concern that was under review, and the investigating committee's recommendations.

- (2) In making its recommendations, the investigating committee shall strive to achieve a consensus as to what is in the best interests of patient care and the smooth operation of the Hospital, while balancing fairness to the individual, recognizing that fairness does not require that the individual agree with the recommendation. Specifically, the committee may consider:
  - (i) relevant literature and clinical practice guidelines, as appropriate;
  - (ii) all of the opinions and views that were expressed throughout the review, including report(s) from any external review(s);
  - (iii) any information or explanations provided by the individual under review; and
  - (iv) other information as deemed relevant, reasonable, and necessary by the investigating committee.

#### 6.D.4. Recommendation:

- (a) The MEC may accept, modify, or reject any recommendation it receives from an ad hoc investigating committee if one was appointed by the MEC. In either case, at the conclusion of the investigation, the MEC may:
  - (1) determine that no action is justified;
  - (2) issue a letter of guidance, counsel, warning, or reprimand;
  - (3) impose conditions for continued appointment;

- (4) impose a requirement for monitoring, proctoring, or consultation;
  - (5) impose a requirement for additional training or education;
  - (6) recommend reduction of clinical privileges;
  - (7) recommend suspension of clinical privileges for a term;
  - (8) recommend revocation of appointment and/or clinical privileges; or
  - (9) make any other recommendation that it deems necessary or appropriate.
- (b) A recommendation by the MEC that would entitle the individual to request a hearing in accordance with Section 7.A.1 of this Policy shall be forwarded to the Hospital Administrator, who shall promptly inform the individual by Special Notice. The Hospital Administrator shall hold the recommendation until after the individual has completed or waived a hearing and appeal.
- (c) If the determination of the MEC does not entitle the individual to request a hearing, it shall take effect immediately, be forwarded to the Board for informational purposes, and shall remain in effect unless modified by the Board.
- (d) In the event the Board considers a modification to the recommendation of the MEC that would entitle the individual to request a hearing, the Hospital Administrator shall inform the individual by Special Notice. No final action shall occur until the individual has completed or waived a hearing and appeal.
- (e) When applicable, any recommendations or actions that are the result of an investigation or hearing and appeal shall be monitored by Medical Staff Leaders on an ongoing basis through the Hospital's performance improvement activities or pursuant to the applicable policies regarding conduct, as appropriate.

## 6.E. AUTOMATIC RELINQUISHMENT/ACTIONS

### 6.E.1. Action by Government Agency or Insurer and

#### Failure to Satisfy Threshold Eligibility Criteria:

- (a) Any action taken by any licensing board, professional liability insurance company, court or government agency regarding any of the matters set forth below, or any failure to satisfy any of the threshold eligibility criteria set forth in this Policy, must be promptly reported by the Medical Staff member to the Medical Staff Office.
  
- (b) An individual's appointment and clinical privileges shall be automatically relinquished, without the right to the procedural rights outlined in this Policy, if an individual fails to satisfy any of the threshold eligibility criteria set forth in Section 2.A.1 of this Policy on a continuous basis (except for board certification requirements, which shall be assessed at time of reappointment). This includes, but is not limited to, the following occurrences:
  - (1) Licensure: Revocation, expiration, suspension, the placement of restrictions or conditions on an individual's license, or an individual's license being placed on probationary status.
  
  - (2) Controlled Substance Authorization: Revocation, expiration, suspension or the placement of restrictions on an individual's DEA controlled substance authorization.
  
  - (3) Insurance Coverage: Termination or lapse of an individual's professional liability insurance coverage, or other action causing the coverage to fall below the minimum required by the Hospital or cease to be in effect, in whole or in part.
  
  - (4) Medicare and Medicaid Participation: Debarment, proposed debarment, termination, exclusion, or preclusion by government action from participation in the Medicare/Medicaid or other federal or state health care programs.
  
  - (5) Criminal Activity: Arrest, charge, indictment, conviction, or a plea of guilty or no contest pertaining to any felony; or to any misdemeanor involving (i) controlled substances; (ii) illegal drugs; (iii) Medicare, Medicaid, or insurance or health

care fraud or abuse; (iv) child abuse; (v) elder abuse; (vi) violence against another; or (vii) the practitioner-patient relationship. (DUIs will be reviewed in accordance with the Practitioner Health Policy.)

- (c) Automatic relinquishment shall take effect immediately upon written notice to the individual provided via Special Notice and shall continue until the matter is resolved and the individual is reinstated, if applicable.
- (d) If the underlying matter leading to automatic relinquishment is resolved within 60 days, the individual may request reinstatement. Failure to resolve the matter within 60 days of the date of relinquishment shall result in an automatic resignation from the Medical Staff.

#### 6.E.2. Failure to Complete Medical Records:

Failure to complete medical records, after notification by the medical records department of delinquency, may result in automatic relinquishment of all clinical privileges in accordance with the time frames as set forth in the Medical Staff Rules and Regulations (except that the individual must complete all scheduled emergency service obligations or arrange appropriate coverage). Relinquishment shall continue until all delinquent records are completed and reinstatement accomplished in accordance with applicable policies and rules and regulations. Failure to complete the medical records that caused relinquishment within the time required by applicable policies and rules and regulations shall result in automatic resignation from the Medical Staff.

#### 6.E.3. Failure to Provide Requested Information:

Failure to provide information pertaining to an individual's qualifications for appointment, reappointment, or clinical privileges, in response to a written request from the Combined Credentials Committee, the MEC, the Peer Review Committee, the Leadership Council, a Department/Service Line Committee, the CMO, the Hospital Administrator, or any other committee authorized to request such information, shall result in the automatic relinquishment of all clinical privileges. The information must be provided within the time frame established by the requesting party. Any relinquishment will continue in effect until the information is provided to the satisfaction of the requesting party. If the requested information is not provided within 30 days of the date of relinquishment, it shall result in automatic resignation from the Medical Staff.

6.E.4. Failure to Complete or Comply with Training, Educational, or Orientation Requirements:

Failure to complete or comply with training, educational, or orientation requirements that are adopted by the MEC or required by the Board, including, but not limited to, those pertinent to electronic medical records, computerized physician order entry (“CPOE”), the privacy and security of protected health information, infection control, or patient safety, shall result in the automatic relinquishment of all clinical privileges. Any relinquishment will continue in effect until documentation of compliance is provided to the satisfaction of the requesting party. If the requested information is not provided within 30 days of the date of relinquishment, it shall result in automatic resignation from the Medical Staff.

6.E.5. Failure to Attend Special Meeting:

- (a) Whenever there is a concern regarding the clinical practice or professional conduct involving any individual, a Medical Staff Leader may require the individual to attend a special meeting with one or more of the Medical Staff Leaders and/or with a standing or ad hoc committee of the Medical Staff.
- (b) No legal counsel shall be present at this meeting, and no recording (audio or video) or transcript shall be permitted or made.
- (c) The notice to the individual regarding this meeting shall be given by Special Notice at least three days prior to the meeting and shall inform the individual that attendance at the meeting is mandatory.
- (d) Failure of the individual to attend the meeting shall result in the automatic relinquishment of all clinical privileges until such time as the individual does attend the special meeting. If the individual does not attend the special meeting within 30 days of the date of relinquishment, it shall result in automatic resignation from the Medical Staff.

#### 6.E.6. Request for Reinstatement:

- (a) Requests for reinstatement following the expiration or lapse of a license, controlled substance authorization, and/or insurance coverage will be processed by the Medical Staff Office. If any questions or concerns are noted, the Medical Staff Office will refer the matter for further review in accordance with (c) below.
- (b) Requests for reinstatement following the relinquishment of clinical privileges due to (i) failure to provide requested information, (ii) failure to complete or comply with training, educational, or orientation requirements, and/or (iii) failure to attend a special meeting shall be reviewed by the Leadership Council Chair. If the Leadership Council Chair recommends favorably on reinstatement, the individual may immediately resume clinical practice. If, however, any questions or concerns are noted, the matter will be referred to the full Leadership Council in accordance with (c) below.
- (c) All other requests for reinstatement shall be reviewed by the Leadership Council. If the Leadership Council makes a favorable recommendation on reinstatement, the individual may immediately resume clinical practice at the Hospital. This determination shall then be forwarded to the Combined Credentials Committee, the MEC, and the Board for ratification. If, however, the Leadership Council has any questions or concerns, those questions shall be noted, and the reinstatement request shall be forwarded to the Combined Credentials Committee, MEC, and Board for review and recommendation.

#### 6.F. LEAVES OF ABSENCE

##### 6.F.1. Initiation:

- (a) A Medical Staff member may request a leave of absence by submitting a written request to the Medical Staff Office. The request must state the beginning and ending dates of the leave, which shall not exceed one year, and the reasons for the leave.
- (b) The Chair of the Combined Credentials Committee shall determine whether a request for a leave of absence shall be granted. In determining whether to grant a request, the Chair of the Combined Credentials Committee shall consult with the CMO, the Chair of the MEC, and the relevant department chair or service line chair. The granting of a leave of absence, or reinstatement, as appropriate, may be conditioned upon the individual's completion of all medical records.

- (c) Except for maternity leaves, members of the Medical Staff must report to the Medical Staff Office any time they are away from Medical Staff and/or patient care responsibilities for longer than 45 days and the reason for such absence is related to their physical or mental health or otherwise to their ability to care for patients safely and competently. Under such circumstances, the Chair of the Combined Credentials Committee, in consultation with the CMO and/or the Chair of the MEC, may trigger an automatic medical leave of absence.

#### 6.F.2. Duties of Member on Leave:

During the leave of absence, the individual shall not exercise any clinical privileges. In addition, the individual shall be excused from all Medical Staff responsibilities (e.g., meeting attendance, committee service, emergency service call obligations) during this period.

#### 6.F.3. Reinstatement:

- (a) Individuals requesting reinstatement shall submit a written summary of their professional activities during the leave, and any other information that may be requested by the Hospital. Requests for reinstatement shall then be reviewed by the relevant department chair or service line chair, the Chair of the Combined Credentials Committee, the Chair of the MEC, and the CMO. If all of these individuals make a favorable recommendation on reinstatement, the Medical Staff member may immediately resume clinical practice at the Hospital. This determination shall then be forwarded to the Combined Credentials Committee, the MEC, and the Board for ratification. If, however, any of the individuals reviewing the request has any questions or concerns, those questions shall be noted and the reinstatement request shall be forwarded to the full Combined Credentials Committee, MEC, and Board for review and recommendation. If a request for reinstatement is not granted, for reasons related to clinical competence or professional conduct, the individual shall be entitled to request a hearing and appeal.
- (b) If the leave of absence was for health reasons (except for maternity leave), the request for reinstatement must be accompanied by a report from the individual's physician indicating that the individual is physically and/or mentally capable of resuming a hospital practice and safely exercising the clinical privileges requested and the request for reinstatement shall be processed in accordance with the Practitioner Health Policy.



- (c) Absence for longer than one year shall result in automatic relinquishment of Medical Staff appointment and clinical privileges unless an extension is granted by the CMO. Extensions shall be considered only in extraordinary cases where the extension of a leave is in the best interest of the Hospital.
- (d) If an individual's current appointment is due to expire during the leave, the individual must apply for reappointment, or appointment and clinical privileges shall lapse at the end of the appointment period.
- (e) Failure to request reinstatement from a leave of absence in a timely manner shall be deemed a voluntary resignation of Medical Staff appointment and clinical privileges.
- (f) Leaves of absence are matters of courtesy, not of right. In the event that it is determined that an individual has not demonstrated good cause for a leave, or where a request for extension is not granted, the determination shall be final, with no recourse to a hearing and appeal.

#### 6.G. ACTION AT ANOTHER USA HEALTH HOSPITAL

- (1) Each USA Health Hospital will share information regarding the implementation or occurrence of any of the following actions with all other USA Health Hospitals at which an individual maintains Medical Staff appointment, clinical privileges, or any other permission to care for patients:
  - (a) **automatic relinquishment or resignation** of appointment or clinical privileges for any reason set forth in the Credentials Policy or other Medical Staff policies (except for those relinquishments or resignations that result from incomplete medical records or the failure to provide requested information in a timely manner);
  - (b) **voluntary agreement to modify clinical privileges or to refrain from exercising** some or all clinical privileges for a period of time for reasons related to the individual's clinical competence, conduct or health;
  - (c) participation in a **Performance Improvement Plan**;

- (d) a grant of **conditional membership or privileges** (either at initial appointment or reappointment), or conditional continued membership or clinical privileges; and/or
  - (e) any **denial, suspension, revocation, or termination** of appointment and/or clinical privileges.
- (2) Upon receipt of notice that any of the actions set forth in Paragraph (1) have occurred at any USA Health Hospital, that action will either:
- (a) automatically and immediately take effect at the USA Health Hospital receiving the notice; or
  - (b) be cause for the USA Health Hospital receiving the notice to determine that the individual no longer satisfies the eligibility criteria set forth in this Policy and has therefore automatically relinquished his or her appointment and privileges.

The automatic effectiveness of any such action, or an automatic relinquishment based on such action, will not entitle the individual to any additional procedural rights (including advance notice, additional peer review, formal investigation, hearing, or appeal) other than what occurred at the USA Health Hospital taking the original action.

- (3) The Board may waive the automatic effectiveness of an action or an automatic relinquishment at the receiving USA Health Hospital based on a recommendation to do so from the MEC at that Hospital. However, the automatic effectiveness or relinquishment will continue until such time as a waiver has been granted and the practitioner has been notified in writing of such. Waivers are within the discretion of the Board and are final. They will be granted only as follows:
- (a) based on a finding that the granting of a waiver will not affect patient safety, quality of care, or Hospital operations; and
  - (b) after a full review of the specific circumstances and any relevant documents (including peer review documents) from the USA Health Hospital where the

action first occurred. The burden is on the affected practitioner to provide evidence showing that a waiver is appropriate.

The denial of a waiver pursuant to this Section will not entitle the individual to any procedural rights, including advance notice, additional peer review, formal investigation, hearing, or appeal.

## ARTICLE 7

### HEARING AND APPEAL PROCEDURES

#### 7.A. INITIATION OF HEARING

##### 7.A.1. Grounds for Hearing:

- (a) An individual is entitled to request a hearing whenever the MEC makes one of the following recommendations:
  - (1) denial of initial appointment to the Medical Staff;
  - (2) denial of reappointment to the Medical Staff;
  - (3) revocation of appointment to the Medical Staff;
  - (4) denial of requested clinical privileges;
  - (5) revocation of clinical privileges;
  - (6) suspension of clinical privileges for more than 30 days (other than precautionary suspension);
  - (7) mandatory concurring consultation requirement (i.e., the consultant must approve the course of treatment in advance); or
  - (8) denial of reinstatement from a leave of absence if the reasons relate to clinical competence or professional conduct.

- (b) No other recommendations shall entitle the individual to a hearing.
- (c) If the Board makes any of these determinations without an adverse recommendation by the MEC, an individual would also be entitled to request a hearing. For ease of use, this Article refers to adverse recommendations of the MEC. When a hearing is triggered by an adverse recommendation of the Board, any reference in this Article to the “MEC” shall be interpreted as a reference to the “Board.”

7.A.2. Actions Not Grounds for Hearing:

None of the following actions shall constitute grounds for a hearing, and they shall take effect without hearing or appeal, provided that the individual shall be entitled to submit a written explanation to be placed into his or her file:

- (a) determination that an applicant for membership fails to meet the threshold eligibility qualifications or criteria for membership;
- (b) ineligibility to request membership or privileges, or to continue privileges, because a relevant specialty is closed under a Medical Staff development plan or is covered under an exclusive provider agreement;
- (c) failure to process a request for a privilege when the individual does not meet the eligibility criteria to hold the privilege;
- (d) determination that an application is incomplete or untimely;
- (e) determination that an application shall not be processed due to a misstatement or omission;
- (f) change in assigned staff category or a determination that an individual is not eligible for a specific staff category;

- (g) expiration of membership and privileges as a result of failure to submit an application for reappointment within the allowable time period;
- (h) issuance of a letter of guidance, counsel, warning, or reprimand;
- (i) determination that conditions, monitoring, supervision, proctoring, or a general consultation requirement (i.e., the individual must obtain a consult but need not get prior approval for the treatment) is appropriate for an individual;
- (j) determination that a requirement for additional training or continuing education is appropriate for an individual;
- (k) the voluntary acceptance of a Performance Improvement Plan;
- (l) any requirement to complete a health assessment, diagnostic testing, a complete physical, mental or behavioral evaluation, or a clinical competency evaluation pursuant to any Bylaws-related document;
- (m) conducting an investigation into any matter or the appointment of an ad hoc investigating committee;
- (n) grant of conditional appointment or reappointment or of an appointment or reappointment period that is less than two years;
- (o) refusal of the Hospital to consider a request for appointment, reappointment, or privileges within five years of a final adverse decision regarding such request;
- (p) precautionary suspension;
- (q) automatic relinquishment of appointment or privileges or automatic resignation;

- (r) denial of a request for a leave of absence, for an extension of a leave or for reinstatement from a leave if the reasons do not relate to clinical competence or professional conduct;
- (s) removal from the on-call roster or any other reading panel;
- (t) withdrawal of temporary privileges;
- (u) requirement to appear for a special meeting;
- (v) termination of any contract with or employment by the Hospital; and
- (w) any other action that is not specifically listed in Section 7.A.1(a).

## 7.B. THE HEARING

### 7.B.1. Notice of Recommendation:

The Hospital Administrator shall promptly give Special Notice of a recommendation which entitles an individual to request a hearing. This notice shall contain:

- (a) a statement of the recommendation and the general reasons for it;
- (b) a statement that the individual has the right to request a hearing on the recommendation within 30 days of receipt of this notice; and
- (c) a copy of this Article.

### 7.B.2. Request for Hearing:

An individual has 30 days following receipt of the notice to request a hearing. The request shall be in writing to the Hospital Administrator and shall include the name, address, and telephone number of the individual's counsel, if any. Failure to request a hearing shall constitute waiver of the right to a hearing, and the recommendation shall be transmitted to the Board for final action.

7.B.3. Notice of Hearing and Statement of Reasons:

- (a) The Hospital Administrator shall schedule the hearing and provide, by Special Notice to the individual requesting the hearing, the following:
  - (1) the time, place, and date of the hearing;
  - (2) a proposed list of witnesses who shall give testimony at the hearing and a brief summary of the anticipated testimony;
  - (3) the names of the Hearing Panel members (or Hearing Officer) and Presiding Officer, if known; and
  - (4) a statement of the specific reasons for the recommendation, including a list of patient records (if applicable), and a general description of the information supporting the recommendation. This statement does not bar presentation of additional evidence or information at the hearing, so long as the additional material is relevant to the recommendation or the individual's qualifications and the individual has a sufficient opportunity to review and rebut the additional information.
- (b) The hearing shall begin no sooner than 30 days after the notice of the hearing, unless an earlier hearing date has been specifically agreed to in writing by the parties.

7.B.4. Hearing Panel, Presiding Officer, and Hearing Officer:

- (a) Hearing Panel:



The Hospital Administrator, after consulting with the Chair of the MEC, shall appoint a Hearing Panel in accordance with the following guidelines:

- (1) The Hearing Panel shall consist of at least three members and may include any combination of:
  - (i) any member of the Medical Staff, provided the member has not actively participated in the matter at any previous level; and/or
  - (ii) physicians or laypersons not connected with the Hospital (i.e., physicians not on the Medical Staff or laypersons not affiliated with the Hospital).
- (2) Knowledge of the underlying peer review matter, in and of itself, shall not preclude the individual from serving on the Panel.
- (3) Employment by, or other contractual arrangement with, the Hospital or an affiliate shall not preclude an individual from serving on the Panel.
- (4) The Panel shall not include any individual who is in direct economic competition with the individual requesting the hearing.
- (5) The Panel shall not include any individual who is demonstrated to have an actual bias, prejudice, or conflict of interest that would prevent the individual from fairly and impartially considering the matter.
- (6) In addition, the appointment of the Hearing Panel shall comply with the guidelines set forth in the conflict of interest provisions found in Article 8 of this Policy.

(b) Presiding Officer:

- (1) The Hospital Administrator, after consulting with the Chair of the MEC, may appoint a Presiding Officer who shall be an attorney. The Presiding Officer may not be, or represent clients who are, in direct competition with the individual who requested the hearing and may not currently represent the Hospital in any legal matters. The Presiding Officer shall not act as an advocate for either side at the hearing. If a Presiding Officer is not appointed in accordance with this Section, a member of the Hearing Panel shall be designated to serve as the Chair and shall fulfill the role of the Presiding Officer.
  
- (2) The Presiding Officer shall:
  - (i) allow the participants in the hearing to have a reasonable opportunity to be heard and to present evidence, subject to reasonable limits on the number of witnesses and duration of direct and cross-examination;
  
  - (ii) prohibit conduct or presentation of evidence that is cumulative, excessive, irrelevant or abusive or that causes undue delay;
  
  - (iii) maintain decorum throughout the hearing;
  
  - (iv) determine the order of procedure;
  
  - (v) rule on all matters of procedure and the admissibility of evidence; and
  
  - (vi) conduct argument by counsel on procedural points within or outside the presence of the Hearing Panel at the Presiding Officer's discretion.
  
- (3) The Presiding Officer may be advised by legal counsel to the Hospital with regard to the hearing procedure.
  
- (4) The Presiding Officer may participate in the private deliberations of the Hearing Panel and be a legal advisor to it but shall not be entitled to vote on its recommendations.

(c) Hearing Officer:

- (1) As an alternative to a Hearing Panel, for matters limited to issues involving professional conduct, the Hospital Administrator, after consulting with the Chair of the MEC, may appoint a Hearing Officer, preferably an attorney, to perform the functions of a Hearing Panel. The Hearing Officer may not be, or represent clients who are, in direct economic competition with the individual requesting the hearing.
- (2) If a Hearing Officer is appointed instead of a Hearing Panel, all references in this Article to the "Hearing Panel" or "Presiding Officer" shall be deemed to refer to the Hearing Officer.

(d) Objections:

Any objection to any member of the Hearing Panel, to the Presiding Officer, or to the Hearing Officer, shall be made in writing, within 10 days of receipt of notice, to the Hospital Administrator. A copy of such written objection must be provided to the Chair of the MEC and must include the basis for the objection. The Chair of the MEC shall be given a reasonable opportunity to comment. The Hospital Administrator shall rule on the objection and give notice to the parties. The Hospital Administrator may request that the Presiding Officer make a recommendation as to the validity of the objection.

(e) Compensation:

The Hearing Panel, Presiding Officer, and/or Hearing Officer may be compensated by the Hospital, but the individual requesting the hearing may participate in any such compensation should the individual wish to do so.

7.B.5. Counsel:

- (a) The Presiding Officer, Hearing Officer, and counsel for either party may be an attorney at law who is licensed to practice, in good standing, in any state.

- (b) The role of legal counsel for both sides in the hearing process is limited to advising his/her client. Legal counsel for either party may not call, examine, and cross-examine witnesses or present the case.

## 7.C. PRE-HEARING PROCEDURES

### 7.C.1. General Procedures:

- (a) The pre-hearing and hearing processes shall be conducted in an informal manner. Formal rules of evidence or procedure shall not apply.
- (b) The hearing shall last no more than 10 hours, with each side being afforded approximately five hours to present its case, in terms of both direct and cross-examination of witnesses. Both parties are required to prepare their case so that a hearing shall be concluded after a maximum of 10 hours. The Presiding Officer may, after considering any objections, grant limited extensions upon a demonstration of good cause and to the extent compelled by fundamental fairness.
- (c) Neither party has the right to issue subpoenas or interrogatories or to depose witnesses or other individuals prior to the hearing or to otherwise compel any individual to participate in the hearing or pre-hearing process.
- (d) Neither the individual who has requested the hearing, nor any other person acting on behalf of the individual, may contact Hospital employees or Medical Staff members whose names appear on the MEC's witness list or in documents provided pursuant to this Article concerning the subject matter of the hearing, until the Hospital has been notified and has contacted the individuals about their willingness to be interviewed. The Hospital will advise the individual who has requested the hearing once it has contacted such employees or Medical Staff members and confirmed their willingness to meet. Any employee or Medical Staff member may agree or decline to be interviewed by or on behalf of the individual who requested a hearing and shall not be subject to any retaliation and/or employment actions. If an employee or Medical Staff member who is on the MEC's witness list agrees to be interviewed pursuant to this provision, counsel for the MEC may be present during the interview.

### 7.C.2. Time Frames:

The following time frames, unless modified by mutual written agreement of the parties, shall govern the timing of pre-hearing procedures:

- (a) the pre-hearing conference shall be scheduled at least 14 days prior to the hearing;
- (b) the parties shall exchange witness lists and proposed documentary exhibits at least 10 days prior to the pre-hearing conference; and
- (c) any objections to witnesses and/or proposed documentary exhibits must be provided at least five days prior to the pre-hearing conference.

7.C.3. Witness List:

- (a) At least 10 days before the pre-hearing conference, the individual requesting the hearing shall provide a written list of the names of witnesses expected to offer testimony on his or her behalf.
- (b) The witness list shall include a brief summary of the anticipated testimony.
- (c) The witness list of either party may, in the discretion of the Presiding Officer, be amended at any time during the course of the hearing, provided that notice of the change is given to the other party.

7.C.4. Provision of Relevant Information:

- (a) Prior to receiving any confidential documents, the individual requesting the hearing must sign a confidentiality agreement under which the individual agrees that all documents and information shall be maintained as confidential and within the protected peer review process and shall not be disclosed or used for any purpose outside of the hearing, and that the individual will not retaliate against any Medical Staff member, staff member, or employee who may be identified in the documentation provided. The individual must also provide copies of confidentiality agreements and Business Associate agreements that the individual's counsel and any expert(s) have

executed with the Hospital and the practitioner in connection with any patient Protected Health Information contained in any documents provided.

- (b) Upon receipt of the above agreement and representation, the individual requesting the hearing shall be provided with a copy of the following:
  - (1) copies of, or reasonable access to, all patient medical records referred to in the statement of reasons, at the individual's expense;
  - (2) reports of experts relied upon by the MEC;
  - (3) copies of relevant minutes (with portions regarding other physicians and unrelated matters deleted); and
  - (4) copies of any other documents relied upon by the MEC.

The provision of this information shall not waive any privilege under the state peer review protection statutes.

- (c) The individual shall have no right to discovery beyond the above information. No information shall be provided regarding other practitioners on the Medical Staff.
- (d) At least 10 days prior to the pre-hearing conference (or as otherwise agreed upon by both sides), each party shall provide the other party with its proposed exhibits. All objections to documents or witnesses shall be submitted in writing at least five days in advance of the pre-hearing conference. The Presiding Officer shall not entertain subsequent objections unless the party offering the objection demonstrates good cause.
- (e) Evidence unrelated to the reasons for the recommendation or to the individual's qualifications for appointment or the relevant clinical privileges shall be excluded.

7.C.5. Pre-Hearing Conference:

The Presiding Officer shall require the individual and the MEC or their representatives (who may be counsel) to participate in a pre-hearing conference, which shall be held no later than 14 days prior to the hearing. At the pre-hearing conference, the Presiding Officer shall establish the time to be allotted to each witness's testimony and cross-examination and shall resolve all procedural questions, including any objections to exhibits, witnesses, or the time limitation for the hearing.

#### 7.C.6. Stipulations:

The parties and their counsel, if applicable, shall use their best efforts to develop and agree upon stipulations, so as to provide for a more orderly and efficient hearing by narrowing the issues on which live testimony is reasonably required.

#### 7.C.7. Provision of Information to the Hearing Panel:

The following documents shall be provided to the Hearing Panel in advance of the hearing: (a) a pre-hearing statement that either party may choose to submit; (b) exhibits offered by the parties following the pre-hearing conference (without the need for authentication); and (c) any stipulations agreed to by the parties.

### 7.D. HEARING PROCEDURES

#### 7.D.1. Rights of Both Sides and the Hearing Panel at the Hearing:

- (a) At a hearing, both sides shall have the following rights, subject to reasonable limits determined by the Presiding Officer:
  - (1) to call and examine witnesses, to the extent they are available and willing to testify;
  - (2) to introduce exhibits;
  - (3) to cross-examine any witness on any matter relevant to the issues;

- (4) to have representation by counsel who may advise the individual but who shall not be actively involved in the presentation; and
  - (5) to submit proposed findings, conclusions and recommendations to the Hearing Panel as part of the Post-Hearing statement referenced in this Article, following the close of the hearing session(s).
- (b) If the individual who requested the hearing does not testify, he or she may be called and questioned.
  - (c) The Hearing Panel may question witnesses, request the presence of additional witnesses, and/or request documentary evidence.

7.D.2. Record of Hearing:

A stenographic reporter (who shall be required to sign a Business Associate Agreement) shall be present to make a record of the hearing. The cost of the reporter shall be borne by the Hospital. Copies of the transcript shall be available at the individual's expense and shall be maintained in a confidential manner consistent with peer review proceedings. Oral evidence shall be taken only on oath or affirmation administered by any person entitled to notarize documents in this state.

7.D.3. Failure to Appear:

Failure, without good cause, to appear and proceed at the hearing shall constitute a waiver of the right to a hearing and the matter shall be transmitted to the Board for final action.

7.D.4. Presence of Hearing Panel Members:

A majority of the Hearing Panel shall be present throughout the hearing. In unusual circumstances when a Hearing Panel member must be absent from any part of the hearing, he or she shall read the entire transcript of the portion of the hearing from which he or she was absent.



7.D.5. Persons to Be Present:

The hearing shall be restricted to those individuals involved in the proceeding, the Chair of the MEC, and the Hospital Administrator. In addition, administrative personnel may be present as requested by the Hospital Administrator or the Chair of the MEC.

7.D.6. Order of Presentation:

The MEC shall first present evidence in support of its recommendation. Thereafter, the burden shall shift to the individual who requested the hearing to present evidence.

7.D.7. Admissibility of Evidence:

The hearing shall not be conducted according to rules of evidence. Evidence shall not be excluded merely because it is hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law. The guiding principle shall be that the record contains information sufficient to allow the Board to decide whether the individual is qualified for appointment and clinical privileges.

7.D.8. Post-Hearing Statement:

Each party shall have the right to submit a written statement, and the Hearing Panel may request that statements be filed, following the close of the hearing.

7.D.9. Postponements and Extensions:

Postponements and extensions of time may be requested by anyone but shall be permitted only by the Presiding Officer or the Hospital Administrator on a showing of good cause.

7.E. HEARING CONCLUSION, DELIBERATIONS, AND RECOMMENDATIONS

#### 7.E.1. Basis of Hearing Panel Recommendation:

Consistent with the burden on the individual to demonstrate that he or she satisfies, on a continuing basis, all criteria for initial appointment, reappointment and clinical privileges, the Hearing Panel shall recommend in favor of the MEC unless it finds that the individual who requested the hearing has proved, by clear and convincing evidence, that the recommendation that prompted the hearing was arbitrary, capricious, or not supported by credible evidence.

#### 7.E.2. Deliberations and Recommendation of the Hearing Panel:

Within 20 days after final adjournment of the hearing (which may be designated as the time the Hearing Panel receives the hearing transcript or any post-hearing statements, whichever is later), the Hearing Panel shall conduct its deliberations outside the presence of any other person except the Presiding Officer. Thereafter, the Hearing Panel shall render a recommendation, accompanied by a report, which shall contain a concise statement of the basis for its recommendation. The deliberations of the Hearing Panel shall not be recorded or transcribed, and minutes shall not be made. The Hearing Panel report shall serve as memorialization of the deliberations.

#### 7.E.3. Disposition of Hearing Panel Report:

The Hearing Panel shall deliver its report to the Hospital Administrator. The Hospital Administrator shall send by Special Notice a copy of the report to the individual who requested the hearing. The Hospital Administrator shall also provide a copy of the report to the MEC.

### 7.F. APPEAL PROCEDURE

#### 7.F.1. Time for Appeal:

- (a) Within 10 days after notice of the Hearing Panel's recommendation, either party may request an appeal. The request shall be in writing, delivered to the Hospital Administrator either in person or by certified mail, return receipt requested, and shall include a statement of the reasons for appeal and the specific facts or circumstances which justify further review.

- (b) If an appeal is not requested within 10 days, an appeal is deemed to be waived and the Hearing Panel's report and recommendation shall be forwarded to the Board for final action.

#### 7.F.2. Grounds for Appeal:

The grounds for appeal shall be limited to the following:

- (a) there was substantial failure by the Hearing Panel to comply with this Policy during the hearing, so as to deny a fair hearing; and/or
- (b) the recommendations of the Hearing Panel were made arbitrarily or capriciously and/or were not supported by credible evidence.

#### 7.F.3. Time, Place and Notice:

Whenever an appeal is requested as set forth in the preceding Sections, the Chair of the Board (or the Hospital Administrator on behalf of the Chair) shall schedule and arrange for an appeal. The individual shall be given Special Notice of the time, place, and date of the appeal. The appeal shall be held as soon as arrangements can reasonably be made, taking into account the schedules of all the individuals involved.

#### 7.F.4. Nature of Appellate Review:

- (a) The Board may serve as the Review Panel or the Chair of the Board may appoint a Review Panel composed of not fewer than three persons, either members of the Board or others, including but not limited to reputable persons outside the Hospital, to consider the record upon which the recommendation before it was made and recommend final action to the Board.
- (b) Each party shall have the right to present a written statement in support of its position on appeal. The party requesting the appeal shall submit a statement first and the other party shall then have ten days to respond. In its sole discretion, the Review Panel may

allow each party or its representative to appear personally and make oral argument not to exceed 30 minutes.

- (c) When requested by either party, the Review Panel may, in its discretion, accept additional oral or written evidence subject to the same rights of cross-examination provided at the Hearing Panel proceedings. Such additional evidence shall be accepted only if the Review Panel determines that the party seeking to admit it has demonstrated that it is relevant, new evidence that could not have been presented at the hearing, or that any opportunity to admit it at the hearing was improperly denied.

## 7.G. BOARD ACTION

### 7.G.1. Final Decision of the Board:

- (a) Within 30 days after the Board (i) considers the appeal as a Review Panel, (ii) receives a recommendation from a separate Review Panel, or (iii) receives the Hearing Panel's report and recommendation when no appeal has been requested, the Board shall consider the matter and take final action.
- (b) The Board may review any information that it deems relevant, including, but not limited to, the findings and recommendations of the MEC, Hearing Panel, and Review Panel (if applicable). The Board may adopt, modify, or reverse any recommendation that it receives or, in its discretion, refer the matter to any individual or committee for further review and recommendation, or make its own decision based upon the Board's ultimate legal authority for the operation of the Hospital and the quality of care provided.
- (c) The Board shall render its final decision in writing, including specific reasons, and shall send Special Notice to the individual. A copy shall also be provided to the MEC for its information.

### 7.G.2. Further Review:

Except where the matter is referred by the Board for further action and recommendation by any individual or committee, the final decision of the Board shall be effective immediately and shall not be subject to further review. If the matter is referred for further action and

recommendation, such recommendation shall be promptly made to the Board in accordance with the instructions given by the Board.

7.G.3. Right to One Hearing and One Appeal Only:

No member of the Medical Staff shall be entitled to more than one hearing and one appellate review on any matter. If the Board denies initial appointment to the Medical Staff or reappointment or revokes the appointment and/or clinical privileges of a current member of the Medical Staff, that individual may not apply for staff appointment or for those clinical privileges for a period of five years unless the Board provides otherwise.

## ARTICLE 8

### CONFLICT OF INTEREST GUIDELINES FOR CREDENTIALING, PRIVILEGING, AND PROFESSIONAL PRACTICE EVALUATION ACTIVITIES

#### 8.A.1. General Principles:

- (a) All those involved in credentialing, privileging, and professional practice evaluation activities (referred to collectively as “Medical Staff Functions” in this Article) must be sensitive to potential conflicts of interest (“COI”) in order to be fair to the individual whose qualifications are under review, to protect the individual with the potential conflict, and to protect the integrity of the review processes.
- (b) It is also essential that peers participate in Medical Staff Functions in order for these activities to be meaningful and effective. Therefore, whether and how an individual can participate must be evaluated reasonably, taking into consideration common sense and objective principles of fairness.
- (c) A potential conflict of interest depends on the situation and not on the character of the individual. To promote this understanding, any individual with a potential conflict of interest shall be referred to as an “Interested Member.”
- (d) No Medical Staff member has a right to compel the disqualification of another member based on an allegation of conflict of interest. Rather, that determination is within the discretion of the Medical Staff Leaders or Board chair, guided by this Article.
- (e) The fact that any Medical Staff member chooses to refrain from participation, or is excused from participation, in any Medical Staff Function shall not be interpreted as a finding of an actual conflict that inappropriately influenced the review process.

- (f) **Appendix A** to this Policy is a chart that outlines the conflict of interest guidelines that are applicable to Medical Staff Functions at the Hospital. The remainder of this Article is intended to supplement **Appendix A** and expand upon the guidelines that are summarized in the chart.

#### 8.A.2. Process for Identifying Conflicts of Interest:

- (a) Self-Disclosure. Any individual involved in Medical Staff Functions must disclose all personal conflicts of interest relevant to those activities to the committee chair or CMO.
- (b) Identification by Others. Any individual who is concerned about a potential conflict of interest on the part of any other individual who is involved in Medical Staff Functions should inform the committee chair or CMO.
- (c) Identification by Individual under Review. An individual who is the subject of review during any Medical Staff Functions is obligated to notify the committee chair or CMO of any known or suspected conflicts of interest by others who are involved in such activities. Any potential conflict of interest that is not raised timely by the individual under review shall be deemed waived.

#### 8.A.3. Implementation of Conflict of Interest Guidelines in **Appendix A**:

This section describes how to implement the Conflict of Interest Guidelines found in **Appendix A** of this Policy:

- Paragraph (a) identifies the three COI situations that require special treatment and rules during the performance of Medical Staff Functions, irrespective of the Interested Member's level of participation in the process (e.g., individual reviewer, Department/Service Line Committee member, MEC member);
- Paragraph (b) describes the other common situations that raise COI issues during the performance of Medical Staff Functions; and

- Paragraph (c) describes how to apply the guidelines in **Appendix A** to the common COI situations outlined in (b) at each level of the review processes.

(a) Three COI Situations That Require Special Treatment and Rules, Irrespective of an Interested Member's Level of Participation:

- (1) Employment or Contractual Arrangement with the Hospital. Because Medical Staff Functions are performed on behalf of the Hospital, the interests of those who are employed by, or under contract with, the Hospital are aligned with the Hospital's interest in seeing that those activities are performed effectively, efficiently, and lawfully. As such, employment by, or other contractual arrangement with, the Hospital or any of its affiliated entities does not, in and of itself, preclude an Interested Member from participating in Medical Staff Functions.
- (2) Self or Family Member. While Interested Members may provide information to other individuals involved in the review process, an Interested Member should not otherwise participate in the review of his or her own application or the professional practice evaluation of the care he or she provided or in any such activities involving an immediate family member (spouse or domestic partner, parent, child, sibling, or in-law).
- (3) Relevant Treatment Relationship. As a general rule, an Interested Member who has provided professional health services to a practitioner whose application or provision of care is under review should not participate in the review process regarding the practitioner. However, if the patient-physician relationship has terminated and the review process does not involve the health condition for which the practitioner sought professional health services, the Interested Member may participate fully in all Medical Staff Functions.

Furthermore, even if a current patient-physician relationship exists, the Interested Member may provide information to others involved in the review process if:



- (i) the information was not obtained through the treatment relationship, or
- (ii) the information was obtained through the treatment relationship, but the disclosure was authorized by the practitioner under review through the execution of a HIPAA-compliant authorization form.

(b) Other Common Situations That Raise COI Issues During the Performance of Medical Staff Functions:

Participation by any Interested Member who is in one of the following situations – as it relates to the practitioner under review – will be evaluated under the guidelines outlined in Paragraph (c) and **Appendix A:**

- (1) Significant Financial Relationship (e.g., when the Interested Member and other practitioners: are members of a small, single specialty group; maintain a significant referral relationship; are partners in a business venture; or, are individuals practicing in a specialty for which a policy matter – such as clinical privileging criteria – is being considered);
- (2) Direct Competitor (e.g., practitioners in the same specialty, but in different groups);
- (3) Close Friendships;
- (4) History of Personal Conflict (e.g., former partner, ex-spouse, or where there has been demonstrated animosity);
- (5) Personal Involvement in the Care That Is Subject to Review (e.g., where the Interested Member provided care in the case under review, but is not the subject of the review);

- (6) Active Involvement in Certain Prior Interventions with the Individual under Review (e.g., where the Interested Member was involved in the development of a prior Performance Improvement Plan or in a disciplinary action involving the individual under review. This situation does not include participation in initial education or collegial intervention efforts (e.g., sending an Educational Letter; meeting collegially with a colleague and sending a follow-up letter)); and/or
- (7) Formally Raised the Concern about Another Individual (e.g., where the Interested Member's concern triggered the review of another practitioner, as evidenced by the Interested Member's written report regarding the concern (i.e., sent a written concern to a Medical Staff Officer or CMO, or filed a report through the Hospital's electronic reporting system)).

(c) Application of the Guidelines in **Appendix A** to the Performance of Medical Staff Functions:

(1) Individual Reviewers in Credentialing and Professional Practice Evaluation Activities

An Interested Member may participate as an individual reviewer so long as a check and balance is provided by subsequent review by a Medical Staff committee. This includes, but is not limited to, the following:

- (i) participation in the review of applications for initial and renewed membership and clinical privileges (which is subsequently reviewed by the Combined Credentials Committee and/or MEC); and
- (ii) participation as a case reviewer in professional practice evaluation activities (which is subsequently reviewed by the Leadership Council, Peer Review or Department/Service Line Committee, Investigating Committee, and/or MEC).

(2) Combined Credentials Committee, Leadership Council, and Peer Review or Department/Service Line Committee Members

As a general rule, an Interested Member may fully participate as a member of the Combined Credentials Committee, Leadership Council, and Peer Review or a Department/Service Line Committee because these committees do not possess any disciplinary authority and do not make any final recommendation that could adversely affect the membership or clinical privileges of a practitioner, which is only within the authority of the MEC and Board.

However, the chairs of these committees always have the discretion to recuse an Interested Member if they determine that the Interested Member's presence or participation would inhibit full and fair discussion of the issue, would skew the recommendation or determination of the committee, or would otherwise be unfair to the practitioner under review.

(3) Medical Executive Committee

As a general rule, an Interested Member may fully participate as a member of the MEC when it is approving routine and favorable recommendations regarding the granting of initial appointment, reappointments, and clinical privileges.

However, an Interested Member should be recused from the MEC when that committee is considering a matter that could result in an adverse professional review action affecting the Medical Staff membership or clinical privileges of a practitioner. The Interested Member's participation in MEC meetings will be governed by the guidelines regarding recusal that are set forth in **Appendix A**.

(4) Investigating Committees

Once a formal investigation has been initiated by the MEC, additional steps to manage conflicts of interest should be taken as a precaution. Therefore, an Interested Member should not be appointed as a member of an investigating committee and should not participate in the committee's deliberations or decision-making but may be interviewed and provide information if necessary for the committee to conduct a full and thorough investigation.

(5) Hearing Panel

An Interested Member should not be appointed as a member of a Hearing Panel and should not participate in the Panel's deliberations or decision-making.

(6) Board

As a general rule, an Interested Member may fully participate as a member of the Board when it is approving routine and favorable recommendations regarding the granting of initial appointment, reappointments, and clinical privileges.

However, an Interested Member should be recused from the Board when the Board is considering action that will adversely affect Medical Staff membership or clinical privileges of a practitioner. The Interested Member's participation in Board meetings will be governed by the guidelines regarding recusal that are set forth in **Appendix A**.

## ARTICLE 9

### CONFIDENTIALITY AND PEER REVIEW PROTECTION

#### 9.A. CONFIDENTIALITY

Actions taken and recommendations made pursuant to this Policy shall be strictly confidential. Individuals participating in, or subject to, credentialing and professional practice evaluation activities shall make no disclosures of any such information (discussions or documentation) outside of committee meetings, except:

- (1) when the disclosures are to another authorized member of the Medical Staff or authorized Hospital employee and are for the purpose of researching, investigating, or otherwise conducting legitimate credentialing and professional practice evaluation activities;
- (2) when the disclosures are authorized by a Medical Staff or Hospital policy; or
- (3) when the disclosures are authorized, in writing, by the Hospital Administrator or by legal counsel to the Hospital.

Any breach of confidentiality may result in a professional review action and/or appropriate legal action. Such breaches are unauthorized and do not waive the peer review privilege. Any member of the Medical Staff who becomes aware of a breach of confidentiality must immediately inform the Hospital Administrator or the Chair of the MEC (or the Chair-Elect of the MEC if the Chair of the MEC is the person committing the claimed breach).

#### 9.B. PEER REVIEW PROTECTION

- (1) All credentialing and professional practice evaluation activities pursuant to this Policy and related Medical Staff documents shall be performed by “peer review committees” in accordance with applicable Alabama law. These committees include, but are not limited to:

- (a) all standing and ad hoc Medical Staff and Hospital committees;
- (b) all departments and service lines;
- (c) hearing panels;
- (d) the Board and its committees; and
- (e) any individual acting for or on behalf of any such entity, including but not limited to department chairs or service line chairs, committee chairs and members, officers of the Medical Staff, the CMO, all Hospital personnel, and experts or consultants retained to assist in peer review activities.

All oral or written communications, reports, recommendations, actions, and minutes made or taken by peer review committees are confidential and covered by the applicable provisions of Alabama law.

- (2) All peer review committees shall also be deemed to be “professional review bodies” as that term is defined in the Health Care Quality Improvement Act of 1986, 42 U.S.C. §11101 *et seq.*

## ARTICLE 10

### AMENDMENTS

- (A) Proposed amendments to this Policy shall be presented to the MECs of both University Hospital and Children's & Women's Hospital.
- (B) This Policy may then be amended by a majority vote of the members of each MEC present and voting at any meeting of that Committee where a quorum exists. Notice of all proposed amendments shall be provided to each voting staff member of the Medical Staff at least 14 days prior to the MEC meeting, and any voting staff member may submit written comments to the MEC.
- (C) If there is any disagreement between the MECs for the two Hospitals with respect to an amendment(s), a joint meeting shall be scheduled to discuss and resolve the disagreement.
- (D) No amendment shall be effective unless and until it has been approved by the Board.

ARTICLE 11

ADOPTION

This Policy is adopted and made effective upon approval of the Board, superseding and replacing any and all other Bylaws, Rules and Regulations of the Medical Staff or Hospital policies pertaining to the subject matter thereof.

**University Hospital**

Adopted by the Medical Staff:

Approved by the Board:

**Children's & Women's Hospital**

Adopted by the Medical Staff:

Approved by the Board:



**APPENDIX A**

**CONFLICT OF INTEREST GUIDELINES**

Potential Conflicts	Levels of Participation								
	Provide Information	Individual Reviewer Application/ Case	Committee Member					Hearing Panel	Board
			Credentials	Leadership Council	D/SL Comm/ PRC	MEC	Investigating Committee		
Employment/contract relationship with Hospital	Y	Y	Y	Y	Y	Y	Y	Y	Y
Self or family member	Y	N	R	R	R	R	N	N	R
Relevant treatment relationship*	Y	N	R	R	R	R	N	N	R
Significant financial relationship	Y	M	M	M	M	R	N	N	R
Direct competitor	Y	M	M	M	M	R	N	N	R
Close friends	Y	M	M	M	M	R	N	N	R
History of conflict	Y	M	M	M	M	R	N	N	R
Provided care in case under review (but not subject of review)	Y	M	M	M	M	R	N	N	R
Involvement in prior PIP or disciplinary action	Y	M	M	M	M	R	N	N	R
Formally raised the concern	Y	M	M	M	M	R	N	N	R

**Y** – (Green “Y”) means the Interested Member may serve in the indicated role; no extra precautions are necessary.

**M** – (Yellow “M”) means the Interested Member may generally serve in the indicated role. It is legally permissible for Interested Members to serve in these roles because of the check and balance provided by

the multiple levels of review and the fact that the Combined Credentials Committee, Leadership Council, and Department/Service Line Committees have no disciplinary authority.

In addition, the Chair of the Combined Credentials Committee, Leadership Council, or Peer Review or Department/Service Line Committees always has the authority and discretion to recuse a member in a particular situation if the Chair determines that the Interested Member’s presence would (i) inhibit the full and fair discussion of the issue before the committee, (ii) skew the recommendation or determination of the committee, or (iii) otherwise be unfair to the practitioner under review.

**N** – (Red “N”) means the Interested Member should not serve in the indicated role.

**R** – (Red “R”) means the Interested Member should be recused, in accordance with the guidelines on the next page.

\* Special rules apply both to the provision of information and participation in the review process in this situation. See Section 8.A.3 of the Credentials Policy.

RULES FOR RECUSAL	
<b>STEP 1</b> Confirm the conflict of interest	The Committee Chair or Board Chair should confirm the existence of a conflict of interest relevant to the matter under consideration.
<b>STEP 2</b> Participation by the Interested Member at the meeting	<p>The Interested Member may participate in any part of the meeting that does not involve the conflict of interest situation.</p> <p>When the matter implicating the conflict of interest is ready for consideration, the Committee Chair or Board Chair will note that the Interested Member will be excused from the meeting prior to the group’s deliberation and decision-making.</p> <p>Prior to being excused, the Interested Member may provide information and answer any questions regarding the following:</p> <ul style="list-style-type: none"> <li>(i) any factual information for which the Interested Member is the original source;</li> <li>(ii) clinical expertise that is relevant to the matter under consideration;</li> </ul>

	<ul style="list-style-type: none"> <li>(iii) any policies or procedures that are applicable to the committee or Board or are relevant to the matter under consideration;</li> <li>(iv) the Interested Member’s prior involvement in the review of the matter at hand (for example, an Investigating Committee member may describe the Investigating Committee’s activities and present the Investigating Committee’s written report and recommendations to the MEC prior to being excused from the meeting); and</li> <li>(v) how the committee or Board has, in the past, managed issues similar or identical to the matter under consideration.</li> </ul>
<p style="text-align: center;"><b>STEP 3</b></p> <p>The Interested Member is excused from the meeting</p>	<p>The Interested Member will then be excused from the meeting (i.e., physically leave the meeting room and/or disconnect from any telephone or other electronic connection) prior to the committee’s or Board’s deliberation and decision-making.</p>
<p style="text-align: center;"><b>STEP 4</b></p> <p>Record the recusal in the minutes</p>	<p>The recusal should be documented in the minutes of the committee or Board. The minutes should reflect the fact that the Interested Member was excused from the meeting prior to deliberation and decision-making. As set forth in the Medical Staff Bylaws, once a quorum has been established, the business of the meeting may continue and actions taken will be binding regardless of whether any subsequent recusal of members causes the number of individuals present at the meeting to fall below the number required for a quorum.</p>

**MEDICAL STAFF BYLAWS, POLICIES, AND  
RULES AND REGULATIONS OF  
USA HEALTH UNIVERSITY HOSPITAL AND  
USA HEALTH CHILDREN'S & WOMEN'S HOSPITAL**

**MEDICAL STAFF  
ORGANIZATION MANUAL**

*Final Discussion Draft*

*November 15, 2019*

*Approved by both MECs on November 26, 2019*

*Approved by the Active medical staff on January 21, 2020*

*Horty, Springer & Mattern, P.C.*

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## ARTICLE 1

### GENERAL

#### 1.A. DEFINITIONS

The definitions that apply to terms used in all the Medical Staff documents are set forth in the Medical Staff Credentials Policy document.

#### 1.B. DELEGATION OF FUNCTIONS

- (1) When a function under this Manual is to be carried out by a member of Hospital management, by a Medical Staff member, or by a Medical Staff committee, the individual, or the committee through its chair, may delegate performance of the function to a qualified designee who is a Medical Staff member or an Advance Practice Professional or USA Health Hospital employee (or a committee of such individuals). Any such designee must treat and maintain all credentialing, privileging, and peer review information in a strictly confidential manner and is bound by all other terms, conditions, and requirements of the Medical Staff Bylaws and related policies. In addition, the delegating individual or committee is responsible for ensuring that the designee appropriately performs the function in question. Any documentation created by the designee are records of the committee that is ultimately responsible for the review in a particular matter.
- (2) When a Medical Staff member is unavailable or unable to perform a necessary function, one or more of the Medical Staff Leaders may perform the function personally or delegate it to another appropriate individual.

## ARTICLE 2

### CLINICAL DEPARTMENTS AND SERVICE LINES

#### 2.A. CREATION AND DISSOLUTION OF CLINICAL DEPARTMENTS AND SERVICE LINES

- (1) Clinical departments and service lines shall be created and may be consolidated or dissolved by the MEC upon approval by the Board as set forth below.
- (2) The following factors shall be considered in determining whether a clinical department or service line should be created:
  - (a) there exists a number of members of the Medical Staff who are available for appointment to, and are reasonably expected to actively participate in, the proposed new department or service line (this number must be sufficiently large to enable the department or service line to accomplish its functions as set forth in this Manual and in the bylaws);
  - (b) the level of clinical activity that will be affected by the new department or service line is substantial enough to warrant imposing the responsibility to accomplish its functions on a routine basis;
  - (c) a majority of the voting members of the proposed department or service line vote in favor of the creation of a new department or service line;
  - (d) it has been determined by the Medical Staff leadership and the Hospital administration that there is a clinical and administrative need for a new department or service line; and
  - (e) the voting Medical Staff members of the proposed department or service line have offered a reasonable proposal for how the new department or service line will fulfill all of the designated responsibilities and functions.
- (3) The following factors shall be considered in determining whether the dissolution of a clinical department or service line is warranted:
  - (a) there is no longer an adequate number of members of the Medical Staff in the clinical department or service line to enable it to accomplish the functions set forth in this Manual or in the bylaws;
  - (b) there is an insubstantial number of patients or an insignificant amount of clinical activity to warrant the imposition of the designated duties on the members in the department or service line;



- (c) the department or service line fails to fulfill all designated responsibilities and functions;
- (d) no qualified individual is willing to serve as chair of the department or service line; or
- (e) a majority of the voting members of the department or service line vote for its dissolution.

## 2.B. LIST OF CLINICAL DEPARTMENTS AND SERVICE LINES

### 2.B.1. University Hospital Departments:

The following clinical departments are established:

Anesthesiology  
Emergency Medicine  
Family Medicine  
Internal Medicine  
Neurology  
Neurosurgery  
Obstetrics and Gynecology  
Orthopedic Surgery  
Pathology  
Pediatrics  
Psychiatry  
Radiology  
Surgery

### 2.B.2. Children's & Women's Hospital Service Lines:

The following service lines are established:

Family Medicine

Obstetrics and Gynecology

Pediatrics and Neonatology

Hospital Based Services (Anesthesia, Pathology, Radiology, Surgery)

2.C. FUNCTIONS AND RESPONSIBILITIES OF DEPARTMENTS AND SERVICE LINES

The functions and responsibilities of departments, service lines, department chairs, and service line chairs are set forth in the Medical Staff Bylaws.

## ARTICLE 3

### MEDICAL STAFF COMMITTEES

#### 3.A. MEDICAL STAFF COMMITTEES AND FUNCTIONS

- (1) This Article outlines the Medical Staff committees of the Hospital that carry out peer review and other performance improvement functions that are delegated to the Medical Staff by the Board.
- (2) Procedures for the appointment of committee chairs and members of the committees are set forth in Article 5 of the Medical Staff Bylaws.
- (3) This Article details the standing members of each Medical Staff committee. However, other Medical Staff members or Hospital personnel may be invited to attend a particular Medical Staff committee meeting in order to assist such committee in its discussions and deliberations regarding the issues on its agenda. All such individuals are an integral part of the credentialing, quality assurance, and professional practice evaluation process and are bound by the same confidentiality requirements as the standing members of such committees.

#### 3.B. EXPECTATIONS AND REQUIREMENTS FOR COMMITTEE MEMBERSHIP

To be eligible to serve on a Medical Staff committee, members must acknowledge and agree to the following:

- (1) have the willingness and ability to devote the necessary time and energy to committee service, recognizing that the success of a committee is highly dependent on the full participation of its members;
- (2) complete any orientation, training, and/or education related to the functions of the committee in advance of the first meeting;
- (3) come prepared to each meeting – review the agenda and any related information provided in advance so that the committee’s functions may be performed in an informed, efficient, and effective manner;
- (4) attend meetings on a regular basis to promote consistency and good group dynamics;
- (5) participate in discussions in a meaningful and measured manner that facilitates deliberate thought and decision-making, and avoid off-topic or sidebar conversations;
- (6) voice disagreement in a respectful manner that encourages consensus-building;

- (7) understand and strive for “consensus” decision-making, thereby avoiding the majority vote whenever possible;
- (8) speak with one voice as a committee and support the actions and decisions made (even if they were not the individual’s first choice);
- (9) be willing to complete assigned or delegated committee tasks in a timely manner between meetings of the committee;
- (10) bring any conflicts of interest to the attention of the committee chair, in advance of the committee meeting, when possible;
- (11) if the individual has any questions about his or her role or any concerns regarding the committee functioning, seek guidance directly from the committee chair outside of committee meetings;
- (12) participate in the development of an annual committee work plan and ensure that committee plans are in alignment with the strategic goals of the Hospital and Medical Staff; and
- (13) maintain the confidentiality of all matters reviewed and/or discussed by the committee.

### 3.C. MEETINGS, REPORTS AND RECOMMENDATIONS

Unless otherwise indicated, each committee described in this Manual shall meet as necessary to accomplish its functions, and shall maintain a permanent record of its findings, proceedings, and actions. Each committee shall make a timely written report after each meeting to the MEC and to other committees and individuals as may be indicated in this Manual.

### 3.D. BYLAWS COMMITTEE

#### 3.D.1. Composition:

The Bylaws Committee is a joint committee with authority for both Hospitals which shall consist of at least three members of the Active Staff, which shall include one member who practices primarily at University Hospital and one who practices primarily at Children’s & Women’s Hospital, the CMO, both Quality Management Department Heads, and other representatives as may be necessary. When possible, preference shall be given to individuals who have served in Medical Staff leadership positions in the past.

### 3.D.2. Duties:

The Bylaws Committee shall:

- (a) review the Medical Staff Bylaws, the Credentials Policy, the Policy on Advance Practice Professionals, the Organization Manual, and the Medical Staff Rules and Regulations annually and make recommendations for appropriate amendments and revisions;
- (b) submit recommendations to the MEC for changes in these documents as necessary to reflect current Medical Staff practices or changes in legal, statutory, or regulatory requirements; and
- (c) receive and consider all recommendations for changes to these documents made by any committee, department, or service line of the Medical Staff, any individual appointed to the Medical Staff, the CMO, and/or the Hospital Administrator, and provide a report to the MEC regarding them.

### 3.E. COMBINED CREDENTIALS COMMITTEE

#### 3.E.1. Composition:

- (a) The Credentials Committee is a joint committee with authority for both Hospitals which shall consist of at least five members of the Medical Staff with preference given to individuals who have served in Medical Staff leadership positions and/or who have a particular interest in the credentialing functions and at least one Advance Practice Professional. The Committee shall include representational membership from both University Hospital and Children's & Women's Hospital.
- (b) The responsibility to appoint the chair and members of the committee shall alternate between the University Hospital Chair of the MEC and the Children's & Women's Hospital Chair of the MEC.
- (c) To the fullest extent possible, Credentials Committee members shall serve staggered terms so that the committee always includes experienced members. Members may be reappointed for additional, consecutive terms. Service on this committee shall be considered the primary Medical Staff obligation of each member of the committee and other Medical Staff duties shall not interfere.
- (d) The CMO and Quality Management support staff representatives shall serve as *ex officio* members, without vote, to facilitate the Credentials Committee's activities.

### 3.E.2. Duties:

The Credentials Committee shall:

- (a) in accordance with the Credentials Policy, review the credentials of all applicants for Medical Staff appointment, reappointment, and clinical privileges, conduct a thorough review of the applications, interview such applicants as may be necessary, and make written reports of its findings and recommendations;
- (b) in accordance with the Advance Practice Professionals Policy, review the credentials of all applicants seeking to practice as Advance Practice Professionals, conduct a thorough review of the applications, interview such applicants as may be necessary, and make written reports of its findings and recommendations;
- (c) review, as may be requested, all information available regarding the current clinical competence and behavior of persons currently appointed to the Medical Staff or Advance Practice Professionals and, as a result of such review, make a written report of its findings and recommendations; and
- (d) review and make recommendations regarding appropriate threshold eligibility criteria for clinical privileges within the Hospital, including specifically as set forth in Section 4.A.1 pertaining to the development and ongoing review of privilege delineations, Section 4.A.3 (“Clinical Privileges for New Procedures”), and Section 4.A.4 (“Clinical Privileges That Cross Specialty Lines”) of the Credentials Policy.

### 3.F. EXECUTIVE COMMITTEE

#### 3.F.1. Composition:

The Executive Committee is a joint committee with authority for both Hospitals which shall consist of the Vice President of Medical Affairs/Dean of the College of Medicine, who shall serve as the Chair, the Hospital Administrators, the CMO, the CNO, the CFO, the Chair of the MEC from each Hospital, the Immediate Past Chair of the MEC from each Hospital, and the Academic/Service Line Department Chairs.

#### 3.F.2. Duties:

The Executive Committee shall:

- (a) provide leadership, planning, organization, and direction regarding the development and operation of the USA Health Hospitals; and
- (b) serve as an advisory body, providing advice to the Medical Staffs, President of the University of South Alabama, and Board of Trustees on Medical Staff issues related to the following:

- (1) recommendations regarding medical staff appointment and clinical privileges involving Medical Staff members;
- (2) recommendations regarding proposed amendments to the Medical Staff Bylaws and related policies;
- (3) evaluations of community needs and recommendations of the scope of services provided at the Hospitals;
- (4) reviews of quality assurance programs of the Medical Staffs and Hospitals;
- (5) communications with graduate medical education programs;
- (6) participation in performance improvement activities;
- (7) compliance with applicable laws and regulations;
- (8) establishment of Hospital policies;
- (9) resource allocation;
- (10) quality of care and quality assessment/improvement and risk management functions related to patient safety and care; and
- (11) conflict resolution.

### 3.G. LEADERSHIP COUNCIL

#### 3.G.1. Composition:

- (a) Each Hospital shall maintain its own Leadership Council.
- (b) The Leadership Council shall be comprised of the following voting members:
  - (1) Chair of the MEC, who shall serve as Chair;
  - (2) Chair-Elect/Secretary of the MEC;
  - (3) Chair, Combined Credentials Committee; and
  - (4) the Department Chair or Service Line Chair of the department/service line to which the practitioner under review is assigned.
- (c) The following individuals shall serve as non-voting members to facilitate the Leadership Council's activities:

- (1) CMO;
  - (2) Hospital Administrator; and
  - (3) Quality Management Support Staff representative(s).
- (d) Other Medical Staff members or Hospital personnel may be invited to attend a particular Leadership Council meeting (as guests, without vote) in order to assist the Leadership Council in its discussions and deliberations regarding an issue on its agenda. These individuals shall be present only for the relevant agenda item and shall be excused for all others. Such individuals are an integral part of the Leadership Council review process and are bound by the same confidentiality requirements as the standing members of the Leadership Council.

### 3.G.2. Duties:

The Leadership Council shall perform the following functions:

- (a) review and address concerns about practitioners' professional conduct in accordance with the Professionalism Policy;
- (b) review and address possible health issues that may affect a practitioner's ability to practice safely in accordance with the Practitioner Health Policy;
- (c) review and address issues regarding practitioners' clinical practice;
- (d) meet, as necessary, to consider and address any situation involving a practitioner that may require immediate action;
- (e) serve as a forum to discuss and help coordinate any quality or patient safety initiative that impacts any or all services within the Hospital;
- (f) cultivate a physician leadership identification, development, education, and succession process to promote effective and successful Medical Staff Leaders at present and in the future; and
- (g) perform any additional functions as may be requested by a peer review or departmental/service line committee, the MEC, or the Board.

### 3.H. MEDICAL EXECUTIVE COMMITTEE

The composition and duties of the two individual MECs are set forth in Article 5 of the Medical Staff Bylaws.

### 3.I. USA HEALTH CHILDREN'S & WOMEN'S HOSPITAL CHILDREN'S



## QUALITY SERVICES COMMITTEE

### 3.I.1. Composition:

The USA Health Children's & Women's Hospital Children's Quality Services Committee shall consist of members who represent the clinical services provided to pediatric patients. Members consist of the selected chair, vice-chair and immediate past chair; the Academic chair of Pediatrics and representatives from the following areas: Pediatrics; Family Medicine; Hematology/Oncology; Pediatric Critical Care; Pediatric Hospitalists; Pediatric Residency Program; Infectious Disease; Neonatology; Radiology; Pediatric Emergency Department; Pediatric residents and Anesthesia, Radiology, and Pathology support representatives. *Ex officio* members consist of hospital, nursing, quality management, infection prevention and ancillary services from the members' pediatric areas of responsibility.

### 3.I.2. Duties:

The USA Health Children's & Women's Hospital Children's Quality Services Committee shall:

- (a) consider and make recommendations to the MEC regarding the needs of pediatric services;
- (b) approve evidence-based protocols, orders, and operational policies;
- (c) oversee performance improvement projects relevant to the population served and develop strategies to address ongoing improvement;
- (d) receive reports of medication safety initiatives and related data, and quality assurance event reporting pertaining to the population served;
- (e) oversee customer service data for the population served; and
- (f) discuss, assess, and make recommendations regarding intradepartmental and interprofessional collaboration to enhance coordination of care.

## 3.J. USA HEALTH CHILDREN'S & WOMEN'S HOSPITAL WOMEN'S QUALITY SERVICES COMMITTEE

### 3.J.1. Composition:

The USA Health Children's & Women's Hospital Women's Quality Services Committee shall consist of members who represent the clinical services provided to women's health patients. Members consist of the selected chair, vice-chair and immediate past chair; the Academic chair of Obstetrics and Gynecology and representatives from the following areas: Maternal Fetal Medicine, Obstetrics and Gynecology surgeons, Community

Physicians, Family Medicine; Obstetrics/Gynecology Residency Program; Neonatology; Radiology; residents and Anesthesia, Radiology, and Pathology support representatives. *Ex officio* members consist of hospital, nursing, quality management, infection prevention, informatics and ancillary services from the members' women's health areas of responsibility, including labor and delivery, mother-baby, high-risk obstetrics and OB/Gyn Evaluation Center.

### 3.J.2. Duties:

The USA Health Children's & Women's Hospital Women's Quality Services Committee shall:

- (a) consider and make recommendations to the MEC regarding the needs of women's health services;
- (b) approve evidence-based protocols, orders, and operational policies;
- (c) oversee performance improvement projects relevant to the population served and develop strategies to address ongoing improvement;
- (d) receive reports of medication safety initiatives and related data, and quality assurance event reporting pertaining to the population served;
- (e) oversee customer service data for the population served; and
- (f) discuss, assess, and make recommendations regarding intradepartmental and interprofessional collaboration to enhance coordination of care.

### 3.K. USA HEALTH CHILDREN'S & WOMEN'S HOSPITAL PEER & QUALITY REVIEW COMMITTEE

#### 3.K.1. Composition:

The USA Health Children's & Women's Hospital Peer & Quality Review Committee shall consist of the chair of the Surgery Steering Committee; the Academic Chairs of Pediatrics, OB/Gyn, Family Medicine, and Emergency Medicine; medical directors of PICU and NICU; Family Medicine, OB/Gyn, and Pediatric program directors; other representatives of the Medical Staff, including hospitalists, proceduralists and specialists; Quality Management case reviewers and USA attorney representatives as *ex officio* members.

#### 3.K.2. Duties:

The USA Health Children's & Women's Hospital Peer & Quality Review Committee shall:

- (a) review patient safety indicators and evaluate appropriateness of clinical care which includes complication prevention and mitigation actions when applicable, oversight and coordination of care, documentation, and coding;
- (b) oversee the implementation of the peer review process;
- (c) review cases referred for review per screening indicators and benchmark data;
- (d) evaluate appropriateness of care and make recommendations for case ratings based upon the outcome of the Committee's analysis and deliberation (the case rating may be assigned to an individual, service line/departments/units or to the system. The proposed case rating recommendations are referred to the MEC for consideration);
- (e) formulate Quality Improvement recommendations when care provides an opportunity for improvement or is related to a variance in practice, technique, adherence to evidence-based care or recommended practice, or other identified area; and
- (f) perform any additional functions as may be set forth in applicable peer review policies or as requested by the Leadership Council, the MEC, or the Board.

### 3.L. USA HEALTH UNIVERSITY HOSPITAL DEPARTMENT COMMITTEES

#### 3.L.1. Composition:

- (a) The USA Health University Hospital Department Committees shall consist of a sufficient number of Medical Staff members who are:
  - (1) interested or experienced in credentialing, privileging, professional practice evaluation/peer review, or other Medical Staff affairs; and
  - (2) supportive of evidence-based medicine protocols.

Preference shall be given to individuals who have served in Medical Staff leadership positions in the past (i.e., Medical Staff officers, department chairs, service line chairs, committee chairs).

- (b) Quality Management Support Staff representatives shall serve as non-voting members to facilitate the Department Committee's activities.
- (c) Other Medical Staff members or Hospital personnel may be invited to attend a particular USA Health University Hospital Department Committee meeting (as guests, without vote) in order to assist the USA Health University Hospital Department Committee in its discussions and deliberations regarding an issue on its agenda. These individuals shall be present only for the relevant agenda item and shall be excused for all others. Such individuals are an integral part of the

professional practice evaluation process and are bound by the same confidentiality requirements as the standing members of the USA Health University Hospital Department Committees.

3.L.2. Duties:

The USA Health University Hospital Department Committees shall perform the following functions:

- (a) review patient safety indicators and evaluate appropriateness of clinical care which includes complication prevention and mitigation actions when applicable, oversight and coordination of care, documentation, and coding;
- (b) oversee the implementation of the peer review process;
- (c) review cases referred for review per screening indicators and benchmark data;
- (d) evaluate appropriateness of care and make recommendations for case ratings based upon the outcome of the Committee's analysis and deliberation (the case rating may be assigned to an individual, service line/departments/units or to the system. The proposed case rating recommendations are referred to the MEC for consideration);
- (e) formulate Quality Improvement recommendations when care provides an opportunity for improvement or is related to a variance in practice, technique, adherence to evidence-based care or recommended practice, or other identified area; and
- (f) perform any additional functions as may be set forth in applicable peer review policies or as requested by the Leadership Council, the MEC, or the Board.

## ARTICLE 4

### AMENDMENTS

- (A) Proposed amendments to this Manual shall be presented to the MECs of both University Hospital and Children's & Women's Hospital.
- (B) This Manual may then be amended by a majority vote of the members of each MEC present and voting at any meeting of that Committee where a quorum exists. Notice of all proposed amendments shall be provided to each voting staff member of the Medical Staff at least 14 days prior to the MEC meeting, and any voting staff member may submit written comments to the MEC.
- (C) If there is any disagreement between the MECs for the two Hospitals with respect to an amendment(s), a joint meeting shall be scheduled to discuss and resolve the disagreement.
- (D) No amendment shall be effective unless and until it has been approved by the Board.

ARTICLE 5

ADOPTION

This Manual is adopted and made effective upon approval of the Board, superseding and replacing any and all other Bylaws, Rules and Regulations of the Medical Staff or Hospital policies pertaining to the subject matter thereof.

**University Hospital**

Adopted by the Medical Staff: \_\_\_\_\_

Approved by the Board: \_\_\_\_\_

**Children's & Women's Hospital**

Adopted by the Medical Staff: \_\_\_\_\_

Approved by the Board: \_\_\_\_\_

# **USA HEALTH HOSPITALS**

## **FPPE POLICY TO CONFIRM PRACTITIONER COMPETENCE AND PROFESSIONALISM**

**(NEW MEMBERS/NEW PRIVILEGES)**

*Second Discussion Draft*

*October 28, 2019*

*Approved by both MECs on November 26, 2019*

*Approved by the Active medical staff on January 21, 2020*

*Horty, Springer & Mattern, P.C.*

**FPPE POLICY TO CONFIRM PRACTITIONER  
COMPETENCE AND PROFESSIONALISM**

**(NEW MEMBERS/NEW PRIVILEGES)**

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**FPPE POLICY TO CONFIRM  
PRACTITIONER COMPETENCE AND PROFESSIONALISM**

**(NEW MEMBERS/NEW PRIVILEGES)**

1. ***Scope of Policy.*** All Practitioners who are granted new clinical privileges at \_\_\_\_\_ Hospital (the “Hospital”) are subject to focused professional practice evaluation (“FPPE”) to confirm their:

- (a) clinical competence to exercise the clinical privileges that have been granted to them; and
- (b) professionalism, which includes (i) the ability to work with others in a professional manner that promotes quality and safety; and (ii) the ability to satisfy all other responsibilities of Practitioners who are granted clinical privileges at the Hospital (i.e., “citizenship” responsibilities).

Practitioners are required to cooperate with the FPPE process as outlined in this Policy.

2. ***Delegation of Functions.***

- (a) When a function under this Policy is to be carried out by a member of Hospital management, by a Medical Staff member, or by a Medical Staff committee, the individual, or the committee through its chair, may delegate performance of the function to a qualified designee who is a practitioner Medical Staff member or an Advance Practice Professional or Hospital employee (or a committee of such individuals). Any such designee must treat and maintain all credentialing, privileging, and peer review information in a strictly confidential manner and is bound by all other terms, conditions, and requirements of the Medical Staff Bylaws and related policies. In addition, the delegating individual or committee is responsible for ensuring that the designee appropriately performs the function in question. Any documentation created by the designee are records of the committee that is ultimately responsible for the review in a particular matter.
- (b) When a Medical Staff member is unavailable or unable to perform a necessary function, one or more of the Medical Staff Leaders may perform the function personally or delegate it to another appropriate individual.

3. ***Definitions.***

- (a) “***FPPE***” means a time-limited period during which a Practitioner’s professional performance is evaluated. All initially-granted clinical privileges, whether at the time of initial appointment, reappointment, or during the term of appointment, shall be subject to FPPE.

- (b) **“Practitioner”** means any individual who has been granted clinical privileges and/or membership by the Board, including, but not limited to, members of the Medical Staff and Advance Practice Professionals.
- (c) **“Quality Specialists”** means the clinical and non-clinical staff who support the professional practice evaluation (“PPE”) process generally and the FPPE process described in this Policy. This may include, but is not limited to, staff from the quality department, Medical Staff office, human resources, and/or patient safety department.

4. ***FPPE Clinical Activity Requirements.***

4.A ***Development of Clinical Activity Requirements.*** Each Department/Service Line will recommend the following FPPE clinical activity requirements:

(1) ***For New Practitioners:***

- (a) the number and types of procedures or cases that will be reviewed to confirm a new Practitioner’s competence to exercise the core and special privileges in his or her specialty;
- (b) how those reviews are to be documented; and
- (c) the expected time frame in which the evaluation will be completed (generally 12 months); and

(2) ***For Practitioners with Existing Clinical Privileges Who Are Requesting New Privileges:***

- (a) the number and types of procedures or cases that must be reviewed to confirm a Practitioner’s competence to exercise a new privilege that is granted during a term of appointment or at reappointment;
- (b) how those reviews are to be documented; and
- (c) the expected time frame in which the review will be completed (generally six months).

In developing such recommendations, Departments/Service Lines should attempt to identify “index” procedures or cases that will demonstrate a Practitioner’s competence to perform a bundle of privileges (i.e., the skills required to perform the index procedure or case are the same skills required to perform privileges in the bundle). Departments/Service Lines may consult with Quality Specialists, chairs of the Peer Review or Departmental/Service Line Committees, and the CMO. The FPPE clinical activity requirements shall be reviewed by the Combined Credentials

Committee and approved by the Medical Executive Committee. They shall be reviewed periodically by the Departments to ensure their continued effectiveness.

4.B ***Gathering FPPE Data.***

(1) ***Mechanism for FPPE Review.***

(a) ***Data to Be Reviewed.*** The FPPE clinical activity requirements will utilize at least one of the following review mechanisms to confirm competence:

- (i) retrospective chart review by internal or external reviewers;
- (ii) concurrent proctoring or direct observation of procedures or patient care practices; and/or
- (iii) discussion with other individuals also involved in the care of the Practitioner's patients.

Review of available Ongoing Professional Practice Evaluation ("OPPE") data and other quality data may also be used to confirm competence.

(b) ***Selection of Cases.*** The Quality Specialists and/or the CMO will select the specific cases to be evaluated and the individuals who will be asked to provide information about the Practitioner, with the goal being an effective and fair review process. To that end, cases should be selected randomly or in a deliberate manner that ensures a representative sample is reviewed. Practitioners shall notify the Quality Specialists, CMO and/or FPPE Reviewers when cases subject to review are scheduled or have been completed.

(c) ***Cooperation of Practitioner.*** Practitioners are required to cooperate with the data gathering outlined in this Policy. For example, if cases are to be proctored the Practitioner must promptly notify the proctor when cases are scheduled.

(2) ***FPPE Reviewers.*** Practitioners who have completed the FPPE process described in this Policy and who hold applicable clinical privileges are obliged to provide a reasonable amount of service as a FPPE reviewer through chart review, proctoring, direct observations, and/or discussions with others involved in the patient's care. Reviewers will be assigned by the Department or Service Line Chair. If no qualified Practitioners are available, the Department or Service Line Chair shall consult with the Leadership Council regarding the need for an external review. FPPE

reviewers act on behalf of, and their work product is a record of, the Combined Credentials Committee and Medical Executive Committee.

- (3) ***Partners as FPPE Reviewers.*** Consistent with the conflict of interest guidelines set forth in the Credentials Policy, partners and other individuals who are affiliated in practice with a Practitioner may participate in the FPPE process for new members/new privileges described in this Policy through chart review, proctoring, direct observations, and/or discussions with others involved in the patient's care. Such individuals shall comply with the standard procedures that apply to all other individuals who participate in the FPPE process, such as the use of Hospital forms and the requirements related to confidentiality.

5. ***FPPE for Professionalism.*** In addition to assessing clinical competence, the FPPE process for new Practitioners will also assess the Practitioner's professionalism based on the following criteria:

- (a) cooperation with the FPPE clinical activity requirements for the Practitioner's specialty and the monitoring process described in this Policy;
- (b) compliance with the Medical Staff Professionalism Policy, including appropriate interactions with nursing, other Hospital personnel, the Practitioner's colleagues, and patients and their families;
- (c) compliance with medical record documentation requirements, including those related to use of CPOE and the EHR;
- (d) timeliness and quality of response to consultation and ED call requests;
- (e) completion of any orientation program requirements (e.g., patient safety modules; EHR training);
- (f) patient satisfaction scores; and
- (g) compliance with protocols that have been adopted by the Medical Staff or the Practitioner's department.

The Leadership Council may recommend that these criteria for professionalism be modified or expanded, with such modifications or expansions being reviewed and approved by the Combined Credentials Committee and Medical Executive Committee.

6. ***Notice of FPPE Requirements.*** When notified that a request for privileges has been granted, Practitioners shall be informed of the relevant FPPE clinical activity requirements and of their responsibility to cooperate in satisfying those requirements. New applicants will also be informed that the FPPE process will be used to assess their professionalism, as described above. The Combined Credentials Committee and Medical Executive

Committee may modify the FPPE requirements for a particular applicant if the applicant's credentials indicate that additional or different FPPE may be required.

7. ***Review of FPPE Results.***

7.A ***Review by Quality Specialists.***

- (1) Information gathered for purposes of FPPE shall be reported to the Quality Specialists, who shall compile the information and prepare it for subsequent review as set forth in this Policy.
- (2) If any information gathered for FPPE suggests that a concern may exist that requires expedited review, the FPPE reviewer and/or the Quality Specialists shall notify the Chairpersons of the Combined Credentials Committee and the Leadership Council, who shall determine whether a concern exists such that the matter should be referred for processing under the relevant peer review policy, the Professionalism Policy, or the Credentials Policy.
- (3) The Quality Specialists shall determine whether any of a Practitioner's cases or activities have been reviewed pursuant to the relevant peer review policies or the Medical Staff Professionalism Policy. If so, a summary of these matters shall be included with the Practitioner's FPPE results.

7.B ***Review by the Department Chair or Service Line Chair.***

- (1) At the conclusion of the expected time frame for completion of the FPPE, the relevant Department or Service Line Chair shall review the results of a Practitioner's FPPE and provide a report to the Combined Credentials Committee. The report shall address whether:
  - (a) the Practitioner fulfilled all the clinical activity requirements;
  - (b) the results of the FPPE confirmed the Practitioner's clinical competence;
  - (c) the results of the FPPE confirmed the Practitioner's professionalism; and/or
  - (d) additional FPPE is required to make an appropriate determination regarding clinical competence and/or professionalism.
- (2) In addition, the Department or Service Line Chair may engage in a collegial discussion with a Practitioner where the FPPE indicates that competence and professionalism are confirmed, but where there is nonetheless an opportunity for the Practitioner to improve upon an aspect of his/her clinical care or citizenship responsibilities.

7.C **Review by Combined Credentials Committee.** Based on the Department or Service Line Chair's assessment and report, and its own review of the FPPE results and all other relevant information, the Combined Credentials Committee will make one of the following recommendations to the Medical Executive Committee:

- (1) **Competence and Professionalism Are Confirmed.** The FPPE process has confirmed clinical competence and professionalism, and no changes to clinical privileges or the Practitioner's conditions of practice are necessary;
- (2) **Extend FPPE Due to Questions.** Some questions exist and additional FPPE is needed to confirm clinical competence and/or professionalism, what additional FPPE is needed, and the time frame for it;
- (3) **Extend FPPE Due to Inactivity.** The time period for FPPE should be extended for up to six months because the individual did not fulfill the FPPE clinical activity requirements, thus preventing an adequate assessment of the individual's clinical competence or professionalism. Although exceptions may be made for certain low volume Practitioners based on a need for services in their specialties or coverage requirements (see subsection (7) below), generally the time frame for initial FPPE shall not extend beyond 12 total months after the initial granting of privileges;
- (4) **Performance Improvement Plan or Other Intervention is Necessary.** Some concerns exist about the Practitioner's competence to exercise some or all of the clinical privileges granted or the Practitioner's professionalism, and the details of the Performance Improvement Plan (or other intervention) that should be pursued with the Practitioner in order to adequately address the concerns. Prior to making such a recommendation to the Medical Executive Committee, the Combined Credentials Committee will obtain the input of the Practitioner as set forth in Section 6.E of this Policy. In developing a proposed Performance Improvement Plan or other intervention, the Combined Credentials Committee may also request input or assistance from the relevant peer review committee (for clinical issues) or the Leadership Council (for behavioral issues);
- (5) **Change to Privileges or Membership is Necessary.** More significant concerns exist about a Practitioner and the changes that should be made to the Practitioner's clinical privileges or membership (e.g., mandatory concurring consultation requirement imposed; suspension; revocation), subject to the procedural rights outlined in the Medical Staff Credentials Policy. Prior to making such a recommendation to the Medical Executive Committee, the Combined Credentials Committee will obtain the input of the Practitioner as set forth in Section 6.E of this Policy; or

- (6) ***Transfer to Membership-Only Staff Category or the Automatic Relinquishment of Certain Privileges Due to Inactivity.*** The individual shall either: (i) be transferred to the Community Staff, the membership-only staff category, for failure to meet FPPE clinical activity requirements for all privileges, or (ii) automatically relinquish specific clinical privileges for which the individual failed to meet the applicable requirements. Such transfer or automatic relinquishment shall not entitle the Practitioner to the hearing and appeal rights outlined in the Medical Staff Credentials Policy.
- (7) ***Grant Exception to Allow Continued FPPE.*** Based on community need, coverage requirements, the rare nature of a given procedure or treatment, and other relevant factors, the Combined Credentials Committee may recommend that a Practitioner be granted an exception that permits the Practitioner to remain subject to FPPE to confirm competence for the duration of the Practitioner's appointment term. If an exception is being considered, data from affiliated entities may be obtained as set forth in the Medical Staff Credentials Policy and used for purposes of FPPE as set forth in this Policy. The need for the exception will be reevaluated as part of the Practitioner's application for reappointment.

7.D ***Review by Medical Executive Committee.*** At its next regular meeting after receipt of the written findings and recommendation of the Combined Credentials Committee, the Medical Executive Committee shall:

- (1) adopt the findings and recommendation of the Combined Credentials Committee as its own;
- (2) refer the matter back to the Combined Credentials Committee for further consideration and responses to specific questions raised by the Medical Executive Committee prior to its final recommendation; or
- (3) state its reasons in its report and recommendation, along with supporting information, for its disagreement with the Combined Credentials Committee's recommendation.

As needed, the Medical Executive Committee may obtain additional input from the Practitioner as set forth in Section 6.E of this Policy before making a decision. If the recommendation of the Medical Executive Committee would entitle the Practitioner to request a hearing pursuant to the Medical Staff Credentials Policy, the Medical Executive Committee shall forward its recommendation to the Hospital Administrator, who shall proceed as set forth in the Credentials Policy.

7.E ***Input by Practitioner.***

- (1) **General.** The Practitioner shall provide input in writing, responding to any specific questions posed in the request. Upon the request of either the Practitioner or the committee conducting the review, the Practitioner may also provide input by meeting with appropriate individuals to discuss the issues. The committee requesting input may ask the Practitioner to provide a copy of, or access to, medical records from the Practitioner's office that are relevant to a review being conducted under this Policy. Failure to provide such copies or access will be viewed as a failure to provide requested input. Any records obtained from the Practitioner's office pursuant to this section will be maintained as part of the confidential PPE/peer review file, but will not be included in the Hospital's medical record.
  
- (2) **Failure to Provide Written Input.** If the Practitioner fails to provide written input within the time frame specified in the request, the Practitioner will be required to meet with the Leadership Council. The purpose of the meeting is to discuss the Practitioner's obligation to participate in the review process, permit the Practitioner to explain why the written input was not provided, and inform the Practitioner of the consequences of continuing to not provide the information. Failure of the Practitioner to either:
  - (i) meet with the Leadership Council and persuade it that the written input was not necessary; or
  - (ii) provide the requested written input prior to the date of that meetingwill result in the automatic relinquishment of the Practitioner's clinical privileges. Such automatic relinquishment will continue until the Practitioner either meets with the Leadership Council and persuades it that the written information is not necessary or provides the requested written information.
  
- (3) **Failure to Meet with Committee.** If the committee conducting the review requests that the Practitioner attend a meeting with it or a designated individual to provide verbal input and the Practitioner fails or refuses to attend such a meeting, the Practitioner's clinical privileges will be automatically relinquished until the meeting occurs.
  
- (4) **Automatic Resignation.** If the Practitioner fails to provide written input or meet with a committee conducting the review within thirty (30) days of an automatic relinquishment, the Practitioner's Medical Staff membership and clinical privileges will be automatically resigned.
  
- (5) **Extensions for Good Cause.** Automatic relinquishment or resignation as described in this Appendix will not occur if the Practitioner's failure to provide written input or meet with a committee is due to the Practitioner's



absence (e.g., a planned vacation, attendance at a conference, etc.), illness, family emergency or other cause beyond the Practitioner's control. In such case, the committee will establish reasonable deadlines depending on the circumstances.

7.F ***Decision Not an Adverse Action.*** A decision that a Practitioner will be transferred to a membership-only staff category or will automatically relinquish his or her clinical privileges for failure to satisfy clinical activity requirements is not an adverse action that must be reported to the National Practitioner Data Bank or any state licensing board.

7.G ***Future Application for Privileges.*** A Practitioner who is transferred to a membership-only staff category or who automatically relinquishes certain privileges will be ineligible to apply for the clinical privileges in question for two years from the date of the transfer or automatic relinquishment, unless an exception is approved by the Medical Executive Committee for good cause.

Adopted by the Medical Executive Committee on \_\_\_\_\_, 2019.

Adopted by the Board on \_\_\_\_\_, 2019.

# **USA HEALTH HOSPITALS**

## **PRACTITIONER HEALTH POLICY**

*Second Discussion Draft*

*October 28, 2019*

*Approved by both MECs on November 26, 2019*

*Approved by the Active medical staff on January 21, 2020*

*Horty, Springer & Mattern, P.C.*

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# PRACTITIONER HEALTH POLICY

## 1. POLICY STATEMENT

1.A **General Policy.** \_\_\_\_\_ and its Medical Staff (the “Hospital”) are committed to providing safe, quality care, which can be compromised if a Practitioner is suffering from a Health Issue as defined in this Policy that is not appropriately addressed. The Hospital is also committed to assisting Practitioners in addressing Health Issues so they may practice safely and competently.

1.B **Scope of Policy.**

- (1) This Policy applies to all Practitioners as defined in Section 1.D who provide patient care services at the Hospital.
- (2) All efforts undertaken pursuant to this Policy are part of the Hospital’s performance improvement and professional practice evaluation/peer review activities and are confidential and privileged in accordance with applicable state and federal law.

1.C **Definition of “Health Issue.”**

- (1) **Definition.** A “Health Issue” means any physical, mental, or emotional condition that could adversely affect a Practitioner’s ability to practice safely and competently.
- (2) **Examples.** Examples of Health Issues may include, but are not limited to, the following:
  - (a) substance or alcohol abuse;
  - (b) use of any medication, whether prescription or over-the-counter, that can affect alertness, judgment, or cognitive function (such as, but not limited to, the use of pain or anti-anxiety medication following surgery);
  - (c) any temporary or ongoing mental health concern, including, but not limited to, bipolar disorders or disorders caused by a major family event (e.g., death of spouse or child, divorce) or a major job-related event (e.g., death or significant injury to patient);
  - (d) carotid, vertebral, or other brain artery surgery or intervention;
  - (e) chemotherapy with a drug known to effect neurotoxicity (brain) or to have cardiac or neurotoxicity (peripheral nerves);

- (f) radiation therapy to head;
- (g) medical condition (e.g., stroke or Parkinson’s disease), injury, or surgery resulting in temporary or permanent loss of fine motor control or sensory loss;
- (h) shoulder surgery, brachial plexus surgery, hand or carpal tunnel surgery for a surgeon;
- (i) a back injury impacting ability to stand in the OR or other procedure lab;
- (j) major surgery;
- (k) infectious/contagious disease that could compromise patient safety or jeopardize other health care workers; and
- (l) any form of diagnosed dementia (e.g., Alzheimer’s disease, Lewy body dementia), or other cognitive impairment.

1.D ***Other Definitions.***

- (1) “Employed Practitioner” means a Practitioner who is employed by an Employer.
- (2) “Employer” means:
  - (a) USA Health;
  - (b) a USA Health-related entity that has a formal peer review/professional practice evaluation process and an established peer review committee, as evidenced by internal bylaws or policy; or
  - (c) a private entity that has: (i) a formal peer review/professional practice evaluation process and an established peer review committee, as evidenced by internal bylaws or policy, and (ii) information sharing provisions in a professional services contract or in a separate agreement with USA Health.
- (3) “Medical Staff Leader” means any Medical Staff Officer, Department Chair, Service Line Chair, or committee chairperson.

- (4) “Practitioner” means any individual who has been granted clinical privileges and/or membership by the Board, including, but not limited to, members of the Medical Staff and Advance Practice Professionals.
- (5) “Quality Specialists” means the clinical and non-clinical staff who support the professional practice evaluation (“PPE”) process generally and the review of issues related to health described in this Policy. This may include, but is not limited to, staff from the quality department, Medical Staff office, human resources, and/or patient safety department.

1.E ***Role of Leadership Council.***

- (1) Practitioner Health Issues shall be addressed by the Leadership Council as outlined in this Policy. The Leadership Council may request other Practitioners to assist it, on an ad hoc basis, if additional expertise or experience would be helpful in addressing the health concerns that are identified in a particular case.
- (2) The Leadership Council shall recommend to the Medical Executive Committee educational materials that address Practitioner Health Issues and emphasize prevention, identification, diagnosis, and treatment of Health Issues. This Policy and any educational materials approved by the Medical Executive Committee shall be made available to Practitioners and Hospital personnel. In addition, the Medical Executive Committee shall periodically include information regarding illness and impairment recognition issues in CME activities.

1.F ***Health Issues Identified During Credentialing Process.*** A Health Issue that is identified during the credentialing process shall be addressed pursuant to the Medical Staff Credentials Policy. If a determination is made that the Practitioner is qualified for appointment and privileges, but has a Health Issue that should be monitored or treated, the matter shall be referred to the Leadership Council for ongoing monitoring or oversight of treatment pursuant to this Policy.

1.G ***Patient Care and Safety.*** Nothing in this Policy precludes immediate referral to the Medical Executive Committee or the elimination of any particular step in the Policy if necessary to address a situation that may compromise patient care and safety.

1.H ***Delegation of Functions.*** When a function under this Policy is to be carried out by a member of Hospital management, by a Medical Staff Leader, or by a Medical Staff committee, the individual, or the committee through its chair, may delegate performance of the function to a qualified designee who is a Practitioner or Hospital employee (or a committee of such individuals). Any such designee must treat and maintain all information in a strictly confidential manner and is bound by all other terms, conditions, and requirements of this Policy. The delegating individual or



committee is responsible for ensuring the designee performs the function as required by this Policy.

1.I ***No Legal Counsel or Recordings During Collegial Meetings.***

- (1) To promote the collegial and educational objectives of this Policy, all discussions and meetings with a Practitioner shall generally involve only the Practitioner and the appropriate Medical Staff Leaders and Hospital personnel. No counsel representing the Practitioner or the Medical Staff or the Hospital shall attend any of these meetings. In their discretion, Medical Staff Leaders may permit a Practitioner to invite another Practitioner to the meeting. In such case, the invited Practitioner may not participate in the discussion or in any way serve as an advocate for the Practitioner under review, must sign a Confidentiality Agreement, and may be required to leave the meeting at any time.
- (2) No recording (audio or video) of a meeting shall be permitted or made. Smart phones, iPads, and similar devices must be left outside the meeting room.

1.J ***Supervising Physicians and Advance Practice Professionals.*** A physician who is the primary supervising or collaborating physician pursuant to a written agreement with an Advance Practice Professional shall be notified when a Health Issue involving the Advance Practice Professional is referred for review under this Policy. However, details regarding the nature of the Health Issue shall not be disclosed to the supervising/collaborating physician unless the Advance Practice Professional signs an authorization permitting such disclosure.

2. **REPORTS OF POTENTIAL HEALTH ISSUES**

2.A ***Duty to Self-Report.***

- (1) ***General Duty.*** Practitioners who have a Health Issue (as defined in this Policy) are required to report it to the President of the Medical Staff, CMO, or another Medical Staff Leader.
- (2) ***Exception.*** The duty to self-report does not apply to:
  - (a) a Health Issue that will be fully resolved before the Practitioner next exercises his or her clinical privileges; or
  - (b) a Health Issue that was evaluated as part of a Practitioner's application for appointment or reappointment to the Medical Staff.

2.B ***Reports of Suspected Health Issues by Others.***

- (1) ***General.*** Any Practitioner or Hospital employee who is concerned that a Practitioner may be practicing while having a Health Issue, or who is told by a patient, family member, or other individual of a concern, shall report the concern to the President of the Medical Staff, CMO, or another Medical Staff Leader. Individuals filing a report do not need to have “proof” of a potential Health Issue, but should describe the facts that form the basis for their concern.
- (2) ***Anonymous Reports.*** Practitioners and employees may report concerns anonymously. However, all individuals are encouraged to identify themselves when making a report so that Quality Specialists may contact the reporter for additional information, if necessary.
- (3) ***Warning Signs.*** Warning signs of a potential Health Issue include, but are not limited to:
  - problems with judgment or speech;
  - emotional outbursts;
  - alcohol odor;
  - behavior changes and mood swings;
  - diminishment of motor skills;
  - unexplained drowsiness or inattentiveness;
  - progressive lack of attention to personal hygiene;
  - unexplained or frequent illness and/or unscheduled absences;
  - patients with pain out of proportion to charted narcotic dose;
  - arrests for driving under the influence; and
  - increased quality problems.
- (4) ***Treatment Relationships.*** A Practitioner who becomes aware of a Health Issue affecting another Practitioner as a result of his or her treatment relationship with that Practitioner is not expected to report the Health Issue internally pursuant to this Policy. However, the treating Practitioner should encourage the Practitioner to self-report the issue to the extent required by Section 2.A of this Policy.

In addition, the treating Practitioner should consider whether a mandatory report is required under Alabama law to the applicable licensing board or any other state agency. If the treating Practitioner believes a mandatory report is necessary pursuant to Alabama law, he or she should notify the Practitioner and encourage the Practitioner to self-report prior to making the mandatory report. The treating Practitioner may consult with the CMO for assistance and resources in such matters, but should not disclose to the CMO information that identifies the Practitioner.

2.C ***Logging of Reports and Creation of Confidential Health File.*** The Quality Specialists will log any report of a Health Issue and create a Confidential Health File that is maintained separately from the credentials or quality files (see Section 9 of this Policy for more information on Confidential Health Files).

2.D ***Notification to Leadership Council and Employed Practitioner Triage.***

- (1) The Leadership Council shall be notified of any report of a suspected Health Issue.
- (2) If the report involves an Employed Practitioner, the Leadership Council will consult with appropriate representatives of the Employer and then determine which of the processes described in this section will be used for the review. A form that may be used to document this decision is attached as **Appendix A**.
- (3) The potential Health Issue may be reviewed under either the Medical Staff process or the Employer's process, as follows:
  - (a) If the matter will be reviewed using the Medical Staff process as set forth in this Policy, an appropriate representative of the Employer will be invited to attend relevant portions of committee meetings involving the Practitioner, as well as participate in any interventions that may be necessary following the review. The chair of the applicable committee may recuse the representative of the Employer during any deliberations or vote on a matter. Documentation from the Medical Staff process will not be disclosed to the Employer for inclusion in the employment file, but the Employer will be permitted access to such documentation as needed to fulfill its operational and legal responsibilities; or
  - (b) If the matter will be reviewed by the Employer pursuant to its policies and/or the relevant contract:
    - (i) the Medical Staff process shall be held in abeyance and the Leadership Council notified;

- (ii) the Quality Specialists will assist the Employer with witness interviews, document review, data compilation, and similar fact-finding. Documentation of such fact-finding will be maintained in the Practitioner’s Confidential Health File consistent with the state peer review law, but the Employer will be permitted access to such documentation as needed to fulfill its operational and legal responsibilities. However, any health assessment obtained by the Employer will be maintained in a confidential manner in the Employer’s personnel files as required by the Americans with Disabilities Act;
  - (iii) the Leadership Council will be kept informed of the progress and outcome of the review by the Employer; and
  - (iv) the Leadership Council may choose, at any time and in its sole discretion, that the matter shall also be reviewed pursuant to this Policy. However, neither such a review by the Leadership Council nor any other provision of this Policy shall be interpreted to affect the right of the Employer to take any action authorized by the relevant contract with the Practitioner.
- (4) For purposes of this Section, an “appropriate representative of the Employer” includes Hospital representatives with employment responsibilities (if the Hospital is the Employer), the Department Chair, or a peer review committee within the Employer (if the Employer is a Hospital-related entity or a qualifying private entity).

2.E ***Gathering Information.*** The person receiving a report or the Quality Specialists may request the reporting individual to provide a written description of the events that led to the concern or may prepare a written description based on receipt of a verbal report. As necessary, the person receiving the report or the Quality Specialists may also interview the reporting individual and gather any other relevant facts, including speaking with any other individuals who may have relevant information.

2.F ***Follow-up with Individual Who Filed Report.*** The Quality Specialists or CMO shall follow up with individuals who file a report by:

- (1) thanking them for reporting the matter and participating in the Hospital’s culture of safety and quality care;
- (2) informing them that:

- (a) the matter will be reviewed in accordance with this Policy and that they may be contacted for additional information;
- (b) no retaliation is permitted against any individual who raises a concern and they should immediately report any retaliation or any other occurrences of inappropriate conduct;
- (c) due to confidentiality provisions under state law, it is important that they maintain confidentiality and only discuss the matter with individuals who are a formal part of the review process; and
- (d) due to those same confidentiality provisions, the Hospital is not permitted to disclose the outcome of the review to them, but they can be assured a thorough review will be conducted.

A letter or e-mail that can be used for this purpose is attached as **Appendix B**. As an alternative to sending a letter or e-mail, the content of **Appendix B** and the provisions outlined in this section may be used as talking points to discuss these issues verbally with the individual who reported a concern.

### 3. **RESPONSE TO IMMEDIATE THREATS**

3.A **Scope of Section.** This section applies if a potential Health Issue is reported that raises immediate concerns and either:

- (1) the Practitioner is providing services at the Hospital at that time; or
- (2) the Practitioner is expected to provide services in the very near future such that the Leadership Council would not have time to meet prior to the Practitioner's provision of services.

By way of example and not limitation, this section applies if a Practitioner seems disoriented or is demonstrating other cognitive difficulties while rounding on patients, or is suspected of being under the influence of drugs or alcohol immediately prior to commencing a surgical procedure.

3.B **Assessment.** If a report covered by this section suggests that a Practitioner may have a Health Issue that poses an immediate threat to patients or others, the President of the Medical Staff, CMO, or another Medical Staff Leader shall immediately and personally assess the Practitioner. The Practitioner may be required to submit to a blood, hair, or urine test, or other appropriate evaluation, to determine his or her ability to safely practice. Failure of the Practitioner to undergo such testing upon request will result in the automatic relinquishment of the Practitioner's clinical privileges pending Leadership Council review of the matter. (See Section 8 for additional information on automatic relinquishment.)

- 3.C ***Protection of Patients and Others.*** If the individual who assesses the Practitioner believes the Practitioner may have a Health Issue and that action is necessary to protect patients and others, the Practitioner should be asked to voluntarily refrain from exercising his or her clinical privileges or agree to conditions on his or her practice while the matter is being reviewed. Such a request may be made to the Practitioner either before or after any tests or evaluations regarding the Practitioner have been completed.
- (1) If the Practitioner agrees to voluntarily refrain from exercising his or her privileges, the Medical Staff President may assign the Practitioner's patients to another individual with appropriate clinical privileges or to the appropriate Practitioner on the Emergency Department call roster. Affected patients shall be informed that the Practitioner is unable to proceed with their care due to an emergency situation. Any wishes expressed by patients regarding a covering Practitioner will be respected to the extent possible. The Practitioner's agreement to voluntarily refrain should be documented in a letter or other correspondence to the Practitioner that is maintained in the Practitioner's Confidential Health File.
  - (2) If the Practitioner will not agree to voluntarily refrain from exercising his or her privileges, an individual authorized by the Credentials Policy to impose a precautionary suspension will consider whether a precautionary suspension or some other measure is necessary as a safeguard while the Health Issue is assessed.
- 3.D ***Referral to Leadership Council.*** Following the immediate response described above, the matter shall be referred to the Leadership Council for review pursuant to this Policy.

#### **4. LEADERSHIP COUNCIL REVIEW**

- 4.A ***Initial Review.*** The Leadership Council shall act expeditiously in reviewing concerns regarding a potential Health Issue referred to it. As part of its review, the Leadership Council may meet with the individual who initially reported the concern, as well as any other individual who may have relevant information. **Appendix C** contains a script that may be used for interviews, along with sample interview questions.
- 4.B ***Individuals Participating in Review.*** If the Leadership Council determines that it would be necessary or helpful in addressing the reported concern, it may consult with or include in the review a relevant subject matter expert (e.g., an addictionologist or psychiatrist) or the relevant Department Chair or Service Line Chair. Any individual who participates in a review is an integral part of the Hospital's review process, and shall be governed by the same responsibilities and legal protections (e.g., confidentiality, indemnification, etc.) that apply to other participants in the process.

4.C ***Meeting with Practitioner.*** If the Leadership Council believes that a Practitioner may have a Health Issue, the Leadership Council shall meet with the Practitioner. At this meeting, the Practitioner should be told that there is a concern that his or her ability to practice safely and competently may be compromised by a Health Issue and advised of the nature of the concern. **Appendix D** includes talking points that may be used to help the Leadership Council prepare for and conduct such meetings.

4.D ***Identity of Reporter.***

(1) ***General Rule.*** Since this Policy does not involve disciplinary action or “restrictions” of privileges, the specific identity of the individual reporting a concern or otherwise providing information about a matter (the “reporter”) generally will not be disclosed to the Practitioner.

(2) ***Exceptions.***

(a) ***Consent.*** The Leadership Council may, in its discretion, disclose the identity of the reporter to the Practitioner if the reporter specifically consents to the disclosure (with the reporter being reassured that he or she will be protected from retaliation).

(b) ***Medical Staff Hearing.*** The identity of the reporter shall be disclosed to the Practitioner if information provided by the reporter is used to support an adverse professional review action that results in a Medical Staff hearing.

(3) ***Practitioner Guessing the Identity of Reporter.*** This section does not prohibit the Leadership Council from notifying a Practitioner about a concern that has been raised even if the description of the concern would allow the Practitioner to guess the identity of the reporter (e.g., where the reporter and the Practitioner were the only two people present when an occurrence occurred). In such case, the Leadership Council will not confirm the identity of the reporter, and will pay particular attention to reminding the Practitioner to avoid any action that could be perceived as retaliation.

4.E ***Assessment of Health Status.***

(1) The Leadership Council may require the Practitioner to do one or more of the following to facilitate an assessment of the Health Issue:

(a) undergo a physical or mental examination or other assessment (e.g., neurocognitive, motor skills, sensory capacity, vision, hearing, infectious disease) by another individual;

(b) submit to an alcohol or drug screening test (blood, hair, or urine);

- (c) be evaluated by a physician or organization specializing in the relevant Health Issue, and have the results of any such evaluation provided to it; and/or
    - (d) obtain a letter from his or her treating physician confirming the Practitioner's ability to safely and competently practice, and authorize the treating physician to meet with the Leadership Council.
  - (2) The Leadership Council shall select the health care professional or organization to perform the examination, testing, or evaluation, but may seek input from the Practitioner. More than one health care professional or organization may be asked to perform an examination, test, or evaluation, and this may occur either concurrently or serially (e.g., a substance abuse assessment following a positive drug screen). The Practitioner shall be responsible for any costs associated with obtaining this health status information.
  - (3) A form authorizing the Hospital to release information to the health care professional or organization conducting the evaluation is attached as **Appendix E**. A form authorizing the health care professional or organization conducting the evaluation to disclose information about the Practitioner to the Leadership Council is attached as **Appendix F**. A Health Status Assessment Form that may be used to document the results of an evaluation is attached as **Appendix G**.
  - (4) If a Practitioner refuses to obtain a health assessment or provide the results to the Leadership Council, the process outlined in Section 8.A of this Policy ("Automatic Relinquishment/Resignation") will be followed.
- 4.F ***Interim Safeguards.*** If a Practitioner agrees to obtain an assessment, the Leadership Council may recommend that the Practitioner voluntarily take one or more of the following actions while the assessment is pending:
- (1) agree to specific conditions on his or her practice, which could include obtaining assistance from other Practitioners during patient care activities;
  - (2) refrain from exercising some or all privileges at the Hospital and at other practice locations as may be appropriate;
  - (3) take a leave of absence; or
  - (4) relinquish certain clinical privileges.



If a Practitioner does not agree to take a temporary voluntary action recommended by the Leadership Council while the assessment is pending, the matter shall be referred to the Medical Executive Committee for review and further action pursuant to the Medical Staff Credentials Policy.

- 4.G ***Determination That No Health Issue Exists.*** At any point during its review, the Leadership Council may determine that a report is unfounded and that the Practitioner does not have a Health Issue. In such case, the matter shall be closed. The individual who filed the report may be notified that the report was not substantiated, at the discretion of the Leadership Council. As noted in Section 2.B of this Policy, individuals filing a report do not need to have “proof” of a potential Health Issue. However, intentionally false reports will be grounds for disciplinary action. False reports by Practitioners will be reviewed by the Leadership Council pursuant to the Medical Staff Professionalism Policy, while false reports by Hospital employees will be referred to human resources.

## 5. PARTICIPATION IN A TREATMENT PROGRAM

In some instances, the assessment described in Section 4 of this Policy will lead to a recommendation by the Leadership Council that the Practitioner enter a treatment program. In other instances, the need for a Practitioner to enter a treatment program will be self-evident, and each of the steps required in Section 4 may not be required. In either case, the Leadership Council will, as requested, assist the Practitioner in identifying an appropriate program.

## 6. REINSTATEMENT/RESUMING PRACTICE

### 6.A ***Request for Reinstatement or to Resume Practicing.***

- (1) ***Requests When a Leave of Absence was Granted.*** If a Practitioner was granted a formal leave of absence to participate in a treatment program or otherwise address a Health Issue, the Practitioner must apply for reinstatement of privileges using the process set forth in the Medical Staff Credentials Policy. However, prior to applying for reinstatement through the process outlined in the Credentials Policy, the Practitioner must first submit a written request to the Leadership Council for clearance to apply for reinstatement and be granted written permission by the Leadership Council.
- (2) ***Requests When a Leave of Absence was not Granted.*** In all other circumstances where the Practitioner refrained from practicing (e.g., voluntary agreement between Practitioner and Leadership Council; Practitioner was absent from Medical Staff duties while participating in a treatment program or otherwise addressing a Health Issue), the Practitioner must submit a written request to the Leadership Council and receive written permission to resume exercising his or her clinical privileges.

6.B ***Additional Information.*** Before acting on a Practitioner's request for clearance to apply for reinstatement or to resume practicing, the Leadership Council may request any additional information or documentation that it believes is necessary to evaluate the Practitioner's ability to safely and competently exercise clinical privileges. This may include requiring the Practitioner to undergo a health assessment conducted by a physician or entity chosen by the Leadership Council in order to obtain a second opinion on the Practitioner's ability to practice safely and competently.

6.C ***Determination by Leadership Council.***

- (1) If the Leadership Council determines that the Practitioner is capable of practicing safely and competently without conditions, this decision will be documented. The Practitioner may then: (i) proceed with the reinstatement process outlined in the Medical Staff Credentials Policy, if a leave of absence was taken; or (ii) resume practicing, if no leave of absence was taken.
- (2) If the Leadership Council determines that conditions should be placed on a Practitioner's practice as a condition of reinstatement or resuming practice, it will consult with the Practitioner in developing any necessary conditions.

7. **CONDITIONS OF CONTINUED PRACTICE**

7.A ***General.*** The Leadership Council may ask the Practitioner to agree to comply with certain conditions in order to receive clearance to apply for reinstatement of privileges from a leave of absence or to otherwise resume practicing. If the Practitioner does not agree to such conditions, the matter will be referred to the Medical Executive Committee as set forth in Section 8 of this Policy. By way of example and not of limitation, such conditions may include:

- (1) ***Coverage.*** The Practitioner may be asked to identify at least one Practitioner who is informed of the Health Issue and is willing to assume responsibility for the care of his or her patients in the event of the Practitioner's inability or unavailability.
- (2) ***Changes in Practice.*** The Practitioner may be asked to make certain changes to his or her practice, such as changing the frequency and/or schedule with which the Practitioner takes call, limiting inpatient census to a manageable number, or beginning elective procedures prior to a certain time of day.
- (3) ***Ongoing Monitoring.*** The Practitioner's exercise of clinical privileges may be monitored. The individual to act as monitor shall be appointed by the Leadership Council or the Department Chair or Service Line Chair. The

nature of the monitoring shall be determined by the Leadership Council in consultation with the Department Chair or Service Line Chair.

- (4) ***Periodic Reports of Health Status.*** If the Practitioner is continuing to receive medical treatment or to participate in a substance abuse rehabilitation or after-care program, the Leadership Council may ask the Practitioner to agree to submit periodic reports from his or her treating physician or the substance abuse rehabilitation/after-care program. If applicable, reports regarding compliance with the conditions outlined in an agreement with the Alabama Physician's Health Program may also be obtained. The nature and frequency of these reports will be determined on a case-by-case basis depending on the Health Issue.
- (5) ***Random Alcohol or Drug Screens.*** A Practitioner who has undergone treatment for substance abuse may be asked to submit to random alcohol or drug screening tests at the request of any member of the Leadership Council.

7.B ***Reasonable Accommodations.*** Reasonable accommodations may be made consistent with Hospital policy to assist the Practitioner in resuming his or her practice. Examples of reasonable accommodations include, but are not limited to, providing assistive technology or equipment or removing architectural barriers. The Leadership Council will consult with Hospital executive personnel to determine whether reasonable accommodations are feasible.

7.C ***Voluntary Agreement Not a "Restriction."*** A Practitioner's voluntary agreement to conditions similar to those set forth in this section generally does not result in a "restriction" of that Practitioner's privileges. Accordingly, such a voluntary agreement generally does not require a report to the National Practitioner Data Bank ("NPDB") or to any state licensing board or other government agency, nor would it entitle a Practitioner to a hearing under the Medical Staff Credentials Policy. However, the Leadership Council will assess each situation independently. If there is concern in a given situation that a condition may be reportable to the NPDB or a state licensing board or agency, the Leadership Council will consult with Hospital counsel and communicate with the Practitioner about the matter.

## 8. NONCOMPLIANCE

### 8.A ***Automatic Relinquishment/Resignation.***

- (1) If a Practitioner refuses to undergo testing or an assessment when there are immediate concerns about patient safety as described in Section 3, the refusal will result in the immediate and automatic relinquishment of the Practitioner's clinical privileges pending the Leadership Council's review of the matter.

- (2) If a Practitioner fails or refuses to provide information requested by the Leadership Council or any individual authorized by this Policy to request such information (including a request for a medical assessment), the Practitioner will be required to meet with the Leadership Council. The purpose of the meeting is to discuss the Practitioner's obligation to participate in the review process, permit the Practitioner to explain why the information was not provided, and inform the Practitioner of the consequences of continuing to not provide the information. Failure of the Practitioner to either:
  - (a) meet with the Leadership Council and persuade it that the requested information or meeting is not necessary; or
  - (b) provide the requested information prior to the date of the Leadership Council meeting,

will result in the automatic relinquishment of the Practitioner's clinical privileges. Such automatic relinquishment will continue until the Practitioner either meets with the Leadership Council and persuades it that the written information is not necessary or provides the requested information.

- (3) If the Leadership Council requests that the Practitioner attend a meeting with it or a designated individual to discuss a Health Issue or obtain the Practitioner's verbal input, and the Practitioner fails or refuses to attend such a meeting, the Practitioner's clinical privileges will be automatically relinquished until the meeting occurs.
- (4) If the Practitioner fails to meet with or provide information requested by the Leadership Council within thirty (30) days of the automatic relinquishment, the Practitioner's Medical Staff membership and clinical privileges will be deemed to have been automatically resigned.
- (5) Generally, the automatic relinquishment or resignation of appointment and/or clinical privileges described in this section are administrative actions that occur by operation of this Policy. They are not professional review actions that must be reported to the NPDB or to any state licensing board or agency, nor do they entitle the Practitioner to a hearing or appeal.
- (6) Notwithstanding the foregoing, if the Leadership Council or Medical Executive Committee determines that a Practitioner's refusal to provide information or attend a meeting is a deliberate attempt to avoid review of a Health Issue, the Practitioner's action may be viewed as a resignation to avoid an investigation, and is thus reportable to the NPDB and a state licensing board or agency. Hospital counsel shall be consulted in making such determinations.

8.B ***Referral to Medical Executive Committee.*** A matter may be immediately referred to the Medical Executive Committee for its review and action pursuant to the Medical Staff Credentials Policy if the Practitioner fails to:

- (1) agree to the interim patient safeguards described in Section 4.F while a health assessment is pending;
- (2) obtain an agreed-upon physical or mental examination or other health assessment, or to complete any treatment or rehabilitation program;
- (3) agree to conditions requested by the Leadership Council to receive clearance to apply for reinstatement of privileges from a leave of absence or to otherwise resume practicing;
- (4) continually comply with any agreed-upon condition of reinstatement or continued practice; or
- (5) cooperate in the monitoring of his or her practice.

Following its review, the Medical Executive Committee shall take appropriate action under the Medical Staff Credentials Policy. This may include, but is not limited to, initiating an investigation.

## 9. DOCUMENTATION

9.A ***Creation of Confidential Health File.*** Reports of potential Health Issues and documentation received or created pursuant to this Policy shall be included in the Practitioner's Confidential Health File, which shall be maintained by the Medical Staff Office as a separate file and shall not be included in the credentials file.

9.B ***Information Reviewed at Reappointment.***

- (1) The information reviewed by those involved in the reappointment process will not routinely include all documentation in a Practitioner's health file. Instead, the process set forth in this subsection will be followed.
- (2) When a reappointment application is received from an individual who has a Health Issue that is currently being reviewed or monitored by the Leadership Council, or that has been reviewed and resolved in the past reappointment cycle, the Medical Staff Office shall contact the Leadership Council.
- (3) The Leadership Council will prepare a confidential summary health report to the Credentials Committee. The summary health report shall be included in the credentials file, and will be reviewed by the Credentials Committee

only after the Credentials Committee has determined that the applicant is otherwise qualified for clinical privileges.

- (4) The Leadership Council's summary health report will state that it is actively monitoring, or has monitored in the past reappointment cycle, a Health Issue involving the Practitioner. The summary health report will also include a recommendation regarding the Practitioner's ability to perform the duties of Medical Staff membership and safely exercise clinical privileges. A sample summary health report is included as **Appendix H**.
- (5) If the Credentials Committee, Medical Executive Committee, or Board of Trustees has any questions about the Practitioner's ability to safely practice, the relevant entity will discuss the issue with a member of the Leadership Council. If the relevant entity still believes additional information is necessary, members of that entity may review the Practitioner's Confidential Health File in the Medical Staff Office.

## 10. CONFIDENTIALITY, PEER REVIEW PROTECTION, AND REPORTING

- 10.A **Confidentiality.** The Leadership Council and Medical Executive Committee will handle Health Issues in a confidential manner. Throughout this process, all parties should avoid speculation, gossip, and any discussions of this matter with anyone other than those described in this Policy.
- 10.B **Peer Review Protection.** All minutes, reports, recommendations, communications, and actions made or taken pursuant to this Policy are intended to be covered by the provisions of the Health Care Quality Improvement Act of 1986, 42 U.S.C.A. 11101 et seq., and Alabama laws governing peer review. Furthermore, the committees or individuals charged with making reports, findings, recommendations or investigations pursuant to this Policy shall be considered to be acting on behalf of the Hospital and the Board of Trustees when engaged in such professional review activities and thus are "professional review bodies" as that term is defined in the Health Care Quality Improvement Act.
- 10.C **Required Reporting; Contact with Law Enforcement Authorities or Governmental Agencies.** The Hospital Administrator shall file reports with the appropriate Alabama licensing board or the NPDB, as may be required by applicable statutes or regulations. In addition, if at any time it becomes apparent that a particular matter cannot be handled internally, or jeopardizes the safety of the Practitioner or others, the Hospital Administrator, CMO or the Hospital's counsel may contact law enforcement authorities or other governmental agencies.
- 10.D **Redisclosure of Drug/Alcohol Treatment Information.** In the course of addressing a Health Issue pursuant to this Policy, the Hospital may receive written or verbal information about the treatment of a Practitioner from a federally assisted drug or alcohol abuse program as defined by 42 C.F.R. Part 2. The Hospital may

not redisclose such information without a signed authorization from the Practitioner. **Appendix J** includes an authorization that may be used for this purpose.

- 10.E *Requests for Information Concerning Practitioner with a Health Issue.* All reference requests or other requests for information concerning a Practitioner with a Health Issue shall be forwarded to the CMO, MEC Chair, or Hospital Administrator for response.

Adopted by the Medical Executive Committee on \_\_\_\_\_, 2019.

Approved by the Board on \_\_\_\_\_, 2019.

**APPENDIX A**

**EMPLOYED PRACTITIONER ROUTING FORM**

*Note: The purpose of this form is to document which of the following two review processes will be used when a Health Issue is being evaluated for an Employed Practitioner: (1) the Medical Staff process as set forth in the Practitioner Health Policy; or (2) the policies or employment contract of the Employer. See Section 2.D of the Practitioner Health Policy for additional information and requirements.*

Name of Practitioner: \_\_\_\_\_

Entity that Employs the Practitioner: \_\_\_\_\_

Representative(s) of Employer involved in routing discussion: \_\_\_\_\_

Medical Staff Leader(s) involved in routing discussion: \_\_\_\_\_

A decision was made that:

- The process outlined in the *Practitioner Health Policy* will be used to review the Health Issue.
- The Employer's policies and/or employment contract* will be used to review the Health Issue.

Comments: \_\_\_\_\_

\_\_\_\_\_  
Signature of individual completing form

\_\_\_\_\_  
Date



## APPENDIX B

### LETTER TO RESPOND TO INDIVIDUAL WHO REPORTS POTENTIAL HEALTH ISSUE\*

Dear \_\_\_\_\_:

Thank you for reporting your concerns. We appreciate your participation in our efforts to promote and maintain a culture of safety and quality care at our Hospital.

Your concerns will be reviewed in accordance with the Practitioner Health Policy. We will contact you if we need additional information.

Because your report may involve confidential matters under Alabama law, it is important that you maintain confidentiality and only discuss this matter with individuals who are a formal part of the review process. Due to these same confidentiality requirements, we may not be permitted to inform you of the specific outcome of the review. However, please be assured that your report will be fully reviewed and appropriate steps will be taken to address the matter.

Your report will be treated with the utmost confidentiality. Your identity will not be disclosed to the subject of the report unless:

- (a) you consent; or
- (b) information provided by you is later used to support an adverse professional review action that results in a Medical Staff hearing (which is an extremely rare occurrence).

Every effort will be made to protect your identity, however as some level of information must be provided to the practitioner in order to review the matter with him or her, it is possible that the practitioner may guess your identity. In any event, as part of our culture of safety and quality care, no retaliation is permitted against you for reporting this matter. This means that the individual who is the subject of your report may not approach you directly to discuss this matter or engage in any abusive or inappropriate conduct directed at you. If you believe that you have been subjected to any retaliation as a result of raising these concerns, please report that immediately to your supervisor, the CMO or any Medical Staff Officer.

Once again, thank you for bringing your concerns to our attention. If you have any questions or wish to discuss this matter further, please do not hesitate to call me at \_\_\_\_\_.

Sincerely,

\* ***As an alternative to sending a letter or e-mail, the content of this Appendix B may be used as talking points to respond verbally to the individual who reported a potential Health Issue.***

## APPENDIX C

### INTERVIEW TOOL (SCRIPT AND QUESTIONS)

#### I. *SCRIPT FOR INTRODUCTORY STATEMENTS*

*Instructions: Prior to the interview, the following information should be provided to each individual who is interviewed.*

1. A concern about a Practitioner's health is being reviewed under the Practitioner Health Policy. We would like to speak with you because you *[raised the concern]* **or** *[may have relevant information]*.
2. Any information you provide will be treated with the utmost confidentiality. It will not be shared with anyone outside the Hospital's peer review process. Also, Hospital policy states that your identity will generally not be disclosed to the Practitioner whose health is being reviewed except in extremely rare situations (for example, a Medical Staff hearing). While every effort will be made to protect your identity, as some level of information must be provided to the practitioner in order to review the matter with him or her, it is possible that the practitioner may guess your identity.
3. However, as part of our culture of safety and quality care, no retaliation is permitted against you for *[reporting this matter]* **or** *[providing information about this matter]*. This means that the Practitioner under review may not approach you to discuss this matter or engage in any abusive or inappropriate conduct directed at you. If you believe you have been retaliated against, please report immediately to your supervisor or any Medical Staff Leader.
4. The state peer review protection law requires the Hospital to maintain any information related to this review in a **strictly confidential** manner and we may not be able to inform you of the outcome of the review. But, if you have any questions about this review process following this interview, please direct them to the President of the Medical Staff, CMO, or Quality Specialists.

#### II. *SAMPLE INTERVIEW QUESTIONS*

*Note: The following questions are intended to elicit basic information about an occurrence. These questions may be modified as appropriate and should be supplemented with additional questions that specifically pertain to the health matter being reviewed.*

1. What was the date of the occurrence?
2. What time did the occurrence take place?

3. Where did the occurrence take place?
4. What is the name of the Practitioner in question?
5. Who was involved? What are their titles and duties?
6. What happened? What did you see and hear?
7. Are you aware of any attempts that were made to address this behavior with the Practitioner when it occurred?
8. Are there any notes or other documentation regarding the occurrence(s)?
9. Was a patient or a patient's family member directly or indirectly involved in the event? If so, name and medical record number.
10. Did you tell anyone about the occurrence?
  - a. Whom did you tell?
  - b. When and where did you tell them?
  - c. What did you tell them?
11. How did you react to this occurrence at the time?
12. Did you experience or witness any retaliation or threatened retaliation by the Practitioner?
13. How do you think this occurrence affected patient care generally, Hospital operations, the work of your team, or your ability to do your job?
14. Have other occurrences taken place, either before or after this occurrence? ***[If yes, repeat above questions for each occurrence.]***
15. Do you have any other information we should know about this matter? Please contact me if you recall or learn something new after we are finished talking.

## APPENDIX D

### TALKING POINTS FOR MEETING WITH PRACTITIONER ABOUT HEALTH ISSUE

- **Thank you** for meeting with us. These types of meetings are difficult for all of us, and we appreciate your cooperation and professionalism.
- **Reason for Meeting.** Our reason for requesting this meeting is that we have concerns about your health status based on \_\_\_\_\_ [*briefly summarize basis for concern, but without revealing identity of anyone who provided information*].
- **Not Disciplinary.** This is not a disciplinary meeting. This is a meeting regarding a health issue with a colleague.
- **Input from Practitioner.** Please give us your perspective on the concerns that have been raised. Do you feel you have been experiencing any health issues that could put you or your patients at risk?
- **Evaluation Requested [if applicable].** We are asking you to obtain an assessment from an appropriate specialist who is acceptable to the Leadership Council. It is in everyone's best interest, especially yours, for this to occur as soon as possible. We will be happy to work with you to identify an appropriate person or entity to perform the assessment. [*Optional: We contacted the state Physician Health Program ("PHP") – without identifying you – to find out the resources that are available and the time frames involved in order to facilitate our discussions and expedite this process. We will be happy to work with you to have the assessment performed expeditiously.*]
- **HIPAA and Other Forms [if applicable].** Once an appropriate evaluator is identified to conduct the assessment, we will provide you the HIPAA-compliant authorization forms and releases you will need to sign to facilitate the evaluation process. [*These forms are included as Appendices to the Practitioner Health Policy.*]
- **Voluntary and Temporary Agreement Not to Practice.** Until the assessment can be completed, we need to make sure that we protect you and patients. To that end, while we recognize the difficulty and inconvenience involved, we would like you to voluntarily refrain from exercising your clinical privileges until the evaluation is complete. Is there anything we can do to help you accomplish this? [*The Practitioner may work with partners for coverage, take a couple of weeks of vacation, take an LOA, etc.*]
- **Other Practice Sites (affiliated and non-affiliated).** We know you also practice at other sites. Based on the concerns identified above, it would be important for both you and your patients to take the same voluntary safeguards at those sites as well. How do you think we can accomplish that in the same spirit of cooperation?

- ***Not Reportable to State Licensing Board or NPDB.*** Please understand that your agreement to temporarily refrain from practicing is not considered a suspension or disciplinary action, and it is not something that needs to be reported to the state licensing board or the National Practitioner Data Bank. The same is true regarding your agreement to obtain an evaluation of your health. However, if you decide you do not want to be evaluated, we would have to consider whether a report to the state licensing board is required.
- ***Confidentiality.*** We will treat this matter in the most highly confidential manner possible, as required by our policies and the state peer review protection law. We understand how sensitive this issue is, and we certainly intend to proceed accordingly. Any communication about this matter will be the minimum necessary to accomplish your voluntary agreement. *[If applicable – modify as needed: However, please recognize that pursuant to the Credentials Policy and our Practitioner Health Policy, we may keep your employer informed of the status of this review. Our goal is to protect patients, and to have a more effective review process by coordinating our efforts with those of your employer.]*
- ***Non-Retaliation.*** While we do not expect it at all, as a courtesy to you, we want to make sure that you avoid any type of action that could be viewed as retaliation against any individual who you believe may have expressed a concern or provided information in this matter. As such, please avoid discussing this matter with any such individual, because even well-intentioned conversations can be perceived as intimidating. Any questions or concerns or additional information that you wish to provide should be given to one of us.
- ***Thank you.*** We understand what a difficult and uncomfortable situation this is, and we want to thank you again for your professionalism and cooperation.

**ADDITIONAL INFORMATION TO PLAN FOR THE MEETING:**

1. If the Practitioner refuses to obtain an assessment, the refusal will result in the “automatic relinquishment” of clinical privileges until an assessment is obtained. See Section 8 of the Practitioner Health Policy. As noted above, refusal to obtain an assessment may also make a matter reportable to the state licensing board – consult with Hospital counsel.
2. If the Practitioner refuses to voluntarily and temporarily refrain from exercising privileges as requested pending completion of an evaluation, a “precautionary suspension” could be imposed. However, that would be the last option. The best approach is to explain to the Practitioner why it is in his or her best interest to voluntarily refrain from practicing while the matter is reviewed.

**APPENDIX E**

**CONFIDENTIAL PEER REVIEW DOCUMENT**

**CONSENT FOR DISCLOSURE OF INFORMATION  
AND  
RELEASE FROM LIABILITY**

I hereby authorize \_\_\_\_\_ Hospital and its Leadership Council, Medical Executive Committee, and Medical Staff Leaders (the “Hospital”) to provide \_\_\_\_\_ [*the facility or individual performing the health assessment*] (the “Evaluator”) all information, written and oral, relevant to an evaluation of my health status.

I understand that the purpose of this Authorization and Release is to allow the Evaluator to conduct a full and complete evaluation of my health status so that the Hospital can determine if I am able to care for patients safely and competently.

I also understand that the information being disclosed is protected by the Alabama peer review law and that the Hospital, the Evaluator and others involved in the peer review process are required to maintain the confidentiality of peer review information pursuant to that law.

I release from any and all liability, and agree not to sue, the Hospital, any of its officers, directors, or employees, any physician on the Hospital’s Medical Staff, or any authorized representative of the Hospital, for any matter arising out of their release of information to the Evaluator.

I also release from any and all liability, and agree not to sue, the Evaluator or any of its officers, directors, employees, or authorized representatives for any matter arising out of the Evaluator’s provision of an evaluation of my health status to the Hospital.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Practitioner

\_\_\_\_\_  
Printed Name

**APPENDIX F**

**CONFIDENTIAL PEER REVIEW DOCUMENT**

**AUTHORIZATION FOR RELEASE  
OF PROTECTED HEALTH INFORMATION**

I hereby authorize \_\_\_\_\_ [*the facility or individual performing the health assessment*] (the “Evaluator”) to provide all information, both written and oral, relevant to an assessment of my health status and my ability to safely practice, to \_\_\_\_\_ Hospital and its Leadership Council, Medical Executive Committee, and Medical Staff Leaders (the “Hospital”). The information to be released includes, but is not limited to, answers to the questions on the attached Health Status Assessment Form, along with the following (as applicable):

1. my current health condition;
2. whether I am continuing to receive medical treatment and, if so, the treatment plan;
3. whether I am continuing to participate in a substance abuse rehabilitation program or an after-care program, and whether I am in compliance with all aspects of the program;
4. to what extent, if any, my behavior and clinical practice need to be monitored;
5. whether I am capable of resuming clinical practice and providing continuous, competent care to patients as requested; and
6. any conditions that are necessary for me to safely exercise my clinical privileges.

I understand that the purpose of this Authorization is to allow the Hospital to obtain information that is relevant to my qualifications for Medical Staff appointment and clinical privileges, including, but not limited to, my ability to care for patients safely and competently and to relate cooperatively with others in the Hospital.

*I understand that the willingness of the Evaluator to conduct this assessment or provide treatment does not depend on my signing this Authorization.*

**OR**

*Since the Hospital is paying for the health assessment and/or treatment and has conditioned payment for the assessment and/or treatment on receipt of a report, the Evaluator may refuse to conduct the assessment or provide treatment if I refuse to sign this Authorization.*

I understand that my health information is protected by a federal law known as the HIPAA Privacy Rule and may not be disclosed by the Evaluator without this Authorization. Once my health information is disclosed to the Hospital pursuant to this Authorization, the HIPAA Privacy Rule

may no longer apply to the information. However, in that case, the Hospital would nonetheless be prohibited by the Alabama peer review protection law from disclosing health information it received about me to anyone outside of its confidential review process. In addition, if the information in question relates to my treatment at a federally-assisted drug or alcohol treatment facility, federal law would also prevent the Hospital from disclosing that information without me signing a separate Authorization form to do so.

I understand that I may revoke this Authorization at any time, in writing, except to the extent that the Evaluator has already relied upon it in making a disclosure to the Hospital. My written revocation will become effective when the Evaluator has knowledge of it.

This Authorization expires when my Medical Staff appointment and clinical privileges at the Hospital end. Once this Authorization has expired, the Evaluator may no longer use or disclose my health information for the purpose listed in this Authorization, unless I sign a new Authorization form.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature of Practitioner

\_\_\_\_\_

Printed Name



**APPENDIX G**

**CONFIDENTIAL PEER REVIEW DOCUMENT**

**HEALTH STATUS ASSESSMENT FORM**

Please respond to the following questions based upon your assessment of the current health status of \_\_\_\_\_ (the "Practitioner"). If additional space is required, please attach a separate sheet.

<b>CURRENT HEALTH STATUS</b>	<b>YES</b>	<b>NO</b>
1. Does the Practitioner have any medical, psychiatric, or emotional conditions that could affect his/her ability to exercise safely the clinical privileges set forth on the attached list and/or to perform the duties of Medical Staff appointment, including response to emergency call?  If "yes," please provide the diagnosis and prognosis: _____ _____ _____	<input type="checkbox"/>	<input type="checkbox"/>
2. Is the Practitioner continuing to receive medical treatment for any conditions identified in Question 1?  If "yes," please describe treatment plan: _____ _____ _____	<input type="checkbox"/>	<input type="checkbox"/>
3. Has the Practitioner been prescribed or is the Practitioner currently taking any medication that may affect the Practitioner's ability to practice?  If "yes," please specify medications and any side effects: _____ _____ _____	<input type="checkbox"/>	<input type="checkbox"/>
4. Is the Practitioner currently under any limitations concerning activities or workload?  If "yes," please specify: _____ _____ _____	<input type="checkbox"/>	<input type="checkbox"/>

<b>SUBSTANCE ABUSE/AFTER-CARE PROGRAM</b> <i>(If the Practitioner is participating in a substance abuse or after-care program, please also answer the questions in this section.)</i>	<b>YES</b>	<b>NO</b>
1. Please specifically describe the substance abuse rehabilitation or after-care program: _____ _____		
2. Is the Practitioner in compliance with all aspects of the program?  If "no," please explain: _____ _____ _____	<input type="checkbox"/>	<input type="checkbox"/>
<b>CONDITIONS, RESTRICTIONS, AND ACCOMMODATIONS</b>	<b>YES</b>	<b>NO</b>
1. Does the Practitioner's behavior and/or clinical practice need to be monitored?  If "yes," please describe: _____ _____ _____	<input type="checkbox"/>	<input type="checkbox"/>
2. In your opinion, are any conditions or restrictions on the Practitioner's clinical privileges or other accommodations necessary to permit the Practitioner to exercise privileges safely and/or to fulfill Medical Staff responsibilities appropriately?  If "yes," please describe such restrictions, conditions, or accommodations: _____ _____	<input type="checkbox"/>	<input type="checkbox"/>
3. In your opinion, is the Practitioner capable of resuming clinical practice and providing continuous, competent care to patients as requested?  If "no," please explain: _____ _____ _____	<input type="checkbox"/>	<input type="checkbox"/>

\_\_\_\_\_

Date

\_\_\_\_\_

Signature of Evaluating Practitioner

**APPENDIX H**

**CONFIDENTIAL PEER REVIEW DOCUMENT**

**SAMPLE SUMMARY HEALTH REPORT**

To: Credentials Committee, MEC and Board of Directors

From: Leadership Council

Date: \_\_\_\_\_

Re: Summary Health Report

---

This summary health report is submitted pursuant to Section 9.B of the Practitioner Health Policy of \_\_\_\_\_ Hospital.

During the past appointment cycle, the Leadership Council has worked with \_\_\_\_\_ (the "Practitioner") to address a Health Issue.

The Leadership Council conducted its review according to the detailed procedures set forth in the Practitioner Health Policy. The Leadership Council obtained input from the Practitioner, gathered information from witnesses, and evaluated the results of a health assessment of the Practitioner. The Practitioner cooperated fully with the review process.

**The Leadership Council has determined that the Practitioner's Health Issue does not prevent the Practitioner from safely exercising his/her clinical privileges.** Moreover, the Leadership Council does not believe it is necessary for any conditions to be placed on the Practitioner's practice. ***or***

**The Leadership Council has determined that the Practitioner's Health Issue does not prevent the Practitioner from safely exercising his/her clinical privileges.** The Practitioner is voluntarily complying with certain conditions developed by the Leadership Council to ensure patient safety. The Leadership Council will continue to work with the Practitioner to address and monitor the Health Issue. The Leadership Council recommends that the Practitioner's reappointment be conditioned on the Practitioner's continued cooperation with the Leadership Council.

Pursuant to Section 9.B of the Practitioner Health Policy, if any member of the Credentials Committee, Medical Executive Committee or Board of Directors has any question about the Practitioner's ability to safely practice, that member should feel free to contact a member of the Leadership Council to discuss the matter further. The Leadership Council is comprised of: \_\_\_\_\_ . If additional information is necessary after such conversation, the Practitioner's confidential health file may be reviewed in the Medical Staff Office.

**APPENDIX I**

**CONFIDENTIAL PEER REVIEW DOCUMENT**

**AUTHORIZATION FOR REDISCLOSURE  
OF DRUG/ALCOHOL TREATMENT INFORMATION**

In the course of credentialing and peer review activities, \_\_\_\_\_ Hospital and its Leadership Council, Medical Executive Committee, and Medical Staff Leaders (the “Hospital”) have received information about me from \_\_\_\_\_, a federally assisted drug or alcohol treatment program governed by 42 C.F.R. Part 2 (the “Program”).

I hereby authorize the Hospital to redisclose to \_\_\_\_\_ (the “Receiving Entity”) and \_\_\_\_\_, its point of contact for credentialing and peer review purposes, any and all information the Hospital received from the Program regarding my treatment. This includes, but is not limited to, any written report or correspondence from the Program, notes to file regarding verbal conversations between the Program and the Hospital, and the contents of any verbal conversations between the Program and the Hospital.

I understand that the purpose of the disclosure of this information is to allow the Receiving Entity to \_\_\_\_\_ *[Describe the purpose of the disclosure, such as “allow the Receiving Entity to evaluate my health status and my ability to safely practice medicine.”]*

I understand that I may revoke this Authorization at any time, in writing, except to the extent that the Hospital has already relied upon it in making a disclosure to the Receiving Entity. My written revocation will become effective when the Hospital has knowledge of it.

This Authorization expires when my Medical Staff appointment and clinical privileges at the Hospital end. Once this Authorization has expired, the Hospital may no longer disclose the information described above unless I sign a new Authorization form.

I understand that this Authorization is governed by 42 C.F.R. §2.31. I also understand that the Receiving Entity is prohibited from further disclosing my information unless I sign a separate authorization form.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Practitioner

\_\_\_\_\_  
Printed Name

**MEDICAL STAFF BYLAWS, POLICIES, AND  
RULES AND REGULATIONS OF  
USA HEALTH UNIVERSITY HOSPITAL AND  
USA HEALTH CHILDREN'S & WOMEN'S HOSPITAL**

**POLICY ON  
ADVANCE PRACTICE  
PROFESSIONALS**

*Final Discussion Draft*

*November 15, 2019*

*Approved by both MECs on November 26, 2019*

*Approved by the Active medical staff on January 21, 2020*

*Horty, Springer & Mattern, P.C.*

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## ARTICLE 1

### GENERAL

#### 1.A. DEFINITIONS

Except as specifically defined below, the definitions that apply to the terms used in this Policy are set forth in the Medical Staff Credentials Policy:

- (1) “ADVANCE PRACTICE PROFESSIONALS” (“APPs”) means individuals other than Medical Staff members who are authorized by law and by the Hospital to provide patient care services within the Hospital. All APPs are described as Category I, Category II, or Category III practitioners in the Medical Staff Bylaws documents:
  - “CATEGORY I PRACTITIONER” means a Licensed Independent Practitioner, a type of Advance Practice Professional who is permitted by law and by the Hospital to provide patient care services without direction or supervision, within the scope of his or her license and consistent with the clinical privileges granted. Category I practitioners also include those physicians not appointed to the Medical Staff who seek to exercise certain limited clinical privileges at the Hospital under the conditions set forth in this Policy (i.e., moonlighting residents). See Appendix A for a list of Category I practitioners.
  - “CATEGORY II PRACTITIONER” means an Advance Practice Clinician, a type of Advance Practice Professional who provides a medical level of care or performs surgical tasks consistent with granted clinical privileges, but who is required by law and/or the Hospital to exercise some or all of those clinical privileges under the direction of, or in collaboration with, a Supervising Physician pursuant to a written supervision or collaborative agreement. See Appendix B for a list of Category II practitioners.
  - “CATEGORY III PRACTITIONER” means a Dependent Practitioner, a type of Advance Practice Professional who is permitted by law or the Hospital to function only under the direction of a Supervising Physician, pursuant to a written supervision agreement and consistent with the scope of practice granted. Except as specifically indicated in Article 6 of this Policy, all aspects of the clinical practice of Category III practitioners at the Hospital shall be assessed and managed by Human Resources in accordance with Human Resources policies and procedures, and the provisions of this Policy shall specifically **not** apply. Hereafter, as used in this Policy and the Medical Staff Bylaws, the term “Advance Practice Professional” shall mean Category I and Category II practitioners only

(except for Article 6 of this Policy). See Appendix C for a list of Category III practitioners.

- (2) “DENTIST” means a doctor of dental surgery (“D.D.S.”) or doctor of dental medicine (“D.M.D.”).
- (3) “PERMISSION TO PRACTICE” means the authorization granted to Advance Practice Professionals to exercise clinical privileges or scope of practice at the Hospital.
- (4) “PODIATRIST” means a doctor of podiatric medicine (“D.P.M.”).
- (5) “SCOPE OF PRACTICE” means the authorization granted to a Category III practitioner by the Board to perform certain clinical activities and functions under the supervision of, or in collaboration with, a Supervising Physician.
- (6) “SUPERVISING PHYSICIAN” means a member of the Medical Staff with clinical privileges, who has agreed in writing to supervise or collaborate with a Category II or Category III practitioner and to accept full responsibility for the actions of the Category II or Category III practitioner while he or she is practicing in the Hospital.
- (7) “SUPERVISION” means the supervision of a Category II or Category III practitioner by a Supervising Physician that may or may not require the actual presence of the Supervising Physician, but that does require, at a minimum, that the Supervising Physician be readily available for consultation. The requisite level of supervision (general, direct, or personal) shall be determined at the time each Category II or Category III practitioner is credentialed and shall be consistent with any applicable written supervision agreement that may exist. (“General” supervision means that the physician is immediately available by phone, “direct” supervision means that the physician is on the Hospital’s campus, and “personal” supervision means that the physician is in the same room.)

#### 1.B. DELEGATION OF FUNCTIONS

- (1) When a function under this Policy is to be carried out by a member of Hospital management, by a Medical Staff member, or by a Medical Staff committee, the individual, or the committee through its chair, may delegate performance of the function to a qualified designee who is a Medical Staff member or an Advance Practice Professional or USA Health Hospital employee (or a committee of such individuals). Any such designee must treat and maintain all credentialing, privileging, and peer review information in a strictly confidential manner and is bound by all other terms, conditions, and requirements of the Medical Staff Bylaws and related policies. In addition, the delegating individual or committee is responsible for ensuring that the designee appropriately performs the function

in question. Any documentation created by the designee are records of the committee that is ultimately responsible for the review in a particular matter.

- (2) When a Medical Staff member is unavailable or unable to perform a necessary function, one or more of the Medical Staff Leaders may perform the function personally or delegate it to another appropriate individual.

#### 1.C. RIGHTS AND PREROGATIVES

- (1) Advance Practice Professionals may attend meetings of the Medical Staff and of relevant clinical departments or service lines, without vote.
- (2) The Chairs of the MECs shall each appoint one Advance Practice Professional to the Combined Credentials Committee and one to the Performance Improvement Council, both with vote.
- (3) Advance Practice Professionals may be appointed to serve on other Medical Staff committees with vote, in the discretion of the Chair of the MEC.
- (4) Section 6.A of this Policy addresses the ability of Category II practitioners to admit inpatients, participate in patient consultations, perform inpatient rounds, to participate in the provision of Emergency Department on-call coverage, and to respond to calls from the floor regarding hospitalized patients.

## ARTICLE 2

### SCOPE AND OVERVIEW OF POLICY

#### 2.A. SCOPE OF POLICY

- (1) This Policy addresses those Advance Practice Professionals who are permitted to provide patient care services in the Hospital and are listed in the Appendices to this Policy.
- (2) This Policy sets forth the credentialing process and the general practice parameters for these individuals, as well as guidelines for determining the need for additional categories of Advance Practice Professionals at the Hospital.

#### 2.B. CATEGORIES OF ADVANCE PRACTICE PROFESSIONALS

- (1) Only those specific categories of Advance Practice Professionals that have been approved by the Board shall be permitted to practice at the Hospital. All Advance Practice Professionals who are addressed in this Policy shall be classified as either Category I, Category II, or Category III practitioners.
- (2) Current listings of the specific categories of Advance Practice Professionals functioning in the Hospital as Category I, Category II, and Category III practitioners are attached to this Policy as Appendices A, B, and C, respectively. The Appendices may be modified or supplemented by action of the Board, after receiving the recommendation of the MEC, without the necessity of further amendment of this Policy.

#### 2.C. ADDITIONAL POLICIES

The Board shall adopt a separate credentialing protocol for each category of Advance Practice Professional that it approves to practice in the Hospital. These separate protocols shall supplement this Policy and shall address the specific matters set forth in Section 3.B of this Policy.

## ARTICLE 3

### GUIDELINES FOR DETERMINING THE NEED FOR NEW CATEGORIES OF ADVANCE PRACTICE PROFESSIONALS

#### 3.A. DETERMINATION OF NEED

- (1) Whenever an Advance Practice Professional in a category that has not been approved by the Board requests permission to practice at the Hospital, the Board shall refer the matter to the Combined Credentials Committee or appoint an ad hoc committee to evaluate the need for that particular category of Advance Practice Professional and to make a recommendation to the MEC for its review and recommendation and then to the Board for final action.
- (2) As part of the process of determining need, the Advance Practice Professional shall be invited to submit information about the nature of the proposed practice, why Hospital access is sought, and the potential benefits to the community by having such services available at the Hospital.
- (3) The Combined Credentials Committee or ad hoc committee may consider the following factors when making a recommendation to the MEC and the Board as to the need for the services of this category of Advance Practice Professionals:
  - (a) the nature of the services that would be offered;
  - (b) any state license or regulation which outlines the scope of practice that the Advance Practice Professional is authorized by law to perform;
  - (c) any state “non-discrimination” or “any willing provider” laws that would apply to the Advance Practice Professional;
  - (d) the business and patient care objectives of the Hospital, including patient convenience;
  - (e) the community’s needs and whether those needs are currently being met or could be better met if the services offered by the Advance Practice Professional were provided at the Hospital;
  - (f) the type of training that is necessary to perform the services that would be offered and whether there are individuals with more training currently providing those services;
  - (g) the availability of supplies, equipment, and other necessary Hospital resources;

- (h) the need for, and availability of, trained staff to support the services that would be offered; and
- (i) the ability to appropriately supervise performance and monitor quality of care.

### 3.B. DEVELOPMENT OF POLICY

- (1) If the Combined Credentials Committee or ad hoc committee determines that there is a need for the particular category of Advance Practice Professional at the Hospital, the committee shall recommend to the MEC and the Board a separate policy for the pertinent type of practitioner that addresses:
  - (a) any specific qualifications and/or training that they must possess beyond those set forth in this Policy;
  - (b) a detailed description of their authorized scope of practice or clinical privileges;
  - (c) any specific conditions that apply to their functioning within the Hospital beyond those set forth in this Policy; and
  - (d) any supervision requirements, if applicable.
- (2) In developing such policies, the Combined Credentials Committee or ad hoc committee shall consult the appropriate department chair or service line chair(s) and consider relevant state law and may contact applicable professional societies or associations. The committee may also recommend to the Board the number of Advance Practice Professionals that are needed in a particular category.

## ARTICLE 4

### QUALIFICATIONS, CONDITIONS, AND RESPONSIBILITIES

#### 4.A. QUALIFICATIONS

##### 4.A.1. Eligibility Criteria:

To be eligible to apply for initial and continued permission to practice at the Hospital, Advance Practice Professionals must:

- (a) have a current, unrestricted license or certification to practice in Alabama that is not subject to any disciplinary action-based restrictions, probationary terms, or conditions;\*
- (b) not currently be under investigation by any state licensing agency and have never had a license or certification to practice denied, revoked, restricted or suspended by a state licensing agency;\*
- (c) where applicable to their practice, have a current, unrestricted DEA registration and have never had a DEA registration or state controlled substance license denied, revoked, restricted or suspended;\*
- (d) be available on a continuous basis, either personally or by arranging appropriate coverage when unavailable, to respond to the needs of patients in a prompt, efficient, and conscientious manner. (“Appropriate coverage” means coverage by another individual with appropriate specialty-specific privileges as determined by the Combined Credentials Committee.) Compliance with this eligibility requirement means that the practitioner must document and certify that he or she is willing and able to:
  - (1) respond within 15 minutes, via phone, to an initial contact from the Hospital; and
  - (2) appear in person to attend to a patient within 45 minutes of being requested to do so (or more quickly based upon (i) the acute nature of the patient’s condition or (ii) as required for a particular specialty as recommended by the MEC and approved by the Board);
- (e) have current, valid professional liability insurance coverage in such form and in amounts satisfactory to the Board;
- (f) have never been convicted of, or entered a plea of guilty or no contest to, Medicare, Medicaid, or other federal or state governmental or private third-party



payer fraud or program abuse, nor have been required to pay civil monetary penalties for the same;\*

- (g) have never been, and are not currently, excluded, precluded, or debarred from participation in Medicare, Medicaid, or other federal or state governmental health care program;\*
- (h) have not been terminated from a post-graduate training program related to their clinical profession, nor resigned from such a program during an investigation or in exchange for the program not conducting an investigation;\*
- (i) have never had clinical privileges or scope of practice denied, revoked, suspended, or terminated by any health care facility or health plan for reasons related to clinical competence or professional conduct;\*
- (j) have never relinquished or resigned affiliation, clinical privileges, or a scope of practice during an investigation or in exchange for not conducting such an investigation;\*
- (k) not currently be subject to a criminal investigation, and have never been convicted of, or entered a plea of guilty or no contest to, any felony; or to any misdemeanor relating to controlled substances, illegal drugs, insurance or health care fraud or abuse, child abuse, elder abuse, violence, or the practitioner-patient relationship;\*
- (l) satisfy all additional eligibility qualifications relating to their specific area of practice that may be established by the Hospital;
- (m) document compliance with all applicable training and educational protocols that may be adopted by the MEC or required by the Board, including, but not limited to, those involving electronic medical records, computerized physician order entry (“CPOE”), the privacy and security of protected health information, infection control, and patient safety;
- (n) document compliance with any health screening requirements (i.e., mandatory flu vaccines, and infectious agent exposures); and
- (o) if seeking to practice as a Category II or Category III practitioner, have a supervision agreement and/or collaborative agreement with a physician who is appointed to the Medical Staff (the “Supervising Physician”).

\* The eligibility criteria set forth in these provisions shall apply to all Advance Practice Professionals on a prospective basis following the adoption of this Policy. The eligibility criteria shall not be applied to existing Advance Practice Professionals in a retrospective manner that would render such individuals ineligible for continued appointment on the basis of actions that took place prior to the adoption of this Policy (e.g., licensure or DEA actions).

#### 4.A.2. Waiver of Eligibility Criteria:

- (a) Any applicant who does not satisfy one or more of the threshold eligibility criteria outlined above may request that it be waived. The applicant requesting the waiver bears the burden of demonstrating (i) that he/she is otherwise qualified, and (ii) exceptional circumstances exist (e.g., when there is a demonstrated Hospital or Medical Staff need for the services in question). Exceptional circumstances generally do not include situations where a waiver is sought for the convenience of an applicant.
- (b) In reviewing the request for a waiver, the Combined Credentials Committee may consider the specific qualifications of the individual in question, input from the relevant department chair or service line chair, and the best interests of the Hospital and the communities it serves. Additionally, the Combined Credentials Committee may, in its discretion, consider the application form and other information supplied by the applicant. The Combined Credentials Committee's recommendation will be forwarded to the MEC. Any recommendation to grant a waiver must include the specific basis for the recommendation.
- (c) The MEC will review the recommendation of the Combined Credentials Committee and make a recommendation to the Board regarding whether to grant or deny the request for a waiver. Any recommendation to grant a waiver must include the specific basis for the recommendation.
- (d) No individual is entitled to a waiver or to a hearing if the MEC recommends and/or the Board determines not to grant a waiver. A determination that an individual is not entitled to a waiver is not a "denial" of permission to practice, clinical privileges, or scope of practice. Rather, that individual is ineligible to request permission to practice or clinical privileges. A determination of ineligibility is not a matter that is reportable to either the state board or the National Practitioner Data Bank.
- (e) The granting of a waiver in a particular case does not set a precedent for any other individual or group of individuals.
- (f) An application form that does not satisfy an eligibility criterion will not be processed until the Board has determined that a waiver should be granted.
- (g) If a waiver is granted that does not specifically include a time limitation, the waiver is considered to be permanent and the individual does not have to request a waiver at subsequent recredentialing cycles.

#### 4.A.3. Factors for Evaluation:

The six ACGME general competencies (patient care, medical knowledge, professionalism, system-based practice, practice-based learning, and interpersonal communications) will be evaluated as applicable, as part of a request for permission to practice, as reflected in the following factors:

- (a) relevant training, experience, and demonstrated current competence, including medical/clinical knowledge, technical and clinical skills, clinical judgment, and an understanding of the contexts and systems within which care is provided;
- (b) adherence to the ethics of their profession, continuous professional development, an understanding of and sensitivity to diversity, and responsible attitude toward patients, families, and their profession;
- (c) ability to safely and competently perform the clinical privileges or scope of practice requested;
- (d) good reputation and character;
- (e) ability to work harmoniously with others, including, but not limited to, interpersonal and communication skills sufficient to enable them to maintain professional relationships with patients, families, and other members of health care teams; and
- (f) recognition of the importance of, and willingness to support, the Hospital's and Medical Staff's commitment to quality care and a recognition that interpersonal skills and collegiality are essential to the provision of quality patient care.

#### 4.A.4. No Entitlement to Medical Staff Appointment:

Advance Practice Professionals shall not be appointed to the Medical Staff or entitled to the rights, privileges, and/or prerogatives of Medical Staff appointment.

#### 4.A.5. Non-Discrimination Policy:

No individual shall be denied permission to practice at the Hospital on the basis of race, color, national origin, sex, pregnancy, sexual orientation, gender identity and gender expression, religion, age, genetic information, disability, protected veteran status, or any other applicable protected basis.

## 4.B. GENERAL CONDITIONS OF PRACTICE

### 4.B.1. Assumption of Duties and Responsibilities:

As a condition of permission to practice at the Hospital, all Advance Practice Professionals shall specifically agree to the following:

- (a) to provide continuous and timely quality care to all patients in the Hospital for whom the individual has responsibility;
- (b) to abide by all bylaws, rules and regulations, and policies of the Medical Staff and Hospital;
- (c) to accept committee assignments and such other reasonable duties and responsibilities as may be assigned;
- (d) to maintain and monitor a current personal e-mail address with the Medical Staff Office, which will be the primary mechanism used to communicate all relevant information to the individual;
- (e) to provide valid contact information in order to facilitate practitioner-to-practitioner communication (e.g., mobile phone number or valid answering service information);
- (f) to inform the Medical Staff Office, in writing, as soon as possible but in all cases within 10 days, of any change in the practitioner's status or any change in the information provided on the practitioner's application form. This information will be provided with or without request, and will include, but not be limited to:
  - changes in licensure or certification status, DEA controlled substance authorization, or professional liability insurance coverage;
  - adverse changes in professional liability insurance coverage;
  - the filing of a professional liability lawsuit against the practitioner;
  - changes in the practitioner's status at any other hospital or health care entity as a result of peer review activities;
  - changes in the practitioner's employment status at any medical group or hospital as a result of issues related to clinical competence or professional conduct;
  - knowledge of a criminal investigation involving the practitioner, arrest, charge, indictment, conviction, or a plea of guilty or no contest in any criminal matter;

- exclusion or preclusion from participation in Medicare/Medicaid or any state or federal healthcare program, or any sanctions imposed;
  - any changes in the practitioner's ability to safely and competently exercise clinical privileges, or scope of practice, or to perform the duties and responsibilities of permission to practice because of health status issues, including, but not limited to, impairment due to addiction, alcohol use, or other similar issue (all of which shall be referred for review under the Practitioner Health Policy);
  - any referral to a state board health-related program; and
  - any charge of, or arrest for, driving under the influence ("DUI") (which shall be referred for review under the Practitioner Health Policy);
- (g) to immediately submit to an appropriate evaluation, which may include diagnostic testing (including, but not limited to, blood and/or urine test) and/or a complete physical, mental, and/or behavioral evaluation, if at least two Medical Staff Leaders (or one Medical Staff Leader and one member of the Administrative team) are concerned with the individual's ability to safely and competently care for patients and request such testing and/or evaluation. The health care professional(s) to perform the testing and/or evaluations will be determined by the Medical Staff Leaders, and the Advance Practice Professional will execute all appropriate releases to permit the sharing of information with the Medical Staff Leaders;
- (h) to strictly comply with the standards of practice applicable to the functioning of Category II practitioners in the inpatient hospital setting, as set forth in Section 6.A of this Policy;
- (i) to constructively participate in the development, review, and revision of clinical practice and evidence-based medicine protocols pertinent to his or her specialty (including those related to national patient safety initiatives and core measures), and to comply with all such protocols and pathways;
- (j) to meet with Medical Staff Leaders and/or Hospital administration upon request, to provide information regarding professional qualifications upon written request, and to participate in collegial efforts with Medical Staff Leaders and/or Hospital administration as may be requested;
- (k) to appear for personal or phone interviews in regard to an application for permission to practice as may be requested;
- (l) to refrain from illegal fee splitting or other illegal inducements relating to patient referral;

- (m) to refrain from assuming responsibility for diagnosis or care of hospitalized patients for which he or she is not qualified or without adequate supervision;
- (n) to refrain from deceiving patients as to the individual's status as an Advance Practice Professional and to always wear proper Hospital identification of their name and status;
- (o) to seek consultation when appropriate;
- (p) to participate in the performance improvement and quality monitoring activities of the Hospital;
- (q) to complete, in a timely and legible manner, the medical and other required records, containing all information required by the Hospital, and to utilize the electronic medical record as required;
- (r) to cooperate with all utilization oversight activities;
- (s) to perform all services and conduct himself/herself at all times in a cooperative and professional manner;
- (t) to satisfy applicable continuing education requirements;
- (u) to pay any applicable application fees, assessments, and/or fines;
- (v) to comply with all applicable training and educational protocols as well as orientation requirements that may be adopted by the MEC or required by the Board, including, but not limited to, those involving electronic medical records, computerized physician order entry ("CPOE"), the privacy and security of protected health information, infection control, and patient safety; and
- (w) that, if there is any misstatement in, or omission from, the application, the Hospital may stop processing the application (or, if permission to practice has been granted prior to the discovery of a misstatement or omission, the permission may be deemed to be automatically relinquished). In either situation, there shall be no entitlement to the procedural rights provided in this Policy. The individual will be informed in writing of the nature of the misstatement or omission and permitted to provide a written response for the Combined Credentials Committee's consideration. If the determination is made to not process an application or that permission to practice and clinical privileges should be automatically relinquished pursuant to this provision, the individual may not reapply for a period of at least two years.

#### 4.B.2. Burden of Providing Information:

- (a) Advance Practice Professionals seeking permission to practice or renewal of permission to practice shall have the burden of producing information deemed adequate by the Hospital for a proper evaluation of current competence, character, ethics, and other qualifications, and for resolving any doubts about such qualifications.
- (b) Advance Practice Professionals seeking permission or renewal of permission to practice have the burden of providing evidence that all the statements made and information given on the application are accurate.
- (c) Complete Application: An application shall be complete when all questions on the application form have been answered, all supporting documentation has been supplied, all information has been verified from primary sources, and all application fees and applicable fines have been paid. An application shall become incomplete if the need arises for new, additional, or clarifying information at any time during the credentialing process. Any application that continues to be incomplete 30 days after the individual has been notified of the additional information required shall be deemed to be withdrawn.
- (d) It is the responsibility of the individual seeking permission to practice or renewal of permission to practice to provide a complete application, including adequate responses from references. An incomplete application will not be processed.

#### 4.C. APPLICATION

##### 4.C.1. Information:

- (a) The application forms for both initial and renewed permission to practice as an Advance Practice Professional shall require detailed information concerning the applicant's professional qualifications. The Advance Practice Professional application forms existing now and as may be revised are incorporated by reference and made a part of this Policy.
- (b) In addition to other information, the applications shall seek the following:
  - (1) information as to whether the applicant's clinical privileges, scope of practice, permission to practice, and/or affiliation has ever been voluntarily or involuntarily relinquished, withdrawn, denied, revoked, suspended, reduced, subjected to probationary or other conditions, limited, terminated, or not renewed at any hospital, health care facility, or other organization, or is currently being investigated or challenged;
  - (2) information as to whether the applicant's license or certification to practice any profession in any state, DEA registration, or any state

controlled substance license (if applicable) is or has ever been voluntarily or involuntarily relinquished, suspended, modified, terminated, restricted, or is currently being investigated or challenged;

- (3) information concerning the applicant's professional liability litigation experience and/or any professional misconduct proceedings involving the applicant, in this state or any other state, whether such proceedings are closed or still pending, including the substance of the allegations of such proceedings or actions, the substance of the findings of such proceedings or actions, the ultimate disposition of any such proceedings or actions that have been closed, and any additional information concerning such proceedings or actions as the Combined Credentials Committee, MEC or Board may deem appropriate;
  - (4) current information regarding the applicant's ability to perform, safely and competently, the clinical privileges or scope of practice requested and the duties of Advance Practice Professionals; and
  - (5) a copy of government-issued photo identification.
- (c) The applicant shall sign the application and certify that he or she is able to perform the clinical privileges or scope of practice requested and the responsibilities of Advance Practice Professionals.

#### 4.C.2. Grant of Immunity and Authorization to Obtain/Release Information:

By requesting an application and/or applying for permission to practice, the individual expressly accepts the following conditions:

(a) Immunity:

The individual releases from any and all liability, extends immunity to, and agrees not to sue the Hospital or the Board, any member of the Medical Staff or the Board, their authorized representatives, and third parties who provide information for any matter relating to permission to practice, clinical privileges, scope of practice, or the individual's qualifications for the same. This immunity covers any actions, recommendations, communications, and/or disclosures involving the individual that are made or taken by the Hospital, its authorized agents, or third parties in the course of credentialing and peer review activities. This immunity also extends to any reports that are made to government regulatory and licensure boards or agencies pursuant to federal or state law.

(b) Authorization to Obtain Information from Third Parties:

The individual specifically authorizes the Hospital, Medical Staff Leaders, and their authorized representatives (1) to consult with any third party who may have



information bearing on the individual's professional qualifications, credentials, clinical competence, character, ability to perform safely and competently, ethics, behavior, or any other matter reasonably having a bearing on his or her qualifications for initial and continued permission to practice at the Hospital, and (2) to obtain any and all communications, reports, records, statements, documents, recommendations, or disclosures of third parties that may be relevant to such questions. The individual also specifically authorizes third parties to release this information to the Hospital and its authorized representatives upon request. Further, the individual agrees to sign necessary consent forms to permit a consumer reporting agency to conduct a criminal background check on the individual and report the results to the Hospital.

(c) Authorization to Release Information to Third Parties:

The individual also authorizes Hospital representatives to release information to (i) the Supervising Physician, (ii) other hospitals, health care facilities, managed care organizations, and their agents when information is requested in order to evaluate his or her professional qualifications for permission to practice, clinical privileges, scope of practice, and/or participation at the requesting organization/facility, and (iii) government regulatory and licensure boards or agencies pursuant to federal or state law.

(d) Authorization to Share Information among USA Health Entities:

The individual specifically authorizes USA Health Entities (as defined below) to share credentialing, peer review, and other information and documentation pertaining to the individual's clinical competence, professional conduct and health. This information and documentation may be shared at any time, including, but not limited to, any initial evaluation of an individual's qualifications, any periodic reassessment of those qualifications, or when a question is raised about the individual. For purposes of this Section, a USA Health Entity means:

- (1) any entity which, directly or indirectly, through one or more intermediaries, is controlled by USA Health. This includes, but is not limited to, USA Health hospitals, ambulatory surgery centers, and USA Health-affiliated physician groups. It also includes a joint venture in which USA Health has an interest of 50 percent or more; and
- (2) any physician group not included in subsection (1) whose members provide patient care services at USA Health or at a USA Health Entity, provided:
  - (i) the physician group has a formal professional practice evaluation/peer review process, as evidenced by internal bylaws or policy; and

- (ii) the physician group has information sharing provisions consistent with this Section, in a professional services contract, or in another contract with USA Health or a USA Health Entity.

(e) Procedural Rights:

The Advance Practice Professional agrees that the procedural rights set forth in this Policy are the sole and exclusive remedy with respect to any professional review action taken by the Hospital.

(f) Legal Actions:

If, despite this Section, an individual institutes legal action challenging any credentialing, privileging, peer review, or other action affecting permission to practice, clinical privileges, or scope of practice, or any report that may be made to a regulatory board or agency, and does not prevail, he or she shall reimburse the Hospital and any member of the Medical Staff or Board involved in the action for all costs incurred in defending such legal action, including reasonable attorney's fees, expert witness fees, and lost revenues.

(g) Scope of Section:

All of the provisions in this Section are applicable in the following situations:

- (1) whether or not permission to practice, clinical privileges, or scope of practice is granted;
- (2) throughout the term of any affiliation with the Hospital and thereafter;
- (3) should permission to practice, clinical privileges, or scope of practice be denied, revoked, reduced, restricted, suspended, and/or otherwise affected as part of the Hospital's professional review activities;
- (4) as applicable, to any third-party inquiries received after the individual leaves the Hospital about his or her tenure as a member of the Advance Practice Professional Staff; and
- (5) as applicable, to any reports that may be made to government regulatory and licensing boards or agencies pursuant to federal or state law.

## ARTICLE 5

### CREDENTIALING PROCEDURE

#### 5.A. PROCESSING OF INITIAL APPLICATION TO PRACTICE

##### 5.A.1. Request for Application:

- (a) Any individual requesting an application for permission to practice at the Hospital shall be sent information that (i) outlines the threshold eligibility criteria for permission to practice outlined earlier in this Policy, (ii) outlines the applicable criteria for the clinical privileges being sought, and (iii) provides access to the application form.
- (b) An Advance Practice Professional who is in a category of practitioners that has not been approved by the Board to practice at the Hospital shall be ineligible to receive an application. A determination of ineligibility does not entitle an Advance Practice Professional to the procedural rights outlined in Article 8 of this Policy.

##### 5.A.2. Initial Review of Application:

- (a) A completed application form with copies of all required documents must be returned to the Medical Staff Office and/or the Credentials Verification Organization (“CVO”) accompanied by any required application fee.
- (b) As a preliminary step, the application will be reviewed by the Medical Staff Office and/or CVO to determine that all questions have been answered and that the individual satisfies all threshold criteria. Individuals who fail to return completed applications or fail to meet the eligibility criteria set forth in Section 4.A.1 of this Policy will be notified that they are not eligible for permission to practice at the Hospital and that their application will not be processed. A determination of ineligibility does not entitle an Advance Practice Professional to the procedural rights outlined in Article 8 of this Policy, and is not reportable to any state agency or to the National Practitioner Data Bank.
- (c) The Medical Staff Office and/or CVO shall oversee the process of gathering and verifying relevant information and confirming that all references and other information or materials deemed pertinent have been received. Once an application is complete, it shall be transmitted, along with all supporting documentation, to the applicable department chair or service line chair.

#### 5.A.3. Department Chair or Service Line Chair Procedure:

- (a) The Medical Staff Office shall transmit the complete application and all supporting materials to the appropriate department chair or service line chair or the individual to whom the chair has assigned this responsibility. Each chair shall prepare a report (on a form provided by the Medical Staff Office) regarding whether the applicant has satisfied all of the qualifications for permission to practice and the clinical privileges requested.
- (b) As part of the process of making this report, the department chair or service line chair has the right to meet with the applicant and the Supervising Physician (if applicable) to discuss any aspect of the application, qualifications, and requested clinical privileges. The department chair or service line chair may also confer with experts within the department and outside of the department in preparing the report (e.g., other physicians, relevant Hospital department heads, nurse managers). Applicants do not have the right to be accompanied by counsel to interviews that are held pursuant to this Section.
- (c) The department chair or service line chair shall be available to answer any questions that may be raised with respect to that individual's report and findings.

#### 5.A.4. Combined Credentials Committee Procedure:

- (a) The Combined Credentials Committee shall review the reports from the appropriate department chair or service line chair and the information contained in references given by the applicant and from other available sources. The Combined Credentials Committee shall examine evidence of the applicant's character, professional competence, qualifications, prior behavior, and ethical standing and shall determine whether the applicant has established and satisfied all of the necessary qualifications for the clinical privileges or scope of practice requested.
- (b) The Combined Credentials Committee may use the expertise of any individual on the Medical Staff or in the Hospital, or an outside consultant, if additional information is required regarding the applicant's qualifications. The Combined Credentials Committee may also meet with the applicant and, when applicable, the Supervising Physician. The appropriate department chair or service line chair may participate in this interview.
- (c) After determining that an applicant is otherwise qualified for permission to practice and privileges, the Combined Credentials Committee may require the applicant to undergo a physical, mental, and/or behavioral examination by a physician(s) satisfactory to the Combined Credentials Committee if there is any question about the applicant's ability to perform the privileges requested. The results of this examination shall be made available to the committee for its consideration. Failure of an applicant to undergo an examination within a

reasonable time after being requested to do so in writing by the Combined Credentials Committee shall be considered a voluntary withdrawal of the application and all processing of the application shall cease. The cost of the health assessment will be borne by the applicant.

- (d) The Combined Credentials Committee may recommend specific conditions. These conditions may relate to behavior (e.g., personal code of conduct) or to clinical issues (e.g., general consultation requirements, appropriate documentation requirements, proctoring, completion of education requirements). The Combined Credentials Committee may also recommend that permission to practice be granted for a period of less than two years in order to permit closer monitoring of an individual's compliance with any conditions.
- (e) The Combined Credentials Committee's recommendation will be forwarded to the MEC.

#### 5.A.5. MEC Procedure:

- (a) At its next meeting, after receipt of the written findings and recommendation of the Combined Credentials Committee, the MEC shall:
  - (1) adopt the findings and recommendations of the Combined Credentials Committee as its own; or
  - (2) refer the matter back to the Combined Credentials Committee for further consideration and responses to specific questions raised by the MEC; or
  - (3) set forth in its report and recommendation clear and convincing reasons, along with supporting information, for its disagreement with the Combined Credentials Committee's recommendation.
- (b) If the MEC's recommendation is favorable to the applicant, the Committee shall forward its recommendation to the Board.
- (c) If the MEC's recommendation is unfavorable and would entitle the applicant to the procedural rights set forth in this Policy, the MEC shall forward its recommendation to the Hospital Administrator, who shall notify the applicant of the recommendation and his or her procedural rights. The Hospital Administrator shall then hold the MEC's recommendation until after the individual has completed or waived the procedural rights outlined in this Policy.

#### 5.A.6. Board Action:

- (a) Expedited Review: The Board may delegate to a committee, consisting of at least two Board members, action on applications if there has been a favorable

recommendation from the Combined Credentials Committee and the MEC (or their designees) and there is no evidence of any of the following:

- (1) a current or previously successful challenge to any license, certification, or registration;
- (2) an involuntary termination, limitation, reduction, denial, or loss of permission to practice, clinical privileges, or scope of practice at any other hospital or other entity; or
- (3) an unusual pattern of, or an excessive number of, professional liability actions resulting in a final judgment against the applicant.

Any decision reached by the Board committee to appoint and grant the clinical privileges or scope of practice requested shall be effective immediately and shall be forwarded to the Board for ratification at its next meeting.

- (b) Full Board Review: When there has been no delegation to a Board committee, upon receipt of a recommendation that the applicant be granted permission to practice and clinical privileges requested, the Board may:
  - (1) grant the applicant permission to practice and clinical privileges or scope of practice as recommended; or
  - (2) refer the matter back to the Combined Credentials Committee or MEC or to another source inside or outside the Hospital for additional research or information; or
  - (3) reject or modify the recommendation.
- (c) If the Board determines to reject a favorable recommendation, it should first discuss the matter with the Chair of the Combined Credentials Committee and the Chair of the MEC. If the Board's determination remains unfavorable to the applicant, the Hospital Administrator shall promptly send Special Notice to the applicant that the applicant is entitled to request the procedural rights as outlined in this Policy.
- (d) Any final decision by the Board to grant, deny, revise, or revoke permission to practice and/or clinical privileges or scope of practice will be disseminated to appropriate individuals and, as required, reported to appropriate entities.

#### 5.A.7. Duration of Grant of Permission to Practice:

All initial grants of permission to practice and clinical privileges or scope of practice pursuant to this Policy shall be for a duration of not more than two years.

## 5.B. CLINICAL PRIVILEGES

### 5.B.1. General:

The clinical privileges recommended to the Board for Category I and Category II practitioners will be based upon consideration of the following factors:

- (a) education, relevant training, experience, and demonstrated current competence, including medical/clinical knowledge, technical and clinical skills, clinical judgment, interpersonal and communication skills, and professionalism with patients, families and other members of the health care team and peer evaluations relating to the same;
- (b) ability to perform the privileges requested competently and safely;
- (c) information resulting from ongoing and focused professional practice evaluation and performance improvement activities, as applicable;
- (d) adequate professional liability insurance coverage for the clinical privileges requested;
- (e) the Hospital's available resources and personnel;
- (f) any previously successful or currently pending challenges to any licensure or registration, or the voluntary or involuntary relinquishment of such licensure or registration;
- (g) any information concerning professional review actions or voluntary or involuntary termination, limitation, reduction, or loss of appointment or clinical privileges at another hospital;
- (h) practitioner-specific data as compared to aggregate data, when available;
- (i) morbidity and mortality data, when available; and
- (j) professional liability actions, especially any such actions that reflect an unusual pattern or excessive number of actions.

### 5.B.2. FPPE to Confirm Competence and Professionalism:

All new clinical privileges for Category I and Category II practitioners, regardless of when they are granted (initial permission to practice, renewal of permission to practice, or at any time in between), will be subject to focused professional practice evaluation ("FPPE") in order to confirm competence. The FPPE process for these situations is outlined in the peer review policies.

### 5.B.3. Clinical Privileges for Dentists:

- (a) The scope and extent of surgical procedures that a dentist may perform in the Hospital shall be delineated and recommended in the same manner as other clinical privileges.
- (b) Surgical procedures performed by dentists shall be under the overall supervision of the relevant department chair or service line chair. A medical history and physical examination of the patient shall be made and recorded by a qualified practitioner who has been granted clinical privileges to complete medical histories and physical examinations before dental surgery shall be performed, and a designated physician shall be responsible for the medical care of the patient throughout the period of hospitalization.
- (c) The dentist shall be responsible for the dental care of the patient, including the dental history and dental physical examination, as well as all appropriate elements of the patient's record. Dentists may write orders within the scope of their license and consistent with any pertinent Medical Staff Rules and Regulations and in compliance with the Hospital and Medical Staff Bylaws and this Policy.
- (d) A dentist may make a specific request for an exception from paragraph (b) above and may request to be able to complete a history and physical examination on dental surgery patients upon demonstration of adequate training in the completion of histories and physical examinations. If such an exception is granted by the MEC, the dentist is still required to identify a designated physician who has agreed to be responsible for the medical care of the patient throughout the period of hospitalization.

### 5.B.4. Clinical Privileges for Podiatrists:

- (a) The scope and extent of surgical procedures that a podiatrist may perform in the Hospital shall be delineated and recommended in the same manner as other clinical privileges.
- (b) Surgical procedures performed by podiatrists shall be under the overall supervision of the relevant department chair or service line chair. A medical history and physical examination of the patient shall be made and recorded by a qualified practitioner who has been granted clinical privileges to complete medical histories and physical examinations before podiatric surgery shall be performed, and a designated physician shall be responsible for the medical care of the patient throughout the period of hospitalization.
- (c) The podiatrist shall be responsible for the podiatric care of the patient, including the podiatric history and podiatric physical examination, as well as all appropriate elements of the patient's record. Podiatrists may write orders within the scope of their license and consistent with any pertinent Medical Staff Rules and



Regulations and in compliance with the Hospital and Medical Staff Bylaws and this Policy.

- (d) A podiatrist may make a specific request for an exception from paragraph (b) above and may request to be able to complete a history and physical examination on podiatric surgery patients upon demonstration of adequate training in the completion of histories and physical examinations. If such an exception is granted by the MEC, the podiatrist is still required to identify a designated physician who has agreed to be responsible for the medical care of the patient throughout the period of hospitalization.

## 5.C. TEMPORARY CLINICAL PRIVILEGES

### 5.C.1. Request for Temporary Clinical Privileges:

- (a) Applicants: Temporary privileges for an applicant for initial permission to practice may be granted by the CMO, upon recommendation of the Chair of the MEC or the department chair or service line chair, and the Chair of the Combined Credentials Committee, when a Category I or Category II practitioner has submitted a completed application and the application is pending review by the MEC and the Board. Prior to temporary privileges being granted in this situation, the credentialing process must be complete, including, where applicable, verification of current licensure, relevant training or experience, current competence, ability to exercise the privileges requested, and compliance with criteria, and consideration of information from the National Practitioner Data Bank and from a criminal background check. In order to be eligible for temporary privileges, an individual must demonstrate that there are no current or previously successful challenges to his or her licensure or registration and that he or she has not been subject to involuntary termination of membership, or involuntary limitation, reduction, denial, or loss of clinical privileges at another health care facility.
- (b) Locum Tenens: The CMO, upon recommendation of the Chair of the MEC or the relevant department chair or service line chair, may grant temporary privileges to a Category I or Category II practitioner serving as a locum tenens for an individual who is on vacation, attending an educational seminar, or ill, and/or otherwise needs coverage assistance for a period of time. Prior to temporary privileges being granted in this situation, the verification process must be complete, including, where applicable, verification of current licensure, relevant training or experience, current competence, ability to exercise the privileges requested, and compliance with criteria, and consideration of information from the National Practitioner Data Bank and from a criminal background check. In order to be eligible for temporary privileges, an individual must demonstrate that there are no current or previously successful challenges to his or her licensure or registration and that he or she has not been subject to involuntary termination of

membership, or involuntary limitation, reduction, denial, or loss of clinical privileges at another health care facility.

- (c) Compliance with Bylaws and Policies: Prior to temporary privileges being granted, the individual must agree in writing to be bound by all applicable bylaws, rules and regulations, and policies, procedures, and protocols.
- (d) Time Frames and Automatic Expiration: Temporary privileges will be granted for a specific period of time, not to exceed 120 days, and will expire at the end of the time period for which they are granted.

#### 5.C.2. Withdrawal of Temporary Clinical Privileges:

The Hospital Administrator or CMO may withdraw temporary privileges for any reason, at any time, after consulting with the Chair of the MEC, the Chair of the Combined Credentials Committee, or the department chair or service line chair.

### 5.D. PROCESSING APPLICATIONS FOR RENEWAL TO PRACTICE

#### 5.D.1. Submission of Application:

- (a) The grant of permission to practice will be for a period not to exceed two years. A request to renew clinical privileges or scope of practice will be considered only upon submission of a completed renewal application.
- (b) Approximately five months prior to the date of expiration of an Advance Practice Professional's clinical privileges or scope of practice, the Medical Staff Office and/or the CVO will notify the individual of the date of expiration and provide the individual with a renewal application electronically. A completed renewal application must be returned to the Medical Staff Office and/or the CVO accompanied by any reapplication fee within 30 days.
- (c) Failure to submit a complete application at least two months prior to the expiration of the individual's current term may result in automatic expiration of clinical privileges at the end of the then current term, unless the application can still be processed in the normal course, without extraordinary effort on the part of the Medical Staff Office and the Medical Staff Leaders.
- (d) Once an application for renewal of clinical privileges or scope of practice has been completed and submitted, it will be evaluated following the same procedures outlined in this Policy regarding initial applications.

#### 5.D.2. Renewal Process for Category I and Category II Practitioners:

- (a) The procedures pertaining to an initial request for clinical privileges, including eligibility criteria and factors for evaluation, will be applicable in processing requests for renewal for these practitioners.
- (b) As part of the process for renewal of clinical privileges, the following factors will be considered:
  - (1) an assessment prepared by the applicable department chair or service line chair;
  - (2) an assessment prepared by a peer, if possible;
  - (3) results of the Hospital's performance improvement and ongoing and focused professional practice evaluation activities, taking into consideration, when applicable, practitioner-specific information compared to aggregate information concerning other individuals in the same or similar specialty (provided that, other practitioners will not be identified);
  - (4) resolution of any verified complaints received from patients or staff; and
  - (5) any focused professional practice evaluations.
- (c) For Category II practitioners, the following information may also be considered:
  - (1) an assessment prepared by the Supervising Physician(s); or
  - (2) an assessment prepared by the applicable Hospital supervisor (i.e., OR Supervisor, Nursing Supervisor).

#### 5.D.3. Renewal Process for Category III Practitioners:

- (a) The procedures pertaining to an initial request for a scope of practice, including eligibility criteria and factors for evaluation, will be applicable in processing requests for renewal for these practitioners.
- (b) As part of the process for renewal of scope of practice, the following factors will be considered:
  - (1) competency assessment(s) of the individual performed by the Supervising Physician(s) and/or the applicable Hospital department heads (i.e., OR Supervisor, Nursing Supervisor); and
  - (2) resolution of any validated complaints received from patients or staff.

## ARTICLE 6

### CONDITIONS OF PRACTICE APPLICABLE TO CATEGORY II AND CATEGORY III PRACTITIONERS

#### 6.A. STANDARDS OF PRACTICE FOR THE UTILIZATION OF CATEGORY II PRACTITIONERS IN THE INPATIENT SETTING

- (1) Category II practitioners are permitted to function in the inpatient Hospital setting in collaboration with and under the supervision and oversight of the Supervising Physician. As a condition of being granted permission to practice at the Hospital, all Category II practitioners specifically agree to abide by the standards of practice set forth in this Section. In addition, as a condition of being permitted to utilize the services of Category II practitioners in the Hospital, all Medical Staff members who serve as Supervising Physicians to such individuals also specifically agree to abide by the standards set forth in this Section.
- (2) The following standards of practice apply to the functioning of Category II practitioners in the inpatient Hospital setting:
  - (a) Exercise of Clinical Privileges. Category II practitioners may exercise those clinical privileges as have been granted pursuant to their approved delineation of clinical privileges, which delineations specify the requisite levels of supervision that apply to their privileges (general, direct, or personal, which terms are defined in this Policy), of which only “personal” supervision requires the actual physical presence of the Supervising Physician.
  - (b) Admitting Privileges. Category II practitioners are not granted inpatient admitting privileges and therefore may not admit patients independent of the Supervising Physician. However, a Category II practitioner is permitted to write inpatient admission orders on behalf of a Supervising Physician who has inpatient admitting privileges and may examine the patient, gather data, order tests, and generate other documentation to help facilitate the admission.
  - (c) Consultations. Category II practitioners may not independently provide patient consultations in lieu of the practitioners’ Supervising Physicians. A Category II practitioner may examine patients, gather data, order tests, and generate documentation; however, the Supervising Physician must personally see the patient and perform the requested consultation in accordance with the time frames set forth in the Medical Staff Rules and Regulations. A Category II practitioner may complete consultant rounds after the Supervising Physician has completed the initial consultation.

- (d) Emergency On-Call Coverage. Category II practitioners may not independently participate in the emergency on-call roster (formally, or informally by agreement with their Supervising Physicians), in lieu of the Supervising Physician. It shall be within the discretion of the Emergency Department personnel requesting assistance whether it is appropriate to contact a Category II practitioner prior to contacting the Supervising Physician. However, when contacted by the Emergency Department, the Supervising Physician (or his/her covering physician) must personally respond to all calls in a timely manner, in accordance with requirements set forth in these Bylaws. Following discussion with the Emergency Department, the Supervising Physician may direct a Category II practitioner to see the patient, gather data, order tests, and generate documentation for further review by the Supervising Physician. However, the Supervising Physician must still personally see the patient when requested by the Emergency Department physician.
  
- (e) Calls Regarding Supervising Physician's Hospitalized Inpatients. It shall be within the discretion of the Hospital personnel requesting assistance whether it is appropriate to contact a Category II practitioner or the Supervising Physician. The Supervising Physician must personally respond to all calls that have been specifically directed to him or her in a timely manner. Category II practitioners may not independently respond to calls from the floor or special care units regarding hospitalized inpatients that were specifically directed to the Supervising Physician.
  
- (f) Daily Inpatient Rounds for Attending Physicians. A Category II practitioner is permitted to perform daily inpatient rounds; however, all inpatients must also be visited by the Supervising Physician (or a designated physician) either in person or via hospital-approved technology-enabled direct communication and evaluation (i.e., telemedicine) at least once upon admission and again just prior to discharge.

Exceptions to the above Standards of Practice may be granted by the MEC to a practitioner in a particular clinical situation, upon demonstration of good cause shown. When the MEC grants such an exception, the committee will follow the same process as set forth in Section 4.A.2 of this Policy.

#### 6.B. OVERSIGHT BY SUPERVISING PHYSICIAN

- (1) Any activities permitted to be performed at the Hospital by a Category II or Category III practitioner shall be performed only in collaboration with or under the supervision or direction of a Supervising Physician.
  
- (2) Category II or Category III practitioners may function in the Hospital only so long as (i) they are supervised by a Supervising Physician who is currently appointed

to the Medical Staff, and (ii) they have a current, written supervision or collaboration agreement with the Supervising Physician. In addition, should the Medical Staff appointment or clinical privileges of the Supervising Physician be revoked or terminated, the Category II or Category III practitioner's permission to practice at the Hospital and clinical privileges or scope of practice shall be automatically relinquished (unless the individual will be supervised by another approved physician on the Medical Staff).

- (3) As a condition of clinical privileges or a scope of practice, a Category II or Category III practitioner and the Supervising Physician must provide the Hospital with a copy of any written supervision or collaboration agreement that may be required by the state as well as notice of any revisions or modifications that are made to any such agreements between them. This notice must be provided to Medical Staff Services within three days of any such change.
- (4) The Supervising Physician shall be kept apprised of issues related to clinical competence, performance, and/or professional conduct that involve any Category II or Category III practitioner with whom the Supervising Physician has a supervisory or collaborative relationship. Supervising Physicians will specifically be copied on all correspondence that a Category II or Category III practitioner receives from Medical Staff leadership regarding the same.

#### 6.C. QUESTIONS REGARDING AUTHORITY OF A CATEGORY II OR CATEGORY III PRACTITIONER

- (1) Should any Medical Staff member or Hospital employee who is licensed or certified by the state have any question regarding the clinical competence or authority of a Category II or Category III practitioner, either to act or to issue instructions outside the physical presence of the Supervising Physician in a particular instance, the Medical Staff member or Hospital employee shall have the right to require that the Category II or Category III practitioner's Supervising Physician validate, either at the time or later, the instructions of the Category II or Category III practitioner. Any act or instruction of the Category II or Category III practitioner shall be delayed until such time as the staff member or Hospital employee can be certain that the act is clearly within the scope of the Category II or Category III practitioner's activities as permitted by the Board.
- (2) Any question regarding the clinical practice or professional conduct of a Category II or Category III practitioner shall be immediately reported to the Chair of the MEC, the relevant department chair or service line chair, or the CMO who shall undertake such action as may be appropriate under the circumstances. The individual to whom the concern has been reported may also discuss the matter with the Supervising Physician.

#### 6.D. RESPONSIBILITIES OF SUPERVISING PHYSICIAN

- (1) Physicians who wish to utilize the services of a Category II or Category III practitioner in their clinical practice at the Hospital must notify Medical Staff Services of this fact in advance and must ensure that the individual has been appropriately credentialed in accordance with this Policy or with Human Resources policies and procedures before the Category II or Category III practitioner participates in any clinical or direct patient care of any kind in the Hospital.
- (2) The Supervising Physician will remain responsible for all care provided by the Category II or Category III practitioner in the Hospital.
- (3) Supervising Physicians who wish to utilize the services of a Category II practitioner in the inpatient setting specifically agree to abide by the standards of practice set forth in Section 6.A above.
- (4) The number of Category II or Category III practitioners acting under the supervision of one Supervising Physician, as well as the care they may provide, will be consistent with applicable state statutes and regulations and any other policies adopted by the Hospital. The Supervising Physician will make all appropriate filings with the relevant state board regarding the supervision and responsibilities of the Category II or Category III practitioner, to the extent that such filings are required, and shall provide a copy of the same to Medical Staff Services.

## ARTICLE 7

### QUESTIONS INVOLVING ADVANCE PRACTICE PROFESSIONALS

#### 7.A. INITIAL COLLEGIAL LEADERSHIP EFFORTS AND PROGRESSIVE STEPS

- (1) This Policy encourages the use of initial collegial leadership efforts and progressive steps by Medical Staff Leaders and Hospital administration, in consultation with Supervising Physicians, to address questions relating to an individual's clinical practice, professional conduct, and/or health. The goal of these efforts is to arrive at voluntary, responsive actions by the individual to resolve questions that have been raised. Medical Staff Leaders and Hospital administration have been authorized by the MEC, Leadership Council, and Peer Review or Department/Service Line Committees to engage in initial collegial leadership efforts and progressive steps and all of these activities are undertaken on behalf of these committees as part of their professional practice evaluation functions.
- (2) Initial collegial leadership efforts include activities such as:
  - (a) informal mentoring, coaching, or counseling of the Advance Practice Professional, and, if necessary, the Supervising Physician by a Medical Staff Leader (e.g., advising an individual of policies regarding appropriate behavior, communication issues, emergency call obligations, or the timely and adequate completion of medical records); and
  - (b) sharing comparative data, including any variations from clinical practice or evidence-based protocols or guidelines, in order to assist the individual with conforming his or her practice to appropriate norms.

There is no expectation that these efforts be documented, though documentation may be created in the discretion of the Medical Staff Leader and maintained in the individual's confidential file.

- (3) Progressive steps are defined as follows:
  - (a) addressing minor performance issues through informational letters;
  - (b) sending an educational letter that describes opportunities for improvement and provides specific guidance and suggestions;
  - (c) facilitating a formal Collegial Intervention (i.e., a planned, face-to-face meeting between an individual and one or more Medical Staff Leaders), which may also include the Supervising Physician, in order to directly discuss a matter and the steps needed to be taken to resolve it; and



- (d) developing a Performance Improvement Plan, which may include a wide variety of tools and techniques that can result in a constructive and successful resolution of the concern.

All progressive steps shall be documented in a constructive manner and included in an individual's confidential file. Any written responses to any of these progressive steps by the individual shall also be included in the individual's confidential file.

- (4) All of these efforts are fundamental and integral components of the Hospital's professional practice evaluation activities and are confidential and protected in accordance with state law.
- (5) Initial collegial leadership efforts and progressive steps are encouraged, but are not mandatory, and shall be within the discretion of the appropriate Medical Staff Leaders and Hospital administration. When a question arises, the Medical Staff Leaders and/or Hospital Administration may:
  - (a) address it pursuant to the informal leadership efforts and progressive steps provisions of this Section;
  - (b) refer the matter for review in accordance with the peer review policies, the Professionalism Policy, the Practitioner Health Policy, and/or other relevant policy; or
  - (c) refer it to the MEC for its review and consideration in accordance with Section 7.D of this Article.
- (6) Should any recommendation be made or an action taken that entitles an Advance Practice Professional to a hearing in accordance with this Policy, the individual is entitled to be accompanied by legal counsel at that hearing. However, Advance Practice Professionals do not have the right to be accompanied by counsel when the Medical Staff Leaders and Hospital administration are engaged in initial collegial leadership efforts or other progressive steps. These efforts are intended to resolve issues in a constructive manner and do not involve the formal hearing process. In addition, there shall be no recording (audio or video) or transcript made of any meetings that involve informal leadership efforts or progressive steps activities.

#### 7.B. PROFESSIONAL PRACTICE EVALUATION ACTIVITIES

Professional practice evaluation activities shall be conducted in accordance with the peer review policies, the Professionalism Policy, the Practitioner Health Policy, and/or other relevant policy. Matters that are not satisfactorily resolved through collegial intervention efforts or through one of these policies shall be referred to the MEC for its review in

accordance with Section 7.D below. Such interventions and evaluations, however, are not mandatory prerequisites to MEC review.

### 7.C. ADMINISTRATIVE SUSPENSION

- (1) The Chair of the MEC, the relevant department chair or service line chair, the Chair of the Combined Credentials Committee, the CMO, the Hospital Administrator, and the MEC will each have the authority to impose an administrative suspension of all or any portion of the clinical privileges of any Advance Practice Professional whenever a question has been raised about such individual's clinical care or professional conduct.
- (2) An administrative suspension will become effective immediately upon imposition, will immediately be reported in writing to the Hospital Administrator, the Chair of the MEC, and the CMO and will remain in effect unless or until modified by the Hospital Administrator or the MEC. The imposition of an administrative suspension does not entitle an Advance Practice Professional to the procedural rights set forth in Article 8 of this Policy.
- (3) Upon receipt of notice of the imposition of an administrative suspension, the Hospital Administrator and Chair of the MEC will promptly forward the matter to the MEC, which will review and consider the question(s) raised and thereafter make a recommendation to the Board.

### 7.D. INVESTIGATIONS

#### 7.D.1. Initiation of Investigation:

When a question involving clinical competence or professional conduct of an Advance Practice Professional is referred to, or raised by, the MEC, the MEC will review the matter and determine whether to conduct an investigation, to direct the matter to be handled pursuant to another policy, or to proceed in another manner.

#### 7.D.2. Investigative Procedure:

- (a) The MEC will either investigate the matter itself, request that the Combined Credentials Committee conduct the investigation, or appoint an ad hoc committee to conduct the investigation ("investigating committee"). The investigating committee will not include relatives or financial partners of the Advance Practice Professional or, where applicable, the Advance Practice Professional's Supervising Physician. Whenever the questions raised concern the clinical competence of the individual under review, the ad hoc committee shall include a peer of the individual (e.g., an Advance Practice Professional in a similar discipline).

- (b) The investigating committee will have the authority to review relevant documents and interview individuals and will have available to it the full resources of the Medical Staff and the Hospital. The investigating committee may also request written input from, or a meeting with, the Supervising Physician as part of the investigation process.
- (c) The investigating committee will also have the authority to use outside consultants, if needed.
- (d) The investigating committee may require a physical, mental, and/or behavioral examination of the individual by a health care professional(s) acceptable to it. The individual being investigated shall execute a release (in a form approved or provided by the investigating committee) allowing (i) the investigating committee (or its representative) to discuss with the health care professional(s) conducting the examination the reasons for the examination; and (ii) the health care professional(s) conducting the examination to discuss and provide documentation of the results of such examination directly to the investigating committee. The cost of such health examination shall be borne by the individual.
- (e) The individual will have an opportunity to meet with the investigating committee before it makes its report. Prior to this meeting, the individual will be informed, in writing, of the general questions being investigated. The investigating committee may also ask the individual to provide written responses to specific questions related to the investigation and/or a written explanation of his or her perspective on the events that led to the investigation for review by the investigating committee prior to the meeting.
- (f) At the meeting, the individual will be invited to discuss, explain, or refute the questions that gave rise to the investigation. No recording (audio or video) or transcript of the meeting shall be permitted or made. A summary of the interview will be prepared. This meeting is not a hearing, and none of the procedural rules for hearings will apply. The individual being investigated will not have the right to be accompanied by legal counsel at this meeting.
- (g) The investigating committee will make a reasonable effort to complete the investigation and issue its report within 30 days of the commencement of the investigation, provided that an outside review is not necessary. When an outside review is necessary, the investigating committee will make a reasonable effort to complete the investigation and issue its report within 30 days of receiving the results of the outside review. These time frames are intended to serve only as guidelines.
- (h) At the conclusion of the investigation, the investigating committee will prepare a report with its findings, conclusions, and recommendations.

### 7.D.3. Recommendation:

- (a) The MEC may accept, modify, or reject any recommendation it receives from an investigating committee. Specifically, the MEC may:
  - (1) determine that no action is justified;
  - (2) issue a letter of guidance, counsel, warning, or reprimand;
  - (3) impose conditions for continued permission to practice;
  - (4) impose a requirement for monitoring, proctoring, or consultation;
  - (5) impose a requirement for additional training or education;
  - (6) recommend reduction of clinical privileges or scope of practice;
  - (7) recommend suspension of clinical privileges or scope of practice for a term;
  - (8) recommend revocation of clinical privileges or scope of practice; or
  - (9) make any other recommendation that it deems necessary or appropriate.
- (b) A recommendation by the MEC that would entitle the individual to request a hearing will be forwarded to the Hospital Administrator, who will promptly inform the individual by Special Notice. The Hospital Administrator will hold the recommendation until after the individual has completed or waived a hearing and appeal.
- (c) If the MEC makes a recommendation that does not entitle the individual to request a hearing, it will take effect immediately, be forwarded to the Board for informational purposes, and will remain in effect unless modified by the Board.

### 7.E. AUTOMATIC RELINQUISHMENT/ACTIONS

- (1) An Advance Practice Professional's clinical privileges or scope of practice shall be automatically relinquished, without entitlement to the procedural rights outlined in this Policy, in the following circumstances:
  - (a) the Advance Practice Professional no longer satisfies any of the threshold eligibility criteria set forth in Section 4.A.1 or any additional threshold credentialing qualifications set forth in the specific Hospital policy relating to his or her discipline;

- (b) the Advance Practice Professional is arrested, charged, indicted, convicted, or enters a plea of guilty or no contest to any felony; or to any misdemeanor involving (i) controlled substances; (ii) illegal drugs; (iii) Medicare, Medicaid, or insurance or health care fraud or abuse; (iv) child abuse; (v) elder abuse; (vi) violence against another, or (vii) the practitioner-patient relationship (DUIs will be reviewed in accordance with the Practitioner Health Policy;
  - (c) the Advance Practice Professional fails to provide information pertaining to his or her qualifications for clinical privileges in response to a written request from the Hospital Administrator, the Combined Credentials Committee, the Leadership Council, the Peer Review or Department/Service Line Committees, the MEC, or any other committee authorized to request such information;
  - (d) the Advance Practice Professional fails to complete or comply with training or educational requirements that are adopted by the MEC or required by the Board, including, but not limited to, those pertinent to electronic medical records, computerized physician order entry (“CPOE”), the privacy and security of protected health information, infection control, or patient safety;
  - (e) the Advance Practice Professional fails to attend a special meeting at the request of a Medical Staff Leader to discuss a concern with clinical practice or professional conduct, provided Special Notice of the meeting has been provided at least three days in advance;
  - (f) the Advance Practice Professional fails to timely complete medical records in accordance with the time frames as set forth in the Medical Staff Rules and Regulations, after notification by the medical records department of delinquency;
  - (g) a determination is made that there is no longer a need for the services of a particular discipline or category of Advance Practice Professional;
  - (h) a Category II or Category III practitioner fails, for any reason, to maintain an appropriate relationship with a Supervising Physician as defined in this Policy; or
  - (i) any Advance Practice Professional employed by the Hospital has his or her employment terminated.
- (2) Automatic relinquishment shall take effect immediately upon written notice to the individual provided via Special Notice and shall continue until the matter is resolved and the individual is reinstated, if applicable.

- (3) If the underlying matter leading to automatic relinquishment is resolved within 60 days, the individual may request reinstatement in accordance with (4) below. Failure to resolve the matter within 60 days of the date of relinquishment will result in an automatic resignation.
- (4) Requests for reinstatement.
  - (a) Requests for reinstatement following the expiration of a license/certification/registration, controlled substance authorization, and/or insurance coverage will be processed by the Medical Staff Office. If any questions or concerns are noted, the Medical Staff Office will refer the matter for further review in accordance with (b) below.
  - (b) All other requests for reinstatement will be reviewed by the Chair of the MEC, the relevant department chair or service line chair, and the CMO. If each of these individuals makes a favorable recommendation on reinstatement, the Advance Practice Professional may immediately resume clinical practice at the Hospital. This determination will then be forwarded to the Combined Credentials Committee, the MEC, and the Board for ratification. If, however, any of these individuals has any questions or concerns, those questions will be noted and the reinstatement request will be forwarded to the full Combined Credentials Committee, MEC, and Board for review and recommendation.

#### 7.F. LEAVE OF ABSENCE

- (1) An Advance Practice Professional member may request a leave of absence by submitting a written request to the Medical Staff Office. The request must state the beginning and ending dates of the leave, which shall not exceed one year, and the reasons for the leave.
- (2) Except for maternity leaves, Advance Practice Professionals must report to the Chair of the Combined Credentials Committee anytime they are away from patient care responsibilities for longer than 30 days and the reason for such absence is related to their physical or mental health or otherwise to their ability to care for patients safely and competently. Under such circumstances, the Chair of the Combined Credentials Committee, in consultation with the Chair of the MEC and the CMO, may trigger an automatic medical leave of absence.
- (3) Requests for reinstatement must be made at least 30 days prior to the conclusion of the leave of absence. Individuals requesting reinstatement must submit a written summary of their professional activities during the leave, and any other information that may be requested by the Hospital. Requests for reinstatement will then be reviewed by the Chair of the MEC, the department chair or service line chair, and the CMO. If each of these individuals makes a favorable recommendation on reinstatement, the Advance Practice Professional may

immediately resume practice. This determination will then be forwarded to the Combined Credentials Committee, the MEC, and the Board for ratification. If, however, any of the individuals reviewing the request has any questions or concerns, those questions will be noted and the reinstatement request will be forwarded to the full Combined Credentials Committee, MEC, and Board for review and recommendation. In the event the MEC determines to take action that would entitle the individual to the procedural rights set forth in Article 8, the individual will be given Special Notice.

- (4) If the leave of absence was for health reasons (except for maternity leaves), the request for reinstatement must be accompanied by a report from the individual's physician indicating that the individual is physically and/or mentally capable of resuming a hospital practice and safely exercising the clinical privileges requested and the reinstatement will be processed in accordance with the Practitioner Health Policy.

#### 7.G. ACTION AT ANOTHER USA HEALTH HOSPITAL

- (1) Each USA Health Hospital will share information regarding the implementation or occurrence of any of the following actions with all other USA Health Hospitals at which an individual has been granted clinical privileges and permission to practice:
  - (a) **automatic relinquishment or resignation** of permission to practice or clinical privileges for any reason set forth in the APP Policy or other Medical Staff policies (except for those relinquishments or resignations that result from incomplete medical records or the failure to provide requested information in a timely manner);
  - (b) **voluntary agreement to modify clinical privileges or to refrain from exercising** some or all clinical privileges for a period of time for reasons related to the individual's clinical competence, conduct or health;
  - (c) participation in a **Performance Improvement Plan** under the peer review policies or Medical Staff Professionalism Policy;
  - (d) a grant of **conditional privileges** (either at initial credentialing or recredentialing), or conditional continued clinical privileges; and/or
  - (e) any **denial, suspension, revocation, or termination** of permission to practice and/or clinical privileges.

- (2) Upon receipt of notice that any of the actions set forth in Paragraph (1) have occurred at any USA Health Hospital, that action will either:
  - (a) automatically and immediately take effect at the USA Health Hospital receiving the notice; or
  - (b) be cause for the USA Health Hospital receiving the notice to determine that the individual no longer satisfies the eligibility criteria set forth in this Policy and has therefore automatically relinquished his or her permission to practice and privileges.

The automatic effectiveness of any such action, or an automatic relinquishment based on such action, will not entitle the individual to any additional procedural rights (including advance notice, additional peer review, formal investigation, hearing, or appeal) other than what occurred at the USA Health Hospital taking the original action.

- (3) The Board may waive the automatic effectiveness of an action or an automatic relinquishment at the receiving USA Health Hospital based on a recommendation to do so from the MEC at that Hospital. However, the automatic effectiveness or relinquishment will continue until such time as a waiver has been granted and the practitioner has been notified in writing of such. Waivers are within the discretion of the Board and are final. They will be granted only as follows:
  - (a) based on a finding that the granting of a waiver will not affect patient safety, quality of care, or Hospital operations; and
  - (b) after a full review of the specific circumstances and any relevant documents (including peer review documents) from the USA Health Hospital where the action first occurred. The burden is on the affected practitioner to provide evidence showing that a waiver is appropriate.

The denial of a waiver pursuant to this Section will not entitle the individual to any procedural rights, including advance notice, additional peer review, formal investigation, hearing, or appeal.



## ARTICLE 8

### PROCEDURAL RIGHTS FOR ADVANCE PRACTICE PROFESSIONALS

Advance Practice Professionals shall not be entitled to the hearing and appeals procedures set forth in the Medical Staff Credentials Policy. Any and all procedural rights to which these individuals are entitled are set forth in this Article.

#### 8.A. PROCEDURAL RIGHTS FOR CATEGORY I AND CATEGORY II PRACTITIONERS

##### 8.A.1. Grounds for Hearing:

- (a) An individual is entitled to request a hearing whenever the MEC makes one of the following recommendations:
  - (1) denial of initial permission to practice;
  - (2) denial of renewal of permission to practice;
  - (3) revocation of permission to practice;
  - (4) denial of requested clinical privileges;
  - (5) revocation of clinical privileges;
  - (6) suspension of clinical privileges for more than 30 days (other than administrative suspension);
  - (7) mandatory concurring consultation requirement (i.e., the consultant must approve the course of treatment in advance); or
  - (8) denial of reinstatement from a leave of absence if the reasons relate to clinical competence or professional conduct.
- (b) No other recommendations shall entitle the individual to a hearing.
- (c) If the Board makes any of these determinations without an adverse recommendation by the MEC, an individual would also be entitled to request a hearing. For ease of use, this Article refers to adverse recommendations of the MEC. When a hearing is triggered by an adverse recommendation of the Board, any reference in this Article to the “MEC” shall be interpreted as a reference to the “Board.”

### 8.A.2. Notice of Rights:

- (a) In the event a recommendation is made by the MEC that a Category I or Category II practitioner as set forth in Section 8.A.1(a), the individual will receive Special Notice of the recommendation. The Special Notice will include a general statement of the reasons for the recommendation and will advise the individual that he or she may request a hearing.
- (b) If the Category I or Category II practitioner wants to request a hearing, the request must be in writing, directed to the Hospital Administrator, within 30 days after receipt of written notice of the adverse recommendation.
- (c) The hearing will be convened as soon as is practical, but no sooner than 30 days after the notice of the hearing, unless an earlier hearing date has been specifically agreed to by the parties.
- (d) The individual shall have the right to receive copies of the documentation relied upon by the MEC; however, prior to receiving any confidential documents, the individual requesting the hearing must sign a confidentiality agreement under which the individual agrees that all documents and information shall be maintained as confidential and within the protected peer review process and shall not be disclosed or used for any purpose outside of the hearing, and that the individual will not retaliate against any individual who may be identified in the documentation provided. If legal counsel is advising the individual and/or the individual intends to provide expert testimony, the individual must also provide copies of confidentiality agreements and Business Associate agreements that the individual's counsel and any expert(s) have executed with the Hospital and the practitioner in connection with any patient Protected Health Information contained in any documents provided.

### 8.A.3. Hearing Committee:

- (a) If a request for a hearing is made in a timely manner, the Hospital Administrator, in conjunction with the Chair of the MEC, shall appoint a Hearing Committee composed of up to three individuals (including, but not limited to, individuals appointed to the Medical Staff, Advance Practice Professionals, Hospital management, individuals not connected to the Hospital, or any combination of these individuals) and a Presiding Officer, who may be legal counsel to the Hospital. The Hearing Committee shall not include anyone who previously participated in the recommendation, any relatives or practice partners of the Category I or Category II practitioner, or any competitors of the affected individual.
- (b) As an alternative to the Hearing Committee described in paragraph (a) of this Section, the Hospital Administrator, in conjunction with the Chair of the MEC, may instead appoint a Hearing Officer to perform the functions that would

otherwise be carried out by the Hearing Committee. The Hearing Officer shall preferably be an attorney at law. The Hearing Officer may not be in direct economic competition with the individual requesting the hearing and shall not act as a prosecuting officer or as an advocate to either side at the hearing. If the Hearing Officer is an attorney, he or she shall not represent clients who are in direct economic competition with the affected individual. In the event a Hearing Officer is appointed instead of a Hearing Committee, all references in this Article to the Hearing Committee shall be deemed to refer instead to the Hearing Officer, unless the context would clearly otherwise require.

#### 8.A.4. Hearing Process:

- (a) A record of the hearing will be maintained by a stenographic reporter (who shall be required to sign a Business Associate Agreement) or by a recording of the proceedings. Copies of the transcript will be available at the individual's expense.
- (b) The hearing will last no more than six hours, with each side being afforded approximately three hours to present its case, in terms of both direct and cross-examination of witnesses.
- (c) At the hearing, a representative of the MEC will first present the reasons for the recommendation. The Category I or Category II practitioner will be invited to present information to refute the reasons for the recommendation.
- (d) Both parties will have the right to present witnesses. The Presiding Officer will permit reasonable questioning of such witnesses.
- (e) The Category I or Category II practitioner and the MEC may be accompanied at the hearing by legal counsel. However, while counsel may be present at the hearing, counsel will not call, examine, or cross-examine witnesses or present the case for either side.
- (f) The Category I or Category II practitioner will have the burden of demonstrating, by clear and convincing evidence, that the recommendation of the MEC was arbitrary, capricious, or not supported by substantial evidence. The quality of care provided to patients and the smooth operation of the Hospital will be the paramount considerations.
- (g) The Category I or Category II practitioner and the MEC will have the right to prepare a post-hearing memorandum for consideration by the Hearing Committee. The Presiding Officer will establish a reasonable schedule for the submission of such memoranda.

#### 8.A.5. Hearing Committee Report:

- (a) Within 20 days after the conclusion of the proceeding or submission of the post-hearing memoranda, whichever date is later, the Hearing Committee will prepare a written report and recommendation. The Hearing Committee will forward the report and recommendation, along with all supporting information, to the Hospital Administrator. The Hospital Administrator will send a copy of the written report and recommendation by Special Notice to the Category I or Category II practitioner and to the MEC.
- (b) Within ten days after notice of such recommendation, the Category I or Category II practitioner and/or the MEC may make a written request for an appeal. The request must include a statement of the reasons, including specific facts, which justify an appeal.
- (c) The grounds for appeal will be limited to an assertion that there was substantial failure to comply with this Policy during the hearing, so as to deny a fair hearing, and/or that the recommendation of the Hearing Committee was arbitrary, capricious, or not supported by substantial evidence.
- (d) The request for an appeal will be delivered to the Hospital Administrator by Special Notice.
- (e) If a written request for appeal is not submitted timely, the appeal is deemed to be waived and the recommendation and supporting information will be forwarded to the Board for final action. If a timely request for appeal is submitted, the Hospital Administrator will forward the report and recommendation, the supporting information and the request for appeal to the Board. The Chair of the Board will arrange for an appeal.

#### 8.A.6. Appellate Review:

- (a) An Appellate Review Committee appointed by the Chair of the Board will consider the record upon which the adverse recommendation was made. The Board may serve as the Appellate Review Committee or the Chair of the Board may appoint an Appellate Review Committee composed of not less than three persons, either members of the Board or others, including but not limited to reputable persons outside the Hospital.
- (b) New or additional written information that is relevant and could not have been made available to the Hearing Committee may be considered at the discretion of the Appellate Review Committee. This review will be conducted within 30 days after receiving the request for appeal.
- (c) The Category I or Category II practitioner and the MEC will each have the right to present a written statement on appeal.

- (d) At the sole discretion of the Appellate Review Committee, the Category I or Category II practitioner and a representative of the MEC may also appear personally to discuss their position.
- (e) Upon completion of the review, the Appellate Review Committee will provide a report and recommendation to the full Board for action. The Board will then make its final decision based upon the Board's ultimate legal responsibility to grant privileges and to authorize the performance of clinical activities at the Hospital.
- (f) The Category I or Category II practitioner will receive Special Notice of the Board's action. A copy of the Board's final action will also be sent to the MEC for information.

#### 8.B. PROCEDURAL RIGHTS FOR CATEGORY III PRACTITIONERS

- (1) In the event that a recommendation is made by the MEC that a Category III practitioner not be granted the scope of practice requested or that a scope of practice previously granted be restricted or terminated, the individual shall be notified of the recommendation. The notice shall include a specific statement of the reasons for the recommendation and shall advise the individual that he or she may request a meeting with the MEC before the recommendation is forwarded to the Board for final action.
- (2) If the Category III practitioner desires to request a meeting, he or she must make such request in writing and direct it to the Hospital Administrator within 30 days after receipt of the written notice of the adverse recommendation.
- (3) If a meeting is requested in a timely manner, it shall be scheduled to take place within a reasonable time frame. The meeting shall be informal and shall not be considered a hearing. The Category III practitioner and his or her Supervising Physician shall both be permitted to attend and participate in the meeting. However, no counsel for either the Category III practitioner or the MEC shall be present.
- (4) Following this meeting, the MEC shall make a final recommendation to the Hospital Board.

## ARTICLE 9

### USA HEALTH EMPLOYEES

- (A) Except as provided below, the employment of an Advance Practice Professional by USA Health shall be governed by USA Health's employment policies and manuals and the terms of the individual's employment relationship and/or written contract. To the extent that USA Health's employment policies or manuals, or the terms of any applicable employment contract, conflict with this Policy, the employment policies, manuals and descriptions and terms of the individual's employment relationship and/or written contract shall apply.
- (B) Except as noted in (A), USA Health-employed Advance Practice Professionals are bound by all of the same conditions and requirements in this Policy that apply to non-USA Health employed Advance Practice Professionals.
- (C) A request for clinical privileges, on an initial basis or for renewal, submitted by a Category I or Category II practitioner who is seeking employment or who is employed by USA Health shall be processed in accordance with the terms of this Policy and the Medical Staff leadership shall determine whether the individual is qualified for the privileges requested. A report regarding each practitioner's qualifications shall then be made to USA Health management or Human Resources (as appropriate) to assist the Hospital in making employment decisions.
- (D) If a concern about an employed Advance Practice Professional's clinical competence or professional conduct originates with the Medical Staff, the concern may be reviewed and addressed in accordance with Articles 7 and 8 of this Policy, after which a report will be provided to Hospital management or Human Resources (as appropriate). This provision does not preclude Hospital management or Human Resources from addressing an issue in accordance with USA Health's employment policies/manuals or in accordance with the terms of any applicable employment contract.

ARTICLE 10

AMENDMENTS

- (A) Proposed amendments to this Policy shall be presented to the MECs of both University Hospital and Children's & Women's Hospital.
- (B) This Policy may then be amended by a majority vote of the members of each MEC present and voting at any meeting of that Committee where a quorum exists. Notice of all proposed amendments shall be provided to each voting staff member of the Medical Staff at least 14 days prior to the MEC meeting, and any voting staff member may submit written comments to the MEC.
- (C) If there is any disagreement between the MECs for the two Hospitals with respect to an amendment(s), a joint meeting shall be scheduled to discuss and resolve the disagreement.
- (D) No amendment shall be effective unless and until it has been approved by the Board.

ARTICLE 11

ADOPTION

This Policy is adopted and made effective upon approval of the Board, superseding and replacing any and all other Bylaws, Rules and Regulations of the Medical Staff or Hospital policies pertaining to the subject matter thereof.

**University Hospital**

Adopted by the Medical Staff: \_\_\_\_\_

Approved by the Board: \_\_\_\_\_

**Children's & Women's Hospital**

Adopted by the Medical Staff: \_\_\_\_\_

Approved by the Board: \_\_\_\_\_



## **APPENDIX A**

Those individuals currently practicing as Category I practitioners at the Hospital are as follows:

Certified Nurse Midwives (practicing as midwives)

Chiropractors

Clinical Psychologists

Dentists

Moonlighting Residents

Optometrists

Podiatrists

## **APPENDIX B**

Those individuals currently practicing as Category II practitioners at the Hospital are as follows:

Certified Nurse Practitioners

Certified Registered Nurse Anesthetists

Medical Dosimetrists

Medical Physicists

Neurophysiology Monitoring Technicians

Physician Assistants

Radiation Therapy Technicians

Sexual Assault Nurse Examiners (SANE)

## **APPENDIX C**

Those individuals currently practicing as Category III practitioners at the Hospital are as follows:

Optometry Technicians

Patient Care Technicians

Registered Nurses

Scrub Techs

Speech Therapists

**EXHIBIT I**  
**FORM OF SEVENTEENTH SUPPLEMENTAL INDENTURE**

**ARTICLE I SEVENTEENTH SUPPLEMENTAL UNIVERSITY FACILITIES  
REVENUE TRUST INDENTURE**

**between**

**UNIVERSITY OF SOUTH ALABAMA**

**and**

**THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.**

**Dated March 10, 2020**

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**EXHIBIT A** - Specimen Municipal Bond Insurance Policy

**SEVENTEENTH SUPPLEMENTAL UNIVERSITY FACILITIES REVENUE TRUST INDENTURE** between the **UNIVERSITY OF SOUTH ALABAMA**, public body corporate under the laws of Alabama (herein called the “University”), and **THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.** (as successor Trustee to AmSouth Bank of Alabama and being herein called the “Trustee”), a national banking association in its capacity as Trustee under the University Facilities Revenue Trust Indenture dated as of February 15, 1996, as heretofore supplemented and amended (herein called the “Indenture”).

## **RECITALS**

The University makes the following findings as a basis for the undertakings herein contained:

(a) Pursuant to the provisions of the Indenture, the University has issued and sold its (i) \$31,680,000 original principal amount of University Tuition Revenue Refunding and Capital Improvement Bonds, Series 1996, dated February 15, 1996, which are no longer outstanding, (ii) \$7,055,000 original principal amount University Tuition Revenue Refunding Bonds, Series 1996B, dated October 15, 1996, which are no longer outstanding, (iii) \$40,130,000.70 original principal amount University Tuition Revenue Bonds, Series 1999, dated March 1, 1999, which are no longer outstanding (the “Series 1999 Bonds”), (iv) \$51,080,000 original principal amount Tuition Revenue Refunding and Capital Improvement Bonds, Series 2004, dated March 15, 2004, which are no longer outstanding, (v) \$100,000,000 original principal amount University Tuition Refunding and Capital Improvement Bonds, Series 2006, dated December 1, 2006 (the “Series 2006 Bonds”), which are no longer outstanding, (vi) \$112,885,000 original principal amount University Facilities Revenue Capital Improvement Bonds, Series 2008, dated September 1, 2008 (the “Series 2008 Bonds”), which are no longer outstanding, (vii) \$29,750,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2010, dated June 16, 2010 (the “Series 2010 Bond”), which is no longer outstanding, (viii) \$25,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2012-A, dated January 4, 2012 (the “Series 2012-A Bond”), (ix) \$7,740,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2012-B, dated January 4, 2012, which is no longer outstanding (the “Series 2012-B Bond”), (x) \$32,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-A, dated June 28, 2013 (the “Series 2013-A Bond”), (xi) \$8,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-B, dated June 28, 2013 (the “Series 2013-B Bond”), (xii) \$10,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-C, dated June 28, 2013 (the “Series 2013-C Bond”), (xiii) \$41,245,000 original principal amount University Facilities Revenue Refunding Bond, Series 2014-A, dated March 14, 2014 (the “Series 2014-A Bond”), (xiv) \$6,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2015, dated June 15, 2015 (the “Series 2015 Bond”), (xv) \$85,605,000 original principal amount University Facilities Revenue Refunding Bonds, Series 2016, dated September 14, 2016 (the “Series 2016 Bonds”), (xvi) \$20,000,000 original principal amount University Facilities Revenue Refunding Bond, Series 2016-B, dated December 7, 2016 (the “Series 2016-B Bond”), (xvii) \$35,000,000 original principal amount University Facilities Revenue Refunding Bond, Series 2016-C, dated December 7, 2016 (the “Series 2016-C Bond”), (xviii) \$45,000,000 original principal amount University Facilities Revenue Refunding Bond, Series 2016-D, dated December 7, 2016 (the “Series 2016-D Bond”), (xix) \$38,105,000

original principal amount University Facilities Revenue Bonds, Series 2017, dated June 15, 2017 (the “Series 2017 Bonds”); (xx) \$47,750,000 original principal amount University Facilities Revenue Bonds, Series 2019-A, dated February 7, 2019 (the “Series 2019-A Bonds”), (xxi) \$18,440,000 original principal amount Taxable University Facilities Revenue Bonds, Series 2019-B, dated February 7, 2019 (the “Series 2019-B Bonds”), and (xxii) \$19,086,000 original principal amount University Facilities Revenue Bond, Series 2019-C, dated December 12, 2019 (the “Series 2019-C Bond”).

(b) In Article VIII of the Indenture, the University has reserved the right to issue Additional Bonds, secured by a pledge of the Pledged Revenues on a parity with all Additional Bonds outstanding under the Indenture, including the Series 2012-A Bond, the Series 2013-A Bond, the Series 2013-B Bond, the Series 2013-C Bond, the Series 2014-A Bond, the Series 2015 Bond, the Series 2016 Bonds, the Series 2016-B Bond, the Series 2016-C Bond, the Series 2016-D Bond, the Series 2017 Bonds, the Series 2019-A Bonds, the Series 2019-B Bonds and the Series 2019-C Bond (collectively, the “Outstanding Bonds”), and with such Additional Bonds as shall hereafter be issued upon compliance with the applicable provisions of said Article VIII.

(c) The University has determined it is necessary, wise and in the best interest of the University and the public to (i) pay the costs of various capital improvements at the University hereinafter defined as the 2020 Improvements, and (ii) pay certain issuance costs with the issuance of Additional Bonds in the aggregate principal amount of \$37,005,000. The University has duly adopted a resolution authorizing the issuance of such Additional Bonds and this Seventeenth Supplemental University Facilities Revenue Trust Indenture is executed in order to specify the details with respect to such Additional Bonds.

(d) This Seventeenth Supplemental University Facilities Revenue Trust Indenture is being executed to provide for the issuance of the Series 2020 Bonds (hereinafter referred to) as Additional Bonds under the Indenture.

## ADDITIONAL DEFINITIONS

The following definitions are in addition to those contained in the Indenture:

“**Authorized University Officer**” means the President of the University, the Vice President for Finance and Administration, or such other officer of the University as either of the foregoing officers shall have designated in writing to serve as an Authorized University Officer hereunder.

“**Insurance Policy**” means the municipal bond insurance policy issued by the Insurer guaranteeing the scheduled payment of principal of and interest on the Insured Series 2020 Bonds as provided therein, the specimen policy being set forth on Exhibit A hereto.

“**Insured Series 2020 Bonds**” means all of the Series 2020 Bonds.

“**Insurer**” means Assured Guaranty Municipal Corp., or any successor thereto or assignee thereof.



“**Interest Payment Date**” means, with respect to the Series 2020 Bonds, each October 1 and April 1, commencing October 1, 2020.

“**Record Date**” as used in the Indenture shall be, with respect to the Series 2020 Bonds, the September 15 and March 15 immediately preceding each Interest Payment Date.

“**Series 2020 Bonds**” means the University Facilities Revenue Bonds, Series 2020, authorized to be issued in the aggregate principal amount of \$37,005,000 and dated their original date of issuance.

“**2020 Improvements**” means (1) the design, acquisition, construction, installation, furnishing and equipping of (i) certain real property and (ii) certain public capital improvements and equipment on the campus of the University including, without limitation, at the USA Health University Hospital, USA Health Children’s and Women’s Hospital, and University Commons, including completion of a trauma center at University Hospital, University Commons Phase II and III, additional patient rooms, a new gastroenterology suite, a main campus warehouse and improvements to the main campus transportation building, and renovations and development of the Pediatric Emergency Department within UAS Health Children's and Women's Hospital, (2) the demolition of an existing building near the USA Health buildings to provide space for possible expansion, (3) development of infrastructure on a tract of real property and constructing thereon a freestanding emergency room, (4) acquisition of certain real property in the City of Fairhope, Alabama, and (5) the construction, acquisition and installation of various other public capital improvements, equipment and assets for the University.

**NOW, THEREFORE, THIS SEVENTEENTH SUPPLEMENTAL UNIVERSITY FACILITIES REVENUE TRUST INDENTURE**

**WITNESSETH:**

It is hereby agreed among the University, the Trustee and its successors in trust under the Indenture and the holders at any time of the Series 2020 Bonds hereinafter referred to and the Outstanding Bonds each with each of the others, as follows:

**ARTICLE II  
SERIES 2020 BONDS**

**Section 2.1 Authorization and Description of the Series 2020 Bonds.** (a) There is hereby authorized to be issued by the University under the Indenture a series of Bonds entitled “University Facilities Revenue Bonds, Series 2020”, dated March 10, 2020, which shall be issued in the aggregate principal amount of \$37,005,000. The Series 2020 Bonds shall mature and become payable on April 1 in the years and amounts shown below. Interest shall be payable on October 1, 2020, and on each Interest Payment Date thereafter, and the Series 2020 Bonds shall bear interest at the per annum rates set forth below, computed on the basis of a 360-day year of twelve consecutive 30-day months:

<b>Maturity (April 1)</b>	<b>Principal Amount</b>	<b>Interest Rate</b>
2021	\$ 900,000	4.000%

<b>Maturity (April 1)</b>	<b>Principal Amount</b>	<b>Interest Rate</b>
2022	1,015,000	4.000
2023	1,055,000	4.000
2024	1,100,000	4.000
2025	1,420,000	4.000
2026	1,480,000	5.000
2027	1,550,000	5.000
2028	1,630,000	5.000
2029	1,710,000	5.000
2030	1,800,000	5.000
2031	1,885,000	5.000
2032	1,980,000	5.000
2033	2,080,000	5.000
2034	2,185,000	5.000
2035	2,290,000	4.000
2036	2,385,000	4.000
2037	2,485,000	4.000
2038	2,580,000	4.000
2039	2,685,000	4.000
2040	2,790,000	4.000

(b) The Series 2020 Bonds shall be issued in denominations of \$5,000 or any multiple thereof. The Series 2020 Bonds shall be initially issued in the Authorized Denominations and registered in the names of the Holders as shall be designated by the underwriters for the Series 2020 Bonds.

**Section 2.2 Optional Redemption Provisions.** Those of the Series 2020 Bonds having stated maturities in 2031 and thereafter shall be subject to redemption prior to their respective maturities, at the option of the University, in whole or in part (but, if in part, in multiples of \$5,000 with those of the maturities to be redeemed to be selected by the University at its discretion, and if less than all the Series 2020 Bonds having the same maturity are to be redeemed, those to be redeemed to be selected by the Trustee by lot), on April 1, 2030, and on any date thereafter, at and for a redemption price for each Series 2020 Bond redeemed equal to the par or face amount thereof plus accrued interest thereon to the date fixed for redemption.

**Section 2.3 Payments into Bond Fund; Method of Payment.**

(a) The University will pay into the Bond Fund created in the Indenture, in addition to all other payments required to be paid therein, an amount sufficient to pay the principal of and interest on the Series 2020 Bonds when due. The principal of the Series 2020 Bonds shall be payable at maturity at the designated office of the Trustee in the City of Birmingham, Alabama. Interest on the Series 2020 Bonds shall be payable by check or draft mailed or otherwise delivered by the Trustee to the respective Holders thereof at their addresses as they appear on the registry books of the Trustee pertaining to the registration of the Series 2020 Bonds; provided, that the

final payment of such interest shall be made only upon surrender of the appropriate Series 2020 Bond to the Trustee. The principal and the interest on the Series 2020 Bonds shall be payable only upon maturity and only upon surrender of such Series 2020 Bonds to the Trustee. All installments of principal of and interest on each Series 2020 Bond shall bear interest after the respective maturities of such principal and interest until paid or until moneys sufficient for payment thereof shall have been deposited for that purpose with the Trustee, whichever first occurs, at the rate of interest borne by such Series 2020 Bond.

(b) **Issued in Book-Entry Form.** The Series 2020 Bonds shall be initially issued in book-entry only form, registered in the name of Cede & Co., the nominee of The Depository Trust Company, New York, NY (“DTC”) as further described in Article II hereof. So long as the said book-entry only system remains in effect, the provisions of this Seventeenth Supplemental Indenture, including the provisions governing the registration and exchange of Series 2020 Bonds, places and manner of payment of Series 2020 Bonds, and requirements for presentment of Series 2020 Bonds shall be subject to the standard procedures of DTC.

**Section 2.4 Form of Series 2020 Bonds.** The form of Series 2020 Bonds and the Trustee’s Authentication Certificate applicable thereto shall be in substantially the following form:

Unless this certificate is presented by an authorized representative of The Depository Trust Company (“DTC”), to the University or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of DTC or the DTC Nominee (as defined in the Indenture referenced in this certificate), as the case maybe, or in such other name as is requested by an authorized representative of DTC (and any payment is made to DTC or the DTC Nominee or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, DTC or the DTC Nominee, as the case may be, has an interest herein.

**UNITED STATES OF AMERICA  
STATE OF ALABAMA  
UNIVERSITY OF SOUTH ALABAMA  
University Facilities Revenue Bonds  
Series 2020**

<b>Interest Rate</b>	<b>Maturity Date</b>	<b>CUSIP Number</b>
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Subject to the provisions as herein stated

For value received, **UNIVERSITY OF SOUTH ALABAMA**, a public body corporate under the laws of the State of Alabama (herein called the “University”), will pay, solely from the sources hereinafter referred to, to **CEDE & CO.**, or registered assigns, the principal sum of

\_\_\_\_\_ **DOLLARS**

on the date specified above, with interest thereon from the date hereof until the maturity hereof at the per annum rate of interest specified above, payable on October 1, 2020, and semiannually thereafter on each April 1 and October 1 until and at the maturity hereof. Interest shall be computed on the basis of a 360-day year with 12 months of 30 days each. The principal of this bond is payable only upon presentation and surrender of this bond at the designated corporate trust office of The Bank of New York Mellon Trust Company, N.A., in the City of Birmingham, Alabama, or its successor as trustee under the Indenture hereinafter referred to. Interest on this bond is payable by check or draft mailed by the Trustee on the interest payment date to the registered holder hereof and at the address shown on the registry books of the Trustee pertaining to the Series 2020 Bonds as of the close of business on the September 15 or March 15, as the case may be, next preceding the date of payment of such interest.

Interest payments that are due with respect to this bond and that are made by check or draft shall be deemed timely made if such check or draft is mailed by the Trustee on or before the due date of such interest. Both the principal of and the interest on this bond shall bear interest after their respective maturities until paid or until moneys sufficient for payment thereof have been deposited with the Trustee at the per annum rate stated above. The Indenture provides that all payments by the University or the Trustee to the person in whose name a Bond is registered shall to the extent thereof fully discharge and satisfy all liability for the same. Any transferee of this bond takes it subject to all payments of principal and interest in fact made with respect hereto.

This bond is one of a duly authorized issue of bonds (herein called the “Series 2020 Bonds”) issuable in series without express limit as to principal amount under a Trust Indenture dated as of February 15, 1996, as heretofore supplemented and amended and as further supplemented and amended by a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of the Series 2020 Bonds (the said Trust Indenture, as so supplemented and amended, being herein called the “Indenture”), between the University and The Bank of New York Mellon Trust Company, N.A., as trustee (herein called the “Trustee”). The principal of and the interest on the Series 2020 Bonds are payable solely out of and are secured by a lien upon and pledge of (a) certain fees from students levied by the University, (b) the gross revenues derived from certain auxiliary enterprises services furnished by the University, including food services, housing, college stores, dining, concessions and other similar services, as such revenues are shown as a separate item on the audited financial statements of the University, (c) additional fees and revenues, if any, that may be subjected to the lien of the Indenture pursuant to a Supplemental Indenture, and (d) an amount not exceeding \$10,000,000 in any fiscal year of the University of the gross revenues derived from that certain hospital facility owned and operated by the University and known as USA Children’s and Women’s Hospital (herein called the “Pledged Revenues”), and shall not be payable from any other funds or revenues, on a parity of lien with (I) the University’s (a) \$25,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2012-A, dated January 4, 2012, (b) \$32,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-A, dated June 28, 2013, (c) \$8,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-B, dated June 28, 2013, (d) \$10,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-C, dated June 28, 2013, (e) \$41,245,000 original principal amount University Facilities Revenue Refunding Bond, Series 2014-A, dated March 14, 2014, (f) \$6,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2015, dated June 15, 2015, (g) \$85,605,000

original principal amount University Facilities Revenue Refunding Bonds, Series 2016, dated September 14, 2016, (h) \$20,000,000 original principal amount University Facilities Revenue Refunding Bond, Series 2016-B, dated December 7, 2016, (i) \$35,000,000 original principal amount University Facilities Revenue Refunding Bond, Series 2016-C, dated December 7, 2016, (j) \$45,000,000 original principal amount University Facilities Revenue Refunding Bond, Series 2016-D, dated December 7, 2016, (k) \$38,105,000 original principal amount University Facilities Revenue Bonds, Series 2017, dated June 15, 2017, (l) \$47,750,000 original principal amount University Facilities Revenue Bonds, Series 2019-A, dated February 7, 2019, (n) \$18,440,000 original principal amount Taxable University Facilities Revenue Bonds, Series 2019-B, dated February 7, 2019, (o) \$19,086,000 original principal amount University Facilities Revenue Bond, Series 2019-C, dated December 12, 2019, and (II) any Additional Bonds hereafter issued pursuant to Article VIII of the Indenture.

Reference is hereby made to the Indenture for a description of the nature and extent of the security afforded thereby, the rights and duties of the University and the Trustee with respect thereto, the rights of the holders of the Series 2020 Bonds and the terms and conditions on which additional series of Bonds may be issued. The Indenture provides, inter alia, (a) that in the event of default by the University in the manner and for the time therein provided, the Trustee may declare the principal of and the interest accrued on this bond immediately due and payable, whereupon the same shall become immediately due and payable, and the Trustee shall be entitled to pursue the remedies provided in the Indenture, (b) that the holder of this bond shall have no right to enforce the provisions of the Indenture except as provided therein and then only for the equal and pro rata benefit of the holders of all the Bonds, and (c) that if this bond shall not be presented for payment when due (whether by maturity or otherwise) and if funds sufficient for such payment shall have been made available to the Trustee therefore, all liability of the University to the holder of such bond and all rights of such holder against the University under such bond or under the Indenture shall cease and terminate and that the sole right of such holder shall thereafter be against the said funds so made available, which the Trustee is required to set aside and hold, subject to any applicable escheat or other similar law, for the benefit of such holder. The Indenture also provides that the University and the Trustee, with the written consent of the holders of not less than a majority in aggregate principal amount of the Bonds then outstanding under the Indenture, may at any time and from time to time amend the Indenture or any indenture supplemental thereto, provided that no such amendment shall (1) without the consent of the holder of each Bond affected, reduce the principal of or the rate of interest on any Bond, or (2) without the consent of the holders of all the Bonds then outstanding under the Indenture, extend the maturity of any installment of principal or interest on any of the Bonds, make any change in the schedule of required sinking fund or other similar payments with respect to any series of the Bonds, create a lien or charge on the Pledged Revenues ranking prior to or (except in connection with the issuance of additional parity bonds under the Indenture) on a parity with the lien or charge thereon contained in the Indenture, effect a preference or priority of any Bond over any other Bond or reduce the aggregate principal amount of Bonds the holders of which are required to consent to any such amendment.

The series of Bonds of which this is one is designated Series 2020, and is authorized to be issued in the aggregate principal amount of \$37,005,000.

Those of the Series 2020 Bonds having a stated maturity on April 1, 2031, and on any date thereafter shall be subject to redemption and payment by the University, at the option of the University, as a whole or in part on April 1, 2030, and on any date thereafter (but if redeemed in part, (i) of such maturity or maturities as the University shall designate, and if less than all the Series 2020 Bonds of a single maturity are to be redeemed, those to be redeemed to be selected by the Trustee by lot, and (ii) only in installments of \$5,000 or any integral multiple thereof), at and for a redemption price equal to the par or face amount thereof plus accrued interest to the date fixed for redemption.

The Series 2020 Bonds are not general obligations of the University, and the covenants and representations herein contained or contained in the Indenture do not and shall never constitute a personal or pecuniary liability or charge against the general credit of the University. The Series 2020 Bonds are not obligations or debts of the State of Alabama nor are the faith and credit of said state pledged for payment thereof, and neither the principal of nor interest on said bonds is payable out of any moneys provided for or appropriated to the University by the State of Alabama.

It is hereby certified that all conditions, actions and things required by the Constitution and laws of Alabama to exist, be performed and happen precedent to or in the issuance of this bond do exist, have been performed and have happened in due and legal form.

The Series 2020 Bonds are issuable only as fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. Provision is made in the Indenture for the exchange of Bonds for a like aggregate principal amount of Bonds of the same maturity and interest rate and in an authorized denomination, all as may be requested by the holder surrendering the Bond or Bonds to be so exchanged and upon the terms and conditions specified in the Indenture.

This bond is transferable by the registered holder hereof in person, or by duly authorized attorney, only on the registry books of the Trustee pertaining to the Bonds and only upon surrender of this bond to the Trustee for cancellation, and upon any such transfer a new Bond of like tenor herewith will be issued to the transferee in exchange therefore, all as more particularly provided in the Indenture. Each holder, by receiving and accepting this bond, shall consent and agree and shall be estopped to deny that, insofar as the University and the Trustee are concerned, this bond may be transferred only in accordance with the provisions of the Indenture. The Trustee shall not be required so to transfer or exchange this bond during the period of fifteen days next preceding any interest payment date with respect thereto.

Execution by the Trustee of its authentication certificate hereon is essential to the validity hereof and is conclusive of the due issue hereof under the Indenture.

**IN WITNESS WHEREOF**, the University has caused this bond to be executed in its name and behalf with the signature of its President, has caused a facsimile of its corporate seal to be hereunto imprinted, has caused this bond to be attested by the signature of the Secretary of its Board of Trustees, and has caused this bond to be dated March 10, 2020.

**UNIVERSITY OF SOUTH ALABAMA**

By: \_\_\_\_\_  
President

[SEAL]

Attest:

\_\_\_\_\_  
Secretary  
of the Board of Trustees

**Form of Trustee's Authentication Certificate**

Date of Authentication and Registration:

The within bond is one of those described in the within-mentioned Trust Indenture.

**THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A., Trustee**

By: \_\_\_\_\_  
Its Authorized Officer

**Form of Assignment**

For value received, the undersigned hereby sell(s), assign(s) and transfer(s) unto \_\_\_\_\_ the within bond and hereby irrevocably constitute(s) and appoint(s) \_\_\_\_\_ attorney, with full power of substitution in the premises, to transfer this bond on the books of the within-mentioned Trustee.

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
NOTE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within bond in every particular, without alteration, enlargement or change whatsoever.

Signature guaranteed:

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(Bank, Broker or Firm)\*

By \_\_\_\_\_

(Authorized Officer)

Its Medallion Number: \_\_\_\_\_

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\* Signature(s) must be guaranteed by an eligible guarantor institution which is a member of a recognized signature guarantee program, i.e., Securities Transfer Agents Medallion Program (STAMP), Stock Exchanges Medallion Program (SEMP), or New York Stock Exchange Medallion Signature Program (MSP).

**Statement Regarding Municipal Bond Insurance Policy**

Assured Guaranty Municipal Corp. ("AGM"), New York, New York, has delivered its municipal bond insurance policy (the "Policy") with respect to the scheduled payments due of principal of and interest on this Series 2020 Bond to The Bank of New York Mellon Trust Company, N.A., Birmingham, Alabama, or its successor, as paying agent for the Series 2020 Bonds (the "Paying Agent"). Said Policy is on file and available for inspection at the principal office of the Paying Agent and a copy thereof may be obtained from AGM or the Paying Agent. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. The owner of this Series 2020 Bond acknowledges and consents to the subrogation rights of AGM as more fully set forth in the Policy.

**Section 2.5 Execution and Delivery of the Series 2020 Bonds.** The Series 2020 Bonds shall be forthwith executed and delivered to the Trustee and shall be authenticated and delivered by the Trustee from time to time upon receipt by the Trustee of an order signed on behalf of the University by its President, requesting such authentication and delivery and designating the person or persons to receive the same or any part thereof.

**Section 2.6 Application of Proceeds from Sale of Series 2020 Bonds.** The entire proceeds derived by the University from the sale of the Series 2020 Bonds (less the underwriting discount of \$125,614.71 to be retained by the Underwriters, and less the sum of \$102,490.74 to be paid directly by the Underwriters to the Insurer for the premium for the Insurance Policy referable



to the Series 2020 Bonds) shall be paid to the Trustee and promptly thereafter applied by the Trustee for the following purposes and in the following order:

(i) the sum of \$45,000,000 shall be deposited into a special fund or account of the University and used to pay costs of the 2020 Improvements (the “2020 Construction Fund”); and

(ii) the balance (\$214,305.20) shall be deposited by the Trustee into a special clearing account herein authorized for the Trustee to create and establish, and applied by the Trustee for payment of those costs of issuing the Series 2020 Bonds identified in a written directive from an Authorized University Officer to the Trustee on the date of issuance of the Series 2020 Bonds, with any funds remaining in said clearing account following the date of issuance of the Series 2020 Bonds to be remitted by the Trustee to the 2020 Construction Fund as directed in writing by the University.

### **ARTICLE III BOOK-ENTRY ONLY SYSTEM**

The Series 2020 Bonds will be issued as fully-registered bonds in the name of Cede & Co., as nominee of DTC, as registered owner of the Series 2020 Bonds. Purchasers of such Series 2020 Bonds will not receive physical delivery of Series 2020 Bond certificates. For purposes of this Seventeenth Supplemental Indenture, so long as all of the Series 2020 Bonds are in the custody of DTC, references to Series 2020 Bondholders or Owners shall mean DTC or its nominee.

DTC will act as securities depository for the Series 2020 Bonds. The Series 2020 Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2020 Bond will be issued for each maturity of the Series 2020 Bonds, in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 7A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing

Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The [DTC Rules](#) applicable to its Participants are on file with the Securities and Exchange Commission.

Purchases of Series 2020 Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2020 Bonds on DTC’s records. The ownership interest of each actual purchaser of each Series 2020 Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2020 Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Series 2020 Bonds, except in the event that use of the book-entry system for the Series 2020 Bonds is discontinued.

To facilitate subsequent transfers, all Series 2020 Bonds deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Series 2020 Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2020 Bonds; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Series 2020 Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2020 Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2020 Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Series 2020 Bond documents. For example, Beneficial Owners of Series 2020 Bonds may wish to ascertain that the nominee holding the Series 2020 Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Series 2020 Bonds within an issue are being redeemed, DTC’s practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Series 2020 Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Series 2020 Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions, and dividend payments on the Series 2020 Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the University or the Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with Series 2020 Bonds held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or the University, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the University or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

NEITHER THE UNIVERSITY NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATION TO SUCH PARTICIPANTS, OR TO THE PERSONS FOR WHOM THEY ACT AS NOMINEES WITH RESPECT TO THE SERIES 2020 BONDS, OR TO ANY BENEFICIAL OWNER IN RESPECT OF THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT, THE PAYMENT BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY AMOUNT IN RESPECT OF THE PRINCIPAL OR REDEMPTION PRICE OF OR INTEREST ON THE SERIES 2020 BONDS, ANY NOTICE WHICH IS PERMITTED OR REQUIRED TO BE GIVEN TO SERIES 2020 BONDHOLDERS UNDER THE SEVENTEENTH SUPPLEMENTAL INDENTURE, THE SELECTION BY DTC OR ANY DIRECT PARTICIPANT OR INDIRECT PARTICIPANT OF ANY PERSON TO RECEIVE PAYMENT IN THE EVENT OF PARTIAL REDEMPTION OF THE SERIES 2020 BONDS WITH RESPECT TO LESS THAN ALL OF THE SERIES 2020 BONDS, OR ANY OTHER ACTION TAKEN BY DTC AS REGISTERED SERIES 2020 BONDHOLDER.

For every transfer and exchange of the Series 2020 Bonds, the Beneficial Owner may be charged a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto, and any reasonable fees and expenses of the Trustee and the costs incurred in preparing Series 2020 Bond certificates.

DTC may discontinue providing its services as securities depository with respect to the Series 2020 Bonds at any time by giving reasonable notice to the University. In the event of the discontinuance of the book-entry system for the Series 2020 Bonds, Series 2020 Bond certificates will be printed and delivered and the following provisions of the Indenture will apply: (i) principal of the Series 2020 Bonds will be payable upon surrender of the Series 2020 Bonds at the designated

office of the Trustee; (ii) Series 2020 Bonds may be transferred or exchanged for other Series 2020 Bonds of authorized denominations as set forth in the next succeeding two paragraphs; and (iii) Series 2020 Bonds will be issued in denominations as described in the front portion of the Official Statement under “THE SERIES 2020 BONDS”.

In the event of the discontinuance of the use of the system of book-entry-only transfers through DTC (or a successor depository), Series 2020 Bond certificates will be printed and delivered to DTC.

The information in this article concerning DTC and DTC’s book-entry system has been obtained from sources that the University believes to be reliable, but the University takes no responsibility for the accuracy thereof.

#### **ARTICLE IV CERTAIN PROVISIONS REGARDING THE INSURER**

**Section 4.1 Applicability of this Article.** Notwithstanding anything to the contrary contained in the Indenture, so long as the Insurance Policy remains in full force and effect and the Insurer is not then in payment default under the Insurance Policy, the provisions of this Article 4 shall apply for the benefit of the Insurer; provided that to the extent that the Insurer has made any payment of principal of or interest on the Insured Series 2020 Bonds, it shall retain its rights of subrogation hereunder and under the Insurance Policy.

#### **Section 4.2 Requirements of the Insurer.**

(a) The Insurer shall be deemed to be the sole holder of the Insured Series 2020 Bonds for the purpose of exercising any voting right or privilege or giving any consent or direction or taking any other action that the holders of the Series 2020 Bonds insured by it are entitled to take pursuant to the Indenture pertaining to (i) defaults and remedies and (ii) the duties and obligations of the Trustee. In furtherance thereof and as a term of the Indenture and each Insured Series 2020 Bond, each Insured Series 2020 Bondholder appoints the Insurer as their agent and attorney-in-fact and agrees that the Insurer may at any time during the continuation of any proceeding by or against the University under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an “Insolvency Proceeding”) direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a “Claim”), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, each Insured Series 2020 Bondholder delegates and assigns to the Insurer, to the fullest extent permitted by law, the rights of each Insured Series 2020 Bondholder in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding. The Trustee acknowledges such appointment, delegation and assignment by each Insured Series 2020 Bondholder for the Insurer’s benefit, and agrees to cooperate with the Insurer in taking any action reasonably necessary or appropriate in connection with such appointment, delegation and assignment. Remedies granted to the Insured Series 2020 Bondholders shall expressly include mandamus.

(b) The maturity of Series 2020 Bonds insured by the Insurer shall not be accelerated without the consent of the Insurer and in the event the maturity of the Insured Series 2020 Bonds is accelerated, the Insurer may elect, in its sole discretion, to pay accelerated principal and interest accrued, on such principal to the date of acceleration (to the extent unpaid by the University) and the Trustee shall be required to accept such amounts. Upon payment of such accelerated principal and interest accrued to the acceleration date as provided above, the Insurer's obligations under the Insurance Policy with respect to such Insured Series 2020 Bonds shall be fully discharged.

(c) No grace period for a covenant default shall exceed 30 days or be extended for more than 60 days, without the prior written consent of the Insurer.

(d) The Insurer shall be included as -a third party beneficiary to the Indenture.

(e) Any amendment, supplement, modification to, or waiver of, the Indenture or any other transaction document, including any underlying security agreement (each a "Related Document"), that requires the consent of Insured Series 2020 Bondowners or adversely affects the rights and interests of the Insurer shall be subject to the prior written consent of the Insurer.

(f) The rights granted to the Insurer under the Indenture or any other Related Document to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of the Insurance Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the Insured Series 2020 Bondholders and such action does not evidence any position of the Insurer, affirmative or negative, as to whether the consent of the Insured Series 2020 Bondowners or any other person is required in addition to the consent of the Insurer.

(g) Only (1) cash, (2) non-callable direct obligations of the United States of America ("Treasuries"), (3) evidences of ownership of proportionate interests in future interest and principal payments on Treasuries held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor and the underlying Treasuries are not available to any person claiming through the custodian or to whom the custodian may be obligated, (4) subject to the prior written consent of the Insurer, pre-refunded municipal obligations rated "AAA" and "Aaa" by S&P and Moody's, respectively, or (5) subject to the prior written consent of the Insurer, securities eligible for "AAA" defeasance under then existing criteria of S&P or any combination thereof, shall be used to effect defeasance of the Insured Series 2020 Bonds unless the Insurer otherwise approves.

To accomplish defeasance, the University shall cause to be delivered (i) a report of an independent firm of nationally recognized certified public accountants or such other accountant as shall be acceptable to the Insurer ("Accountant") verifying the sufficiency of the escrow established to pay the Insured Series 2020 Bonds in full on the maturity or redemption date ("Verification"), (ii) an Escrow Deposit Agreement (which shall be acceptable in form and substance to the Insurer), (iii) an opinion of nationally recognized bond counsel to the effect that the Insured Series 2020 Bonds are no longer "Outstanding" under the Indenture and (iv) a certificate of discharge of the Trustee with respect to the Insured Series 2020 Bonds; each Verification and defeasance opinion shall be acceptable in form and substance, and addressed, to

the University, Trustee and Insurer. The Insurer shall be provided with final drafts of the above-referenced documentation not less than five business days prior to the funding of the escrow.

Insured Series 2020 Bonds shall be deemed “Outstanding” under the Indenture unless and until they are in fact paid and retired or the above criteria are met.

(h) Amounts paid by the Insurer under the Insurance Policy shall not be deemed paid for purposes of the Indenture and the Insured Series 2020 Bonds relating to such payments shall remain Outstanding and continue to be due and owing until paid by the University in accordance with the Indenture. The Indenture shall not be discharged unless all amounts due or to become due to the Insurer have been paid in full or duly provided for.

(i) The University covenants and agrees to take such action as is necessary from time to time to preserve the priority of the pledge of the trust estate under applicable law.

(j) Claims Upon the Insurance Policy and Payments by and to the Insurer.

If, on the third business day prior to the, related scheduled interest payment date or principal payment date (“Payment Date”) there is not on deposit with the Trustee, after making all transfers and deposits required under the Indenture, moneys sufficient to pay the principal of and interest on the Insured Series 2020 Bonds due on such Payment Date, the Trustee shall give notice to the Insurer and to its designated agent (if any) (the “Insurer’s Fiscal Agent”) by telephone or telecopy of the amount of such deficiency by 12:00 noon, New York City time, on such business day. If, on the second business day prior to the related Payment Date, there continues to be a deficiency in the amount available to pay the principal of and interest on the Insured Series 2020 Bonds due on such Payment Date, the Trustee shall make a claim under the Insurance Policy and give notice to the Insurer and the Insurer’s Fiscal Agent (if any) by telephone of the amount of such deficiency, and the allocation of such deficiency between the amount required to pay interest on the Insured Series 2020 Bonds and the amount required to pay principal of the Insured Series 2020 Bonds, confirmed in writing to the Insurer and the Insurer’s Fiscal Agent by 12:00 noon, New York City time, on such second business day by filling in the form of Notice of Claim and Certificate delivered with the Insurance Policy.

The Trustee shall designate any portion of payment of principal on Insured Series 2020 Bonds paid by the Insurer, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Insured Series 2020 Bonds registered to the then current Insured Series 2020 Bondholder, whether DTC or its nominee or otherwise, and shall issue a replacement Insured Series 2020 Bonds to the Insurer, registered in the name of Assured Guaranty Municipal Corp., in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Trustee’s failure to so designate any payment or issue any replacement Insured Series 2020 Bond shall have no effect on the amount of principal or interest payable by the University on any Insured Series 2020 Bond or the subrogation rights of the Insurer.

The Trustee shall keep a complete and accurate record of all funds deposited by the Insurer into the Policy Payments Account (defined below) and the allocation of such funds to payment of

interest on and principal of any Insured Series 2020 Bond. The Insurer shall have the right to inspect such records at reasonable times upon reasonable notice to the Trustee.

Upon payment of a claim under the Insurance Policy, the Trustee shall establish a separate special purpose trust account for the benefit of Insured Series 2020 Bondholders referred to herein as the “Policy Payments Account” and over which the Trustee shall have exclusive control and sole right of withdrawal. The Trustee shall receive any amount paid under the Insurance Policy in trust on behalf of Insured Series 2020 Bondholders and shall deposit any such amount in the Policy Payments Account and distribute such amount only for purposes of making the payments for which a claim was made. Such amounts shall be disbursed by the Trustee to Insured Series 2020 Bondholders in the same manner as principal and interest payments are to be made with respect to the Insured Series 2020 Bonds under the sections hereof regarding payment of Series 2020 Bonds. It shall not be necessary for such payments to be made by checks or wire transfers separate from the check or wire transfer used to pay debt service with other funds available to make such payments. Notwithstanding anything herein to the contrary, the University agrees to pay to the Insurer (i) a sum equal to the total ‘of all amounts paid by the Insurer under the Insurance Policy (the “Insurer Advances”); and (ii) interest on such Insurer Advances from the date paid by the Insurer until payment thereof in full, payable to the Insurer at the Late Payment Rate per annum (collectively, the “Insurer Reimbursement Amounts”). “Late Payment Rate” means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in The City of New York, as its prime or base lending rate (any change in such rate of interest to be effective on the date such change is announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Insured Series 2020 Bonds and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. The University hereby covenants and agrees that the Insurer Reimbursement Amounts are secured by a lien on and pledge of the Pledged Revenues and payable from such Pledged Revenues on a parity with debt service due on the Insured Series 2020 Bonds.

Funds held in the Policy Payments Account shall not be invested by the Trustee and may not be applied to satisfy any costs, expenses or liabilities of the Trustee. Any funds remaining in the Policy Payments Account following an Insured Series 2020 Bond payment date shall promptly be remitted to the Insurer.

(k) The Insurer shall, to the extent it makes any payment of principal of or interest on the Insured Series 2020 Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Insurance Policy (which subrogation rights shall also include the rights of any such recipients in connection with any Insolvency Proceeding). Each obligation of the University to the Insurer under the Related Documents shall survive discharge or termination of such Related Documents.

(l) The University shall pay or reimburse the Insurer any and all charges, fees, costs and expenses that the Insurer may reasonably pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in any Related Document; (ii) the pursuit of any remedies under the Indenture or any other Related Document or otherwise afforded by law or equity, (iii) any amendment, waiver or other action with respect to, or related to, the

Indenture or any other Related Document whether or not executed or completed, or (iv) any litigation or other dispute in connection with the Indenture or any other Related Document or the transactions contemplated thereby, other than costs resulting from the failure of the Insurer to honor its obligations under the Insurance Policy. The Insurer reserves the right to charge a reasonable fee as a condition to executing any amendment, waiver or consent proposed in respect of the Indenture or any other Related Document.

(m) After payment of reasonable expenses of the Trustee, the application of funds realized upon default shall be applied to the payment of expenses of the University or rebate only after the payment of past due and current debt service on the Insured Series 2020 Bonds.

(n) The Insurer shall be entitled to pay principal or interest on the Insured Series 2020 Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the University (as such terms are defined in the Insurance Policy) and any amounts due on the Insured Series 2020 Bonds as a result of acceleration of the maturity thereof in accordance with the Indenture, whether or not the Insurer has received a Notice of Nonpayment (as such terms are defined in the Insurance Policy) or a claim upon the Insurance Policy.

(o) The notice address of the Insurer is: Assured Guaranty Municipal Corp., 1633 Broadway, New York, New York 10019, Attention: Managing Director Surveillance, Re: Policy No. 217788-N, Telephone: (212) 826-0100; Telecopier: (212) 339-3556. In each case in which notice or other communication refers to an Event of Default, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel and shall be marked to indicate "URGENT MATERIAL. ENCLOSED."

(p) The Insurer shall be provided with the following information by the University or Trustee, as the case may be:

(i) Annual audited financial statements within 180 days after the end of the University's fiscal year (together with a certification of the Issuer that it is not aware of any default or Event of Default under the Indenture), and the University's annual budget within 30 days after the approval thereof together with such other information, data or reports as the Insurer shall reasonably request from time to time;

(ii) Notice of any default known to the Trustee or University within five business days after knowledge thereof;

(iii) Prior notice of the advance refunding or redemption of any of the Insured Series 2020 Bonds, including the principal amount, maturities and CUSIP numbers thereof;

(iv) Notice of the resignation or removal of the Trustee and Bond Registrar and the appointment of, and acceptance of duties by, any successor thereto;

(v) Notice of the commencement of any proceeding by or against the University commenced under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding");



(vi) Notice of the making of any claim in connection with any Insolvency Proceeding seeking the avoidance as a preferential transfer of any payment of principal of, or interest on, the Insured Series 2020 Bonds;

(vii) A full original transcript of all proceedings relating to the execution of any amendment, supplement, or waiver to the Related Documents; and

(viii) All reports, notices and correspondence to be delivered to Insured Series 2020 Bondholders under the terms of the Related Documents.

In addition, to the extent that the University has entered into a continuing disclosure agreement, covenant or undertaking with respect to the Insured Series 2020 Bonds, all information furnished pursuant to such agreements shall also be provided to the Insurer, simultaneously with the furnishing of such information.

(q) The Insurer shall have the right to receive such additional information as it may reasonably request.

(r) The University will permit the Insurer to discuss the affairs, finances and accounts of the University or any information the Insurer may reasonably request regarding the security for the Insured Series 2020 Bonds with appropriate officers of the University and will use commercially reasonable efforts to enable the Insurer to have access to the facilities, books and records of the University on any business day upon reasonable prior notice.

(s) The Trustee shall notify the Insurer of any failure of the University to provide notices, certificates and other information under the transaction documents.

(t) Notwithstanding satisfaction of the other conditions to the issuance of Additional Bonds set forth in the Indenture, no such issuance may occur if an Event of Default exists unless such default shall be cured upon such issuance, unless otherwise permitted by the Insurer.

(u) In determining whether any amendment, consent, waiver or other action to be taken, or any failure to take action, under the Indenture would adversely affect the security for the Insured Series 2020 Bonds or the rights of the Insured Series 2020 Bondholders, the Trustee shall consider the effect of any such amendment, consent, waiver, action or inaction as if there were no Insurance Policy.

(v) No contract shall be entered into or any action taken by which the rights of the Insurer or security for the Insured Series 2020 Bonds may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of the Insurer. Notwithstanding the foregoing, the University may issue Additional Bonds pursuant to the terms of the Indenture on a parity of lien with the Outstanding Bonds and any Additional Bonds outstanding under the Indenture without the consent of the Insurer, and the University may enter contracts and incur indebtedness for which the University has not secured repayment by a pledge of Pledged Revenues under the Indenture without the consent of the Insurer.

**ARTICLE V  
MISCELLANEOUS**

**Section 5.1 Concerning the Code.** (a) **General.** The University recognizes that the Code imposes certain conditions to the exemption from federal income taxation of interest income on the Series 2020 Bonds. The University agrees that it will continually comply with all requirements imposed by the Code as a condition to the exemption from federal income taxation of the interest income on the Series 2020 Bonds. With respect to any question arising under this Section 5.1, the University may rely upon an opinion of nationally recognized bond counsel acceptable to it.

(b) **Series 2020 Bonds not to be "Private Activity Bonds".** The University will not apply the proceeds of the Series 2020 Bonds in any manner that would cause the Series 2020 Bonds to be "private activity bonds" within the meaning of Section 141(a) of the Code.

(c) **Concerning the Arbitrage Provisions of the Code.** The University agrees that it will comply with all provisions of the Code necessary to preclude the Series 2020 Bonds from being considered "arbitrage bonds" within the meaning of Section 148 of the Code.

(d) **Provisions Respecting Registration of Series 2020 Bonds to Comply with Provisions of Code.** The University and the Trustee recognize that the provisions of the Code require that the Series 2020 Bonds be in "registered form" and that, in general, the Series 2020 Bonds must be registered as to both principal and interest and any transfer of the Series 2020 Bonds must be effected only by the surrender of the old bond and either by the reissuance of the old bond to a new Holder or the issuance of a new bond to a new Holder. The Trustee may conclusively rely upon an opinion of nationally recognized bond counsel with respect to any question which may arise pertaining to the transfer, exchange or reissuance of the Series 2020 Bonds.

**Section 5.2 Confirmation of Indenture.** All the terms, covenants and conditions of the Indenture, as supplemented hereby, are hereby in all respects ratified and confirmed, and the Indenture as so supplemented shall continue in full force and effect.

**Section 5.3 Confirmation of Pledges.** The provisions of the Indenture, wherein the Pledged Revenues are pledged for payment of all Bonds issued under the Indenture, are hereby ratified and confirmed.

**Section 5.4 Construction of Seventeenth Supplemental University Facilities Revenue Trust Indenture.** No provisions of this Seventeenth Supplemental University Facilities Revenue Trust Indenture shall be construed to limit or restrict, either expressly or impliedly, the obligations of the University contained in the Indenture or the powers of the Trustee thereunder, nor shall the provisions of this Seventeenth Supplemental University Facilities Revenue Trust Indenture be construed in any manner inconsistent with the provisions of the Indenture or in any manner that would adversely affect the interest of the Holders of any Series 2020 Bonds.

**Section 5.5 Severability.** In the event that any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 5.6 No Broker Confirmations.** The University agrees that broker confirmations of investments in connection with the Series 2020 Bonds are not required to be issued by the Trustee for each month in which a monthly statement is rendered or made available by the Trustee.

**Section 5.7 Electronic Communications.** The Trustee shall have the right to accept and act upon directions or instructions given by the University and delivered using Electronic Means (defined below); provided, however, that the University shall provide to the Trustee an incumbency certificate listing Authorized Officers with the authority to provide such directions or instructions (each an “Authorized Officer”) and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended whenever a person is to be added or deleted from the listing. If the University elects to give the Trustee directions or instructions using Electronic Means and the Trustee in its discretion elects to act upon such directions or instructions, the Trustees’ understanding of such directions or instructions shall be deemed controlling. The University understands and agrees that the Trustee cannot determine the identity of the actual sender of such directions or instructions and that the Trustee shall conclusively presume that directions or instructions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The University shall be responsible for ensuring that only Authorized Officers transmit such directions or instructions to the Trustee and that all Authorized Officers treat applicable user and authorization codes, passwords and/or authentication keys as confidential and with extreme care. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee’s reliance upon and compliance with such directions or instructions notwithstanding such directions or instructions conflict or are inconsistent with a subsequent written direction or written instruction. The University agrees: (i) to assume all risks arising out of the use of Electronic Means to submit directions or instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized directions or instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting directions or instructions to the Trustee and that there may be more secure methods of transmitting directions or instructions; (iii) that the security procedures (if any) to be followed in connection with its transmission of directions or instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures. “Electronic Means” shall mean the following communications methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

*[Signature page follows]*

**IN WITNESS WHEREOF**, the University has caused this Seventeenth Supplemental University Facilities Revenue Trust Indenture to be executed in its name and behalf by the President of the University, has caused its corporate seal to be hereunto affixed, and has caused this Seventeenth Supplemental University Facilities Revenue Trust Indenture to be attested by the Chairman Pro Tempore of its Board of Trustees, and the Trustee has caused this Seventeenth Supplemental University Facilities Revenue Trust Indenture to be executed in its name and behalf, has caused its corporate seal to be hereunto affixed and has caused this Seventeenth Supplemental University Facilities Revenue Trust Indenture to be attested, all by its duly authorized officers, and the University and the Trustee have caused this Seventeenth Supplemental University Facilities Revenue Trust Indenture to be so executed in several counterparts, each of which shall be deemed an original, and have caused this Seventeenth Supplemental University Facilities Revenue Trust Indenture to be dated March 10, 2020.

**UNIVERSITY OF SOUTH ALABAMA**

By: \_\_\_\_\_  
President

[SEAL]

Attest:

\_\_\_\_\_  
Secretary  
Secretary of the Board of Trustees

**THE BANK OF NEW YORK MELLON  
TRUST COMPANY, N.A., as Trustee**

By: \_\_\_\_\_

Its: \_\_\_\_\_

[SEAL]

Attest:

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF ALABAMA     )

COUNTY OF MOBILE     )

I, \_\_\_\_\_ a Notary Public in and for said county in said state, hereby certify that Tony Waldrop, whose name as the President of the **UNIVERSITY OF SOUTH ALABAMA**, a public body corporate under the laws of Alabama, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said public corporation.

GIVEN under my hand and official seal of office, this \_\_\_\_ day of March, 2020.

[NOTARIAL SEAL]

\_\_\_\_\_  
Notary Public

STATE OF ALABAMA     )

COUNTY OF JEFFERSON   )

I, \_\_\_\_\_, a Notary Public in and for said county in said state, hereby certify that Stuart Statham, whose name as Vice President of **THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.**, in its capacity as Trustee under that certain Trust Indenture dated as of February 15, 1996, between it and the University of South Alabama, as supplemented, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the within instrument, as such officer and with full authority, executed the same voluntarily for and as the act of said bank, in its capacity as trustee as aforesaid.

GIVEN under my hand and official seal of office, this \_\_\_\_ day of March, 2020.

[NOTARIAL SEAL]

\_\_\_\_\_  
Notary Public



**EXHIBIT A**

**SPECIMEN MUNICIPAL BOND INSURANCE POLICY**



**MUNICIPAL BOND  
INSURANCE POLICY**

ISSUER:

Policy No: -N

BONDS: \$ in aggregate principal amount of

Effective Date:

Premium: \$

ASSURED GUARANTY MUNICIPAL CORP. ("AGM"), for consideration received, hereby UNCONDITIONALLY AND IRREVOCABLY agrees to pay to the trustee (the "Trustee") or paying agent (the "Paying Agent") (as set forth in the documentation providing for the issuance of and securing the Bonds) for the Bonds, for the benefit of the Owners or, at the election of AGM, directly to each Owner, subject only to the terms of this Policy (which includes each endorsement hereto), that portion of the principal of and interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer.

On the later of the day on which such principal and interest becomes Due for Payment or the Business Day next following the Business Day on which AGM shall have received Notice of Nonpayment, AGM will disburse to or for the benefit of each Owner of a Bond the face amount of principal of and interest on the Bond that is then Due for Payment but is then unpaid by reason of Nonpayment by the Issuer, but only upon receipt by AGM, in a form reasonably satisfactory to it, of (a) evidence of the Owner's right to receive payment of the principal or interest then Due for Payment and (b) evidence, including any appropriate instruments of assignment, that all of the Owner's rights with respect to payment of such principal or interest that is Due for Payment shall thereupon vest in AGM. A Notice of Nonpayment will be deemed received on a given Business Day if it is received prior to 1:00 p.m. (New York time) on such Business Day; otherwise, it will be deemed received on the next Business Day. If any Notice of Nonpayment received by AGM is incomplete, it shall be deemed not to have been received by AGM for purposes of the preceding sentence and AGM shall promptly so advise the Trustee, Paying Agent or Owner, as appropriate, who may submit an amended Notice of Nonpayment. Upon disbursement in respect of a Bond, AGM shall become the owner of the Bond, any appurtenant coupon to the Bond or right to receipt of payment of principal of or interest on the Bond and shall be fully subrogated to the rights of the Owner, including the Owner's right to receive payments under the Bond, to the extent of any payment by AGM hereunder. Payment by AGM to the Trustee or Paying Agent for the benefit of the Owners shall, to the extent thereof, discharge the obligation of AGM under this Policy.

Except to the extent expressly modified by an endorsement hereto, the following terms shall have the meanings specified for all purposes of this Policy. "Business Day" means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State of New York or the Insurer's Fiscal Agent are authorized or required by law or executive order to remain closed. "Due for Payment" means (a) when referring to the principal of a Bond, payable on the stated maturity date thereof or the date on which the same shall have been duly called for mandatory sinking fund redemption and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by mandatory sinking fund redemption), acceleration or other advancement of maturity unless AGM shall elect, in its sole discretion, to pay such principal due upon such acceleration together with any accrued interest to the date of acceleration and (b) when referring to interest on a Bond, payable on the stated date for payment of interest. "Nonpayment" means, in respect of a Bond, the failure of the Issuer to have provided sufficient funds to the Trustee or, if there is no Trustee, to the Paying Agent for payment in full of all principal and interest that is Due for Payment on such Bond. "Nonpayment" shall also include, in respect of a Bond, any payment of principal or interest that is Due for Payment made to an Owner by or on behalf of the Issuer which has been recovered from such Owner pursuant to the

United States Bankruptcy Code by a trustee in bankruptcy in accordance with a final, nonappealable order of a court having competent jurisdiction. "Notice" means telephonic or telecopied notice, subsequently confirmed in a signed writing, or written notice by registered or certified mail, from an Owner, the Trustee or the Paying Agent to AGM which notice shall specify (a) the person or entity making the claim, (b) the Policy Number, (c) the claimed amount and (d) the date such claimed amount became Due for Payment. "Owner" means, in respect of a Bond, the person or entity who, at the time of Nonpayment, is entitled under the terms of such Bond to payment thereof, except that "Owner" shall not include the Issuer or any person or entity whose direct or indirect obligation constitutes the underlying security for the Bonds.

AGM may appoint a fiscal agent (the "Insurer's Fiscal Agent") for purposes of this Policy by giving written notice to the Trustee and the Paying Agent specifying the name and notice address of the Insurer's Fiscal Agent. From and after the date of receipt of such notice by the Trustee and the Paying Agent, (a) copies of all notices required to be delivered to AGM pursuant to this Policy shall be simultaneously delivered to the Insurer's Fiscal Agent and to AGM and shall not be deemed received until received by both and (b) all payments required to be made by AGM under this Policy may be made directly by AGM or by the Insurer's Fiscal Agent on behalf of AGM. The Insurer's Fiscal Agent is the agent of AGM only and the Insurer's Fiscal Agent shall in no event be liable to any Owner for any act of the Insurer's Fiscal Agent or any failure of AGM to deposit or cause to be deposited sufficient funds to make payments due under this Policy.

To the fullest extent permitted by applicable law, AGM agrees not to assert, and hereby waives, only for the benefit of each Owner, all rights (whether by counterclaim, setoff or otherwise) and defenses (including, without limitation, the defense of fraud), whether acquired by subrogation, assignment or otherwise, to the extent that such rights and defenses may be available to AGM to avoid payment of its obligations under this Policy in accordance with the express provisions of this Policy.

This Policy sets forth in full the undertaking of AGM, and shall not be modified, altered or affected by any other agreement or instrument, including any modification or amendment thereto. Except to the extent expressly modified by an endorsement hereto, (a) any premium paid in respect of this Policy is nonrefundable for any reason whatsoever, including payment, or provision being made for payment, of the Bonds prior to maturity and (b) this Policy may not be canceled or revoked. THIS POLICY IS NOT COVERED BY THE PROPERTY/CASUALTY INSURANCE SECURITY FUND SPECIFIED IN ARTICLE 76 OF THE NEW YORK INSURANCE LAW.

In witness whereof, ASSURED GUARANTY MUNICIPAL CORP. has caused this Policy to be executed on its behalf by its Authorized Officer.

ASSURED GUARANTY MUNICIPAL CORP.

By \_\_\_\_\_  
Authorized Officer

A subsidiary of Assured Guaranty Municipal Holdings Inc.  
1633 Broadway, New York, N.Y. 10019  
(212) 974-0100



**EXHIBIT II**  
**BOND PURCHASE AGREEMENT**

## BOND PURCHASE AGREEMENT

University of South Alabama  
\$37,005,000  
University Facilities Revenue Bonds  
Series 2020

February 25, 2020

University of South Alabama  
Mobile, Alabama

Ladies and Gentlemen:

Raymond James & Associates, Inc. (the "Representative") and Protective Securities, a division of ProEquities, Inc. (together with the Representative, the "Underwriters"), offer to enter into the following agreement (this "Bond Purchase Agreement") with University of South Alabama (the "University"), which upon the University's acceptance of this offer, will be binding upon the Underwriters and upon the University. This offer is made subject to the University's acceptance on or before 5:00 p.m., Mobile, Alabama time, on March 6, 2020, and if not so accepted, will be subject to withdrawal by the Representative upon notice to the University at any time prior to the acceptance hereof by the University.

1. **Purchase and Sale.** (a) Upon the terms and conditions and upon the basis of the representations and agreements set forth herein, the Underwriters hereby agree to purchase from the University for offering to the public, and the University hereby agrees to sell and deliver to the Underwriters for such purpose, all of the University's \$37,005,000 University Facilities Revenue Bonds, Series 2020 (the "Series 2020 Bonds"). The Series 2020 Bonds shall be dated their date of initial delivery and shall be issued in such principal amounts, mature on such dates, bear such rates of interest and be subject to redemption as set forth in Exhibit A attached hereto. Interest on the Series 2020 Bonds shall be payable on October 1 and April 1 in each year to maturity or earlier redemption, commencing October 1, 2020. The Series 2020 Bonds shall be paid for by the Underwriters by wire transfer on the Closing Date (as hereinafter defined) at the purchase price of \$45,316,795.94 (which takes into account original issue premium of \$8,437,410.65 and an underwriters' discount of \$125,614.71).

(b) The Series 2020 Bonds shall be issued pursuant to the Constitution and the laws of the State of Alabama, and pursuant to the provisions of a University Facilities Revenue Trust Indenture, dated as of February 15, 1996, between the University and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), as previously supplemented and as further supplemented by a Seventeenth Supplemental University Facilities Revenue Trust Indenture to be dated the date of the Series 2020 Bonds (as so supplemented, the "Indenture"). The Series 2020 Bonds are being issued for the purposes of (i) paying the costs of various capital

improvements and equipment more particularly described as the "2020 Improvements" in the Preliminary Official Statement hereinafter defined, (ii) paying the costs and expenses of issuing the Series 2020 Bonds; and (iii) paying the premium for a financial guaranty insurance policy with respect to all of the Series 2020 Bonds. The Series 2020 Bonds are limited obligations of the University, payable solely from, and secured by a pledge of, the "Pledged Revenues," as more fully described in the Preliminary Official Statement described below.

2. **Offering.** Subject to the terms and conditions set forth herein, the Underwriters agree to make a public offering of the Series 2020 Bonds at the initial offering prices or yields and subject to the redemption terms set forth in Exhibit A attached hereto prior to 1:00 p.m. on the Closing Date; provided, however, the Underwriters reserve the right to change such initial offering prices or yields as the Underwriters shall deem necessary in connection with the marketing of the Series 2020 Bonds and to offer and sell the Series 2020 Bonds to certain dealers (including dealers depositing the Series 2020 Bonds into investment trusts) and others at prices lower than the initial offering prices or higher yields than set forth on the inside cover page of the Official Statement (as hereinafter defined).

It shall be a condition of the University's obligation to sell and deliver the Series 2020 Bonds to the Underwriters, and the obligation of the Underwriters to purchase and accept delivery of the Series 2020 Bonds, that the entire aggregate initial principal amount of the Series 2020 Bonds shall be sold and delivered by the University and accepted and paid for by the Underwriters on the Closing Date on the terms herein provided unless otherwise agreed to by the University by formal official action and by the Representative in writing.

3. **Official Statement and Other Documents.** The University hereby ratifies the use and distribution of the Preliminary Official Statement with respect to the Series 2020 Bonds, dated February 17, 2020 (the "Preliminary Official Statement"), and certifies that the Preliminary Official Statement, as of its date, was deemed final by the University for purposes of Rule 15c2-12 ("Rule 15c2-12") of the Securities and Exchange Commission (the "SEC"), except for the omission of certain information permitted by Rule 15c2-12.

The final Official Statement with respect to the Series 2020 Bonds (the "Official Statement") shall be provided for distribution, at the expense of the University, in such quantity as may be requested by the Underwriters no later than the earlier of (i) seven (7) business days after the date of this Bond Purchase Agreement or (ii) one (1) business day prior to the Closing Date, in order to permit the Underwriters to comply with Rule 15c2-12, and the applicable rules of the Municipal Securities Rulemaking Board (the "MSRB"), with respect to distribution of the Official Statement. The University shall prepare the Official Statement, including any amendments thereto, in word-searchable PDF format as described in the MSRB's Rule G-32 and shall provide the electronic copy of the word-searchable PDF format of the Official Statement to the Underwriters no later than one (1) business day prior to the Closing Date to enable the Underwriters to comply with MSRB Rule G-32.

The Underwriters agree to file the Official Statement with the MSRB as required by the applicable SEC or MSRB Rule. The filing with the MSRB shall be in accordance with the

procedures of the Electronic Municipal Market Access System ("EMMA").

The Underwriters agree that they will not confirm the sale of any Series 2020 Bonds unless a final written confirmation of the sale is accompanied or preceded by the delivery of a copy of the Official Statement, either directly or by notice that it is available through EMMA.

In order to assist the Underwriter in complying with Rule 15c2-12, the University has covenanted for the benefit of the owners of the Series 2020 Bonds to provide certain financial and operating information on an annual basis and to provide notices of the occurrence of certain events within ten (10) business days of their occurrence, all pursuant to a Continuing Disclosure Agreement, dated the date of the Series 2020 Bonds (the "Continuing Disclosure Agreement").

4. **Representations and Agreements.** The University hereby represents and agrees as follows:

(a) The University is duly created and existing under the constitution and laws of the State of Alabama.

(b) Except for the statements and information contained under the captions "BOND INSURANCE", "RATINGS," "FINANCIAL ADVISOR" and "UNDERWRITING" and in Appendix D – DTC PROCEDURES (collectively, the "Excluded Sections"), the statements and information contained in the Preliminary Official Statement, as of its date and as of the Closing Date, and in the Official Statement, as of the date hereof and as of the Closing Date, were and will be true and correct in all material respects and did not and will not contain any misstatement of any material fact and did not and will not omit any statement and information that is necessary to make the statements and information contained therein not misleading in any material respect.

(c) The University has full legal right, power and authority to: (i) enter into this Bond Purchase Agreement, (ii) execute and deliver the Seventeenth Supplemental University Facilities Revenue Trust Indenture, the Continuing Disclosure Agreement, the Tax Certificate and Agreement (as hereinafter defined), and such other documents as shall be contemplated hereby and thereby for execution by the University (collectively, the "University Documents"), (iii) sell, issue and deliver the Series 2020 Bonds to the Underwriters as provided herein, and (iv) carry out and consummate the obligations and transactions contemplated by this Bond Purchase Agreement, the University Documents and the Official Statement, and on the Closing Date will be in compliance with the obligations on its part in connection with the issuance of the Series 2020 Bonds contained in the Indenture, the University Documents, the Series 2020 Bonds and this Bond Purchase Agreement.

(d) The University is not now, and will not on the Closing Date be, in breach of or in default under any law, judgement, decree, order, regulation, agreement, indenture, mortgage, lease, sublease or other instrument to which it is a party or by which it is bound, and no event has occurred or is continuing that, with the passage of time or the giving of

notice, or both, would constitute a default or an event of default thereunder, except in either case for such breaches, defaults, or potential defaults or events of default, if any, which individually or in the aggregate would have no material adverse effect on the performance by the University under this Bond Purchase Agreement, the Indenture, the University Documents or the Series 2020 Bonds.

(e) When delivered to and paid for by the Underwriters on the Closing Date in accordance with the provisions of this Bond Purchase Agreement, the Series 2020 Bonds will have been duly authorized, executed, issued and delivered and will constitute valid and limited obligations of the University, payable from Pledged Revenues.

(f) The University has neither encumbered nor made a prior pledge of the Pledged Revenues other than to the holders of the Bonds heretofore issued under the terms of the Indenture.

(g) The adoption of a resolution by the Board of Trustees of the University authorizing the issuance of the Series 2020 Bonds (the "Authorizing Resolution") and the authorization, execution and delivery of this Bond Purchase Agreement, the University Documents and compliance with the provisions hereof and thereof, and issuance of the Series 2020 Bonds, will not conflict with, or constitute a breach of or default under, any law, administrative regulation, consent decree or resolution.

(h) On the Closing Date, the University will be in compliance in all respects with the covenants and agreements contained in the Indenture.

(i) All approvals, consents, authorizations and orders of any governmental authority or agency having jurisdiction in any matter which would constitute a condition precedent to the issuance of the Series 2020 Bonds, the performance by the University of its obligations hereunder and under the Indenture and the distribution of the Preliminary Official Statement and the execution, delivery and distribution of the Official Statement have been obtained and are in full force and effect, except for such approvals, consents and orders as may be required under the Blue Sky or securities law of any state in connection with the offering and sale of the Series 2020 Bonds or in connection with the registration of the Series 2020 Bonds under the federal securities laws.

(j) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body pending with respect to which service or notice on the University has been perfected or given or, to the best knowledge of the University, threatened against or affecting the University, which would (i) restrain or enjoin the issuance or delivery of the Series 2020 Bonds or the collection of Pledged Revenues, (ii) in any way contest or affect any authority for the issuance of the Series 2020 Bonds or the validity, due authorization and execution of the Series 2020 Bonds, the University Documents or this Bond Purchase Agreement, (iii) limit, enjoin or prevent the University from paying the debt service on the Series 2020 Bonds as

and when due, or (iv) in any way contest the corporate existence or powers of the University;

(k) During the period from the date hereof to and including a date which is 25 days following "the end of the underwriting period" (as hereinafter defined) for the Series 2020 Bonds:

(1) the University will not adopt any amendment of or supplement to the Official Statement to which, after having been furnished with a copy, the Underwriter shall reasonably object in writing, unless the University has obtained an opinion of counsel stating that such amendment or supplement is necessary in order to make the Official Statement as then supplemented or amended, not contain any untrue statement of a material fact or not omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading at the time that they are delivered to a purchaser of a Series 2020 Bond;

(2) if any event relating to or affecting the University or the Series 2020 Bonds shall occur which would or might cause the information contained in the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the University shall so notify the Representative, and, if as a result of which it is necessary in the opinion of the University or counsel to the Underwriters to amend or supplement the Official Statement in order to make the Official Statement not misleading, the University shall forthwith prepare and furnish to the Underwriters (at the expense of the University) a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to the Underwriters and the University) which will amend or supplement the Official Statement so that such Official Statement, as amended or supplemented, will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in any material respect;

(3) for the purpose of this section, the University will furnish to the Underwriters through the end of the underwriting period such information to confirm the truth, accuracy and completeness of the statements and information contained in the Official Statement as the Underwriters may from time to time reasonably request. The "end of the underwriting period" for purposes of Rule 15c2-12 shall mean the Closing Date unless the Representative notifies the University in writing, on or prior to the Closing Date, that the Closing Date will not be the "end of the underwriting period." In the event such notice is given in writing by the Representative to the University, the "end of the underwriting period" for the Series 2020 Bonds as used in this Bond Purchase Agreement shall mean the

earlier to occur of (i) 65 days from the Closing Date or (ii) the date on which the Underwriters no longer have any of the Series 2020 Bonds for sale to the public.

(1) The University shall cooperate with the Underwriters in any endeavor to qualify the Series 2020 Bonds for offering and sale under the securities laws of such jurisdictions of the United States of America as the Underwriters may request and to continue such qualifications in effect as long as may be required for the distribution of the Series 2020 Bonds; provided, however, the University shall not be required to consent to service of process in any such jurisdiction.

5. **Closing.** At 10:00 a.m., local time, on March 10, 2020, or at such time on such earlier or later date as shall be agreed upon by the University and the Representative (the "Closing Date"), the activities relating to the execution and delivery of certain documents and the delivery of the certificates, opinions and other instruments as described in Section 6(e) hereof shall occur at the offices of the University, 307 University Boulevard, Administrative Building, Mobile, Alabama, or such other location as shall be mutually agreed upon by the University and the Representative. Such simultaneous execution and delivery of such documents, certificates, opinions and other instruments are herein referred to as the "Closing." On the Closing Date:

(a) The University shall deliver to the Underwriters (i) the Series 2020 Bonds, duly authorized, executed and authenticated, and (ii) the other instruments and documents required to be delivered to the Underwriters pursuant to Section 6 hereof.

(b) The purchase price for the Series 2020 Bonds shall be paid to the University by wire transfer or by such other method as may be agreeable to the University and the Underwriters.

6. **Underwriters' Closing Conditions.** The Underwriters have entered into this Bond Purchase Agreement in reliance upon the representations of the University herein contained and the performance by the University of its obligations hereunder, both as of the date hereof and as of the Closing Date. The obligations of the Underwriters under this Bond Purchase Agreement are and shall be subject to the following conditions:

(a) The representations and agreements of the University contained herein shall be true and correct and complied with as of the date hereof and as of the Closing Date.

(b) At the time of the Closing, the Indenture shall be in full force and effect in accordance with its terms and shall not have been amended, modified or supplemented, and the Official Statement shall not have been supplemented or amended, except to the extent that such amendments have been agreed to by the Underwriters.

(c) At the time of the Closing, all official action of the University relating to this Bond Purchase Agreement, the Indenture and the Series 2020 Bonds, and all other documents contemplated hereby and thereby, shall be in full force and effect in accordance

with their respective terms and shall not have been amended, modified or supplemented in any material respect, except in each case as may have been agreed to by the Representative.

(d) At any time on or prior to the Closing Date, the Representative shall have the right to cancel the agreement contained herein to purchase the Series 2020 Bonds by notifying the University in writing of their intention to do so if between the date hereof and the Closing Date:

(i) legislation shall have been enacted by the Congress of the United States, or recommended to the Congress for passage by the President of the United States, or favorably reported for passage to either House of Congress by any Committee of such House, or passed by either House of Congress, or a decision shall have been rendered by a court of the United States or the United States Tax Court, or a ruling shall have been made or a regulation shall have been proposed or made by the Treasury Department of the United States or the Internal Revenue Service, with respect to the federal taxation of interest received on obligations of the general character of the Series 2020 Bonds, which, in the opinion of counsel for the Underwriters or Bond Counsel, has or will have the effect of making such interest subject to inclusion in gross income for purposes of federal income taxation, except to the extent such interest shall be includable in gross income on the date hereof; or

(ii) legislation shall be enacted or any action shall be taken by the United States Securities and Exchange Commission which, in the opinion of counsel for the Underwriters, has the effect of requiring the contemplated issuance or distribution of the Series 2020 Bonds to be registered under the Securities Act of 1933, as amended; or

(iii) in the opinion of the Representative, payment for and delivery of the Series 2020 Bonds is rendered impracticable or inadvisable because (A) trading in securities generally shall have been suspended on the New York Stock Exchange, Inc., or (B) a general banking moratorium shall have been established by federal, New York or Alabama authorities, or (C) there shall have occurred any outbreak of hostilities or other local, national or international calamity or crisis on the financial markets of the United States which, in the Representative's reasonable judgment, renders it impracticable for the Underwriters to market the Series 2020 Bonds or to enforce contracts for the sale of the Series 2020 Bonds; or

(iv) any order, decree or injunction of any court of competent jurisdiction, or any order, ruling, regulation or administrative proceeding by any governmental body or board, shall have been issued or commenced, or any legislation enacted, with the purpose or effect of prohibiting the issuance, offering or sale of the Series 2020 Bonds as contemplated hereby or by the Official Statement or prohibiting the entering or performance of the Indenture; or



(v) the President of the United States, the Office of Management and Budget, the Department of Treasury, the Internal Revenue Service or any other governmental body, department, agency or commission of the United States or the State of Alabama shall take or propose to take any action or implement or propose regulations, rules or legislation which, in the reasonable judgment of the Representative, materially adversely affects the market price of the Series 2020 Bonds or causes any material information in the Official Statement, in light of the circumstances under which it appears, to be misleading in any material respect; or

(vi) any executive order shall be announced, or any legislation, ordinance, rule or regulation shall be proposed by or introduced in, or be enacted by any governmental body, department, agency or commission of the United States or the State of Alabama, having jurisdiction over the subject matter, or a decision by any court of competent jurisdiction within the United States or within the State of Alabama, shall be rendered which, in the reasonable judgment of the Representative, materially adversely affects the market price of the Series 2020 Bonds or causes any information in the Official Statement to be misleading in any material respect; or

(vii) any litigation shall be instituted, pending or threatened to restrain or enjoin the issuance, sale or delivery of the Series 2020 Bonds or in any way contesting or affecting any authority for or the validity of the Series 2020 Bonds, the Indenture or this Bond Purchase Agreement, or any of the proceedings of the University taken with respect to the issuance or sale of the Series 2020 Bonds or the execution of and performance of this Bond Purchase Agreement, the Indenture or the University Documents; or

(viii) there shall have occurred or any notice shall have been given of any intended downgrading, suspension, withdrawal or negative change in credit watch status by any national rating service to any of the University's obligations; or

(ix) the marketability of the Series 2020 Bonds or the market price thereof, in the opinion of the Representative, has been materially and adversely affected by disruptive events, occurrences or conditions in the securities or debt markets; or

(x) any event shall have occurred or shall exist which, in the reasonable opinion of the Representative, would cause the information contained in the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading as of such time and which would materially adversely affect the marketability of the Series 2020 Bonds; or

(xi) there shall have been any materially adverse change in the financial

condition of the University that is not contemplated in the Official Statement, as then amended and supplemented, which in the reasonable opinion of the Representative, materially and adversely affects the market price or marketability of the Series 2020 Bonds;

(e) On or prior to the Closing Date, the Underwriters shall receive the following documents:

(i) the Official Statement, and any supplements, amendments or modifications, if any, thereto, executed on behalf of the University by the President or the Vice President for Finance and Administration of the University;

(ii) the Seventeenth Supplemental University Facilities Revenue Trust Indenture, certified by the Secretary of the University under seal as having been duly executed by the President or the Vice President for Finance and Administration of the University and such modifications or amendments as may have been agreed to by the Underwriters;

(iii) a certified copy of the Authorizing Resolution;

(iv) an opinion of Bradley Arant Boult Cummings LLP, Birmingham, Alabama, Bond Counsel to the University ("Bond Counsel"), in substantially the form included in the Official Statement as Appendix B;

(v) an opinion of the General Counsel of the University, dated the date of the Closing, in form and substance reasonably satisfactory to the Representative;

(vi) A Tax Certificate and Agreement of the University (the "Tax Certificate and Agreement"), prepared by Bond Counsel and executed by an authorized officer of the University, dated as of the Closing Date, setting forth facts, estimates and circumstances concerning the use or application of the Series 2020 Bonds proceeds, in form and substance reasonably satisfactory to Bond Counsel;

(vii) evidence of an underlying rating of (1) "A1" issued by Moody's Investors Service, Inc. ("Moody's"), and (2) "A+" by S&P Global Ratings ("S&P"), with respect to the Series 2020 Bonds;

(viii) the Continuing Disclosure Agreement executed by an authorized officer of the University;

(ix) A certificate of the University, dated the date of the Closing, signed by the President or the Vice President for Finance and Administration of the University and in form and substance reasonably satisfactory to the Representative to the effect that:

(1) since the date hereof no material and adverse change has occurred in the financial condition of the University or results of operations of the University, except as set forth in the Official Statement;

(2) the University has not, since September 30, 2019, incurred any material liabilities other than in the ordinary course of business or as set forth in the Official Statement;

(3) no litigation or proceeding is pending with respect to which service or notice on the University has been perfected or given or, to their knowledge, threatened which would (i) restrain or enjoin the issuance or delivery of the Series 2020 Bonds or the collection of Pledged Revenues, (ii) in any way contest or affect any authority for the issuance of the Series 2020 Bonds or the validity, due authorization and execution of the Series 2020 Bonds, the University Documents or this Bond Purchase Agreement, (iii) limit, enjoin or prevent the University from paying the debt service on the Series 2020 Bonds as and when due, or (iv) in any way contest the corporate existence or powers of the University;

(4) the Preliminary Official Statement (except for omissions permitted by Rule 15c2-12) did not as of its date and as of the date hereof does not, and the Official Statement, as of its date and at all times through the date of the Closing, will not, contain any misstatement of a material fact or omit to state any material fact required to be stated therein in order for the statements made therein, in the light of the circumstances under which they were made, not to be misleading;

(5) the representations of the University contained herein are true and correct in all material respects as of the date of the Closing, as if made on the date of the Closing; and

(6) none of the proceedings or authority for the execution and delivery of the Series 2020 Bonds and the transactions related thereto have been modified, amended or repealed;

(x) an insurance policy issued by Assured Guaranty Municipal Corporation (the "Bond Insurer") guaranteeing the scheduled payment when due of the Series 2020 Bonds;

(xi) an opinion of counsel to the Bond Insurer, dated the date of Closing, in form and substance satisfactory to the Representative;

(xii) evidence of an insured rating of (1) "AA" issued by S&P, and (2) "A2" issued by Moody's, with respect to the Series 2020 Bonds; and

(xiii) such additional consents or certificates as Bond Counsel or the Underwriters may reasonably request to evidence compliance by the University with legal requirements, the truth and accuracy, as of the Closing Date, of the representations of the University herein and the due performance or satisfaction by the University at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the University.

If the University shall be unable to satisfy the conditions to the obligations of the Underwriters to purchase, accept delivery of and pay for the Series 2020 Bonds contained in this Bond Purchase Agreement and the Representative does not waive such inability in writing, or if the obligations of the Underwriters to purchase, accept delivery of and pay for the Series 2020 Bonds shall be terminated for any reason permitted by this Bond Purchase Agreement, including the exercise of the Representative's right to cancel this Bond Purchase Agreement as provided in Section 6(d) hereof, this Bond Purchase Agreement shall terminate and neither the Underwriters nor the University shall be under any further obligation hereunder, except that the respective obligations of the University and the Underwriters set forth in Section 8 hereof shall continue in full force and effect.

7. **Expenses.** The Underwriters shall be under no obligation to pay, and the University shall pay, any expense incident to the performance of the University's obligations hereunder including, but not limited to: (a) the cost of preparation, printing and delivery of the Series 2020 Bonds, the Seventeenth Supplement University Facilities Revenue Trust Indenture, this Bond Purchase Agreement and all other instruments, agreements and other documents contemplated thereby and hereby; (b) the costs of preparation and the fees and disbursements of Bond Counsel and other legal counsel to the University; (c) fees for bond ratings; (d) the fees and expenses of the Trustee; (e) the costs of preparing, printing and delivering the Official Statement and any supplements or amendments thereto; and (f) such other expenses as may be agreed to in writing at a later date.

The University shall reimburse the Underwriters for actual expenses incurred or paid for by the Underwriters on behalf of the University for the University's employees and representatives, including, but not limited to, transportation, lodging, and meals in connection with the marketing, issuance, and delivery of the Series 2020 Bonds; provided, however, that (i) reimbursement for such expenses shall not exceed an ordinary and reasonable amount for such expenses and (ii) such expenses are not related to the entertainment of any person and not prohibited from being reimbursed from the proceeds of an offering of municipal securities under MSRB Rule G-20. Such reimbursement may be in the form of inclusion in the expense component of the Underwriter's discount, or direct reimbursement as a cost of issuance.

The Underwriters shall pay: (a) all advertising expenses in connection with a public offering of the Series 2020 Bonds, (b) all fees and disbursements of any counsel retained by the Underwriters, and (c) any fees of the MSRB or the Securities Industry and Financial Markets Association. In the event that either party shall have paid obligations of the other as set forth in this Section 7, adjustment shall be made at the time of the Closing.

## 8. Establishment of Issue Price

(a) The Representative, on behalf of the Underwriters, agrees to assist the University in establishing the issue price of the Series 2020 Bonds and shall execute and deliver to the University on the Closing Date an "issue price" or similar certificate substantially in the form attached hereto as Exhibit B, together with the supporting pricing wires or equivalent communications, and with such modifications as may be appropriate or necessary, in the reasonable judgment of the Representative, the University and Bond Counsel, to accurately reflect, as applicable, the sales price or prices or the initial offering price or prices to the public of the Series 2020 Bonds.

(b) Except as otherwise set forth in Exhibit B attached hereto respecting the Hold-The-Offering-Price Maturities (as defined in Appendix 1 of said exhibit), the University will treat the first price at which 10% of each maturity of the Series 2020 Bonds (the "10% test") is sold to the public as the issue price of that maturity (if different interest rates apply within a maturity, each separate CUSIP number within that maturity will be subject to the 10% test). At or promptly after the execution of this Bond Purchase Agreement, the Representative shall report to the University the price or prices at which the Underwriters have sold to the public each maturity of Series 2020 Bonds. If at that time the 10% test has not been satisfied as to any maturity of the Series 2020 Bonds, the Representative agrees to promptly report to the University the prices at which the Underwriters sell the unsold Series 2020 Bonds of that maturity to the public. That reporting obligation shall continue, whether or not the Closing Date has occurred, until the 10% test has been satisfied as to the Series 2020 Bonds of that maturity or until all Series 2020 Bonds of that maturity have been sold to the public.

(c) The Representative confirms that it has offered the Series 2020 Bonds to the public on or before the date of this Bond Purchase Agreement at the offering price or prices (the "initial offering price"), or at the corresponding yield or yields, set forth on Exhibit A hereto. Exhibit B sets forth, as of the date of this Bond Purchase Agreement, the maturities, if any, of the Series 2020 Bonds for which the 10% test has not been satisfied (identified in Appendix 1 of said exhibit under the caption "Hold-The-Offering-Price-Maturities") and for which the University and the Underwriters agree that the restrictions set forth in the next sentence shall apply, which will allow the University to treat the initial offering price to the public of each such maturity as of the sale date as the issue price of that maturity (the "hold-the-offering-price rule"). So long as the hold-the-offering-price rule remains applicable to any maturity of the Series 2020 Bonds, the Underwriters will neither offer nor sell unsold Series 2020 Bonds of that maturity to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (i) the close of the fifth (5th) business day after the sale date; or
- (ii) the date on which the Underwriters have sold at least 10% of that maturity of the Series 2020 Bonds to the public at a price that is no higher than the initial offering price to the public.

The Representative shall promptly advise the University when the Underwriters have sold 10% of that maturity of the Series 2020 Bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5<sup>th</sup>) business day after the sale date.

(d) The Representative confirms that:

(i) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the Representative is a party) relating to the initial sale of the Series 2020 Bonds to the public, together with the related pricing wires, contains or will contain language obligating each Underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to (A) report the prices at which it sells to the public the unsold Series 2020 Bonds of each maturity allotted to it until it is notified by the Representative that either the 10% test has been satisfied as to the Series 2020 Bonds of that maturity or all Series 2020 Bonds of that maturity have been sold to the public, and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Representative and as set forth in the related pricing wires, and

(ii) any agreement among underwriters relating to the initial sale of the Series 2020 Bonds to the public, together with the related pricing wires, contains or will contain language obligating each Underwriter that is a party to a retail distribution agreement to be employed in connection with the initial sale of the Series 2020 Bonds to the public to require each broker-dealer that is a party to such retail distribution agreement to (A) report the prices at which it sells to the public the unsold Series 2020 Bonds of each maturity allotted to it until it is notified by the Representative or the Underwriter that either the 10% test has been satisfied as to the Series 2020 Bonds of that maturity or all Series 2020 Bonds of that maturity have been sold to the public, and (B) comply with the hold-the-offering-price rule, if applicable, in each case if and for so long as directed by the Representative or the Underwriter and as set forth in the related pricing wires.

(e) The Underwriters acknowledge that sales of any Series 2020 Bonds to any person that is a related party to an Underwriter shall not constitute sales to the public for purposes of this section. Further, for purposes of this section:

(i) "public" means any person other than an underwriter or a related party,

(ii) "underwriter" means (A) any person that agrees pursuant to a written contract with the University (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the Series 2020 Bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the Series 2020 Bonds to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Series 2020 Bonds to the

public),

(iii) a purchaser of any of the Series 2020 Bonds is a "related party" to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (i) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (ii) more than 50% common ownership of their capital interests or profits interests, if both entities are partnerships (including direct ownership by one partnership of another), or (iii) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(iv) "sale date" means the date of execution of this Series 2020 Bond Purchase Agreement by all parties.

9. **Notices.** Any notice or other communications to be given to the University under this Bond Purchase Agreement may be given by mailing the same to University of South Alabama, Attention: Vice President for Finance and Administration, 307 University Boulevard, Administrative Building, Suite 170, Mobile, Alabama 36688, with a copy to Joshua McCoy, PFM Financial Advisors LLC 116 Jefferson Street South, Suite 301, Huntsville, Alabama 35801 and any such notice or other communication to be given to the Underwriters may be mailed to Raymond James & Associates, Inc., Attention: Matt Adams, 2900 Highway 280, Suite 100, Birmingham, AL 35223

10. **Parties in Interest.** This Bond Purchase Agreement is made solely for the benefit of the University and the Underwriters and no other party or person shall acquire or have any right hereunder or by virtue hereof. All representations and agreements in this Bond Purchase Agreement shall remain operative and in full force and effect and shall survive the delivery of the Series 2020 Bonds.

11. **Waiver.** Notwithstanding any provision herein to the contrary, the performance of any and all obligations of the University hereunder and the performance of any and all conditions contained herein for the benefit of the Underwriters may be waived by the Underwriters, in their sole discretion, and the approval of the Underwriters when required hereunder or the determination of their satisfaction as to any document referred to herein shall be in writing, signed by an appropriate officer or officers of the Underwriters and delivered to the University.

12. **Limitations of Liability.** The obligations of the University hereunder shall be limited obligations, and shall be payable only from Pledged Revenues or other funds legally available therefor. No officer, agent or employee of the University shall be charged personally by the Underwriters with any liability, or held liable to the Underwriters under any term or provision

of this Bond Purchase Agreement because of its execution or attempted execution, or because of any breach or attempted breach thereof.

13. **Counterparts.** This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

14. **Governing Law.** This Bond Purchase Agreement, and the terms and conditions herein, shall constitute the full and complete agreement between the University and the Underwriters with respect to the purchase and sale of the Series 2020 Bonds. This Bond Purchase Agreement shall be governed by and construed in accordance with the laws of the State of Alabama.

15. **No Advisory or Fiduciary Role.** The University acknowledges and agrees that: (i) the transactions contemplated by this Bond Purchase Agreement are arm's length, commercial transactions between the University and the Underwriters; (ii) in connection with such transaction, including the process leading thereto, the Underwriters are acting solely as principals and not as agents or a fiduciaries of the University; (iii) the Underwriters have neither assumed an advisory or fiduciary responsibility in favor of the University with respect to the offering of the Series 2020 Bonds or the process leading thereto (whether or not the Underwriters or any affiliate of any Underwriter has advised or is currently advising the University on other matters) nor has it assumed any other obligation to the University except the obligations expressly set forth in this Bond Purchase Agreement, (iv) the Underwriters have financial and other interests that differ from those of the University; and (v) the University has consulted with its own legal and financial advisors to the extent it deemed appropriate in connection with the offering of the Series 2020 Bonds.

*[Signature page follows]*



Very truly yours,

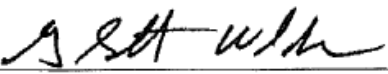
Raymond James & Associates, Inc., on  
behalf of itself and the other underwriter  
named herein

By: 

As its: Managing Director

Accepted this 25<sup>th</sup> day of February, 2020

UNIVERSITY OF SOUTH ALABAMA

By: 

Its: V.P. Finance and Administration

**EXHIBIT A**

<b>Maturity (April 1)</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Yield</b>	<b>Price</b>
2021	\$ 900,000	4.000%	0.890%	103.268
2022	1,015,000	4.000	0.890	106.328
2023	1,055,000	4.000	0.920	109.266
2024	1,100,000	4.000	0.950	112.113
2025	1,420,000	4.000	0.990	114.814
2026	1,480,000	5.000	1.050	123.125
2027	1,550,000	5.000	1.120	126.260
2028	1,630,000	5.000	1.200	129.103
2029	1,710,000	5.000	1.280	131.720
2030	1,800,000	5.000	1.380	133.887
2031	1,885,000	5.000	1.450*	133.113*
2032	1,980,000	5.000	1.530*	132.234*
2033	2,080,000	5.000	1.570*	131.797*
2034	2,185,000	5.000	1.600*	131.471*
2035	2,290,000	4.000	1.800*	120.157*
2036	2,385,000	4.000	1.850*	119.649*
2037	2,485,000	4.000	1.890*	119.244*
2038	2,580,000	4.000	1.930*	118.841*
2039	2,685,000	4.000	1.940*	118.740*
2040	2,790,000	4.000	1.960*	118.539*

\* Calculated to April 1, 2030 optional redemption date.

Those of the Series 2020 Bonds having a stated maturity on April 1, 2031, and thereafter, will be subject to redemption prior to their respective maturities, at the option of the University, as a whole or in part, on April 1, 2030, and on any date thereafter (and if in part, in such maturities as the University shall select, and if less than all of a single maturity is to be redeemed those to be redeemed to be selected by the Trustee by lot) at and for a redemption price with respect to each Series 2020 Bond (or principal portion thereof redeemed) equal to the par or face amount of each Series 2020 Bond redeemed plus accrued interest to the date fixed for redemption.

**EXHIBIT B**  
**Issue Price Certificate**

This certificate is being delivered by Raymond James & Associates, Inc. (the "Representative") in connection with the issuance by the University of South Alabama (the "University") of its \$37,005,000 University Facilities Revenue Bonds, Series 2020 (the "Series 2020 Bonds"). The Series 2020 Bonds have been purchased from the University by the underwriters (the "Underwriters") identified in the Bond Purchase Agreement dated February 25, 2020 (the "Bond Purchase Agreement") between the University and the Representative, on behalf of the Underwriters. Capitalized terms not otherwise defined in this certificate have the meaning assigned in the Bond Purchase Agreement.

The Representative, on behalf of the Underwriters, hereby certifies with respect to the sale and issuance of the Series 2020 Bonds:

1. **Pricing Wire.** Attached to this certificate as *Appendix 1* is the pricing wire or equivalent communication establishing the initial offering prices of the Series 2020 Bonds as of the Sale Date. The offering prices in the pricing wire are the same as the initial offering prices identified in Exhibit A to the Bond Purchase Agreement.

2. **Offering at the Initial Offering Prices.** The Underwriters offered the Series 2020 Bonds to the Public for purchase at the initial offering prices identified in Exhibit A to the Bond Purchase Agreement.

3. **Sale of the General Rule Maturities.** Appendix 1 hereto correctly identifies each Maturity of the Series 2020 Bonds for which the 10% Test was satisfied as of the Sale Date.

4. **Sale of Hold-the-Issue-Price Maturity** Appendix 1 hereto correctly identifies each Maturity of the Series 2020 Bonds for which the 10% Test was satisfied as of the Sale Date.

5. **Defined Terms.** In addition to the terms defined elsewhere in this certificate, the following definitions apply for purposes of this certificate:

(a) *General Rule Maturity* means each Maturity of the Series 2020 Bonds identified in Appendix 1 hereto under the title "General Rule Maturities" for which the 10% test was satisfied as of the Sale Date.

(b) *Hold-the-Issue-Price Maturity* means each Maturity of the Series 2020 Bonds identified in Appendix 1 hereto under the title "Hold-the-Issue-Price Maturities" for which the 10% test was not satisfied as of the Sale Date.

(c) *Holding Period* means, with respect to a Hold-the-Issue-Price Maturity, the period starting on the Sale Date and ending on the earlier of (i) the close of business on the fifth business day after the Sale Date or (ii) the date on which the Underwriters sold at least 10% of such Hold-the-Issue-Price Maturity to the Public at prices that are no higher than the initial offering price for such Hold-the-Issue-Price Maturity.

(d) *Maturity*, when used with respect to the Series 2020 Bonds, means Series 2020 Bonds with the same credit and payments terms. Series 2020 Bonds with different maturity dates, or Series 2020 Bonds with the same maturity date but different stated interest rates, are treated as separate maturities.

(e) *Public* means any person (including an individual, trust, estate, partnership, association, company, or corporation) other than an Underwriter or a related party to the Underwriter. The term "related party" for purposes of this certificate generally means any two or more persons who have greater than 50 percent common ownership, directly or indirectly.

(f) *Sale Date* means the date of execution of the Bond Purchase Agreement by all parties.

(g) *Underwriter* means (i) any person that agrees pursuant to a written contract with the University (or with the lead underwriter for form an underwriting syndicate) to participate in the initial sale of the Series 2020 Bonds to the Public, and (ii) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (i) of this paragraph to participate in the initial sale of the Series 2020 Bonds to the Public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the Series 2020 Bonds to the Public).

The representations set forth in this certificate are limited to factual matters only. Nothing in this certificate represents the Representative's interpretation of any laws, including specifically Sections 103 and 148 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder. The Representative understands that the forgoing information will be relied upon the University with respect to certain of the representations set forth in the Tax Certificate and Agreement executed by them and with respect to compliance with the federal income tax rules affecting the Series 2020 Bonds, and by bond counsel (Bradley Arant Boult Cummings, L.L.P.) in connection with rendering its opinion that interest on the Series 2020 Bonds is excluded from gross income for federal income tax purposes, the preparation of Form 8038-G, and other federal income tax advice that it may give to the University from time to time relating to the Series 2020 Bonds. Except as expressly set forth above, the certifications set forth herein may not be relied upon or used by any third party or for any other purpose.

Dated: March 10, 2020

Raymond James & Associates, Inc,  
as Representative of the Underwriters

By: \_\_\_\_\_  
(signature)

Name: \_\_\_\_\_  
(print name)

Title: \_\_\_\_\_

## Appendix 1

### SALE PRICES OF THE GENERAL RULE MATURITIES AND INITIAL OFFERING PRICES OF THE HOLD-THE-OFFERING-PRICE MATURITIES

*General Rule Maturities:*

<b>Maturity (April 1)</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Yield</b>	<b>Price</b>
2021	\$900,000	4.000%	0.890%	103.268
2022	1,015,000	4.000	0.890	106.328
2023	1,055,000	4.000	0.920	109.266
2024	1,100,000	4.000	0.950	112.113
2025	1,420,000	4.000	0.990	114.814
2026	1,480,000	5.000	1.050	123.125
2027	1,550,000	5.000	1.120	126.260
2028	1,630,000	5.000	1.200	129.103
2029	1,710,000	5.000	1.280	131.720
2030	1,800,000	5.000	1.380	133.887
2031	1,885,000	5.000	1.450*	133.113*
2032	1,980,000	5.000	1.530*	132.234*
2033	2,080,000	5.000	1.570*	131.797*
2034	2,185,000	5.000	1.600*	131.471*
2035	2,290,000	4.000	1.800*	120.157*
2036	2,385,000	4.000	1.850*	119.649*
2037	2,485,000	4.000	1.890*	119.244*
2038	2,580,000	4.000	1.930*	118.841*
2039	2,685,000	4.000	1.940*	118.740*
2040	2,790,000	4.000	1.960*	118.539*

\* Calculated to April 1, 2030 optional redemption date.

*Hold-The-Offering-Price Maturities:*

None

**EXHIBIT III**  
**PRELIMINARY OFFICIAL STATEMENT**

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

**PRELIMINARY OFFICIAL STATEMENT DATED FEBRUARY 17, 2020**

**RATINGS:**

**Moody's: A1**  
**S&P: Applied For**  
**See "RATINGS" herein**

**NEW ISSUE - BOOK-ENTRY ONLY**

*In the opinion of Bond Counsel to the University, under existing law and assuming the accuracy of certain representations and certifications and compliance by the University with certain tax covenants, interest on the Series 2020 Bonds will be excluded from gross income for federal income tax purposes. Bond Counsel to the University is of the further opinion that, under existing law, interest on the Series 2020 Bonds will not be an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. See "TAX MATTERS" herein for further information and certain other federal tax consequences arising with respect to the Series 2020 Bonds. Bond Counsel to the University is also of the opinion that, under existing law, interest on the Series 2020 Bonds is exempt from Alabama income taxation.*



**University of South Alabama**  
**\$36,460,000\***  
**University Facilities Revenue Bonds**  
**Series 2020**

**Dated: Date of Delivery**

**Due: April 1, as shown on inside cover**

**FOR MATURITY SCHEDULE, INTEREST RATES, PRICES/YIELDS AND CUSIPS, SEE INSIDE COVER**

The \$36,460,000\* University Facilities Revenue Bonds, Series 2020 (the "Series 2020 Bonds") will be issued as fully registered bonds without coupons in denominations of \$5,000 and any integral multiple thereof pursuant to a book-entry only system to be administered by The Depository Trust Company ("DTC") and, when issued, will be registered in the name of and held by Cede & Co., as nominee. Purchases of beneficial interests in the Series 2020 Bonds will be made in book-entry form only and purchasers of a beneficial interest in the Series 2020 Bonds ("Beneficial Owners") will not receive physical delivery of the certificates representing their interests in the Series 2020 Bonds. The principal of and interest on the Series 2020 Bonds will be paid directly to DTC, so long as DTC or its nominee is the registered owner of the Series 2020 Bonds. The final disbursements of such payments to the Beneficial Owners of the Series 2020 Bonds will be the responsibility of the DTC Participants and the Indirect Participants, all as defined and more fully described in this Official Statement under the caption "THE SERIES 2020 BONDS - General Description" and in Appendix D hereto.

The Series 2020 Bonds are being issued by the University of South Alabama (the "University") pursuant to that certain University Facilities Revenue Trust Indenture between The Bank of New York Mellon Trust Company, N.A., as trustee, and the University dated as of February 15, 1996 (as heretofore supplemented and amended and as further supplemented and amended by a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of the Series 2020 Bonds, the "Indenture") to (i) pay the costs of various capital improvements at the University hereafter described as the 2020 Improvements, and (ii) pay the costs of issuing the Series 2020 Bonds. The principal of and interest on the Series 2020 Bonds are limited obligations of the University payable from and secured solely by the Pledged Revenues, as defined and further described herein.

[Certain Series 2020 Bonds are subject to redemption prior to maturity on such terms and as more fully described herein.]

The Series 2020 Bonds are not obligations or debts of the State of Alabama (the "State") nor will any principal of or interest on the Series 2020 Bonds be paid out of any moneys provided for or appropriated to the University by the State of Alabama. The Series 2020 Bonds are special and limited obligations of the University, secured by a pledge of and payable solely from certain fees and revenues of the University as described herein and in the Indenture. Neither the Series 2020 Bonds nor the pledge of the said fees and revenues and other agreements provided in the Indenture shall be or constitute a general obligation of the University or an obligation of any nature whatsoever of the State, or be payable out of any moneys appropriated by the State to the University.

*The Series 2020 Bonds are offered when, as and if issued by the University and received by the Underwriters, subject to prior sale, to withdrawal or modifications of the offer without notice, and to the approval of legality of the Series 2020 Bonds by Bradley Arant Boult Cummings LLP, Bond Counsel to the University. It is expected that the Series 2020 Bonds in definitive form will be available for delivery through DTC on or about [\_\_\_\_\_, 2020].*

**RAYMOND JAMES**

**PROTECTIVE SECURITIES,**  
**a division of ProEquities, Inc.**

\* Preliminary; subject to change.

Dated: [\_\_\_\_\_]



**MATURITIES, AMOUNTS, RATES, PRICES/YIELDS & CUSIPS****\$36,460,000\*****UNIVERSITY OF SOUTH ALABAMA  
University Facilities Revenue Bonds, Series 2020**

<b>Maturity (April 1)</b>	<b>Principal Amount*</b>	<b>Interest Rate</b>	<b>Price/ Yield</b>	<b>CUSIPs<sup>(1)</sup></b>
2021	\$ 830,000			
2022	955,000			
2023	1,005,000			
2024	1,055,000			
2025	1,380,000			
2026	1,450,000			
2027	1,520,000			
2028	1,600,000			
2029	1,675,000			
2030	1,760,000			
2031	1,845,000			
2032	1,940,000			
2033	2,035,000			
2034	2,140,000			
2035	2,245,000			
2036	2,355,000			
2037	2,475,000			
2038	2,600,000			
2039	2,730,000			
2040	2,865,000			

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\* Preliminary; subject to change.

<sup>(1)</sup> CUSIP® is a registered trademark of the American Bankers Association. CUSIP data herein is provided by the CUSIP Service Bureau, operated by Standard & Poor's, a division of The McGraw-Hill Companies, Inc. This data is not intended to create a database and does not serve in any way as a substitute for the CUSIP Services Bureau. CUSIP numbers have been assigned by an independent company not affiliated with the University and are included solely for the convenience of the registered owners of the Series 2020 Bonds. The University and the Underwriters are not responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness by the University on the Series 2020 Bonds and by the Underwriters on the Series 2020 Bonds or as included herein. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Series 2020 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Series 2020 Bonds.

**UNIVERSITY OF SOUTH ALABAMA**

**MEMBERS OF THE BOARD OF TRUSTEES**

Kay Ivey, Ex Officio  
Katherine Alexis Atkins  
Scott A. Charlton  
E. Thomas Corcoran  
Steven P. Furr  
William Ronald Graham  
Robert D. Jenkins, III  
Arlene Mitchell  
Lenus M. Perkins  
James H. Shumock  
Kenneth O. Simon  
Chandra Brown Stewart  
Steven H. Stokes  
Margie Malone Tuckson  
Michael P. Windom  
James A. Yance

**PRESIDENT**

Dr. Tony G. Waldrop

**VICE PRESIDENT FOR FINANCE AND ADMINISTRATION**

G. Scott Weldon

**BOND COUNSEL**

Bradley Arant Boult Cummings LLP  
Birmingham, Alabama

**FINANCIAL ADVISOR**

PFM Financial Advisors LLC  
Huntsville, Alabama

**UNDERWRITERS**

Raymond James & Associates, Inc.  
Protective Securities, a division of ProEquities, Inc.

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Certain information contained in or incorporated by reference in this Official Statement has been obtained by the University from DTC and other sources that are deemed reliable. No representation or warranty is made, however, as to the accuracy or completeness of such information by the Underwriters or the University.

The Underwriters have provided the following sentence for inclusion in this Official Statement. The Underwriters have reviewed the information in this Official Statement in accordance with and as part of their responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information and nothing contained in this Official Statement is or shall be relied upon as a promise or representation by the Underwriters. This Official Statement is being used in connection with the sale of securities as referred to herein and may not be used, in whole or in part, for any other purpose. The delivery of this Official Statement at any time does not imply that information herein is correct as of any time subsequent to its date.

No dealer, broker, salesperson or any other person has been authorized by the University or the Underwriters to give any information or to make any representation other than as contained in this Official Statement in connection with the offering described herein and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy any securities other than those described on the inside cover page, nor shall there be any offer to sell, solicitation of an offer to buy or sale of such securities in any jurisdiction in which it is unlawful to make such offer, solicitation or sale. Neither this Official Statement nor any statement that may have been made verbally or in writing is to be construed as a contract with the registered or beneficial owners of the Series 2020 Bonds.

Any statements made in this Official Statement, including the Appendices, involving matters of opinion or estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of such estimates will be realized. This Official Statement contains certain forward-looking statements and information based on the University's beliefs as well as assumptions made by and information currently available to the University. See "FORWARD LOOKING STATEMENTS" herein.

IN CONNECTION WITH THE OFFERING OF THE SERIES 2020 BONDS, THE UNDERWRITERS MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF SUCH SERIES 2020 BONDS AT A LEVEL ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

References to website addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader's convenience. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this final official statement for purposes of, and as that term is defined in, SEC rule 15c2-12.

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## **OFFICIAL STATEMENT**

pertaining to

### **UNIVERSITY OF SOUTH ALABAMA**

**\$36,460,000\***

#### **University Facilities Revenue Bonds Series 2020**

### **INTRODUCTORY STATEMENT**

The purpose of this Official Statement, which includes the cover page and the Appendices hereto, is to provide information in connection with the issuance by the University of South Alabama of the above-referenced Series 2020 Bonds (the "Series 2020 Bonds"), dated their date of initial delivery and issued as additional parity bonds under a University Facilities Revenue Trust Indenture dated as of February 15, 1996, between the University of South Alabama and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), as previously supplemented and amended (the "Base Indenture") and as further supplemented and amended by a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of the Series 2020 Bonds (the Base Indenture, as so supplemented and amended, the "Indenture").

Definitions of certain words and terms having initial capital letters used herein are defined in the Indenture or in the instrument or document in the description of which such word or term is used. Reference is hereby made to the full text of the documents and instruments briefly described herein which may be obtained from the Underwriters or from the University during the period of the offering.

The Governor, the State Superintendent of Education and the appointed trustees together constitute a public body corporate under the name University of South Alabama (the "University"). The University is located in the City of Mobile, Alabama.

#### **Purpose of the Issue**

Proceeds of the Series 2020 Bonds will be applied: (i) to pay the costs of certain public capital improvements on the campus of the University consisting of improvements, equipment and renovations at the USA Health University Hospital, USA Health Children's and Women's Hospital, and University Commons, the USA Health Children's and Women's Hospital Pediatric Emergency Department, demolition of an existing building near the USA Health buildings to provide for possible expansion space, development of infrastructure on a tract of land located near the northwest corner of Hillcrest Road and Old Shell Road, construction thereon of a freestanding emergency room, acquisition of land and various other public capital improvements and equipment for the University (collectively, the "2020 Improvements"), and (ii) to pay the costs of issuing the Series 2020 Bonds. Proceeds from the sale of the Series 2020 Bonds to pay the costs of the 2020 Improvements will be held in one or more special funds established by the University (the "2020 Improvements Construction Fund").

#### **Security**

The Series 2020 Bonds are limited obligations of the University payable from, and secured solely by a pledge of, the Pledged Revenues, as more fully described below under "SECURITY AND SOURCE OF PAYMENT - Sources of Payment and Pledged Revenues." The Pledged Revenues include a pledge of the General Fees levied against students enrolled at the University and any additional fees and revenues that may in the future be subjected to the lien of the Indenture pursuant to a Supplemental Indenture, a pledge of the gross revenues derived from certain auxiliary enterprises services furnished by the University, and an amount not exceeding \$10,000,000 in any fiscal year of the University of the gross revenues derived from that certain hospital facility owned and operated by the University and known as USA Children's and Women's Hospital,

each as described herein. See “SECURITY AND SOURCE OF PAYMENT - Sources of Payment and Pledged Revenues.”

The Series 2020 Bonds will not constitute a charge against the general credit of the University, and will not be payable from moneys appropriated to the University by the State of Alabama. The University has no taxing power. The State of Alabama will not be liable in any manner for the payment of the principal and interest on the Series 2020 Bonds. Holders of the Series 2020 Bonds shall never have the right to demand payment of the Series 2020 Bonds from the University from any source other than the special funds established under the Indenture and the Pledged Revenues and shall be entitled to payment from such sources only on a parity basis with all other bonds outstanding under the Indenture.

### **Existing and Additional Parity Bonds**

The Indenture permits the University to issue additional bonds that will be secured by and be payable from Pledged Revenues on parity of lien with the Outstanding Bonds (defined below), the Series 2020 Bonds and any Additional Bonds (defined below) issued hereafter. For a description of the Outstanding Bonds (i.e., Bonds already outstanding under the Indenture that are secured by and payable from Pledged Revenues on parity of lien with the Series 2020 Bonds), see “SECURITY AND SOURCE OF PAYMENT - General”. For a description of the terms of the Indenture for the issuance of Additional Bonds in the future, see “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Additional Bonds.”

## **THE SERIES 2020 BONDS**

### **General Description**

The Series 2020 Bonds will be dated their initial date of delivery, and will bear interest (payable on October 1, 2020, and on each April 1 and October 1 thereafter until maturity) at the rates and will mature on April 1 in the years and in the amounts set forth on the inside cover page of this Official Statement. The Series 2020 Bonds will be issuable only as fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof.

The Series 2020 Bonds will be initially issued as fully-registered bonds in the name of Cede & Co., as nominee of DTC, as registered owner of the Series 2020 Bonds. Purchasers of such Series 2020 Bonds will not receive physical delivery of bond certificates. For purposes of this Official Statement, so long as all of the Series 2020 Bonds are in the custody of DTC, references to Bondholders or Owners shall mean DTC or its nominee. DTC will act as securities depository for the Series 2020 Bonds. The Series 2020 Bonds will be issued as fully-registered securities in the name of Cede & Co., DTC’s partnership nominee Cede or such other nominee as may be requested by an authorized representative of DTC. One fully-registered Series 2020 Bond certificate will be issued for each maturity of the Series 2020 Bonds, in the aggregate principal amount of such maturity, and will be deposited with DTC. See Appendix D hereto for DTC payment and other related provisions.

During any period in which the Series 2020 Bonds are not held in the Book-Entry System, principal of the Series 2020 Bonds will be payable at the designated corporate trust office of the Trustee upon presentation and surrender of the Series 2020 Bonds as they mature. Interest on Series 2020 Bonds will be paid by the Trustee by check or draft mailed to the persons who are the registered owners of record as of the close of business on the March 15 or September 15 immediately preceding each interest payment date by check or draft mailed to such owners at their addresses shown on the registry books of the Trustee pertaining to the Series 2020 Bonds.

No charge will be made for any exchange or transfer of the Series 2020 Bonds, but the registered owners thereof shall be responsible for paying all taxes and other governmental charges relating to such transfer or exchange. In the event a Series 2020 Bond is lost, stolen, destroyed or mutilated, the University and the Trustee may require satisfactory indemnification for the replacement thereof and may charge the holder or owner of such bond with their fees and expenses in connection with the replacement thereof.

**Optional Redemption**

Those of the Series 2020 Bonds having a stated maturity on [\_\_\_\_\_], and thereafter, will be subject to redemption prior to their respective maturities, at the option of the University, as a whole or in part, on [\_\_\_\_\_], and on any date thereafter (and if in part, in such maturities as the University shall select, and if less than all of a single maturity is to be redeemed those to be redeemed to be selected by the Trustee by lot) at and for a redemption price with respect to each Series 2020 Bond (or principal portion thereof redeemed) equal to the par or face amount of each Series 2020 Bond redeemed plus accrued interest to the date fixed for redemption.

**Mandatory Redemption**

[*Series 2020 Bonds Maturing [\_\_\_\_\_]*]. Those of the Series 2020 Bonds maturing on [\_\_\_\_\_] shall be subject to mandatory redemption and payment, and the University shall redeem and pay such Series 2020 Bonds, at and for a redemption price, with respect to each such Series 2020 Bonds or portion thereof redeemed, equal to the principal amount thereof plus accrued interest to the date fixed for redemption (those to be redeemed to be selected by the Trustee by lot) but only in the following aggregate principal amounts on April 1 in the following years:

Year (April 1)	Amount Required to be Redeemed
-------------------	-----------------------------------

In the event that the University shall have partially redeemed Series 2020 Bonds having a stated maturity in [\_\_\_\_\_] or shall have provided for a partial redemption of such Series 2020 Bonds in such a manner that the Series 2020 Bonds for the redemption of which provision is made are considered as fully paid, the University may elect to apply all or any part (but only in integral multiples of \$5,000) of the principal amount of such Series 2020 Bonds so redeemed or to be redeemed to the reduction of the principal amount of Series 2020 Bonds required to be redeemed pursuant to the schedule set forth immediately above on any April 1 coterminous with or subsequent to the date such optional redemption actually occurs.

**Notice of Redemption**

Notice of redemption (other than mandatory redemption) is required to be mailed by United States registered or certified mail to the registered owner of each Series 2020 Bond to be redeemed not more than sixty (60) nor less than thirty (30) days prior to the date fixed for redemption at the address shown on the registry books of the Trustee. No further interest will accrue after the date fixed for redemption on the principal of any Series 2020 Bond called for redemption upon notice duly given as provided in the Indenture and if payment therefor has been duly provided and in such event, any Series 2020 Bond (or portion thereof) called for redemption will no longer be protected by the provisions of the Indenture.

In the event that less than all of the outstanding principal of any Series 2020 Bond is to be redeemed, the registered owner thereof shall surrender the Series 2020 Bond that is to be prepaid in part to the Trustee in exchange, without expense to the owner, for a new Series 2020 Bond of like tenor except in a principal amount equal to the unredeemed portion of the Series 2020 Bond.

## SECURITY AND SOURCE OF PAYMENT

### General

The University has previously issued various series of Bonds under the Indenture, of which fourteen series of Bonds are currently outstanding before giving effect to the issuance of the Series 2020 Bonds. Those fourteen series of Bonds consist of the following:

- (a) \$25,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2012-A, dated January 4, 2012 (the “Series 2012-A Bond”);
- (b) \$32,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-A, dated June 28, 2013 (the “Series 2013-A Bond”);
- (c) \$8,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-B, dated June 28, 2013 (the “Series 2013-B Bond”);
- (d) \$10,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-C, dated June 28, 2013 (the “Series 2013-C Bond”);
- (e) \$41,245,000 original principal amount University Facilities Revenue Refunding Bond, Series 2014-A, dated March 14, 2014 (the “Series 2014-A Bond”);
- (f) \$6,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2015, dated June 15, 2015 (the “Series 2015 Bond”);
- (g) \$85,605,000 University Facilities Revenue Refunding Bonds, Series 2016, dated September 14, 2016 (the “Series 2016 Bonds”);
- (h) \$20,000,000 University Facilities Revenue Refunding Bond, Series 2016-B, dated December 7, 2016 (the “Series 2016-B Bond”);
- (i) \$35,000,000 University Facilities Revenue Refunding Bond, Series 2016-C, dated December 7, 2016 (the “Series 2016-C Bond”);
- (j) \$45,000,000 University Facilities Revenue Refunding Bond, Series 2016-D, dated December 7, 2016 (the “Series 2016-D Bond”);
- (k) \$38,105,000 University Facilities Revenue Bonds, Series 2017, dated June 15, 2017 (the “Series 2017 Bonds”);
- (l) \$47,750,000 University Facilities Revenue Bonds, Series 2019-A, dated February 7, 2019 (the “Series 2019-A Bonds”);
- (m) \$18,440,000 Taxable University Facilities Revenue Bonds, Series 2019-B, dated February 7, 2019 (the “Series 2019-B Bonds”); and
- (n) \$19,086,000 original principal amount University Facilities Revenue Bond, Series 2019-C, dated December 12, 2019 (the “Series 2019-C Bond”).

The Series 2012-A Bond, the Series 2013-A Bond, the Series 2013-B Bond, the Series 2013-C Bond, Series 2014-A Bond, the Series 2015 Bond, the Series 2016 Bonds, the Series 2016-B Bond, the Series 2016-C Bond, the Series 2016-D Bond, the Series 2017 Bonds, the Series 2019-A Bonds, the Series 2019-B Bonds, and the Series 2019-C Bond are herein collectively referred to as the “Outstanding Bonds.” The Outstanding Bonds, the Series 2020 Bonds, and any Additional Bonds hereafter issued are referred to herein collectively as the “Bonds.”

### Sources of Payment and Pledged Revenues



The Series 2020 Bonds will be issued under the Indenture, as supplemented and amended by a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of the Series 2020 Bonds (the “Seventeenth Supplemental Indenture”) between the University and the Trustee, and will constitute limited obligations of the University payable solely from and secured by a lien on and a pledge of the Pledged Revenues (hereinafter defined) levied and collected by the University. The Series 2020 Bonds are secured pro rata and on an equal lien basis one with the other, with the Outstanding Bonds and with any Additional Bonds that may be hereafter issued under and subject to the terms and conditions of the Indenture, by a pledge of the Pledged Revenues.

The Series 2020 Bonds shall never be payable from any funds at any time provided for or appropriated by the State of Alabama, and shall not be a charge on the general credit or tax revenues of the State of Alabama. Neither the State of Alabama nor the University shall be obligated, directly or indirectly, to contribute any funds, property or resources to the payment of the Series 2020 Bonds except the Pledged Revenues.

The Series 2020 Bonds are payable solely out of the Pledged Revenues as defined in the Indenture, as amended, on a parity of lien with the Outstanding Bonds and any Additional Bonds at any time issued under the Indenture. Pledged Revenues is defined in the Indenture as follows:

“*Pledged Revenues*” means the Auxiliary Enterprises Revenues, the Children’s and Women’s Hospital Revenues, the General Fees, and additional fees and revenues, if any, that may be subjected to the lien of the Indenture pursuant to a Supplemental Indenture.

“*Auxiliary Enterprises Revenues*” means the gross revenues derived from auxiliary enterprises services furnished by the University, including, without limitation, food services, housing, college stores, dining, concessions and other similar services, as such revenues are shown as a separate item on the audited financial statements of the University.

“*Children’s and Women’s Hospital Revenues*” means an amount not exceeding \$10,000,000 in any fiscal year of the University of the gross revenues derived from that certain hospital facility owned and operated by the University and known as USA Children’s and Women’s Hospital.

“*General Fees*” means all fees now or hereafter levied as a general tuition fee against students enrolled at the University.

**Bond Insurance**

Assured Guaranty Municipal Corp. ("Assured") has provided a proposed commitment to insure a portion of, or all of, the Series 2020 Bonds that is under consideration.

**Additional Bonds**

In the Indenture, the University has reserved the right to issue and deliver from time to time and at any time Bonds (“Additional Bonds”) secured by a pledge of the Pledged Revenues on a parity with the Outstanding Bonds, the Series 2020 Bonds, and any other Additional Bonds then outstanding for any purpose permitted by law and upon compliance with certain requirements set forth under the Indenture. See “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE” below.

**ANNUAL DEBT SERVICE REQUIREMENTS**

**Debt Service Requirements of the Series 2020 Bonds**

The following sets forth the estimated debt service requirements of the Series 2020 Bonds on a fiscal year basis:

<b>Fiscal Year Ending <u>September 30,</u></b>	<b><u>Principal*</u></b>	<b><u>Interest*</u></b>	<b><u>Total*</u></b>
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2021	\$ 830,000	\$1,929,342	\$2,759,342
2022	955,000	1,781,500	2,736,500
2023	1,005,000	1,733,750	2,738,750
2024	1,055,000	1,683,500	2,738,500
2025	1,380,000	1,630,750	3,010,750
2026	1,450,000	1,561,750	3,011,750
2027	1,520,000	1,489,250	3,009,250
2028	1,600,000	1,413,250	3,013,250
2029	1,675,000	1,333,250	3,008,250
2030	1,760,000	1,249,500	3,009,500
2031	1,845,000	1,161,500	3,006,500
2032	1,940,000	1,069,250	3,009,250
2033	2,035,000	972,250	3,007,250
2034	2,140,000	870,500	3,010,500
2035	2,245,000	763,500	3,008,500
2036	2,355,000	651,250	3,006,250
2037	2,475,000	533,500	3,008,500
2038	2,600,000	409,750	3,009,750
2039	2,730,000	279,750	3,009,750
2040	2,865,000	143,250	3,008,250

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\* Preliminary; subject to change.

## Debt Service Requirements – Outstanding Bonds and the Series 2020 Bonds

The following table sets forth the estimated debt service requirements on all Outstanding Bonds (assuming no exercise of Put Rights for the Series 2016 Put Bonds as more particularly described below) and the Series 2020 Bonds on a fiscal year basis:

Fiscal Year Ending Sept. 30	Series 2012-A	Series 2013 <sup>(1)</sup>	Series 2014-A <sup>(2)</sup>	Series 2015	Series 2016	Series 2016-B <sup>(3)</sup>	Series 2016-C <sup>(3)</sup>	Series 2016-D <sup>(3)</sup>	Series 2017 Bonds	Series 2019 Bonds <sup>(4)</sup>	Series 2020 Bonds*	Total Debt Service*
2020	\$1,702,121	\$3,470,942	\$8,829,036	\$478,586	\$6,505,400	\$1,094,000	\$1,932,000	\$2,511,000	\$2,979,125	\$5,073,390	--	\$34,575,599
2021	1,702,516	3,470,942	8,796,573	468,911	6,511,275	1,094,000	1,932,000	2,511,000	2,975,625	6,137,124	\$2,759,342	38,359,307
2022	1,704,928	3,470,942	8,764,199	459,520	6,509,900	1,094,000	1,932,000	2,511,000	2,978,875	6,176,182	2,736,500	38,338,045
2023	1,707,871	3,470,942	8,730,821	450,129	6,511,025	1,094,000	1,932,000	2,511,000	2,978,625	6,215,732	2,738,750	38,340,895
2024	1,709,000	3,470,941	8,685,623	440,918	6,509,275	1,094,000	1,932,000	2,511,000	2,979,750	6,257,567	2,738,500	38,328,573
2025	1,708,589	3,470,941	-	431,347	6,509,275	2,183,368	3,837,904	4,960,692	2,977,125	6,295,603	3,010,750	35,385,594
2026	1,711,363	3,470,942	-	421,956	6,515,400	2,177,545	3,826,709	4,944,748	2,981,688	6,341,736	3,011,750	35,403,835
2027	1,714,520	3,470,942	-	412,565	6,507,050	2,172,495	3,816,814	4,930,396	2,973,250	6,385,960	3,009,250	35,393,241
2028	1,716,929	3,470,942	-	403,251	6,510,200	2,166,053	3,804,431	4,912,760	2,980,375	6,436,123	3,013,250	35,414,313
2029	1,718,505	2,646,549	-	393,782	6,509,575	2,160,056	3,792,768	4,895,964	2,977,875	6,483,325	3,008,250	34,586,649
2030	1,717,616	2,646,549	-	384,391	6,513,325	2,153,312	3,779,738	4,877,317	2,975,750	5,648,528	3,009,500	33,706,026
2031	1,723,729	2,646,548	-	-	6,506,075	2,146,629	3,766,753	4,858,631	2,978,625	4,285,865	3,006,500	31,919,356
2032	925,002	2,646,548	-	-	6,507,325	2,138,817	3,751,725	4,837,216	2,981,125	4,287,333	3,009,250	31,084,340
2033	-	2,646,548	-	-	6,506,325	2,131,656	3,737,767	4,817,069	2,978,125	4,784,230	3,007,250	30,608,970
2034	-	-	-	-	6,507,450	2,123,900	3,722,695	4,795,377	2,979,375	4,560,250	3,010,500	27,699,546
2035	-	-	-	-	6,505,075	2,115,331	3,706,121	4,771,636	2,974,625	4,547,000	3,008,500	27,628,288
2036	-	-	-	-	6,508,950	2,105,729	3,687,661	4,745,344	2,978,500	4,833,750	3,006,250	27,866,184
2037	-	-	-	-	6,511,050	2,096,821	3,670,330	4,720,374	2,975,625	4,500,250	3,008,500	27,482,950
2038	-	-	-	-	6,501,075	-	-	-	1,640,000	4,486,500	3,009,750	15,637,325
2039	-	-	-	-	-	-	-	-	-	4,472,000	3,009,750	7,481,750
2040	-	-	-	-	-	-	-	-	-	4,156,500	3,008,250	7,164,750
2041	-	-	-	-	-	-	-	-	-	4,154,750	-	4,154,750
2042	-	-	-	-	-	-	-	-	-	4,156,500	-	4,156,500
2043	-	-	-	-	-	-	-	-	-	4,156,250	-	4,156,250
2044	-	-	-	-	-	-	-	-	-	4,158,750	-	4,158,750
2045	-	-	-	-	-	-	-	-	-	4,153,500	-	4,153,500
2046	-	-	-	-	-	-	-	-	-	4,155,500	-	4,155,500
2047	-	-	-	-	-	-	-	-	-	3,254,000	-	3,254,000
2048	-	-	-	-	-	-	-	-	-	3,298,750	-	3,298,750
2049	-	-	-	-	-	-	-	-	-	3,344,250	-	3,344,250

<sup>(1)</sup> Includes the Series 2013-A Bond, the Series 2013-B Bond and the Series 2013-C Bond

<sup>(2)</sup> Interest on the Series 2014-A Bond is calculated at the net swap rate of 5.4553% under the 2014 Swap described herein.

<sup>(3)</sup> Interest on the Series 2016-B Bond, the Series 2016-C Bond and the Series 2016-D Bond is calculated at the net swap rate for each such bond of 5.47%, 5.52% and 5.58%, respectively, under the 2016 Swap described herein. The amortization shown for each of the 2016-B Bond, the 2016-C Bond, and the 2016-D Bond assumes no exercise of a Put Right prior to maturity, or that such indebtedness is refinanced on any Put Date so as to achieve the same current principal amortization and same net swap rate. See "Put Rights Respecting Certain Outstanding Bonds" below.

<sup>(4)</sup> Includes debt service on Series 2019-A Bonds, Series 2019-B Bonds and the Series 2019-C Bond.

\* Preliminary; subject to change.

## **Variable Rate Bonds**

Each series of Outstanding Bonds bears interest at a fixed rate, except the Series 2014-A Bond and the Series 2016-B Bond, the Series 2016-C Bond and the Series 2016-D Bond (collectively, the “Series 2016 Put Bonds”). The Series 2014-A Bond and the Series 2016 Put Bonds bear interest at variable rates. These variable rates are computed based on 68% of the one-month London Interbank Offered Rate (“LIBOR”), plus a set number of basis points that differs for each series. The University has entered into an interest rate exchange agreement respecting the Series 2014-A Bond and an interest rate exchange agreement respecting the Series 2016 Put Bonds. See “Derivatives” below for a discussion of these interest rate swap agreements.

## **Derivatives**

The University has entered an interest rate swap (the “2014 Swap”) with Wells Fargo Bank, N.A., as successor to Wachovia Bank, N.A., (the “Counterparty”), respecting the Series 2014-A Bond. The notional amount of the 2014 Swap will at all times match the outstanding scheduled principal amount of the Series 2014-A Bond, and the 2014 Swap will mature on March 15, 2024. Under the 2014 Swap, the University pays a fixed rate of 4.9753% and receives 68% of one-month LIBOR plus 0.25%.

The University also has entered an interest rate swap (the “2016 Swap”) with the Counterparty respecting the Series 2016 Put Bonds. Under the 2016 Swap, the University pays a fixed rate of 5.0% and receives 68% of one-month LIBOR, plus 0.25%. The 2016 Swap matures on December 1, 2036. The combined principal amortization of the Series 2016 Put Bonds matches the notional amount on the 2016 Swap through its maturity; however, each of these Series 2016 Put Bonds contains a right exercisable at the sole discretion of the bondholder to cause such Bond to mature and become due and payable prior to its final maturity. See “Put Rights Respecting Certain Outstanding Bonds” below for a discussion of these put rights.

Pursuant to the terms of the 2014 Swap and the 2016 Swap, the University is required to post collateral from time to time equal to any then negative valuation of such swaps. For additional information regarding derivative exposure, see Note 9 of the University’s audited financial statements for the fiscal year ended September 30, 2019 attached hereto at Appendix A.

## **Put Rights Respecting Certain Outstanding Bonds**

Each of the Series 2016 Put Bonds has principal amortized from December 1, 2024 through and including December 1, 2036. However, each Series 2016 Put Bond contains a feature (a “Put Right”) permitting its holder to cause all outstanding principal on such Bond to mature and become due and payable by the University on a date (such date, a “Put Date”) before scheduled maturity.

The earliest Put Date for the Series 2016-B Bond is December 1, 2021, the earliest Put Date for the Series 2016-C Bond is December 1, 2023, and the earliest Put Date for the Series 2016-D Bond is December 1, 2026. For each Series 2016 Put Bond, the Put Right must be exercised at least 210 days before the applicable Put Date, and if not timely exercised such right extends immediately to the succeeding bond year until timely exercised or such Bond reaches final maturity, whichever occurs first.

The University intends to refinance any Series 2016 Put Bond for which a Put Right is exercised so as to maintain the Bond’s then current principal amortization. While the University is not aware of any existing obstacles to its ability to refinance the Series 2016 Put Bonds, should Put Rights be exercised, market conditions, the financial condition of the University or the State of Alabama, and various other factors in existence at the time such rights are exercised could hamper or even prevent the University from refinancing Series 2016 Put Bonds as presently intended.

## Pledged Revenues

The following is a summary of the amount of General Fees, Auxiliary Enterprises Revenues, and Children's and Women's Hospital Revenues collected by the University for the fiscal years ended September 30, 2015 through September 30, 2019:

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
General Fees <sup>1</sup>	\$155,175,000	\$172,253,000	\$177,547,000	\$171,429,000	\$175,638,000
Auxiliary Enterprises Revenues <sup>1</sup>	22,857,000	30,008,000	29,413,000	26,996,000	22,587,000
Children's & Women's Hospital Revenues <sup>2</sup>	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000
Total	<u>\$188,032,000</u>	<u>\$212,261,000</u>	<u>\$216,960,000</u>	<u>\$208,425,000</u>	<u>\$208,225,000</u>

<sup>1</sup>General Fees and Auxiliary Enterprises Revenues include amounts allocated to scholarship allowances for accounting purposes. General Fees and Auxiliary Enterprises Revenues net of scholarship allowances for fiscal year 2016 were approximately \$137,074,000 and \$28,861,000, respectively, for fiscal year 2017 were approximately \$141,949,944 and \$28,347,000, respectively, for fiscal year 2018 were approximately \$136,222,000 and \$25,907,000, and for fiscal year 2019 were \$139,871,000 and \$21,484,000, respectively.

<sup>2</sup> Only \$10,000,000 of the gross revenues from the USA Children's and Women's Hospital, in any fiscal year of the University, are pledged to payment of all the Bonds (*i.e.*, the Outstanding Bonds, the Series 2020 Bonds and any Additional Bonds hereafter issued). See "HEALTH CARE SYSTEM" below for total gross revenues from USA Children's and Women's Hospital for the years shown.

Tuition increases were placed into effect for each of the years shown above. Auxiliary fee increases were also placed into effect for all of the years shown above. Reference is hereby made to the audited financial statements of the University for the fiscal year ended September 30, 2019, appearing as Appendix A hereto, and the audited financial statements of the University for the other periods which are available on EMMA (as defined herein). See "CONTINUING DISCLOSURE" below for a description of EMMA.

Subsequent to the issuance of the proposed Series 2020 Bonds, the estimated total principal amount of indebtedness of the University payable from Pledged Revenues is approximately \$437,906,178.

## Maximum Annual Debt Service Requirement

The estimated Maximum Annual Debt Service Requirement respecting the Series 2020 Bonds and the Outstanding Bonds, based on the amortization schedule set forth above under "Debt Service Requirements – Outstanding Bonds and the Series 2020 Bonds", occurring in the fiscal year of the University ending September 30, 2020 (\$38,359,307), is covered 5.43 times by Pledged Revenues referable to the fiscal year of the University ended September 30, 2019 (\$208,225,000). See "Pledged Revenues" above. This coverage is based on the assumption that the Series 2016 Put Bonds mature in accordance with their scheduled principal amortization and without the exercise of Put Rights by any of the holders of those Bonds. See "Put Rights Respecting Certain Outstanding Bonds" above.

Assuming the exercise of the Put Right for each of the Series 2016-B Bond, the Series 2016-C Bond, and the Series 2016-D Bond on the earliest date permitted (*i.e.*, December 1, 2021 for the Series 2016-B Bond, December 1, 2023 for the Series 2016-C Bond, and December 1, 2026 for the Series 2016-D), the estimated annual debt service for the University's fiscal years ending September 30, 2022, September 30, 2024 and September 30, 2027 would be \$58,338,045, \$72,234,573 and \$66,450,181, respectively, and the estimated maximum annual debt service requirement for the Series 2020 Bonds and the Outstanding Bonds would occur in the fiscal year of the University ending September 30, 2024 (\$72,234,573), and would be covered approximately 2.88 times by Pledged Revenues referable to the fiscal year of the University ended September 30, 2019 (\$208,225,000).

## Other University Debt; Future Debt

*Compass Loan.* On March 27, 2015, the University obtained a \$5,000,000 revolving line of credit facility (the "Compass Line of Credit") with Compass Bank ("Compass"). The University was permitted to borrow funds from Compass from time to time under the Compass Line of Credit so long as its outstanding

principal balance did not exceed \$5,000,000. The Compass Line of Credit initially provided that principal amounts drawn thereunder would not become due until its April 14, 2018 maturity date. In July 2018, the University amended the Compass Line of Credit (as amended, the “Compass Loan”) so that (i) the principal balance at that time of \$3,433,789 was fixed, (ii) additional draws would not be permitted, (iii) interest would be computed at a fixed rate of 3.85%, and (iv) principal was amortized to become due and payable in annual installments over a period from 2018 through 2023. This obligation is not secured by Pledged Revenues, and Compass is not entitled to any rights or benefits under the Indenture respecting this obligation.

The Compass Loan is a general obligation of the University and is not secured by Pledged Revenues under the Indenture.

*RCA Lease.* On December 7, 2016, the University entered a Secured Equipment Financing Lease (the “RCA Lease”) with Regions Capital Advantage, Inc. to finance a linear accelerator for use at USA Mitchell Cancer Institute. The principal component of this lease totals \$2,089,690 and interest is calculated at a fixed per annum rate of 1.88%. This lease reaches final maturity on October 7, 2022. The RCA Lease is subject to annual appropriation by the University, and on each payment date debt service is payable solely out of then-current funds of the University. Such payments are not secured by Pledged Revenues under the Indenture.

*Med One Capital Lease.* The University has entered a capital lease agreement with Med One Capital Funding, LLC for certain medical equipment to be used at University Hospital. Under this arrangement, the University makes monthly lease payments, over a period of 60 months, aggregating just under \$4,000,000, and pays a nominal price to acquire title to the equipment at conclusion of the lease. Payments under this lease are not secured by Pledged Revenues under the Indenture or other special funds or assets of the University.

*Energy Savings Agreement with Alabama Power.* The University has entered a ten (10) year agreement dated February 1, 2016 (the “Energy Services Agreement”) with Alabama Power Company (“APC”) under which APC agrees to design, procure and install certain energy conservation equipment and measures to reduce energy and maintenance costs at USA Health University Hospital. Under this Agreement, the University pays APC \$18,882 per month over a period of 120 months (totaling \$2,265,840 in payments from the University). Payments under the Energy Savings Agreement lease are not secured by Pledged Revenues under the Indenture or other special funds or assets of the University.

*Master Lease Agreement with Hancock Whitney.* The University has entered a Master Lease Agreement dated June 13, 2019 (the “Master Lease Agreement”) with Hancock Whitney Equipment Finance and Leasing, LLC (“Hancock Whitney”) under and pursuant to which the University may request and receive extensions of credit from Hancock Whitney to purchase up to \$10,000,000 in equipment for use by the University. Under the Master Lease Agreement, Hancock Whitney purchases and leases equipment requested by the University. Lease payments from the University include principal and interest components. To date, the University has incurred \$550,703.65 in funding under the Master Lease Agreement, which such amount bears interest at a fixed annual rate of 3.01% and is payable on a monthly basis (with equal monthly payments of principal and interest) from December 22, 2019 through and including November 22, 2023). Payments under the Master Lease Agreement lease are not secured by Pledged Revenues under the Indenture or other special funds or assets of the University.

In 2017, the Board of Trustees approved the University campus master plan which covered the ten-year period from 2017 to 2027. Some of these projects (to cover capital improvements not appropriate for pay-as-you-go financing) may be funded through the issuance of capital debt. To date, the construction of the on-campus football stadium was funded with a portion of the proceeds of the Series 2019-A Bonds and Series 2019-B Bonds.

## **THE PLAN OF FINANCING**

The Series 2020 Bonds are being issued for the purpose of (i) acquiring certain real property, (ii) constructing and acquiring certain public capital improvements and equipment on the campus of the University including, without limitation, at the USA Health University Hospital, USA Health Children’s and Women’s Hospital, and University Commons, including completion of a trauma center at University Hospital, (iii) constructing and equipping University Commons Phase II and III, additional patient rooms, a new gastroenterology suite, a main campus warehouse and improvements to the main campus transportation building, (iv) demolishing an existing

building near the USA Health buildings to provide space for possible expansion, and (v) constructing, acquiring and installing various other public capital improvements, equipment and assets for the University (herein collectively called the "2020 Capital Improvements"). The Series 2020 Bonds are also being issued to pay the costs and expenses of issuing the Series 2020 Bonds.

### **ESTIMATED SOURCES AND USES OF PROCEEDS**

The estimated sources and uses of funds for the plan of financing with respect to the issuance of the Series 2020 Bonds are as follows:

#### **Sources of Funds**

Principal amount of Series 2020 Bonds  
[Plus/Less] [Net] Original issue [premium/discount]

#### **Total Sources**

#### **Uses of Funds**

2020 Improvements  
Expenses of issuance<sup>1</sup>

#### **Total Uses**

<sup>1</sup>Includes underwriting discount, legal and accounting fees, printing costs, rating agency fees, financial advisory fees and other expenses of issuance.

### **CERTAIN GENERAL INFORMATION RESPECTING THE UNIVERSITY OF SOUTH ALABAMA**

#### **General**

The University of South Alabama is a public body corporate of the State of Alabama existing under provisions of Act No. 157, Acts of Alabama, Second Special Session 1963, and Chapter 55 of Title 16 of the Code of Alabama 1975, as amended. The University is a comprehensive, coeducational, state-assisted institution, which serves as a major center of undergraduate, graduate, and professional education for Alabama, the Gulf Coast region, and the southeastern United States.

The University's mission encompasses the three traditional academic functions of teaching, research, and public service through which it pursues the discovery, preservation, and communication of knowledge. The University was admitted to membership in the Southern Association of Colleges and Schools on December 4, 1968. Total enrollment for Fall 2019 was 14,397. Of those students, 9,595 were classified as undergraduate students, 4,796 were enrolled in graduate or professional programs, and 6 were unclassified. For the academic year ended May 31, 2019, the University awarded 3,366 degrees, of which 1,902 were Baccalaureate Degrees, 1,126 were Masters Degrees, 258 were Doctoral degrees, and 80 were M.D. degrees

The University of South Alabama main campus, located in a section of Mobile called Springhill, consists of 1,200 wooded acres. The primary instructional buildings are contained on this campus, as well as the medical college and dormitory facilities. A 750-acre municipal park is adjacent to the main campus.

The University of South Alabama Baldwin County Campus was established as a branch campus in 1984 to better meet the needs of students located in Baldwin County, Alabama, and offers graduate courses, upper-level undergraduate courses, and non-credit courses/public service programs. The University of South Alabama Springhill Avenue Campus is a multi-purpose facility of approximately 454,000 square feet located in Midtown Mobile, and houses various academic and health-related programs of the University. The U.S. Department of Veterans Affairs also leases about 48,000 square feet in the Springhill Avenue Campus that it uses as an outpatient clinic.

The University of South Alabama health system, known as USA Health, is composed of the USA Health University Hospital, the USA Health Children & Women’s Hospital, the USA Health Mitchell Cancer Institute, and USA Health Ambulatory Services. USA Health provides primary and tertiary care for a multi-county service area. The USA Health University Hospital (“USAUH”) is a 406-Licensed bed hospital which includes a level one trauma center, a burn unit, and state-of-the-art facilities for internal medicine, surgery and cardiovascular diagnostic and treatment techniques. The USA Health Children's & Women's Hospital (“USACW”) is a 152-Licensed bed facility specializing in pediatric, obstetric and gynecological services. The USACW includes neonatal and pediatric intensive care nurseries, progressive care nurseries, and other facilities for dealing with high risk deliveries. In 2015, the 195,000 square foot expansion of USACW was placed into service. The USA Health Mitchell Cancer Institute (“USAMCI”) is an academic cancer treatment and research enterprise housed in a state-of-the-art 125,000 square foot integrated clinical and research building. USA Health Ambulatory Services (“Ambulatory Services”) is a 160-physician multi-specialty faculty practice dedicated to delivering leading-edge care to patients and supporting the mission of the USA College of Medicine in the education and training of students and resident physicians and in the advancement of medical care through medical research. The Strada Patient Care Center, a 133,000 square foot building located near USACW, was placed in service in December 2016 and provides 153 patient exam rooms, 16 nurses’ stations, and 7 educational conference rooms for use by University physicians.

For the 2018-2019 academic year, the University employed 843 full-time faculty persons. Approximately 31.2% of faculty members are tenured. The University employs 5,971 persons in all categories.

The main campus in Mobile, Alabama, consists of 152 major buildings, including hospital and medical related facilities. Those facilities include buildings providing 2,686 beds available for student residency on campus.

For its fiscal year ended September 30, 2019, the University reported grants and contracts revenue from Federal, State and private sources of approximately \$36,647,000, and an additional \$115,209,000 from direct State of Alabama legislative appropriations. Tuition and fees revenues reported during the fiscal year ended September 30, 2019 (net of scholarship allowances) were approximately \$139,871,000, and net patient service revenues from USA Health during such period were approximately \$491,796,000. See Appendix A.

*Summary Enrollment Profile - Fall 2019  
(excluding Medical Residents)*

	Fall 2019	
	Number	Percent
College of Arts and Sciences	3,056	21.2%
College of Education & Professional Studies	2,000	13.9%
College of Engineering	1,127	7.8%
College of Medicine	336	2.3%
College of Nursing	4,338	30.1%
Covey College of Allied Health Professions	1,598	11.1%
Graduate School	41	0.3%
Mitchell College of Business	1,230	8.5%
School of Computing	671	4.7%
<b>Total</b>	<b><u>14,397</u></b>	<b><u>100.0%</u></b>

USA offers programs leading to fifty-three baccalaureate degrees, thirty-eight master’s degrees, an Education Specialist (Ed.S.) degree, twelve doctoral degrees, and a Medical Doctor (M.D.) degree. USA also offers a number of post-secondary certificates. In addition to the traditional on-campus course offerings, the



University offers over two hundred and fifty online courses each semester to fit the needs of a diverse student body.

## Financial

The following section contains certain financial information for the University, including a comparison of the revenues, expenses and changes in net position for the fiscal years 2015 through 2019 (dollars in thousands).

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Operating revenues:					
Tuition and fees, net	\$120,265	\$137,074	\$142,024	\$136,222	\$139,871
Net patient service revenue	271,655	360,657	390,931	416,034	491,796
Federal, state and private grants and contracts	85,756	38,187	36,853	34,093	36,647
Other	<u>78,845</u>	<u>88,943</u>	<u>92,674</u>	<u>66,730</u>	<u>62,527</u>
Total	556,521	624,861	662,482	653,079	730,841
Operating expenses:					
Salaries and benefits	433,679	460,219	483,113	486,156	495,123
Supplies and other services	169,873	198,518	219,362	255,145	268,416
Other	<u>57,476</u>	<u>65,530</u>	<u>64,942</u>	<u>78,081</u>	<u>79,492</u>
Total	661,028	724,267	767,417	819,382	843,031
Operating loss	<u>(104,507)</u>	<u>(99,406)</u>	<u>(104,935)</u>	<u>(166,303)</u>	<u>(112,190)</u>
Nonoperating revenues (expenses):					
State appropriations	103,974	105,024	107,332	108,268	115,209
Investment income (loss)	(10,718)	2,631	18,398	17,857	8,203
Other, net	<u>13,259</u>	<u>8,135</u>	<u>20,613</u>	<u>22,674</u>	<u>25,189</u>
Net nonoperating revenues	<u>106,515</u>	<u>115,790</u>	<u>146,343</u>	<u>148,799</u>	<u>148,601</u>
Income (loss) before capital appropriations, capital contributions, grants, and additions to endowment	2,008	16,384	41,408	(17,504)	36,411
Capital appropriations, capital contributions, grants and additions to endowment	<u>7,231</u>	<u>9,521</u>	<u>6,417</u>	<u>16,770</u>	<u>20,316</u>
Change in net position	<u>9,239</u>	<u>25,905</u>	<u>47,825</u>	<u>(734)</u>	<u>56,727</u>
Beginning net position, before cumulative effect of change in accounting principle	499,550	195,052	217,994	265,819	35,398
Cumulative effect of change in accounting principle	<u>(313,737)<sup>(1)</sup></u>	<u>(2,963)</u>	<u>-</u>	<u>(229,687)<sup>(2)</sup></u>	<u>-</u>
Beginning net position- as adjusted	<u>185,813</u>	<u>192,089</u>	<u>217,994</u>	<u>36,132</u>	<u>35,398</u>
Ending net position	<u>\$195,052</u>	<u>\$217,994</u>	<u>\$265,819</u>	<u>\$35,398</u>	<u>\$92,125</u>

<sup>(1)</sup> Reflects the University's share of unfunded pension liability as required to be reported pursuant to GASB 68.

<sup>(2)</sup> Active and retired employees of the University are covered by the Public Education Employees Health Insurance Plan ("PEEHIP"), which is a cost sharing multiple-employer defined benefit other post-employment benefit ("OPEB") plan administered by the Teachers Retirement System of Alabama. Alabama law requires the Public Education Employees Health Insurance Board to create an irrevocable trust to fund OPEB benefits to retirees participating in PEEHIP. In 2018, the University adopted the provisions of GASB Statement No. 75 - *Accounting and Financial Reporting for Postemployment Benefits Other than Pensions* ("GASB 75"). GASB 75 requires that the University recognize its proportional share of net OPEB liability, based on an actuarial valuation, and the OPEB expense, in the University's financial statements. See Appendix A – note (1)(bb) "Recently Adopted Accounting Pronouncements" and note (13) – "Other Post-Employment Benefit Plans".

The University's audited financial statements for the year ended September 30, 2019 are attached as Appendix A.

## Faculty and Staff

Faculty and staff employees for the University were as follows at September 30 for the years shown:

	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>	<u>2014</u>
Full-time faculty by rank:					
Professor	176	187	180	182	200
Associate Professor	186	179	194	191	186
Assistant Professor	342	336	313	302	267
Instructor	138	142	145	132	121
Lecturer	<u>1</u>	<u>1</u>	<u>1</u>	<u>-</u>	<u>2</u>
TOTAL	<u>843</u>	<u>845</u>	<u>833</u>	<u>807</u>	<u>776</u>
Full-time faculty by length of service:					
Up to 2 years	190	215	205	193	152
3-4 years	131	107	102	88	80
5-9 years	152	151	163	162	186
10-14 years	146	155	147	158	135
15+ years	<u>224</u>	<u>217</u>	<u>216</u>	<u>206</u>	<u>223</u>
TOTAL	<u>843</u>	<u>845</u>	<u>833</u>	<u>807</u>	<u>776</u>
Percent of faculty tenured	31.2%	31.7%	33.3%	33.5%	36.3%
Part-time faculty	440	428	429	381	364
Non-faculty	4,707	4,611	4,666	4,535	4,365
Total University employees	5,971	5,866	5,911	5,723	5,505

## Student Enrollment and Trends

Total student enrollment by head count was as follows for the semesters shown.

	<u>Fall 2019</u>	<u>Fall 2018</u>	<u>Fall 2017</u>	<u>Fall 2016</u>	<u>Fall 2015</u>
Undergraduate	9,595	10,275	10,975	11,740	11,456
Graduate/Professional	4,796	4,541	4,581	4,682	4,687
Unclassified	<u>6</u>	<u>18</u>	<u>13</u>	<u>21</u>	<u>68</u>
Total	<u>14,397</u>	<u>14,834</u>	<u>15,569</u>	<u>16,443</u>	<u>16,211</u>

Applications, acceptances and matriculations for freshmen students:

	<u>Fall 2019</u>	<u>Fall 2018</u>	<u>Fall 2017</u>	<u>Fall 2016</u>	<u>Fall 2015</u>
Applications	6,282	6,446	5,855	6,087	6,558
Acceptances	4,929	5,102	4,798	4,882	5,111
Matriculations <sup>(1)</sup>	1,549	1,910	1,843	1,904	2,038
Percent of applicants accepted	78.5%	79.1%	81.9%	80.2%	77.9%
Percent of applicants enrolled	24.7%	29.6%	31.5%	31.3%	31.1%

<sup>(1)</sup> Reflects only first-time freshmen that started in the fall semester indicated.

Total enrollment by full-time equivalent:

	<u>Fall 2019</u>	<u>Fall 2018</u>	<u>Fall 2017</u>	<u>Fall 2016</u>	<u>Fall 2015</u>
Undergraduate	8,928	9,563	10,144	10,842	10,638
Graduate/Professional	<u>4,230</u>	<u>4,027</u>	<u>4,013</u>	<u>4,288</u>	<u>4,290</u>
Total	<u>13,158</u>	<u>13,590</u>	<u>14,156</u>	<u>15,130</u>	<u>14,928</u>

Retention rate for full-time freshmen entering in:

	<u>Fall 2018</u>	<u>Fall 2017</u>	<u>Fall 2016</u>	<u>Fall 2015</u>	<u>Fall 2014</u>
Number matriculated <sup>(1)</sup>	1,889	1,868	1,955	2,082	2,030
Number returned	1,400	1,390	1,517	1,524	1,481
Retention rate	74.0%	74.0%	77.6%	73.2%	73.0%

<sup>(1)</sup> Includes first-time freshmen that started in the fall semester indicated, plus first-time freshmen that started in the immediately preceding summer semester and reenrolled in the fall semester indicated.

### Graduation Rates

Cumulative Graduation Rate:

<u>Fall Class</u>	<u>Number Matriculated</u>	<u>Four Years</u>		<u>Five Years</u>		<u>Six Years</u>	
		<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
2015	2,082	581	28.0%	N/A	N/A	N/A	N/A
2014	2,030	537	26.4%	812	40.0%	N/A	N/A
2013	1,825	449	24.6%	751	41.2%	834	46.0%
2012	1,886	408	21.6%	707	37.4%	820	43.5%
2011	1,826	342	18.7%	599	32.8%	726	39.8%
2010	1,654	262	15.8%	493	29.8%	623	37.7%
2009	1,711	244	14.3%	494	28.9%	607	35.5%

### Test Scores

Average ACT scores of matriculated students for years shown:

<u>Fall 2019</u>	<u>Fall 2018</u>	<u>Fall 2017</u>	<u>Fall 2016</u>	<u>Fall 2015</u>
23.9	23.9	23.4	23.5	22.8

### Geographic Concentrations of Students

	<u>Fall 2019</u>	<u>Fall 2018</u>	<u>Fall 2017</u>	<u>Fall 2016</u>	<u>Fall 2015</u>
Mobile County	5,099	5,313	5,655	6,088	6,364
Baldwin County	1,288	1,292	1,366	1,328	1,366
Other Alabama counties	3,128	3,274	3,278	3,186	3,005
Florida	975	1,007	1,033	1,066	1,109
Mississippi	1,231	1,201	1,147	1,217	1,241
Other states in the U.S.A.	2,364	2,362	2,353	2,363	2,243
International	<u>312</u>	<u>385</u>	<u>737</u>	<u>1,195</u>	<u>883</u>
Total	<u>14,397</u>	<u>14,834</u>	<u>15,569</u>	<u>16,443</u>	<u>16,211</u>

**Main Schools in Competitive Group and Listed Tuition – 2019-2020 Academic Year:**

	Undergraduate		Graduate	
	Resident	Non-Resident	Resident	Non-Resident
University of South Alabama	\$9,870	\$19,740	\$10,608	\$21,216
In-state reference group:				
Alabama A & M University	8,610	17,220	10,128	20,160
Alabama State University	8,328	16,656	9,888	19,776
Athens State University	6,180	12,360	6,936	12,000
Auburn University	9,816	29,448	9,828	29,484
Auburn University at Montgomery	9,690	21,780	9,816	22,056
Jacksonville State University	9,720	19,440	9,600	19,200
Troy University	9,750	19,500	10,200	20,400
University of Alabama	10,780	30,250	10,780	30,250
University of Alabama at Birmingham	10,710	25,500	10,800	25,584
University of Alabama in Huntsville	9,730	22,126	10,632	24,430
University of Montevallo	12,090	25,110	10,512	22,462
University of North Alabama	9,600	19,200	8,880	17,760
University of West Alabama	9,100	18,200	8,904	17,808
Mean of in-state reference group	9,546	21,292	9,762	21,644
Regional reference group:				
University of Southern Mississippi	9,050	11,050	9,050	11,050
University of New Orleans	7,150	13,480	7,150	13,480
University of West Florida	6,360	19,238	4,536	12,444
Mean of regional reference group	7,520	14,589	6,912	12,325

Source: National Center for Education Statistics

**Certain Fees and Charges**

The following shows the fee schedule for Undergraduate and Graduate Arts and Sciences majors for the periods shown. The course fees for other majors are slightly higher. Except as otherwise indicated, course fees are per semester hour. Graduate School does not include the College of Medicine.

	<u>2019-2020</u>	<u>2018-2019</u>	<u>2017-2018</u>	<u>2016-2017</u>	<u>2015-2016</u>
Application fee	\$35	\$35	\$35	\$35	\$35
Registration fee (charged only if enrolled in less than 15 semester hours)	150	150	150	150	150
Late registration fee	100	100	100	100	50
<i>In-state course fee, per semester hour</i>					
Undergraduate	329	329	313	302	293
Graduate	442	442	421	407	395
<i>Out-of-state course fee, per semester hour</i>					
Undergraduate	658	658	626	604	586

	<u>2019-2020</u>	<u>2018-2019</u>	<u>2017-2018</u>	<u>2016-2017</u>	<u>2015-2016</u>
Graduate	884	884	842	814	790

### College of Medicine

Fees and certain charges for the College of Medicine were as follows for the periods indicated:

	<u>2019-2020</u>	<u>2018-2019</u>	<u>2017-2018</u>	<u>2016-2017</u>	<u>2015-2016</u>
Application fee	\$110	\$75	\$75	\$75	\$75
Resource fee	472	436	436	400	400
Course fee, academic year					
In-state	31,004	31,004	30,101	29,083	28,236
Out-of-state	62,008	62,008	60,202	58,166	56,472

### Degrees Awarded

The University awarded the following degrees for the academic years ending May 31 for the years shown below:

	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
Baccalaureate	1,902	2,080	2,066	1,996	1,815
Masters	1,126	1,209	1,253	1,080	987
Para-professional certificates	207	273	188	169	190
Professional:					
M.D.	80	73	70	73	74
Ph.D.	29	23	31	31	15
Au.D.	13	11	11	10	10
D.P.T.	39	40	40	37	33
D.N.P.	157	185	96	135	90
D.Sc.	4	2	0	1	0
Ed.D.	<u>16</u>	<u>10</u>	<u>8</u>	<u>1</u>	<u>0</u>
Total	<u>3,366</u>	<u>3,906</u>	<u>3,763</u>	<u>3,533</u>	<u>3,214</u>

### Student Financial Aid

The University awarded and paid financial aid at the following levels for the following academic years, as follows:

	<u>2018-2019</u>	<u>2017-2018</u>	<u>2016-2017</u>	<u>2015-2016</u>	<u>2014-2015</u>
Federal government:					
Student Loans	\$128,987,195	\$128,510,503	\$129,303,631	\$118,370,532	\$109,104,484
Grants	21,951,792	21,855,448	20,719,720	20,258,516	19,247,942
Student employment	341,437	295,491	277,393	329,675	382,537
University:					
Loans	173,022	169,711	202,621	137,311	199,056
Scholarships	<u>29,944,597</u>	<u>26,338,719</u>	<u>25,093,131</u>	<u>18,924,943</u>	<u>17,498,850</u>
Total	<u>\$181,398,043</u>	<u>\$177,169,872</u>	<u>\$175,596,496</u>	<u>\$158,020,977</u>	<u>\$146,432,869</u>

## GOVERNING BODY

State law provides for a Board of Trustees as the governing body of the University with all of the rights, privileges and authority necessary to promote the purpose of its creation, which is to establish and provide for the maintenance and operation of a state university in Mobile County, Alabama. The Board of Trustees consists of sixteen members. The Governor is the ex officio President of the Board of Trustees. Three members of the Board of Trustees are appointed from Mobile County. Five members are appointed from the State at large. Two members are appointed from the United States at large. One member is appointed from each of the following state senatorial districts, or combinations thereof, as those districts were designated at the time the University was organized: (1) Sixteenth and Seventeenth Districts; (2) Nineteenth and Twentieth Districts; (3) Twenty-first District; (4) Twenty-third, Twenty-fifth, and Thirtieth Districts; and (5) Thirty-fifth District. All Trustees except ex officio members are appointed by the Governor by and with the advice and consent of the State Senate, and hold office for a term of six years and until their successors shall be appointed and qualified. The present members of the Board of Trustees are as follows:

<u>Name of Trustee</u>	<u>Occupation</u>	<u>Current Term Expires</u>
Katherine Alexis Atkins	Businesswoman	September 30, 2025
Dr. Scott A. Charlton	Physician	September 30, 2021
Mr. E. Thomas Corcoran	Businessman	September 30, 2021
Dr. Steven P. Furr	Physician	September 30, 2023
William Ronald Graham	Business Administration	September 30, 2023
Mr. Robert D. Jenkins, III	Businessman	September 30, 2025
Mrs. Arlene Mitchell	Philanthropist and Civic Volunteer	September 30, 2021
Lenus M. Perkins	Business Administration	September 30, 2023
Mr. James H. Shumock	Businessman	September 30, 2021
The Honorable Kenneth O Simon	Attorney	September 30, 2025
Mrs. Chandra Brown Stewart	Business Administration	September 30, 2025
Dr. Steven H. Stokes	Physician	September 30, 2023
Margie Malone Tuckson	Business Administration	September 30, 2023
Mr. Michael P. Windom	Attorney	September 30, 20
Mr. James A. Yance	Attorney, Retired	September 30, 2021
The Honorable Kay Ivey	Governor, State of Alabama	Ex Officio

The organization below the Board of Trustees is composed of the President and eight Vice Presidents: Executive Vice President; Provost and Senior Vice President for Academic Affairs; Vice President for Development and Alumni Relations; Vice President for Student Affairs; Vice President for Medical Affairs and Dean of the College of Medicine; Vice President for Research and Economic Development; Vice President for Marketing and Communications; and Vice President for Finance and Administration.

The Board of Trustees appoints the President of the University. Dr. Tony G. Waldrop has served as President of the University since April 1, 2014. Dr. Waldrop is the third President in the history of the University. Dr. Waldrop came to the University after serving four years as provost and executive vice president at the University of Central Florida, and prior roles as vice chancellor for research and economic development at the University of North Carolina and vice chancellor for research at the University of Illinois. Dr. Waldrop received his Ph.D. from University of North Carolina.

G. Scott Weldon is the Vice President for Finance and Administration. Mr. Weldon oversees the Finance and Administration Division of the University, which is collectively responsible for developing and overseeing the budget process, treasury and accounting, financial planning and analysis, facilities, human resources, risk management and the telecommunications systems for the University. Prior to his appointment as Vice President for Finance and

Administration in October 2015, Mr. Weldon served as Assistant Vice President for Finance and Administration at the University. Mr. Weldon received his B.S. and M.A. from the University of Alabama.

### **HEALTH CARE SYSTEM**

USA Health, a division of the University, is an academic healthcare system that consists of two academic tertiary hospitals, a cancer institute and a physician faculty practice. USAUH is a 406-Licensed bed tertiary care center with the region’s only Level 1 trauma center and burn center that supports the adult teaching and research missions of the USA College of Medicine. Recognized as a top performer on key quality measures, USAUH offers advanced treatment of stroke, cardiovascular disease and sickle cell disease. Patients treated at USAUH tend to require medically complex and extensive care and treatment. USAUH has seen a 96% increase in gastroenterology cases from 2013-2019 and a 31% growth from fiscal year 2018 to 2019. This growth is a result of USAUH’s focus on research and services unique to the region, as well as high patient satisfaction ratings. Surgery cases at USAUH increased by 41% from fiscal year 2013 – 2019 and increased 24% from fiscal year 2018 to 2019. The total number of patients seen in the USAUH Trauma Center in 2019 was 28,914, an increase of 9% from fiscal year 2018. USAUH plans to open a 32,000 sq. ft. Trauma Center to replace the current 11,000 sq. ft. Emergency Department currently in use. This will allow for expansion of other services into the current 11,000 sq. ft. to include critical care beds. In the last quarter of fiscal year 2018, USAUH added 20 inpatient beds and 4 additional outpatient operating rooms, which contributed to surgical and revenue growth of USAUH in fiscal year 2019. At present, USAUH has grown from 120 staffed beds to 186. In 2020, USAUH plans to open 34 additional inpatient beds. Gross Revenues of USAUH for the last eight fiscal years were as follows:

<u>Year</u>	<u>Gross Revenues</u>
2019	\$614,219,907
2018	474,193,133
2017	470,741,917
2016	406,528,233
2015	360,250,280
2014	348,119,160
2013	328,142,373
2012	308,341,443

USACW is a 152-licensed bed hospital dedicated to providing services to children and women. From 2013 to 2019, USACW has experienced an 11% increase in pediatric emergency visits, a 34% increase in surgeries, and a 4% increase in average daily census. Between July 2018 and June 2019, USACW delivered 2,546 babies, which is 41% of the babies born in Mobile County. The overall birth rate for Mobile County fell 9% from 2014 to 2018, with USACW’s percentage of area births remaining constant. The services provided by USACW are among those provided by fewer than five hospitals nationwide that are dedicated solely to the provision of care for both children and women. USACW has the region’s highest level Neonatal ICU unit, Pediatric ICU unit, 24-hour Pediatric Evaluation Unit, High-risk Obstetrics program and Pediatric Surgery Anesthesia Services. USACW also supports the teaching and research missions of the University of South Alabama. In 2015, the 195,000 sq. ft. expansion of USACW was placed into service. USACW currently has plans to renovate the mother suites to convert every 3 rooms into 2 rooms to be more competitive in the market. In addition, plans are being reviewed to enhance the USACW pediatric emergency room.

Gross Revenues of USACW for the last eight fiscal years were as follows:

<u>Year</u>	<u>Gross Revenues</u>
2019	\$287,570,187
2018	249,122,847
2017	243,090,525
2016	248,819,071

2015	241,114,324
2014	219,808,672
2013	203,746,723
2012	211,758,092

USAMCI is the only academic cancer research and treatment center in the upper Gulf Coast corridor. Providing cancer care to a catchment area of over 4.1 million persons in a 150-mile radius, USAMCI brings state-of-the art, research-based cancer treatment to the region, serving over 6,200 individual patients in the last year. Its capabilities span the entire continuum of cancer care, from prevention and early detection to treatment and survivorship. With highly skilled and trained team of oncologists, USAMCI is improving cancer outcomes for patients, including the most vulnerable residents of the county, state and beyond. USAMCI provides cancer treatment in two Mobile locations and in Fairhope. For patients who are not candidates for traditional cancer therapy, USAMCI offers a host of clinical trials with over 90 patients enrolled in therapeutic clinical trials per year, approximately 20% of whom are minority patients. USAMCI has 17 Principal Investigators conducting research funded through the National Institutes of Health, the Department of Defense, the American Cancer Society and other foundations. As an integrated cancer treatment and research center, USAMCI provides innovative cancer care in a caring environment, while accelerating the research to enhance care delivery for future patients. MCI reported 2,907 new patient visits in fiscal year 2019, with 19,841 follow up visits. Of note, GYN Oncology volume increased 13% and Radiation Oncology in Fairhope increased 330% from fiscal year 2018 to 2019. In addition, USAMCI opened a Specialty Pharmacy in July of 2018 and filled 4,277 prescriptions in fiscal year 2019. At the end of 2018, USAMCI was restructured and placed under USA Health leadership and operations instead of operating as a stand-alone facility within the University. As a result, USAMCI has been able to leverage healthcare facilities to grow clinical opportunities which, in turn, has led to an increase in volume in infusion, radiation, medical & gynecological oncology. Additionally, USAMCI became a provider based entity and added a speciality pharmacy. These changes contributed to the increase in gross revenues of MCI in fiscal year 2019.

Gross Revenues of MCI for the last eight fiscal years were as follows:

<u>Year</u>	<u>Gross Revenues</u>
2019	\$51,099,476
2018	19,709,735
2017	19,933,067
2016	15,829,428
2015	18,048,802
2014	25,158,623
2013	22,038,595
2012	22,087,983

Comprised of more than 160 academic physicians on faculty at the USA College of Medicine, the Ambulatory Services physician faculty practice is the region's largest multi-specialty practice and the only academic physicians group along the central Gulf Coast. Ambulatory Services physicians practice throughout Mobile County, including at the University's hospital and clinic campuses and on the University's main campus. The Strada Patient Care Center, a 133,000 square foot building that was placed in service in December 2016 and is located near USACW, provided 153 patient exam rooms, 16 nurses' stations, and 7 educational conference rooms. The Physicians Group has over 250 clinical providers and over 90 Advanced Practice providers that completed 191,359 clinic visits in fiscal year 2019. The collective mission of the Ambulatory Services health care providers is to deliver leading-edge care to patients and to support the larger mission of the USA College of Medicine in the education and training of students and resident physicians and in the advancement of medical care through medical research. Prior to July 1, 2016, Ambulatory Services was operated by the University of South Alabama Health Services Foundation (the "HSF"), a 501(c)(3) organization that has been included in the University's financial statements as a discretely presented component unit. As of July 1, 2016, Ambulatory Services activities were transferred by HSF to the University and the revenues and expenses of the faculty



practice included in the University’s Statement of Revenues, Expenses and Changes in Net Position. Gross charges by year from these activities were as follows:

<u>Year</u>	<u>Gross Revenues</u>
2019	\$176,840,712
2018	120,488,250
2017	125,686,741
2016	136,470,653

On May 2, 2017, the University formed the University of South Alabama Health Care Authority (the “USA HCA”). The USA HCA was formed pursuant to Section 16-17A-1 *et seq.*, otherwise known as the “University Authority Act.” The University utilizes the USA HCA for certain administrative and personnel functions at USA Health. Medical practices included within USA HCA have generated revenues for USA. Although indebtedness issued by USA HCA would not be secured by Pledged Revenues under the Indenture, the University does not currently intend or expect the USA HCA to take title to any material health care assets of the University. Gross charges by year for HCA were as follows:

<u>Year</u>	<u>Gross Revenues</u>
2019	\$35,128,988
2018	24,243,252

KPMG has audited the financial statements for HCA for the fiscal year ended September 30, 2019. See Page 26 of Appendix A attached hereto.

#### **ACADEMIC MEDICAL CENTERS**

Academic Medical Centers (“AMCs”) throughout the United States face a dynamic healthcare environment. These changes include potential funding reductions from governmental entities and insurance companies, as well as a transition from productivity to value-based reimbursements.

As a result, AMCs are evaluating their business models and restructuring themselves to respond to the current and future healthcare environments. Nationwide, AMCs are evaluating partnerships with other AMCs or even non-AMC healthcare providers. Consistent with this national trend, the University, although in the very early stage, is proactively addressing its structure and governance with respect to these issues.

#### **USA TECHNOLOGY & RESEARCH CORPORATION**

The USA Research and Technology Corporation (the “Corporation”) was incorporated in 2002 as a not-for-profit corporation under the laws of the State of Alabama. The mission of the Corporation is to facilitate new and enhanced types of interaction between the University and the wider public and private sectors and to serve as a catalyst for regional development by furthering innovation and enterprise in a collaborative and principled fashion that respects and elevates the social and economic well-being of the community. The facilities of the Corporation are located on approximately 160 acres adjacent to the main campus of the University, an area known as the USA Technology & Research Park (the “Park”). The Corporation owns three buildings in the Park which together comprise approximately 222,300 square feet of space available for lease, with approximately 200,000 square feet currently under lease.

Since the Corporation’s inception, total tenant employment (non-University) has grown to approximately 360, including approximately 50 University graduates. In addition, there were six student interns employed at the Park over the course of the past year.

#### **FACILITIES**

##### **Current Facilities**

The University has 5,386,044 gross square feet of inventory space presently in use, including the USA Baldwin County-Fairhope Campus, University Hospital, USA Springhill, and USA Children’s and Women’s Hospital. Existing main campus structures include the Administration Building; Instructional Laboratory Building; Library; Biomedical Library; Chemistry Building; Life Science Building; Health, Physical Education and Recreation Building; Student Center; Humanities Building; Medical Sciences Building; Multi-Purpose Arena; Performing Arts Building; Business Building; Student Services Building; Archaeology Building; Intramural Fieldhouse; Transportation Services Building; three Technology and Research buildings; Shelby Hall; Health Science; Dining Facility; Faculty Club; Academic Services; Mitchell Cancer Institute; Business Resource Center; Innovation in Learning Center; Education Services Building; Education and Outreach Building, and a variety of residence halls. The Bethel Theater, Mobile Townhouse, and Alumni Hall, all located on the campus, are renovated buildings of great historic value.

Historical details of construction, acquisition and renovations at the University campus are as follows:

Years of construction or <u>acquisition</u>	Gross Square Feet Constructed or <u>Acquired</u>	Gross Square Feet <u>Renovated</u>
Prior to 1960	1,091,119	207,676
1960-1969	813,280	302,671
1970-1979	1,046,420	192,963
1980-1989	595,710	81,712
1990-1999	277,443	-
2000-2009	550,333	153,575
2010-2015	714,605	502,204
2016-2019	<u>413,985</u>	<u>199,906</u>
Total	<u>5,502,895</u>	<u>1,640,707</u>

The campus is served by water, gas and electric utilities supplied by public utilities serving the greater Mobile metropolitan area.

**Insurance**

Claims for damages to the University's campus property are covered by the State Insurance Fund of the State of Alabama's Division of Risk Management. All buildings and contents are covered by the State Insurance Fund policy. The University uses two self-insured trust funds to pay general liability and professional liability claims. Injuries from work-related incidents to those employees covered by the University's self-insured health plan are covered by that plan. Work-related injuries to employees not covered by the health plan are reviewed by the State Board of Adjustment for final resolution.

**Student Housing**

With respect to on-campus student housing, 2,289 beds are available for occupancy in campus student residences. Over the last five years, occupancy rates have averaged 94%, with the Fall 2019 semester at 91%. Approximately 14% of total headcount enrollment occupied student housing for the Fall 2019 semester.

In addition to the 2,419 University-owned beds, there are four other non-University-owned, apartment-style housing complexes that focus on University students – one is located on campus, and the other two are located across major roads from campus. A fifth, non-University owned housing complex near the University has been announced. The on-campus complex was built on land leased by the University to the housing developer under a long-term lease, and the University is under no obligation to guarantee the financing or

occupancy or any other revenue source with respect to the apartments. The off-campus complexes were built on land that is not owned by the University. The four complexes have a total of approximately 2,500 additional beds available for occupancy. Also, a new, 370 bed dormitory opened on the campus of the University in the Fall of 2018.

**SUMMARY INFORMATION RESPECTING STATE AND PRIVATE FUNDING**

**State Appropriations**

The University has received appropriations from the State of Alabama for certain of its operating costs and other non-operating cash requirements, including capital expenditures. State appropriations may not lawfully be used for the payment of debt service on the Bonds, including the Series 2020 Bonds. There can be no assurance that future Legislatures will continue to make such appropriations, or, if made, that they will be timely or sufficient when added to operating revenues and General Fees, Auxiliary Enterprise Revenues, and Children's and Women's Hospital Revenues remaining after the payment of debt service, to cover in full, operating expenses of the University.

The following tabulation compiled by the University staff from University accounting records shows State appropriations to the University for the fiscal years ended September 30, 2015, through September 30, 2019:

Fiscal year ended <u>September 30</u>	Total Appropriations	
	<u>Authorized</u>	<u>Received</u>
2019	\$115,209,000	\$115,209,000
2018	107,284,718	107,284,718
2017	107,284,717	107,284,717
2016	104,976,761	104,976,756
2015	103,973,584	103,973,584

Although not pledged for payment of debt service on the Bonds or otherwise subject to the lien of the Indenture, the University relies on State appropriations to fund basic operations, student services and other costs of the University. The Alabama State Legislature is considering the implementation of an outcomes-based funding model for a portion of state appropriations paid to State of Alabama universities, such as the University. In theory, an outcomes-based formula increases or reduces appropriations to a particular university based upon its success or failure, respectively, against certain established performance measures. This initiative is in the early phase, and, as such, it is not possible at this time to determine whether this initiative will be adopted and become part of the State appropriation process for public university funding, or how the University’s funding would be impacted.

**Endowment Assets**

Endowment assets for the University are deposited both in the University and in the Foundation (described below). Net endowment assets in the accounts of the University at September 30, 2019 were \$176,346,459. Of the net endowment assets, \$59,378,604 are classified as restricted, nonexpendable, \$66,613,735 are classified as restricted, expendable, and \$50,354,120 are classified as unrestricted. The Board of Trustees has an approved endowment management and investment policy that includes an established spending rate of 4.5% based on the 5-year moving average of net assets of endowments. In maintaining its endowment, it is the goal of the University to provide revenue while preserving principal to fund those projects which have been endowed for specific purposes. Net assets of endowments are allocated as follows at September 30, 2019:

Equities, Pooled direct investments and mutual funds	\$81,755,001
Fixed income, pooled direct investments and mutual funds	55,229,168
Managed income alternative investments	35,529,747

Other	<u>3,832,543</u>
Total	<u>\$176,346,459</u>

**The University of South Alabama Foundation**

The University of South Alabama Foundation (the “Foundation”), a legally separate entity, exists for the primary purpose of advancing the purpose of the University in furthering, improving, and expanding its properties, services, facilities, and activities. Its total assets at June 30, 2019, its most recent audited fiscal year-end, were \$384,384,000, and its net assets were \$383,512,000 at the same date. Assets are primarily invested in marketable securities (39%), timber and mineral properties (43%), and real estate (16%). Cash and non-cash distributions to the University over the past seven fiscal years are, as reported in the audited financial statements of the Foundation for the years ended June 30, 2014, through June 30, 2019, as follows:

2019	\$9,755,000
2018	9,703,000
2017	9,603,000
2016 <sup>1</sup>	10,561,000
2015	4,731,000
2014	4,515,000

<sup>1</sup> In fiscal year 2010, the University and the Foundation executed a purchase and sale agreement calling for the University to sell approximately 327 acres on Mobile Bay, known as the Brookley campus, to the Foundation. The terms of the agreement required the Foundation to pay the University \$20,000,000; \$4,000,000 at closing and \$4,000,000 annually thereafter through fiscal year 2015. The distribution for the Foundation’s fiscal year ended June 30, 2016 reflects the Foundation’s completion of its obligations under the purchase and sale agreement and corresponding increase in annual distributions to the University.

**SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE**

The following is a brief summary of certain provisions of the Indenture, as heretofore amended and supplemented and as further amended and supplemented by the Seventeenth Supplemental Indenture, to which Indenture and Seventeenth Supplemental Indenture in their entirety reference is made for the detailed provisions thereof. Unless the context clearly indicates otherwise, all references herein shall be deemed to include the Series 2020 Bonds, the Outstanding Bonds, and any Additional Bonds hereafter issued under the Indenture.

As used in the following summary, the following definitions shall have the following respective meanings.

“*Annual Debt Service Requirement*” means, as of any date of determination, the amount of principal and interest maturing with respect to the then outstanding Bonds in such Bond Year; provided, (i) that the principal amount of any Bonds subject to a Mandatory Redemption Provision during such Bond Year shall, for purposes of this definition, be considered as maturing in the Bond Year during which such redemption is required and not in the Bond Year in which their stated maturity occurs; (ii) in the case of Bonds (whether outstanding or proposed to be issued) that bear interest at a variable or adjustable rate, the interest payable on such Bonds shall be calculated on the assumption that such Bonds bear interest at a fixed rate of interest estimated by a professional consulting firm or investment banking firm acceptable to the Trustee by reference to bonds of similar credit rating maturity and tax characteristics on the date such calculation is made; and (iii) for purposes of the foregoing formula, Bonds that are “deemed paid” under the Indenture shall not be deemed outstanding.

“*Bond Year*” means the period beginning November 2 in each calendar year and ending on November 1 of the next succeeding calendar year.

“*Interest Payment Date*” means (a) with respect to the Series 2020 Bonds, each April 1 and October 1, commencing October 1, 2019, and (b) with respect to any series of Additional Bonds, such date or dates as shall

be specified in the Supplemental Indenture pertaining to such Additional Bonds as the dates for payment of interest of such Additional Bonds.

“*Mandatory Redemption Provision*” means any provisions that may be set forth in a Supplemental Indenture for mandatory redemption of any Additional Bonds at a redemption price equal to the principal amount thereof.

“*Principal Payment Date*” means (a) with respect to the Series 2020 Bonds, each April 1 commencing April 1, 2021, and (b) with respect to any series of Additional Bonds, a date (which shall in every case be the first day of a Month) specified in the Supplemental Indenture pertaining to such Additional Bonds as a date for payment of principal of such Additional Bonds.

“*Supplemental Indenture*” means an agreement supplemental to the Indenture.

### **Special Funds**

**Bond Fund.** The Indenture provides for the creation of a special trust fund called the “Bond Principal and Interest Fund.” The University is required to pay into the Bond Fund, in addition to all other amounts required by the Indenture, the following:

(a) Contemporaneously with the issuance and sale of any of the Bonds and out of the proceeds derived from such sale, the University (or the Trustee on behalf of the University) is required to pay into the Bond Fund such part of the proceeds from the sale as is allocable to premium (if any) and accrued interest.

(b) On or before the Business Day next preceding each Interest Payment Date until the principal and the interest on the Bonds is paid in full, the University is required to pay into the Bond Fund, out of the Pledged Revenues, an amount equal to the sum of (i) the semiannual installment of interest that will mature on the Bonds on the then next succeeding semiannual Interest Payment Date with respect thereto, plus (ii) the principal that will become due on the Bonds on the then next succeeding Principal Payment Date, plus (iii) the principal required to be redeemed on the next succeeding Principal Payment Date pursuant to any Mandatory Redemption Provision.

All moneys paid into the Bond Fund are required to be used only for payment of the principal of and the interest on the Bonds upon or after the respective maturities of such principal and interest and to redeem Bonds subject to a Mandatory Redemption Provision. If at the final maturity of the Bonds, however such Bonds may mature, there are in the Bond Fund moneys in excess of what is required to pay in full the principal of and the interest on the Bonds, then any such excess will be returned to the University.

Prior to the issuance of any Additional Bonds, there shall be executed and delivered a Supplemental Indenture containing a provision that the semiannual payments into the Bond Fund be adjusted to provide for such additional amounts as may be necessary to pay the principal of and interest on such Additional Bonds provided, however, that in making such adjustment the principal amount of any such Additional Bonds required by the terms of the Supplemental Indenture to be redeemed during any Bond Year shall be considered as maturing in the Bond Year during which such redemption is required and not in the Bond Year in which their stated maturity occurs.

### **Additional Bonds**

The Indenture authorizes the issuance of Additional Bonds, subject to the provisions of the Indenture. Among the conditions to the issuance of any Additional Bonds are the following:

(a) **Supplemental Indenture.** Prior to the issuance of any Additional Bonds, there shall be executed and delivered a Supplemental Indenture containing: (i) a description of the Additional Bonds proposed to be issued, including the date, the aggregate principal amount, the series designation, the denomination or denominations, the interest rate or rates (or provisions for determining the same), the maturity or maturities and

the form of such Additional Bonds, and any provisions for redemption thereof prior to their respective maturities; (ii) a statement of the purpose or purposes for which the Additional Bonds are proposed to be issued; and (iii) any other provisions that do not conflict with the provisions of the Indenture.

(b) Certificate as to Pledged Revenues. The item or items required by either of the following subparagraphs (i) or (ii):

(i) A certificate by the Vice President for Finance and Administration of the University certifying that the amount of Pledged Revenues received during the Fiscal Year next preceding the date of the issuance of the Additional Bonds then proposed to be issued was not less than 125% of the maximum Annual Debt Service Requirement with respect to the then current or any then succeeding Bond Year immediately following the issuance of the then proposed Additional Bonds, which certificate shall set forth the figures on which it is based and shall recite that the Pledged Revenues for such Fiscal Year specified therein were taken from the annual audit of the University for such Fiscal Year or, if such audit shall not have been completed for the most recent Fiscal year at the date of such certificate, were taken from the official records of the University, or

(ii) A Resolution or Resolutions adopted by the University after the commencement of the Fiscal Year next preceding the issuance of the then proposed Additional Bonds either (i) increasing the General Fees, or (ii) levying new fees and charges of a type or kind different from the General Fees, or (iii) a combination thereof, accompanied by a certificate of the Vice President for Finance and Administration stating that if the increased General Fees or the new fees set forth in the said Resolution or Resolutions had been in effect throughout the Fiscal Year next preceding the date of issuance of the then proposed Additional Bonds, the amount of Pledged Revenues during the Fiscal Year next preceding the date of issuance of the then proposed Additional Bonds would have been not less than 125% of the maximum Annual Debt Service Requirement during the then current or any then succeeding Bond Year with respect to Bonds that will be outstanding immediately following the issuance of the then proposed Additional Bonds; and

(c) Opinion of Independent Counsel. An opinion dated on the date of issuance of such Additional Bonds, signed by Independent Counsel acceptable to the Trustee, approving the forms of all documents required above to be delivered to the Trustee and reciting that they comply with the applicable requirements set out above.

### **Maintenance of Pledged Revenues**

The University has covenanted in the Indenture that, so long as any of the Bonds remain outstanding and unpaid, the University will fix, levy and collect General Fees and Auxiliary Enterprises Revenues from all students attending the University during each Fiscal Year in such amounts and at such times as shall be required to produce revenues sufficient to pay the principal of, unamortized premium, if any, and interest on the Bonds during the same Fiscal Year. No covenant with respect to the Children's and Women's Hospital Revenues has been made.

### **Supplemental Indentures**

Supplemental Indentures Without Bondholder Consent. The University and the Trustee may at any time and from time to time enter into such Supplemental Indentures (in addition to such Supplemental Indentures as are otherwise provided for in the Indenture) as shall not be inconsistent with the terms and provisions of the Indenture, for any one or more of the following purposes:

(a) to add to the covenants and agreements of the University contained in the Indenture other covenants and agreements thereafter to be observed and performed by the University, provided that such other covenants and agreements may not either expressly or impliedly limit or restrict any of the obligations of the University contained in the Indenture;

(b) to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provisions contained in the Indenture or in any Supplemental Indenture or to make any provisions with respect to matters arising under the Indenture or any Supplemental Indenture for any other purpose if such provisions are necessary or desirable and are not inconsistent with the provisions of the Indenture or any Supplemental Indenture and do not adversely affect the interests of the holders of the Bonds;

(c) to subject to the pledge contained in the Indenture additional revenues or to identify more precisely any of the revenues of the University subject to the Indenture;

(d) to cause the Indenture to comply with the provisions of the Trust Indenture Act of 1939 or such other federal securities laws as may hereafter be applicable to the Indenture; or

(e) to provide for the issuance of Additional Bonds in accordance with the Indenture.

Any such Supplemental Indenture will not require the consent of any bondholders.

Supplemental Indentures Requiring Bondholders Consent. In addition to those Supplemental Indentures described above, the Indenture provides that the University and the Trustee may, at any time and from time to time, with the written consent of the holders of not less than a majority in aggregate principal amount of Bonds then outstanding, enter into such Supplemental Indentures as shall be deemed necessary or desirable by the University and the Trustee for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the term or provisions contained in the Indenture or in any Supplemental Indenture; provided that without the written consent of the Holder of each Bond affected, no reduction in the principal amount of, rate of interest on, or the premium payable upon the redemption of, any Bond shall be made; and provided, further, that, without the written consent of the holders of all the Bonds, none of the following shall be permitted:

(a) an extension of the maturity of any installment of principal of or interest on any Bond;

(b) any change in any Mandatory Redemption Provision;

(c) the creation of a lien or charge on the Pledged Revenues ranking prior to or (except in connection with the issuance of Additional Bonds) on a parity with the lien or charge thereon contained in the Indenture;

(d) the establishment of preferences or priorities as between the Bonds (but only with respect to the security provided for all Bonds); or

(e) a reduction in the aggregate principal amount of Bonds the holders of which are required to consent to such Supplemental Indenture.

Any Supplemental Indenture that requires the consent of holders of the Series 2020 Bonds or adversely affects the rights or interests of BAM shall also be subject to the prior written consent of BAM.

Upon the execution of any Supplemental Indenture under and pursuant to the provisions described above, the Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under the Indenture of the University, the Trustee and all holders of the Bonds then outstanding shall thereafter be determined, exercised and enforced under the Indenture, subject in all respects to such modifications and amendments.

## **Defaults and Remedies**

Events of Default under the Indenture include the following:

(a) failure by the University to pay principal of, the interest on or the premium (if any) on any Bond as and when the same shall become due, as provided therein and in the Indenture (whether such shall become due pursuant to any Mandatory Redemption Provisions or otherwise);

(b) failure by the University to perform and observe any of the agreements and covenants on its part contained in the Indenture (other than in the manner described in (a) above) which such failure continues for a period of not less than thirty (30) days after written notice of such failure has been given to the University by the Trustee or by the holders of not less than twenty-five percent (25%) in outstanding amount of Bonds, unless during such period or any extension thereof the University has commenced and is diligently pursuing appropriate corrective action; or

(c) determination by a court having jurisdiction that the University is insolvent or bankrupt, or appointment by a court having jurisdiction of a receiver for the University or for a substantial part thereof, or approval by a court of competent jurisdiction of any petition for reorganization of the University or rearrangement or readjustment of the obligations of the University under any provisions of the bankruptcy laws of the United States of America or the State of Alabama.

Upon the occurrence of an Event of Default the Trustee shall have the following rights and remedies:

(a) **Acceleration.** The Trustee may, by written notice to the University and with the consent of the bond insurer respecting any Bonds then outstanding and insured thereby (including, without limitation, consent of BAM respecting acceleration of the Series 2020 Bonds), declare the principal of all the Bonds forthwith due and payable, and such principal shall thereupon become and be immediately due and payable, anything in the Indenture or in the Bonds to the contrary notwithstanding. If, however, the University makes good that default and every other default under the Indenture (except for those installments of principal declared due and payable that would, absent such declaration, not be due and payable), with interest on all overdue payments of principal and interest, and made reimbursement of all of the reasonable expenses of the Trustee, then the Trustee may (and, if requested in writing by the holders of a majority in principal amount of the then outstanding Bonds, shall), by written notice to the University, waive such default and its consequences, but no such waiver shall affect any subsequent default or right relative thereto.

(b) **Mandamus and Other Remedies.** The Trustee shall have the right of mandamus or other lawful remedy in any court of competent jurisdiction to enforce its rights and the rights of the holders of the Bonds against the University and any officers, agents or employees of the University, including but not limited to the right to require the University and its officers, agents or employees to perform and observe all of its or their duties under Section 16-3-28 of the Code of Alabama 1975, as amended.

Anything in the Indenture to the contrary notwithstanding, upon the occurrence and continuation of a default or an Event of Default, BAM shall be deemed the sole holder of the Series 2020 Bonds and shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the Series 2020 Bonds under the Indenture, and no default or Event of Default may be waived without the prior written consent of BAM.

### **Concerning the Trustee**

The Trustee shall be under no obligation to institute suit or to take any proceedings under the Indenture or to enter any appearance or in any way defend in any suit in which it may be made defendant or to take steps in the execution of trust created or in the enforcement of any rights or powers under the Indenture, until it shall be indemnified to its satisfaction against any and all costs and expense, outlays and counsel fees and other reasonable disbursements and against all liability.

The Trustee shall not be liable in connection with the performance of its duties under the Indenture except for its gross negligence or willful misconduct.

The University has agreed to pay to the Trustee from time to time reasonable compensation for all services rendered by it under the Indenture, including the services of bond registrar and paying agent and also all of its reasonable expenses, charges, counsel fees and other disbursements and those of its attorneys and employees incurred in and about the performance of its powers and duties under the Indenture prior to the Bonds.



Nothing contained in the Indenture or any supplemental indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties or in the exercise of any of its rights or powers if it believes that the repayment of such funds or the making whole in respect of such liability is not reasonably assured to it.

## **RATINGS**

Moody's Investors Service, Inc. ("Moody's") and Standard & Poor's Rating Service, a division of the McGraw-Hill Companies, Inc. ("S&P"), have given the Series 2020 Bonds underlying ratings of "A1" and [" \_\_\_\_"], respectively. The University has applied for, and has not yet received, an underlying rating from S&P.

The underlying rating provided by each of Moody's and S&P (collectively, the "Rating Agencies") reflects that Rating Agency's rating of the creditworthiness of the University with respect to obligations payable from the Pledged Revenues. The rating provided by S&P of the Series 2020 Bonds reflects S&P's current assessment of the creditworthiness of BAM and its ability to pay claims on its policies of insurance.

Any further explanation of the significance of such ratings may be obtained only from the appropriate Rating Agency. The University furnished to the Rating Agencies the information contained in this Official Statement and certain other information respecting the University and the Series 2020 Bonds. Generally, Rating Agencies base their underlying ratings on such materials and information, as well as on their own investigations, studies and assumptions.

The ratings indicated on the cover page are not recommendations to buy, sell or hold the Series 2020 Bonds, and any such ratings may be subject to revision or withdrawal at any time by the Rating Agencies. Any downward revision or withdrawal of any or all of such rating may have an adverse effect on the market price of the affected Series 2020 Bonds. Neither the University nor the Underwriters have undertaken any responsibility either to bring to the attention of the holders of Series 2020 Bonds any proposed revision, suspension or withdrawal of a rating or to oppose any such revision, suspension or withdrawal.

## **LITIGATION**

To the best of the University's knowledge, there is no litigation pending or threatened (i) restraining or enjoining the issuance or delivery of the Series 2020 Bonds, (ii) contesting or affecting the validity of the Series 2020 Bonds or the proceedings or authority under which they are to be issued, (iii) contesting the creation, organization or existence of the University or the title of any of its present officials to their respective offices, or (iv) contesting the right of the University to enter into the financing documents to which it is a party or to secure the Series 2020 Bonds in accordance with the Indenture.

The University and its hospitals are immune from suit in medical malpractice matters; however such claims may still be brought against healthcare providers employed to provide such services on behalf of the University. These providers are insured by the University's Professional Liability Trust Fund. If a final judgment were entered in any professional liability action in an amount in excess of its insurance coverage, the University would not be liable for the excess.

The University has been notified by the Equal Employment Opportunity Office ("EEOC") of charges filed with the EEOC against the University or its employees. The charges arise from alleged employment practices or policies. Should a lawsuit arise out of such charges, they would be covered by the University's General Liability Trust Fund.

Finally, the University has been notified of claims filed against it in the State Board of Adjustment. None of the aforementioned charges or claims involve any significant sums in excess of the sums otherwise provided for and would not have an impact upon the collection of the Pledged Revenues. In the opinion of the University Attorney, the aggregate exposure of the University with respect to all pending claims and suits would not be material to the University's financial position.

## **LEGAL MATTERS**

The Series 2020 Bonds will be issued subject to the approving opinion of Bradley Arant Boult Cummings LLP, Birmingham, Alabama, Bond Counsel to the University. It is anticipated that the opinion of Bond Counsel to the University will be in substantially the form set forth in Appendix B.

The various legal opinions to be delivered concurrently with the delivery of the Series 2020 Bonds express the professional judgment of the attorneys rendering the opinions as to the legal issues explicitly addressed therein. By rendering a legal opinion, the authoring firm or attorney does not become an insurer or guarantor of that expression of professional judgment, of the transaction opined upon, or the future performance of parties to the transaction, and the rendering of an opinion does not guarantee the outcome of any legal dispute that may arise out of the transaction.

## **TAX MATTERS**

### **General**

In the opinion of Bradley Arant Boult Cummings LLP, Bond Counsel to the University, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, interest on the Series 2020 Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Code. Interest on the Series 2020 Bonds is not treated as a preference item in calculating the alternative minimum tax imposed on individuals and corporations under the Code. In rendering its opinion, Bond Counsel to the University has relied on certain representations, certifications of fact, and statements of reasonable expectations made by the University and others in connection with the Series 2020 Bonds, and Bond Counsel to the University has assumed compliance with certain ongoing covenants to comply with applicable requirements of the Code to assure the exclusion of interest on the Series 2020 Bonds from gross income under Section 103 of the Code.

Bond Counsel expresses no opinion regarding any other federal or state tax consequences with respect to the Series 2020 Bonds. Bond Counsel renders its opinion under existing statutes and court decisions as of the issue date and assumes no obligation to update its opinion after the issue date to reflect any future action, fact or circumstance, or change in law or interpretation, or otherwise. Bond Counsel expresses no opinion on the effect of any action taken in reliance upon an opinion of other counsel on the exclusion from gross income for federal income tax purposes of interest on the Series 2020 Bonds.

Certain Ongoing Federal Tax Requirements and Covenants. The Code establishes certain significant ongoing requirements that must be met subsequent to the issuance and delivery of the 2020 Bonds in order that interest on the Series 2020 Bonds be and remain excluded from gross income under Section 103 of the Code. These requirements include, but are not limited to, requirements relating to use and expenditure of gross proceeds of the Series 2020 Bonds, yield and other restrictions on investments of gross proceeds, and the arbitrage rebate requirement that certain excess earnings on gross proceeds be rebated to the federal government. Noncompliance with such requirements may cause interest on the Series 2020 Bonds to become included in gross income for federal income tax purposes retroactive to their issue date, irrespective of the date on which such noncompliance occurs or is discovered. The University has covenanted to comply under the Indenture with certain applicable requirements of the Code to assure the exclusion of interest on the Series 2020 Bonds from gross income under Section 103 of the Code.

Certain Collateral Federal Tax Consequences. The following is a brief discussion of certain collateral federal income tax matters with respect to the Series 2020 Bonds. It does not purport to deal with all aspects of federal taxation that may be relevant to a particular owner of any Series 2020 Bonds. Prospective investors, particularly those who may be subject to special rules, are advised to consult their own tax advisors regarding the federal tax consequences of owning and disposing of Series 2020 Bonds.

Prospective owners of the Series 2020 Bonds should be aware that the ownership of such obligations may result in collateral federal income tax consequences to various categories of persons, such as corporations (including S corporations and foreign corporations), financial institutions, property and casualty and life insurance companies, individual recipients of Social Security and railroad retirement benefits, individuals otherwise eligible for the earned income tax credit, and taxpayers deemed to have incurred or continued indebtedness to purchase or carry obligations the interest on which is not included in gross income for

federal income tax purposes. Interest on the Series 2020 Bonds may be taken into account in determining the tax liability of foreign corporations subject to the branch profits tax imposed by Section 884 of the Code.

Original Issue Premium. The initial public offering price to be paid for the Series 2020 Bonds (the "Original Issue Premium Series 2020 Bonds") is greater than the principal amount thereof. Under existing law, any owner who has purchased an Original Issue Premium Series 2020 Bond in the initial public offering of the Series 2020 Bonds is required to reduce his basis in such Original Issue Premium Series 2020 Bond by the amount of premium allocable to periods during which he holds such Original Issue Premium Series 2020 Bond, and the amount of premium allocable to each accrual period will be applied to reduce the amount of interest received by the owner during each such period. All owners of Original Issue Premium Series 2020 Bonds should consult their own tax advisors with respect to the determination for federal, state and local income tax purposes of interest accrued upon redemption, sale or other disposition of such Original Issue Premium Series 2020 Bond and with respect to the federal, state, local and foreign tax consequences of the purchase, ownership, redemption, sale, gift or other disposition of such Original Issue Premium Series 2020 Bond.

Bank Qualification. The Series 2020 Bonds have not been designated as "qualified tax-exempt obligations" under Section 265 of the Code.

Post-Issuance Matters. The tax-exempt status of the Series 2020 Bonds could be affected by post-issuance events. See "SPECIAL CONSIDERATIONS RESPECTING THE SERIES 2020 BONDS – Tax-Exempt Status of Series 2020 Bonds" herein. The Indenture does not provide for mandatory redemption of the Series 2020 Bonds or payment of any additional interest or penalty if a determination is made that the Series 2020 Bonds do not comply with the existing requirements of the Code, if a subsequent change in law adversely affects the tax-exempt status of the Series 2020 Bonds or the economic benefit of investing in the Series 2020 Bonds, or if any other event or occurrence takes place that impacts the tax status of the Series 2020 Bonds.

## **CONTINUING DISCLOSURE**

Under a Continuing Disclosure Agreement, dated the date of the Series 2020 Bonds (the "Continuing Disclosure Agreement"), the University has agreed to provide or cause to be provided to the Municipal Securities Rulemaking Board (the "MSRB") using its electronic municipal market access system (referred to as "EMMA"), certain updated financial information and operating data annually, and timely notice of specified events for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule").

See Appendix C for a form of the Continuing Disclosure Agreement relating to the Series 2020 Bonds.

A failure by the University to comply with the Continuing Disclosure Agreement will not constitute an event of default under the Indenture. Beneficial owners of the Series 2020 Bonds are limited to the remedies described in the Continuing Disclosure Agreement. A failure by the University to comply with the Continuing Disclosure Agreement must be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Series 2020 Bonds in the secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Series 2020 Bonds and their market price.

### **Compliance with Prior Continuing Disclosure Agreements**

In connection with the prior issuance of certain of the Outstanding Bonds, the University has entered into other continuing disclosure agreements under the Rule. During the past five years, the University has failed to file information required to be filed pursuant to those previous agreements. Audited financial statements for fiscal year 2012 were filed approximately one year late as part of the fiscal year 2013 financial report. Although the audited financial statements for fiscal year 2014 were filed timely, the filing did not link such financial statements to the University's \$40,130,000.70 original principal amount University Tuition Revenue Bonds, Series 1999, dated March 1, 1999 (the "Series 1999 Bonds"), which such bonds have been retired as of the date of this Official Statement. Certain supplemental financial and operating data required by the prior agreements

was not timely filed through EMMA for the past five years. The University has not filed notices of late filings as required by the Rule.

Effective August, 2016, the University adopted new procedures intended to improve timeliness of its required filings under the Rule. In addition, the University made remedial filings with EMMA of (i) the fiscal year 2012 audited financial statements, (ii) the fiscal year 2014 audited financial statements to link to the Series 1999 Bonds, and (iii) the required supplemental financial and operating data. The University also has prepared a template into which all financial and operating data can be compiled into a single document for future filings.

THE UNIVERSITY UNDERTAKES NO OBLIGATION TO PUBLICLY UPDATE OR REVISE ANY FORWARD LOOKING STATEMENT AS A RESULT OF NEW INFORMATION, FUTURE EVENTS OR OTHER INFORMATION.

### **STATE NOT LIABLE ON SERIES 2020 BONDS**

The Series 2020 Bonds are limited obligations of the University payable solely out of, and secured by a pledge of, the Pledged Revenues. Neither the principal of nor the interest on the Series 2020 Bonds nor the aforesaid pledge or any other agreement contained in the Indenture shall constitute an obligation of any nature whatsoever of the State of Alabama, and neither the Series 2020 Bonds nor any obligation arising from said pledge or agreements shall be payable out of any moneys appropriated to the University by the State of Alabama.

### **FINANCIAL INFORMATION**

Appendix A contains audited financial statements of the University for the fiscal year ended September 30, 2019. KPMG LLP, the University's independent auditor, has not been engaged to perform and has not performed, since the date of its report included herein as Appendix A, any procedures on the financial statements addressed in that report. KPMG LLP also has not performed any procedures relating to this Official Statement.

### **FORWARD LOOKING STATEMENTS**

Certain statements contained in this Official Statement including, without limitation, statements containing the words "estimates," "believes," "anticipates," "expects," and words of similar import, constitute forward-looking statements. Such forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause the actual results, performance or achievements of the University or other entities to which the forward-looking statements relate to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements.

The forward-looking statements included herein are necessarily based on various assumptions and estimates and are inherently subject to various risks and uncertainties, including risks and uncertainties relating to the possible invalidity of the underlying assumptions and estimates and possible changes or developments in social, economic, business, industry, market, legal, and regulatory circumstances and conditions and actions taken or omitted to be taken by third parties, including customers, suppliers, business partners and competitors, and legislative, judicial, and other governmental authorities and officials. Assumptions to the foregoing involve judgments with respect to, among other things, future economic, competitive, and market conditions and future business decisions, all of which are difficult or impossible to predict accurately and many of which are beyond the control of the University. Any of such assumptions could be inaccurate and, therefore, there can be no assurance that the forward-looking statements included in this Official Statement will prove to be accurate. Given these uncertainties, prospective investors are cautioned not to place undue reliance on such forward-looking statements. The University and the Underwriters disclaim any obligation to update any such factors or to publicly announce the results of any revision to any of the forward-looking statements contained herein to reflect future events or developments.

## SPECIAL CONSIDERATIONS RESPECTING THE SERIES 2020 BONDS

### General

An investment in the Series 2020 Bonds involves certain risks which should be carefully considered by investors. The sufficiency of Pledged Revenues to pay debt service on the Series 2020 Bonds may be affected by events and conditions relating to, among other things, general economic conditions, population in the University's basic service area, the demand for higher education, and legislative and administrative requirements on the University's operations.

Prospective investors should carefully examine this Official Statement and their own financial condition in order to make a judgment as to their ability to bear the economic risk of such an investment and whether or not the Series 2020 Bonds are an appropriate investment for them.

Holders of the Series 2020 Bonds should be aware that their rights and the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights and the exercise of judicial discretion in appropriate cases.

### Limitations on Source of Payment, Security and Remedies

Limited Source of Payment. The Series 2020 Bonds will be limited obligations of the University, payable solely from, and secured by a pledge of, the Pledged Revenues. See "SECURITY AND SOURCE OF PAYMENT".

The Series 2020 Bonds will not be debts or obligations of the State of Alabama, and debt service on the Series 2020 Bonds will not be payable out of any money provided or appropriated to the University by the State of Alabama. Holders of the Series 2020 Bonds shall never have the right to demand payment of the Series 2020 Bonds from the University from any source other than the special funds established under the Indenture and the Pledged Revenues and shall be entitled to payment from such sources only on a parity basis with all other bonds outstanding under the Indenture.

Additional Debt. All Bonds are secured on a parity by the lien on Pledged Revenues. If the University incurs additional debt secured by the Indenture, the security interest in Pledged Revenues for the benefit of Bondholders will in effect be diluted.

Hospitals Are Limited Use Facilities. The hospitals and other health care facilities of the University, which are operating assets of the University, are limited use facilities, suitable primarily for hospital or health care purposes. Consequently, the market for sale or other disposition of such facilities is limited. In the event of a sale of such facilities, whether in a bankruptcy proceeding or otherwise, the number of potential purchasers and the sale price may be affected by the limited possible use.

Limitation on Remedies Upon Default. The Indenture does not constitute a mortgage on or security interest in any properties of the University, and no foreclosure or sale proceedings with respect to any property of the University may occur. The University is exempt from all suits under the doctrine of sovereign immunity, but state law provides that agents and employees of the University may, by mandamus, be compelled to apply the Pledged Revenues to the payment of the Series 2020 Bonds in accordance with the terms of the Indenture.

The remedies available to the registered holders of the Series 2020 Bonds upon the occurrence of a default under the Indenture are in many respects dependent upon regulatory and judicial actions, which are often subject to discretion and delay. Under existing law, the remedies provided under the Indenture may not be readily available or may be limited, and no assurance can be given that a mandamus or other legal action to enforce payment under the Indenture would be successful. The various legal opinions to be delivered concurrently with the delivery of the Series 2020 Bonds will be qualified as to enforceability of the various legal instruments, limitations imposed by bankruptcy, reorganization, insolvency or similar laws affecting the rights of creditors generally and by judicial discretion applicable to equitable remedies and proceedings generally.

## Health Care Industry Factors

The health care industry is subject to a number of factors that could adversely affect the business prospects of the University. Among those factors are the following:

The Health Care Industry is Highly Regulated. The health care industry is highly regulated by the federal and state governments. These regulations relate to areas such as the required delivery of care whether or not patients have the resources for payment, the quality of care and outcomes of health care services provided, excessive re-admission of patients, accuracy of billing and collecting for services rendered, privacy of patients and their health care information, and the relationship between providers and physicians who refer patients to the provider's health care facilities. For providers organized as charitable organizations under Section 501(c)(3) of the Internal Revenue Code there are additional regulations that must be satisfied to preserve tax-exempt status. The cost of compliance with these regulations is significant.

Payment Systems. The University's Health System derives most of its revenues from Medicare, Medicaid, Blue Cross and other third party payor programs. Such programs may provide payment for services rendered to their beneficiaries in an amount that is less than actual patient charges. These payment systems are complex, subject to periodic change, and require a high degree of accuracy in the billing and collecting process. Failure to submit accurate billing may result in large financial penalties or claims or disqualification from the program. Penalties or claims may be from governmental authorities, such as the Justice Department and the Office of Inspector General, independent auditing firms under contract with the government, or from private litigants under so-called "qui tam actions".

Alternate Payment Systems. The payment systems for health care services may be expanded to cover capitation or other coverage programs in which the providers assume the risk of health care services for a defined population. The University currently does not provide coverage on a capitated basis; however, the development of such coverage programs in the University's market could force the University to assume increased risk for the amount and cost of services it provides.

Health Care Reform. In 2010, Congress adopted extensive health reform legislation commonly referred to as the Affordable Care Act (the "ACA"). This legislation attempts to extend commercial insurance coverage and Medicaid coverage to many patients not previously covered. The State of Alabama declined the ACA option to expand the Medicaid coverage, which reduces the amount of reimbursement that might otherwise be available to the health care facilities operated by the University. This legislation also imposes numerous operating and reporting requirements on health care providers. Implementation of the various ACA initiatives will take several years and will require extensive time and expense. Implementation has been and continues to be uncertain. It is expected that governments will continue to consider various reform proposals in the health care industry. If adopted, such proposals may subject health care providers like the University to increased compliance requirements, reduced reimbursement for services, increased costs, or a combination of such results. As has been widely reported, President Donald Trump and Congressional leadership have expressed their intention, and recently attempted, to repeal some or all of the ACA and to enact related legislation in its place. The impact of such efforts on the University cannot be gauged at this time.

Trend Toward Large-Deductible Insurance Policies. Coverage provided by insurance is trending toward large deductibles or self-insurance retention for patients, which reduces the required premiums, but increases out-of-pocket expense for the insured. These large deductible policies can be expected to increase the challenge of collecting for services rendered and may result in an increase of bad debt expense for health care providers.

Budgetary Pressure for Medicare and Medicaid Funding. Medicare and Medicaid are government-sponsored programs. Funding for those programs is subject to the legislative process of federal and state governments. The spending policies or deficit reduction initiatives of those governments have resulted in significant reductions in reimbursement for health care services in the past and can be expected to apply pressure on reimbursement for the foreseeable future.

Competition from Other Providers. The health care industry is highly competitive. Other health care providers may develop competing facilities or services in the University's service area. Competing facilities or services may include, among others, new hospitals, specialty hospitals, outpatient facilities, and managed care

or insurance products. Other forms of competition could also affect the University's ability to maintain or improve its market share, including increasing competition (1) between physicians who generally use hospitals and non-physician practitioners such as nurse practitioners, chiropractors, physical and occupational therapists and others who may not generally use hospitals, and (2) from nursing homes, home health agencies, ambulatory care facilities, surgical centers, outpatient radiology centers, rehabilitation and therapy centers, physician group practices, and other non-hospital providers of many services for which patients generally rely on hospitals currently.

Capital Investment and Technology. The technology for diagnosis and treatment of patients changes rapidly and requires large capital investment on an ongoing basis in order for a health system to meet the needs of its patients.

Other Factors Affecting the Health Care Industry. In addition to the factors discussed above, the following additional factors, among others, may adversely affect the operations of health care providers, including the University:

(a) Increased efforts by insurers, private employers and governmental agencies to limit the cost of hospital services, to reduce the number of hospital beds and to reduce utilization of hospital facilities by such means as preventive medicine, improved occupational health and safety, and outpatient care.

(b) Termination of existing agreements between a provider and employed physicians who render services to the provider's patients, or alteration of referral patterns by independent physicians and physician groups.

(c) The availability and cost of insurance or self-insurance to protect against malpractice and general liability claims.

(d) Environmental and hazardous waste disposal regulations.

(e) Future legislation and regulations affecting the tax-exempt status of governmental and 501(c)(3) hospitals or imposing additional requirements on qualification.

(f) The reduced need for hospitalization or other traditional health care services as a result of medical and other scientific advances.

(g) Imposition of wage and price controls for the health care industry.

(h) The availability of or cost of retaining nursing, technical or other health care personnel.

(i) The spread of any bacteria, virus or infectious disease that is resistant to existing drugs or medical treatment.

(j) Reduction in population, increased unemployment or other adverse economic conditions in the market.

### **Factors Affecting Academic Medical Centers**

Academic medical center hospitals, like those operated by the University, are subject to certain negative credit factors that do not affect other not-for-profit hospitals. Among those factors are the following:

Special Revenue and Expense Challenges. The research and teaching divisions at academic medical centers often operate at break-even or deficit levels. Funding these missions sometimes requires organizational subsidies that can detrimentally affect the hospital's overall operating performance. Fundraising, endowment spending and excess cash generated from patient care can be used to support the non-clinical departments at an academic medical center, but these sources of funding may not be enough to offset the drag on operating funds.

Negative Reimbursement Pressure from Medicare and Medicaid. The federal government has proposed a reduction in graduate medical education funding from CMS as one way to address federal budget challenges.

Although funding cuts would impact all teaching hospitals with medical residents, academic medical centers would be disproportionately impacted due to higher numbers of residents and greater indirect cost payments for high acuity services performed. In addition, securing federal funding for research has become increasingly competitive among research institutions, primarily due to federal budget constraints. Changes in federal funding patterns could adversely affect academic medical centers and their ability to make debt service payments.

Inordinately High Exposure to Medicaid Patients. Many academic medical centers provide a disproportionate amount of charity care in their communities, which results in high exposure to Medicaid patients and receipt of Disproportionate Share Funding (“DSH”). Medicaid reimbursement cuts in recent years have disproportionately impacted academic medical centers. Additionally, reductions in DSH payments were mandated by the ACA beginning in 2016.

Increased Financial Support for Sponsoring University. Academic medical centers are increasingly facing requests for financial transfers to their associated universities to support strategic investments, program development and educational activities. These financial transfers are typically negotiated between the university and the hospital on an annual basis, and immediate needs at the university level could lead to a growing financial subsidy. These payments could adversely affect the academic medical center’s operating performance.

### **State Proration**

The State of Alabama appropriates money each year to the University for operating costs and non-operating cash requirements, including capital expenditures. Because the State is mandated by its constitution to operate with a balanced budget, the State occasionally has reduced its appropriations, through a process known as “proration”, when its annual revenues are not expected to meet budgeted appropriations. The last fiscal year in which State appropriations were "prorated" was fiscal year 2011. It is possible that proration may be implemented from time to time in the future and, when proration does occur, the University may be required to implement various cost-saving measures in order to balance its own budget. Although proration may impact the University’s budget, the Series 2020 Bonds are not payable from State appropriations.

### **Certain Factors Affecting Pledged Revenues**

No representation can be made and no assurance can be given that receipts from the Pledged Revenues will be sufficient to make the required payment of debt service on the Series 2020 Bonds and to pay necessary operating expenses. The amount of Pledged Revenues collected by the University will be subject to a variety of factors that could adversely affect debt service coverage on the Series 2020 Bonds, including general economic conditions, population in the University’s basic service area, the demand for higher education, and the impact of legislative and administrative requirements on the University’s operations.

### **Tax-Exempt Status of Series 2020 Bonds**

It is expected that the Series 2020 Bonds will qualify as tax-exempt obligations for federal income tax purposes as of the date of issuance. See “TAX MATTERS – General.” It is anticipated that Bond Counsel to the University will render an opinion substantially in the form attached hereto as Appendix B, which should be read in its entirety for a complete understanding of the scope of the opinions and the conclusions expressed therein. A legal opinion expresses the professional judgment of the attorney rendering the opinion as to the legal issues explicitly addressed therein. By rendering a legal opinion, the opinion giver does not become an insurer or guarantor of that expression of professional judgment, of the transaction opined upon, or of the future performance of parties to the transaction. Nor does the rendering of an opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

The tax status of the Series 2020 Bonds could be affected by post-issuance events. There are various requirements of the Internal Revenue Code that must be observed or satisfied after the issuance of the Series 2020 Bonds in order for the Series 2020 Bonds to qualify for, and retain, tax-exempt status. These requirements include appropriate use of the proceeds of the Series 2020 Bonds, use of the facilities financed by the Series



2020 Bonds, investment of bond proceeds, and the rebate of so-called excess arbitrage earnings. Compliance with these requirements is the responsibility of the University.

The Internal Revenue Service (the “IRS”) conducts an audit program to examine compliance with the requirements regarding tax-exempt status. Under current IRS procedures, in the initial stages of an audit with respect to the Series 2020 Bonds, the University would be treated as the taxpayer, and the owners of the Series 2020 Bonds may have limited rights to participate in the audit process. The initiation of an audit with respect to the Series 2020 Bonds could adversely affect the market value and liquidity of the Series 2020 Bonds, even though no final determination about the tax-exempt status has been made. If an audit results in a final determination that the Series 2020 Bonds do not qualify as tax-exempt obligations, such a determination could be retroactive in effect to the date of issuance of the Series 2020 Bonds.

In addition to post-issuance compliance, a change in law after the date of issuance of the Series 2020 Bonds could affect the tax-exempt status of the Series 2020 Bonds or the effect of investing in the Series 2020 Bonds. For example, the federal government is considering various proposals to reduce federal budget deficits and the amount of federal debt, including proposals that would eliminate or reduce indirect expenditures made through various deductions and exemptions currently allowed by the income tax laws. The exemption for interest on tax-exempt bonds is one of the indirect expenditures that could be affected by a deficit reduction initiative. Some deficit-reduction proposals would eliminate the exemption for interest on tax-exempt bonds. Other proposals would place an aggregate cap on the total amount of exemptions and deductions that may be claimed by a taxpayer, or a cap on the exemption for interest on tax-exempt bonds. Changes in the rate of the federal income tax, including so-called “flat tax” proposals, could also reduce the value of the exemption. Changes affecting the exemption for interest on tax-exempt bonds, if enacted, could apply to tax-exempt bonds already outstanding, including the Series 2020 Bonds offered pursuant to this Official Statement, as well as bonds issued after the effective date of such legislation. It is not possible to predict whether Congress will adopt legislation affecting the exemption for tax-exempt bonds, what the provisions of such legislation may be, whether any such legislation will be retroactive in effect, or what effect any such legislation may have on investors in the Series 2020 Bonds. Investors should consult their own tax advisers about the prospects and possible effect of future legislation that could affect the exemption for interest on tax-exempt bonds.

The Indenture does not provide for mandatory redemption of the Series 2020 Bonds or payment of any additional interest or penalty if a determination is made that the Series 2020 Bonds do not comply with the existing requirements of the Code, if a subsequent change in law adversely affects the tax-exempt status of the Series 2020 Bonds or the economic benefit of investing in the Series 2020 Bonds, or if any other event or occurrence takes place that impacts the tax status of the Series 2020 Bonds.

### **The United States Bankruptcy Code**

Chapter 9 of Title 11 of the United States Code, 11 U.S.C. 101, et seq. (the “Bankruptcy Code”) permits a political subdivision, public agency or instrumentality of a State to file a petition for relief in federal bankruptcy courts if the subdivision, agency or instrumentality is insolvent within the meaning of Chapter 9 and is authorized under applicable state law to seek such relief. The University, as an instrumentality of the State of Alabama, meets the initial eligibility requirement for a debtor under Chapter 9 of the United States Bankruptcy Code, as set forth at 11 U.S.C. §109(c)(1), because it is a “municipality” as defined at 11 U.S.C. §101(40), but the University is not expressly authorized by Article XIV, Section 266 of the Alabama Constitution of 1901 or by §16-48-1 et seq. of the Code of Alabama 1975, as amended, to initiate a Chapter 9 proceeding. Therefore, absent enactment of legislation by the Alabama Legislature that specifically authorizes a filing by the University, or by all instrumentalities of the State of Alabama, the University does not appear to be eligible to be a “debtor” under Chapter 9 of the United States Bankruptcy Code.

Nonetheless, Chapter 9 has been rarely used, and there is little precedent concerning its interpretation or the interpretation of related state laws, so there can be no definitive assurance that the University would be prevented from filing a petition for relief under Chapter 9, and if it did so, what relief would be provided. For

example, Chapter 9 of the Bankruptcy Code provides certain protections to creditors whose debts are secured by pledged special revenues; however, because of the limited precedent available with respect to Chapter 9, it is possible that a federal bankruptcy court could reject or circumscribe certain of these provisions under the facts of a specific case.

It should be noted that Section 922(d) of Chapter 9 of the Bankruptcy Code provides that a bankruptcy petition does not operate as a stay of "application of pledged special revenues" to the payment of indebtedness secured by such revenues in a manner consistent with other provisions of the Bankruptcy Code. Without limitation, section 928 of the Bankruptcy Code provides that special revenues acquired by the debtor after commencement of a chapter 9 case remain subject to any lien resulting from any security agreement entered into by the debtor before commencement of the case, but further provides that any such lien on special revenues (other than municipal betterment assessments) derived from a project or system shall be subject to "the necessary operating expenses of such project or system." It is not clear whether the pledge of Pledged Revenues made by the University for the benefit of the Series 2020 Bonds would constitute "special revenues" as that term is defined in section 902(2) of the Bankruptcy Code. Moreover, the phrase "application of pledged special revenues" has given rise to arguments that the provisions of section 922(d) apply only to funds in possession and control of the debtholders, or their trustee. Therefore, it is uncertain whether or not the filing of a chapter 9 petition (if the University had such power under Alabama law) would affect application of Pledged Revenues for the payment of principal and interest on the Series 2020 Bonds. Similarly, it is uncertain whether section 928 of the Bankruptcy Code would control the claims of holders of the Series 2020 Bonds with respect to the Pledged Revenues.

As a "municipality" within the meaning of the United States Bankruptcy Code, the University's eligibility to be a debtor is governed solely by 11 U.S.C. §109(c). A "municipality" within the meaning of Chapter 9 of the United States Bankruptcy Code cannot seek relief as a "debtor" under other chapters of the Bankruptcy Code, including without limitation Chapters 7 and 11.

The approving legal opinion of Bond Counsel to the University will contain the customary reservation that the rights of the holders of the Series 2020 Bonds and the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, sovereign immunity, moratorium and other similar laws affecting creditors' rights and the exercise of judicial discretion in appropriate cases. See the proposed form of approving legal opinion set forth in Appendix B – "Proposed Form of Approval Opinion of Bond Counsel to the University."

#### **FINANCIAL ADVISOR**

PFM Financial Advisors LLC ("PFM") is employed by the University to perform professional services in the capacity of financial advisor. In its role as financial advisor to the University, PFM has provided advice on the plan of financing and structure of the Series 2020 Bonds, and reviewed certain legal and disclosure documents, including this Official Statement, for financial matters. PFM has not independently verified the factual information contained in this Official Statement, but relied on the information supplied by the University and other sources and the University's certification as to the Official Statement.

#### **UNDERWRITING**

The Series 2020 Bonds are being purchased for reoffering by Raymond James & Associates, Inc. ("Raymond James") and Protective Securities, a division of ProEquities, Inc. (together with Raymond James, the "Underwriters") at an aggregate purchase price of \$[ ] (representing the par amount of the Series 2020 Bonds, less an underwriting discount of \$[ ], [plus/less] [net] original issue [premium/discount] of \$[ ]). The public offering price of the Series 2020 Bonds as set forth on the inside of the cover page of this Official Statement may be changed from time to time by the Underwriters and the Underwriters may allow a concession from the public offering price to certain dealers.

#### **MISCELLANEOUS**

The references herein to statutory provisions, the Indenture and other documents and instruments are summaries of certain provisions thereof and do not purport to be complete. For full and complete statements of

such provisions reference is hereby made to the specific statutory provision, document or instrument to which such summary relates.

So far as any statements made in this Official Statement involve matters of opinion or of estimates, whether or not expressly stated, they are set forth as such and not as representations of fact. No representation is made that any of the statements will be realized. Neither this Official Statement nor any statement which may have been made verbally or in writing is to be construed as a contract with the owners of the Series 2020 Bonds.

The information contained in this Official Statement has been compiled or prepared from information obtained from sources believed to be reliable; however, the University makes no representation as to the accuracy or completeness of such information. The information and the expressions of opinion herein are subject to change without notice. Accordingly, neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that, since the date hereof, there has been no change in the affairs of the University or any other governmental agencies or entities discussed herein.

The distribution of this Official Statement and its use in the offering and sale of the Series 2020 Bonds have been approved by the governing body of the University.

**UNIVERSITY OF SOUTH ALABAMA**

/s/ G. Scott Weldon

Vice President for Finance and Administration

**APPENDIX A**

**AUDITED FINANCIAL STATEMENT FOR THE  
FISCAL YEAR ENDED SEPTEMBER 30, 2019**

**APPENDIX B**

**PROPOSED FORM OF APPROVAL OPINION OF BOND COUNSEL TO THE UNIVERSITY**

Proposed Form of Approval Opinion of Bond Counsel

\_\_\_\_\_, 2020

Board of Trustees of the  
University of South Alabama  
Mobile, Alabama

Ladies and Gentlemen:

We have examined the Constitution and laws of the State of Alabama and certified copies of proceedings of the Board of Trustees of the University of South Alabama (herein called the "University") and other documents submitted to us pertaining to the authorization, issuance and validity of:

§ \_\_\_\_\_  
**University of South Alabama**  
**University Facilities Revenue Bonds**  
**Series 2020**

The statements hereinafter made and the opinions hereinafter expressed are based upon our examination of said constitution, laws, proceedings, and documents, which show as follows:

(1) that the above-referenced Series 2020A Bonds (the "Series 2020 Bonds") have been issued under a University Facilities Revenue Trust Indenture dated as of February 15, 1996, as heretofore supplemented and amended and as further supplemented by a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of the Series 2020 Bonds between the University and The Bank of New York Mellon Trust Company, N.A., as successor trustee (said Indenture, as so supplemented and amended, herein called the "Indenture"), wherein there has been pledged for payment of all bonds issued thereunder so much as may be necessary therefor of (a) the proceeds of the general tuition fees levied against all students attending the University, (b) the gross revenues derived from auxiliary enterprises services furnished by the University, including, without limitation, food services, housing, college stores, dining, concessions and other similar services, as such revenues are shown as a separate item on the audited financial statements of the University, and (c) an amount not exceeding \$10,000,000 in any fiscal year of the University of the gross revenues derived from that certain hospital facility owned and operated by the University and known as USA Children's and Women's Hospital (collectively herein called the "Pledged Revenues"); and

(2) that the University is authorized under the Indenture to issue, without express limit as to principal amount but only upon compliance with certain conditions precedent specified in the Indenture, Additional Bonds (as such term is defined in the Indenture) secured by a pledge of the Pledged Revenues on a parity with all other bonds issued under the Indenture and at any time outstanding.

We are of the following opinion: that the University is a public body corporate under the laws of the State of Alabama and has corporate power to issue the Series 2020 Bonds and to execute and deliver the Indenture; that the Series 2020 Bonds have been duly authorized, executed and issued in the manner provided by the applicable provisions of the Constitution and laws of the State of Alabama, are in due and legal form and evidence valid and binding limited and special obligations of the University payable, as to principal and interest, solely out of the Pledged Revenues; that the payment of the principal of and the interest on the Series 2020 Bonds is secured on a parity with all Bonds (as such term is defined in the Indenture) previously issued under the Indenture and with any other Additional Bonds hereafter issued under the Indenture by a pledge of the Pledged Revenues pro rata and without preference or priority of the Bonds of one series over those of another; that the said pledge is valid, subject to all lawful prior charges on the Pledged Revenues; and that the Indenture has been duly authorized, executed and delivered on behalf of the University.

We are of the opinion that the interest on the Series 2020 Bonds is, under existing statutes and regulations as presently construed, exempt from Alabama income taxation.

We are further of the opinion that under the Internal Revenue Code of 1986, as amended (herein called the "Code"), as presently construed and administered, and assuming compliance by the University with its covenants pertaining to certain requirements of federal tax law that are set forth in the Indenture and the proceedings authorizing the issuance of the Series 2020 Bonds, the interest on the Series 2020 Bonds will be excludable from gross income of the recipient thereof for federal income tax purposes pursuant to the provisions of Section 103(a) of the Code and will not be an item of tax preference included in alternative minimum taxable income for the purpose of computing the minimum tax imposed by Section 55 of the Code.

We express no opinion regarding tax consequences arising with respect to the Series 2020 Bonds other than as expressly set forth herein.

We express no opinion herein regarding the accuracy, adequacy or completeness of the Official Statement of the University relating to the Series 2020 Bonds. We express no opinion with respect to the federal tax consequences to the recipient of the interest on the Series 2020 Bonds under any provision of the Code not referred to above.

The rights of the holders of the Series 2020 Bonds and the enforceability of the Series 2020 Bonds and the Indenture are subject to all applicable bankruptcy, insolvency, reorganization, sovereign immunity, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and the exercise of judicial discretion in appropriate cases.

Neither the principal of nor the interest on the Series 2020 Bonds nor the aforesaid pledge or any other agreements contained in the Indenture constitute an obligation of any nature whatsoever of the State of Alabama, and neither the Series 2020 Bonds nor any obligation arising from said pledge or other agreements are payable out of any moneys appropriated to the University by the State of Alabama. The Indenture does not constitute a mortgage on any of the property of the University and no foreclosure or sale proceedings with respect to any property of the University shall ever be had under its authority.

This opinion is given as of the date hereof and we assume no obligation to update, revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Very truly yours,

**APPENDIX C**  
**FORM OF CONTINUING DISCLOSURE AGREEMENT**



## CONTINUING DISCLOSURE AGREEMENT

The University of South Alabama, a public body corporate under the laws of the State of Alabama (the "University"), has entered into this Agreement for the benefit of the holders of its University Facilities Revenue Bonds, Series 2020, in the aggregate principal amount of \$47,750,000 (the "Bonds"). The University is the Obligated Person with respect to the Bonds.

### Recitals

A. The Bonds are being issued pursuant to a University Facilities Revenue Trust Indenture dated as of February 15, 1996 (the said Indenture, as heretofore supplemented and amended and as further supplemented and amended by a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of the Bonds (the "Indenture"), between the University and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee").

B. An Official Statement dated [\_\_\_\_\_, 2020] (the "Official Statement") has been prepared for distribution to prospective purchasers of the Bonds.

C. The Bonds are subject to the provisions of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), as amended. This Agreement is being entered into pursuant to the continuing disclosure requirements of the Rule.

D. Capitalized terms not otherwise defined in this Agreement shall have the meaning assigned in the Rule or, to the extent not in conflict with definitions in the Rule, in the Official Statement.

E. There is no Obligated Person with respect to the Bonds other than the University.

**NOW, THEREFORE**, for and in consideration of the premises, the University hereby covenants, agrees and binds itself as follows:

#### **1. Financial Statements; Annual Report.**

(a) The University will provide to the Municipal Securities Rulemaking Board (the "MSRB") the audited financial statements of the University, prepared in accordance with generally accepted accounting principles as applicable to the University, not later than 210 days after the close of each fiscal year of the University, beginning with the fiscal year ending September 30, 2020.

(b) The University will provide, not later than 210 days after the end of each fiscal year of the University, commencing with the fiscal year ending September 30, 2020, to the MSRB the following financial and operating data, unless such information is included in the filed audited financial statements (the "Annual Report"):

- (1) the revenues from the general tuition fees the proceeds of which are pledged for payment of the Bonds;
- (2) the revenues from the auxiliary enterprises fees the proceeds of which are pledged for payment of the Bonds;
- (3) the schedule of undergraduate and graduate fees and Medical College fees;
- (4) the number of students, by geographic classification, attending the fall term commencing within the fiscal year covered by the University Annual Report;
- (5) the total State appropriations authorized and received.

(c) If the University's fiscal year is changed subsequent to the execution of this Agreement, the University shall provide timely notice of the change to the MSRB stating that its fiscal year has changed and specifying the new period constituting the University's fiscal year.

**2. Event Notices.** The University agrees to provide or cause to be provided, in a timely manner not in excess of ten (10) business days after the occurrence of the event, as required by the Rule, to the MSRB, notice of the occurrence of any of the following events (each a "Listed Event") with respect to the Bonds:

1. principal and interest payment delinquencies.
2. non-payment related defaults, if material.
3. unscheduled draws on debt service reserves reflecting financial difficulties.
4. unscheduled draws on credit enhancements reflecting financial difficulties.
5. substitution of credit or liquidity providers, or their failure to perform.
6. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds.
7. modifications of the rights of holders of the Bonds, if material.
8. bond calls, if material, and tender offers.
9. defeasances.
10. release, substitution or sale of property securing repayment of the Bonds, if material.
11. rating changes.
12. bankruptcy, insolvency, receivership, or similar event of the obligated person.
13. the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
14. appointment of a successor or additional trustee or the change of name of a trustee, if material.
15. incurrence of a Financial Obligation of an Obligor, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of an Obligor, any of which affect security holders, if material.
16. default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of an Obligor, any of which reflect financial difficulties.

As used herein, "Financial Obligation" shall mean a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) a guarantee of (a) or (b). The term financial obligation does not include municipal securities as to which a final official statement has been otherwise provided to the MSRB under the Rule.

**3. Additional Information.** Nothing in this Agreement shall be deemed to prevent the University from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other information in any notice of occurrence of a Listed Event, in addition to that which is required by this Agreement. If the University chooses to disseminate information in addition to that required herein, whether by including such information in any notice of occurrence of a Listed Event in addition to that which is specifically required by this Agreement or otherwise, the University shall have no obligation under this Agreement to update or continue to provide such information or include it in any future notice of occurrence of a Listed Event.

**4. Form and Method of Filing.** All filings to be provided hereunder to the MSRB shall be made by posting such information in electronic format on the MSRB's Electronic Municipal Market Access ("EMMA") system at <http://emma.msrb.org> accompanied by identifying information as prescribed by the MSRB. All such filings shall be made in conformity with the procedures and requirements established by the MSRB in effect at the time of such filing.

**5. Beneficiaries; Limitation of Remedies Hereunder.** This Agreement is for the benefit of the holders of the Bonds and shall be enforceable by such holders, subject to the limitations herein. The University shall never be subject to money damages in any sum or amount, whether compensatory, punitive or otherwise, for its failure to comply with its obligations contained herein. The only remedy available to the holders of the Bonds for breach by the University of its obligations hereunder shall be the remedy of specific performance or mandamus against the appropriate officials of the University to obtain performance of the University's obligations hereunder. No failure by the University to comply with the provisions of this Agreement shall be an event of default with respect to the Bonds under the Indenture.

**6. Responsibility for Compliance.**

(a) No person other than the University shall have any liability or responsibility for compliance by the University with its obligations under this Agreement. The Trustee has undertaken no responsibility with respect to any reports, notices or disclosures required by this Agreement or the Rule.

(b) The University will pay all costs incurred in connection with the performance of its obligations under this Agreement, including without limitation the fees and expenses of any dissemination agent, consultants, advisers, accountants, legal counsel or other persons that may be retained by the University to assist in the performance of the University's obligations.

**7. Amendment; Waiver.** Notwithstanding any other provision of this Agreement, the University may amend this Agreement and any provision of this Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws, to the effect that such amendment or waiver would not cause the undertakings herein to violate the Rule taking into account any subsequent change in or official interpretation of the Rule.

**8. Termination.** The University reserves the right to terminate its obligation to provide an Annual Report, audited financial statements and notices of material events, as set forth above, if and when the University no longer remains an obligated person with respect to the Bonds within the meaning of the Rule.

**9. Contract Formed.** This Agreement shall constitute a contract between the University and the holders from time to time and at any time of the Bonds, but no other person, firm or corporation shall have any rights hereunder.

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**IN WITNESS WHEREOF**, this Agreement has been duly authorized by the University and has been executed by and on behalf of the University by its duly authorized officer, all as of the [\_\_\_\_ day of \_\_\_\_\_, 2020].

**UNIVERSITY OF SOUTH ALABAMA**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**APPENDIX D**  
**DTC PROCEDURES**

## **DTC Book-Entry Only System**

1. The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the Series 2020 Bonds (the “Securities”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each maturity of the Securities, in the aggregate principal amount of such maturity, and will be deposited with DTC.

2. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 7A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC’s records. The ownership interest of each actual purchaser of each Security (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the University as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from University or Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Trustee, or University, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of University or Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to University or Trustee. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

10. The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

THE UNIVERSITY, THE UNDERWRITERS AND THE TRUSTEE CANNOT AND DO NOT GIVE ANY ASSURANCES THAT THE DIRECT PARTICIPANTS OR THE INDIRECT PARTICIPANTS WILL DISTRIBUTE TO THE BENEFICIAL OWNERS OF THE SERIES 2020 BONDS (1) PAYMENTS OF PRINCIPAL OF OR INTEREST AND PREMIUM, IF ANY, ON THE SERIES 2020 BONDS, (2) CERTIFICATES REPRESENTING AN OWNERSHIP INTEREST OR OTHER CONFIRMATION OF BENEFICIAL OWNERSHIP INTERESTS IN THE SERIES 2020 BONDS, OR (3) REDEMPTION OR OTHER NOTICES SENT TO DTC OR CEDE & CO., ITS NOMINEE, AS THE REGISTERED OWNERS OF THE SERIES 2020 BONDS, OR THAT THEY WILL DO SO ON A TIMELY BASIS OR THAT DTC OR DIRECT OR INDIRECT PARTICIPANTS WILL SERVE AND ACT IN THE MANNER DESCRIBED IN THIS OFFICIAL STATEMENT. THE CURRENT "RULES" APPLICABLE TO DTC ARE ON FILE WITH THE SECURITIES AND EXCHANGE COMMISSION AND THE CURRENT "PROCEDURES" OF DTC TO BE FOLLOWED IN DEALING WITH DTC PARTICIPANTS ARE ON FILE WITH DTC.

NEITHER THE UNIVERSITY, THE UNDERWRITERS NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO SUCH DTC PARTICIPANTS OR THE BENEFICIAL OWNERS WITH RESPECT TO (1) THE SERIES 2020 BONDS; (2) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DTC PARTICIPANT; (3) THE PAYMENT BY ANY DTC PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL AMOUNT OF OR INTEREST OR PREMIUM, IF ANY, ON THE SERIES 2020 BONDS; (4) THE DELIVERY BY ANY DTC PARTICIPANT OF ANY NOTICE TO ANY BENEFICIAL OWNER WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THE BOND INDENTURE TO BE GIVEN TO BONDHOLDERS; (5) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE SERIES 2020 BONDS; OR (6) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS BONDHOLDER.

**EXHIBIT IV**  
**OFFICIAL STATEMENT**



## OFFICIAL STATEMENT

### RATINGS:

	<u>Underlying</u>	<u>Insured</u>
Moody's:	A1 (Stable)	A2 (Stable)
S&P:	A+(Stable)	AA (Stable)
	See "RATINGS" herein	

### NEW ISSUE - BOOK-ENTRY ONLY

*In the opinion of Bond Counsel to the University, under existing law and assuming the accuracy of certain representations and certifications and compliance by the University with certain tax covenants, interest on the Series 2020 Bonds will be excluded from gross income for federal income tax purposes. Bond Counsel to the University is of the further opinion that, under existing law, interest on the Series 2020 Bonds will not be an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. See "TAX MATTERS" herein for further information and certain other federal tax consequences arising with respect to the Series 2020 Bonds. Bond Counsel to the University is also of the opinion that, under existing law, interest on the Series 2020 Bonds is exempt from Alabama income taxation.*



**University of South Alabama**  
**\$37,005,000**  
**University Facilities Revenue Bonds**  
**Series 2020**

**Dated: Date of Delivery**

**Due: April 1, as shown on inside cover**

### FOR MATURITY SCHEDULE, INTEREST RATES, PRICES/YIELDS AND CUSIPS, SEE INSIDE COVER

The \$37,005,000 University Facilities Revenue Bonds, Series 2020 (the "Series 2020 Bonds") will be issued as fully registered bonds without coupons in denominations of \$5,000 and any integral multiple thereof pursuant to a book-entry only system to be administered by The Depository Trust Company ("DTC") and, when issued, will be registered in the name of and held by Cede & Co., as nominee. Purchases of beneficial interests in the Series 2020 Bonds will be made in book-entry form only and purchasers of a beneficial interest in the Series 2020 Bonds ("Beneficial Owners") will not receive physical delivery of the certificates representing their interests in the Series 2020 Bonds. The principal of and interest on the Series 2020 Bonds will be paid directly to DTC, so long as DTC or its nominee is the registered owner of the Series 2020 Bonds. The final disbursements of such payments to the Beneficial Owners of the Series 2020 Bonds will be the responsibility of the DTC Participants and the Indirect Participants, all as defined and more fully described in this Official Statement under the caption "THE SERIES 2020 BONDS - General Description" and in [Appendix D](#) hereto.

The Series 2020 Bonds are being issued by the University of South Alabama (the "University") pursuant to that certain University Facilities Revenue Trust Indenture between The Bank of New York Mellon Trust Company, N.A., as trustee, and the University dated as of February 15, 1996 (as heretofore supplemented and amended and as further supplemented and amended by a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of the Series 2020 Bonds, the "Indenture") to (i) pay the costs of various capital improvements at the University hereafter described as the "2020 Improvements", (ii) pay the premium for a municipal bond insurance policy respecting the Series 2020 Bonds, and (iii) pay the costs of issuing the Series 2020 Bonds. The principal of and interest on the Series 2020 Bonds are limited obligations of the University payable from and secured solely by the Pledged Revenues, as defined and further described herein.

Certain Series 2020 Bonds are subject to redemption prior to maturity on such terms and as more fully described herein.

The scheduled payment of principal of and interest on the Bonds when due will be guaranteed under an insurance policy to be issued concurrently with the delivery of the Bonds by Assured Guaranty Municipal Insurance Corp. See "BOND INSURANCE" herein.



The Series 2020 Bonds are not obligations or debts of the State of Alabama (the "State") nor will any principal of or interest on the Series 2020 Bonds be paid out of any moneys provided for or appropriated to the University by the State of Alabama. The Series 2020 Bonds are special and limited obligations of the University, secured by a pledge of and payable solely from certain fees and revenues of the University as described herein and in the Indenture. Neither the Series 2020 Bonds nor the pledge of the said fees and revenues and other agreements provided in the Indenture shall be or constitute a general obligation of the University or an obligation of any nature whatsoever of the State, or be payable out of any moneys appropriated by the State to the University.

*The Series 2020 Bonds are offered when, as and if issued by the University and received by the Underwriters, subject to prior sale, to withdrawal or modifications of the offer without notice, and to the approval of legality of the Series 2020 Bonds by Bradley Arant Boult Cummings LLP, Bond Counsel to the University. It is expected that the Series 2020 Bonds in definitive form will be available for delivery through DTC on or about March 10, 2020.*

**RAYMOND JAMES**

**PROTECTIVE SECURITIES,**  
**a division of ProEquities, Inc.**

Dated: February 25, 2020

## MATURITIES, AMOUNTS, RATES, YIELDS & CUSIPS

**\$37,005,000**

### **UNIVERSITY OF SOUTH ALABAMA University Facilities Revenue Bonds Series 2020**

<b>Maturity (April 1)</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Yield</b>	<b>CUSIPs<sup>(1)</sup></b>
2021	\$ 900,000	4.000%	0.890%	914845SK9
2022	1,015,000	4.000	0.890	914845SL7
2023	1,055,000	4.000	0.920	914845SM5
2024	1,100,000	4.000	0.950	914845SN3
2025	1,420,000	4.000	0.990	914845SP8
2026	1,480,000	5.000	1.050	914845SQ6
2027	1,550,000	5.000	1.120	914845SR4
2028	1,630,000	5.000	1.200	914845SS2
2029	1,710,000	5.000	1.280	914845ST0
2030	1,800,000	5.000	1.380	914845SU7
2031	1,885,000	5.000	1.450*	914845SV5
2032	1,980,000	5.000	1.530*	914845SW3
2033	2,080,000	5.000	1.570*	914845SX1
2034	2,185,000	5.000	1.600*	914845SY9
2035	2,290,000	4.000	1.800*	914845SZ6
2036	2,385,000	4.000	1.850*	914845TA0
2037	2,485,000	4.000	1.890*	914845TB8
2038	2,580,000	4.000	1.930*	914845TC6
2039	2,685,000	4.000	1.940*	914845TD4
2040	2,790,000	4.000	1.960*	914845TE2

\* Calculated to April 1, 2030 optional redemption date.

<sup>(1)</sup> CUSIP® is a registered trademark of the American Bankers Association. CUSIP data herein is provided by the CUSIP Service Bureau, operated by Standard & Poor's, a division of The McGraw-Hill Companies, Inc. This data is not intended to create a database and does not serve in any way as a substitute for the CUSIP Services Bureau. CUSIP numbers have been assigned by an independent company not affiliated with the University and are included solely for the convenience of the registered owners of the Series 2020 Bonds. The University and the Underwriters are not responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness by the University on the Series 2020 Bonds and by the Underwriters on the Series 2020 Bonds or as included herein. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Series 2020 Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Series 2020 Bonds.

**UNIVERSITY OF SOUTH ALABAMA**

**MEMBERS OF THE BOARD OF TRUSTEES**

Kay Ivey, Ex Officio  
Katherine Alexis Atkins  
Scott A. Charlton  
E. Thomas Corcoran  
Steven P. Furr  
William Ronald Graham  
Robert D. Jenkins, III  
Arlene Mitchell  
Lenus M. Perkins  
James H. Shumock  
Kenneth O. Simon  
Chandra Brown Stewart  
Steven H. Stokes  
Margie Malone Tuckson  
Michael P. Windom  
James A. Yance

**PRESIDENT**

Dr. Tony G. Waldrop

**VICE PRESIDENT FOR FINANCE AND ADMINISTRATION**

G. Scott Weldon

**BOND COUNSEL**

Bradley Arant Boult Cummings LLP  
Birmingham, Alabama

**FINANCIAL ADVISOR**

PFM Financial Advisors LLC  
Huntsville, Alabama

**UNDERWRITERS**

Raymond James & Associates, Inc.  
Protective Securities, a division of ProEquities, Inc.

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Certain information contained in or incorporated by reference in this Official Statement has been obtained by the University from DTC and other sources that are deemed reliable. No representation or warranty is made, however, as to the accuracy or completeness of such information by the Underwriters or the University.

The Underwriters have provided the following sentence for inclusion in this Official Statement. The Underwriters have reviewed the information in this Official Statement in accordance with and as part of their responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information and nothing contained in this Official Statement is or shall be relied upon as a promise or representation by the Underwriters. This Official Statement is being used in connection with the sale of securities as referred to herein and may not be used, in whole or in part, for any other purpose. The delivery of this Official Statement at any time does not imply that information herein is correct as of any time subsequent to its date.

No dealer, broker, salesperson or any other person has been authorized by the University or the Underwriters to give any information or to make any representation other than as contained in this Official Statement in connection with the offering described herein and, if given or made, such other information or representation must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy any securities other than those described on the inside cover page, nor shall there be any offer to sell, solicitation of an offer to buy or sale of such securities in any jurisdiction in which it is unlawful to make such offer, solicitation or sale. Neither this Official Statement nor any statement that may have been made verbally or in writing is to be construed as a contract with the registered or beneficial owners of the Series 2020 Bonds.

Any statements made in this Official Statement, including the Appendices, involving matters of opinion or estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of such estimates will be realized. This Official Statement contains certain forward-looking statements and information based on the University's beliefs as well as assumptions made by and information currently available to the University. See "FORWARD LOOKING STATEMENTS" herein.

IN CONNECTION WITH THE OFFERING OF THE SERIES 2020 BONDS, THE UNDERWRITERS MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF SUCH SERIES 2020 BONDS AT A LEVEL ABOVE THOSE WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

References to website addresses presented herein are for informational purposes only and may be in the form of a hyperlink solely for the reader's convenience. Unless specified otherwise, such websites and the information or links contained therein are not incorporated into, and are not part of, this final official statement for purposes of, and as that term is defined in, SEC rule 15c2-12.

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Appendix A - Audited Financial Statements for the Fiscal Year Ended September 30, 2019

Appendix B - Proposed Form of Approval Opinion of Bond Counsel to the University

Appendix C - Form of Continuing Disclosure Agreement

Appendix D - DTC Procedures

Appendix E – Specimen Municipal Bond Insurance Policy

**Assured Guaranty Mutual Corp. (“AGM”) makes no representation regarding the Series 2020 Bonds or the advisability of investing in the Series 2020 Bonds. In addition, AGM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding AGM supplied by AGM and presented under the heading “Bond Insurance” and “Appendix E - Specimen Municipal Bond Insurance Policy”.**

## **OFFICIAL STATEMENT**

pertaining to

### **UNIVERSITY OF SOUTH ALABAMA**

**\$37,005,000**

**University Facilities Revenue Bonds  
Series 2020**

### **INTRODUCTORY STATEMENT**

The purpose of this Official Statement, which includes the cover page and the Appendices hereto, is to provide information in connection with the issuance by the University of South Alabama of the above-referenced Series 2020 Bonds (the "Series 2020 Bonds"), dated their date of initial delivery and issued as additional parity bonds under a University Facilities Revenue Trust Indenture dated as of February 15, 1996, between the University of South Alabama and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), as previously supplemented and amended (the "Base Indenture") and as further supplemented and amended by a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of the Series 2020 Bonds (the Base Indenture, as so supplemented and amended, the "Indenture").

Definitions of certain words and terms having initial capital letters used herein are defined in the Indenture or in the instrument or document in the description of which such word or term is used. Reference is hereby made to the full text of the documents and instruments briefly described herein which may be obtained from the Underwriters or from the University during the period of the offering.

The Governor, the State Superintendent of Education and the appointed trustees together constitute a public body corporate under the name University of South Alabama (the "University"). The University is located in the City of Mobile, Alabama.

#### **Purpose of the Issue**

Proceeds of the Series 2020 Bonds will be applied: (i) to pay the costs of certain public capital improvements on the campus of the University consisting of improvements, equipment and renovations at the USA Health University Hospital, USA Health Children's and Women's Hospital, and University Commons, the USA Health Children's and Women's Hospital Pediatric Emergency Department, demolition of an existing building near the USA Health buildings to provide for possible expansion space, development of infrastructure on a tract of land located near the northwest corner of Hillcrest Road and Old Shell Road, construction thereon of a freestanding emergency room, acquisition of land and various other public capital improvements and equipment for the University (collectively, the "2020 Improvements"), (ii) to pay the premium for a municipal bond insurance policy respecting the Series 2020 Bonds, and (iii) to pay the costs of issuing the Series 2020 Bonds. Proceeds from the sale of the Series 2020 Bonds to pay the costs of the 2020 Improvements will be held in one or more special funds established by the University (the "2020 Improvements Construction Fund").

#### **Security**

The Series 2020 Bonds are limited obligations of the University payable from, and secured solely by a pledge of, the Pledged Revenues, as more fully described below under "SECURITY AND SOURCE OF PAYMENT - Sources of Payment and Pledged Revenues." The Pledged Revenues include a pledge of the General Fees levied against students enrolled at the University and any additional fees and revenues that may in the future be subjected to the lien of the Indenture pursuant to a Supplemental Indenture, a pledge of the gross revenues derived from certain auxiliary enterprises services furnished by the University, and an amount not exceeding \$10,000,000 in any fiscal year of the University of the gross revenues derived from that certain hospital facility owned and operated by the University and known as USA Children's and Women's Hospital,

each as described herein. See “SECURITY AND SOURCE OF PAYMENT - Sources of Payment and Pledged Revenues.”

The Series 2020 Bonds will not constitute a charge against the general credit of the University, and will not be payable from moneys appropriated to the University by the State of Alabama. The University has no taxing power. The State of Alabama will not be liable in any manner for the payment of the principal and interest on the Series 2020 Bonds. Holders of the Series 2020 Bonds shall never have the right to demand payment of the Series 2020 Bonds from the University from any source other than the special funds established under the Indenture and the Pledged Revenues and shall be entitled to payment from such sources only on a parity basis with all other bonds outstanding under the Indenture.

### **Existing and Additional Parity Bonds**

The Indenture permits the University to issue additional bonds that will be secured by and be payable from Pledged Revenues on parity of lien with the Outstanding Bonds (defined below), the Series 2020 Bonds and any Additional Bonds (defined below) issued hereafter. For a description of the Outstanding Bonds (i.e., Bonds already outstanding under the Indenture that are secured by and payable from Pledged Revenues on parity of lien with the Series 2020 Bonds), see “SECURITY AND SOURCE OF PAYMENT - General”. For a description of the terms of the Indenture for the issuance of Additional Bonds in the future, see “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Additional Bonds.”

## **THE SERIES 2020 BONDS**

### **General Description**

The Series 2020 Bonds will be dated their initial date of delivery, and will bear interest (payable on October 1, 2020, and on each April 1 and October 1 thereafter until maturity) at the rates and will mature on April 1 in the years and in the amounts set forth on the inside cover page of this Official Statement. The Series 2020 Bonds will be issuable only as fully registered bonds without coupons in the denomination of \$5,000 or any integral multiple thereof.

The Series 2020 Bonds will be initially issued as fully-registered bonds in the name of Cede & Co., as nominee of DTC, as registered owner of the Series 2020 Bonds. Purchasers of such Series 2020 Bonds will not receive physical delivery of bond certificates. For purposes of this Official Statement, so long as all of the Series 2020 Bonds are in the custody of DTC, references to Bondholders or Owners shall mean DTC or its nominee. DTC will act as securities depository for the Series 2020 Bonds. The Series 2020 Bonds will be issued as fully-registered securities in the name of Cede & Co., DTC’s partnership nominee Cede or such other nominee as may be requested by an authorized representative of DTC. One fully-registered Series 2020 Bond certificate will be issued for each maturity of the Series 2020 Bonds, in the aggregate principal amount of such maturity, and will be deposited with DTC. See [Appendix D](#) hereto for DTC payment and other related provisions.

During any period in which the Series 2020 Bonds are not held in the Book-Entry System, principal of the Series 2020 Bonds will be payable at the designated corporate trust office of the Trustee upon presentation and surrender of the Series 2020 Bonds as they mature. Interest on Series 2020 Bonds will be paid by the Trustee by check or draft mailed to the persons who are the registered owners of record as of the close of business on the March 15 or September 15 immediately preceding each interest payment date by check or draft mailed to such owners at their addresses shown on the registry books of the Trustee pertaining to the Series 2020 Bonds.

No charge will be made for any exchange or transfer of the Series 2020 Bonds, but the registered owners thereof shall be responsible for paying all taxes and other governmental charges relating to such transfer or exchange. In the event a Series 2020 Bond is lost, stolen, destroyed or mutilated, the University and the Trustee may require satisfactory indemnification for the replacement thereof and may charge the holder or owner of such bond with their fees and expenses in connection with the replacement thereof.

## **Optional Redemption**

Those of the Series 2020 Bonds having a stated maturity on April 1, 2031, and thereafter, will be subject to redemption prior to their respective maturities, at the option of the University, as a whole or in part, on April 1, 2030, and on any date thereafter (and if in part, in such maturities as the University shall select, and if less than all of a single maturity is to be redeemed those to be redeemed to be selected by the Trustee by lot) at and for a redemption price with respect to each Series 2020 Bond (or principal portion thereof redeemed) equal to the par or face amount of each Series 2020 Bond redeemed plus accrued interest to the date fixed for redemption.

## **Notice of Redemption**

Notice of redemption (other than mandatory redemption) is required to be mailed by United States registered or certified mail to the registered owner of each Series 2020 Bond to be redeemed not more than sixty (60) nor less than thirty (30) days prior to the date fixed for redemption at the address shown on the registry books of the Trustee. No further interest will accrue after the date fixed for redemption on the principal of any Series 2020 Bond called for redemption upon notice duly given as provided in the Indenture and if payment therefor has been duly provided and in such event, any Series 2020 Bond (or portion thereof) called for redemption will no longer be protected by the provisions of the Indenture.

In the event that less than all of the outstanding principal of any Series 2020 Bond is to be redeemed, the registered owner thereof shall surrender the Series 2020 Bond that is to be prepaid in part to the Trustee in exchange, without expense to the owner, for a new Series 2020 Bond of like tenor except in a principal amount equal to the unredeemed portion of the Series 2020 Bond.

## **SECURITY AND SOURCE OF PAYMENT**

### **General**

The University has previously issued various series of Bonds under the Indenture, of which fourteen series of Bonds are currently outstanding before giving effect to the issuance of the Series 2020 Bonds. Those fourteen series of Bonds consist of the following:

- (a) \$25,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2012-A, dated January 4, 2012 (the "Series 2012-A Bond");
- (b) \$32,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-A, dated June 28, 2013 (the "Series 2013-A Bond");
- (c) \$8,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-B, dated June 28, 2013 (the "Series 2013-B Bond");
- (d) \$10,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2013-C, dated June 28, 2013 (the "Series 2013-C Bond");
- (e) \$41,245,000 original principal amount University Facilities Revenue Refunding Bond, Series 2014-A, dated March 14, 2014 (the "Series 2014-A Bond");
- (f) \$6,000,000 original principal amount University Facilities Revenue Capital Improvement Bond, Series 2015, dated June 15, 2015 (the "Series 2015 Bond");
- (g) \$85,605,000 University Facilities Revenue Refunding Bonds, Series 2016, dated September 14, 2016 (the "Series 2016 Bonds");
- (h) \$20,000,000 University Facilities Revenue Refunding Bond, Series 2016-B, dated December 7, 2016 (the "Series 2016-B Bond");



- (i) \$35,000,000 University Facilities Revenue Refunding Bond, Series 2016-C, dated December 7, 2016 (the “Series 2016-C Bond”);
- (j) \$45,000,000 University Facilities Revenue Refunding Bond, Series 2016-D, dated December 7, 2016 (the “Series 2016-D Bond”);
- (k) \$38,105,000 University Facilities Revenue Bonds, Series 2017, dated June 15, 2017 (the “Series 2017 Bonds”);
- (l) \$47,750,000 University Facilities Revenue Bonds, Series 2019-A, dated February 7, 2019 (the “Series 2019-A Bonds”);
- (m) \$18,440,000 Taxable University Facilities Revenue Bonds, Series 2019-B, dated February 7, 2019 (the “Series 2019-B Bonds”); and
- (n) \$19,086,000 original principal amount University Facilities Revenue Bond, Series 2019-C, dated December 12, 2019 (the “Series 2019-C Bond”).

The Series 2012-A Bond, the Series 2013-A Bond, the Series 2013-B Bond, the Series 2013-C Bond, Series 2014-A Bond, the Series 2015 Bond, the Series 2016 Bonds, the Series 2016-B Bond, the Series 2016-C Bond, the Series 2016-D Bond, the Series 2017 Bonds, the Series 2019-A Bonds, the Series 2019-B Bonds, and the Series 2019-C Bond are herein collectively referred to as the “Outstanding Bonds.” The Outstanding Bonds, the Series 2020 Bonds, and any Additional Bonds hereafter issued are referred to herein collectively as the “Bonds.”

#### **Sources of Payment and Pledged Revenues**

The Series 2020 Bonds will be issued under the Indenture, as supplemented and amended by a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of the Series 2020 Bonds (the “Seventeenth Supplemental Indenture”) between the University and the Trustee, and will constitute limited obligations of the University payable solely from and secured by a lien on and a pledge of the Pledged Revenues (hereinafter defined) levied and collected by the University. The Series 2020 Bonds are secured pro rata and on an equal lien basis one with the other, with the Outstanding Bonds and with any Additional Bonds that may be hereafter issued under and subject to the terms and conditions of the Indenture, by a pledge of the Pledged Revenues.

The Series 2020 Bonds shall never be payable from any funds at any time provided for or appropriated by the State of Alabama, and shall not be a charge on the general credit or tax revenues of the State of Alabama. Neither the State of Alabama nor the University shall be obligated, directly or indirectly, to contribute any funds, property or resources to the payment of the Series 2020 Bonds except the Pledged Revenues.

The Series 2020 Bonds are payable solely out of the Pledged Revenues as defined in the Indenture, as amended, on a parity of lien with the Outstanding Bonds and any Additional Bonds at any time issued under the Indenture. Pledged Revenues is defined in the Indenture as follows:

“*Pledged Revenues*” means the Auxiliary Enterprises Revenues, the Children’s and Women’s Hospital Revenues, the General Fees, and additional fees and revenues, if any, that may be subjected to the lien of the Indenture pursuant to a Supplemental Indenture.

“*Auxiliary Enterprises Revenues*” means the gross revenues derived from auxiliary enterprises services furnished by the University, including, without limitation, food services, housing, college stores, dining, concessions and other similar services, as such revenues are shown as a separate item on the audited financial statements of the University.

“*Children’s and Women’s Hospital Revenues*” means an amount not exceeding \$10,000,000 in any fiscal year of the University of the gross revenues derived from that certain hospital facility owned and operated by the University and known as USA Children’s and Women’s Hospital.

“*General Fees*” means all fees now or hereafter levied as a general tuition fee against students enrolled at the University.

### **Additional Bonds**

In the Indenture, the University has reserved the right to issue and deliver from time to time and at any time Bonds (“Additional Bonds”) secured by a pledge of the Pledged Revenues on a parity with the Outstanding Bonds, the Series 2020 Bonds, and any other Additional Bonds then outstanding for any purpose permitted by law and upon compliance with certain requirements set forth under the Indenture. See “SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE” below.

### **BOND INSURANCE**

The following information was provided by Assured Guaranty Municipal Corp. (“AGM” or “Assured Guaranty Municipal Corp. ”) as issuer of the Policy described below. No representation is made by the University as to the accuracy or completeness of such information.

#### **Bond Insurance Policy**

Concurrently with the issuance of the Series 2020 Bonds, AGM will issue its Municipal Bond Insurance Policy for the Series 2020 Bonds (the “Policy”). The Policy guarantees the scheduled payment of principal of and interest on the Series 2020 Bonds when due as set forth in the form of the Policy included as Appendix E to this Official Statement.

The Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

#### **Assured Guaranty Municipal Corp.**

AGM is a New York domiciled financial guaranty insurance company and an indirect subsidiary of Assured Guaranty Ltd. (“AGL”), a Bermuda-based holding company whose shares are publicly traded and are listed on the New York Stock Exchange under the symbol “AGO”. AGL, through its operating subsidiaries, provides credit enhancement products to the U.S. and international public finance (including infrastructure), and structured finance markets and, as of October 1, 2019, asset management services. Neither AGL nor any of its shareholders or affiliates, other than AGM, is obligated to pay any debts of AGM or any claims under any insurance policy issued by AGM.

AGM’s financial strength is rated “AA” (stable outlook) by S&P Global Ratings, a business unit of Standard & Poor’s Financial Services LLC (“S&P”), “AA+” (stable outlook) by Kroll Bond Rating Agency, Inc. (“KBRA”) and “A2” (stable outlook) by Moody’s Investors Service, Inc. (“Moody’s”). Each rating of AGM should be evaluated independently. An explanation of the significance of the above ratings may be obtained from the applicable rating agency. The above ratings are not recommendations to buy, sell or hold any security, and such ratings are subject to revision or withdrawal at any time by the rating agencies, including withdrawal initiated at the request of AGM in its sole discretion. In addition, the rating agencies may at any time change AGM’s long-term rating outlooks or place such ratings on a watch list for possible downgrade in the near term. Any downward revision or withdrawal of any of the above ratings, the assignment of a negative outlook to such ratings or the placement of such ratings on a negative watch list may have an adverse effect on the market price of any security guaranteed by AGM. AGM only guarantees scheduled principal and scheduled interest payments payable by the issuer of bonds insured by AGM on the date(s) when such amounts were initially scheduled to become due and payable (subject to and in accordance with the terms of the relevant insurance policy), and does not guarantee the market price or liquidity of the securities it insures, nor does it guarantee that the ratings on such securities will not be revised or withdrawn.

#### *Current Financial Strength Ratings*

On December 19, 2019, KBRA announced it had affirmed AGM’s insurance financial strength rating of “AA+” (stable outlook). AGM can give no assurance as to any further ratings action that KBRA may take.

On November 7, 2019, S&P announced it had affirmed AGM’s financial strength rating of “AA” (stable outlook). AGM can give no assurance as to any further ratings action that S&P may take.

On August 13, 2019, Moody’s announced it had affirmed AGM’s insurance financial strength rating of “A2” (stable outlook). AGM can give no assurance as to any further ratings action that Moody’s may take.

For more information regarding AGM’s financial strength ratings and the risks relating thereto, see AGL’s Annual Report on Form 10-K for the fiscal year ended December 31, 2019.

#### *Capitalization of AGM*

At December 31, 2019:

- The policyholders’ surplus of AGM was approximately \$2,691 million.
- The contingency reserves of AGM and its indirect subsidiary Municipal Assurance Corp. (“MAC”) (as described below) were approximately \$986 million. Such amount includes 100% of AGM’s contingency reserve and 60.7% of MAC’s contingency reserve.
- The net unearned premium reserves and net deferred ceding commission income of AGM and its subsidiaries (as described below) were approximately \$2,027 million. Such amount includes (i) 100% of the net unearned premium reserve and deferred ceding commission income of AGM, (ii) the net unearned premium reserves and net deferred ceding commissions of AGM’s wholly owned subsidiary Assured Guaranty (Europe) plc (“AGE”), and (iii) 60.7% of the net unearned premium reserve of MAC.

The policyholders’ surplus of AGM and the contingency reserves, net unearned premium reserves and deferred ceding commission income of AGM and MAC were determined in accordance with statutory accounting principles. The net unearned premium reserves and net deferred ceding commissions of AGE were determined in accordance with accounting principles generally accepted in the United States of America.

#### *Incorporation of Certain Documents by Reference*

Portions of the following documents filed by AGL with the Securities and Exchange Commission (the “SEC”) that relate to AGM are incorporated by reference into this Official Statement and shall be deemed to be a part hereof: the Annual Report on Form 10-K for the fiscal year ended December 31, 2019 (filed by AGL with the SEC on February 28, 2020).

All consolidated financial statements of AGM and all other information relating to AGM included in, or as exhibits to, documents filed by AGL with the SEC pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, excluding Current Reports or portions thereof “furnished” under Item 2.02 or Item 7.01 of Form 8-K, after the filing of the last document referred to above and before the termination of the offering of the Series 2020 Bonds shall be deemed incorporated by reference into this Official Statement and to be a part hereof from the respective dates of filing such documents. Copies of materials incorporated by reference are available over the internet at the SEC’s website at <http://www.sec.gov>, at AGL’s website at <http://www.assuredguaranty.com>, or will be provided upon request to Assured Guaranty Municipal Corp.: 1633 Broadway, New York, New York 10019, Attention: Communications Department (telephone (212) 974-0100). Except for the information referred to above, no information available on or through AGL’s website shall be deemed to be part of or incorporated in this Official Statement.

Any information regarding AGM included herein under the caption “BOND INSURANCE – Assured Guaranty Municipal Corp.” or included in a document incorporated by reference herein (collectively, the “AGM Information”) shall be modified or superseded to the extent that any subsequently included AGM Information (either directly or through incorporation by reference) modifies or supersedes such previously included AGM Information.

Any AGM Information so modified or superseded shall not constitute a part of this Official Statement, except as so modified or superseded.

*Miscellaneous Matters*

AGM makes no representation regarding the Series 2020 Bonds or the advisability of investing in the Series Bonds. In addition, AGM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding AGM supplied by AGM and presented under the heading “BOND INSURANCE.”

**ANNUAL DEBT SERVICE REQUIREMENTS**

**Debt Service Requirements of the Series 2020 Bonds**

The following sets forth the estimated debt service requirements of the Series 2020 Bonds on a fiscal year basis:

<b>Fiscal Year Ending <u>September 30,</u></b>	<b><u>Principal</u></b>	<b><u>Interest</u></b>	<b><u>Total</u></b>
2021	\$ 900,000	\$1,739,053	\$2,639,053
2022	1,015,000	1,607,200	2,622,200
2023	1,055,000	1,566,600	2,621,600
2024	1,100,000	1,524,400	2,624,400
2025	1,420,000	1,480,400	2,900,400
2026	1,480,000	1,423,600	2,903,600
2027	1,550,000	1,349,600	2,899,600
2028	1,630,000	1,272,100	2,902,100
2029	1,710,000	1,190,600	2,900,600
2030	1,800,000	1,105,100	2,905,100
2031	1,885,000	1,015,100	2,900,100
2032	1,980,000	920,850	2,900,850
2033	2,080,000	821,850	2,901,850
2034	2,185,000	717,850	2,902,850
2035	2,290,000	608,600	2,898,600
2036	2,385,000	517,000	2,902,000
2037	2,485,000	421,600	2,906,600
2038	2,580,000	322,200	2,902,200
2039	2,685,000	219,000	2,904,000
2040	2,790,000	111,600	2,901,600

## Debt Service Requirements – Outstanding Bonds and the Series 2020 Bonds

The following table sets forth the scheduled debt service requirements on all Outstanding Bonds (assuming no exercise of Put Rights for the Series 2016 Put Bonds as more particularly described below) and the Series 2020 Bonds on a fiscal year basis:

Fiscal Year Ending Sept. 30	Series 2012-A	Series 2013 <sup>(1)</sup>	Series 2014-A <sup>(2)</sup>	Series 2015	Series 2016	Series 2016-B <sup>(3)</sup>	Series 2016-C <sup>(3)</sup>	Series 2016-D <sup>(3)</sup>	Series 2017 Bonds	Series 2019 Bonds <sup>(4)</sup>	Series 2020 Bonds	Total Debt Service
2020	\$1,702,121	\$3,470,942	\$8,829,036	\$478,586	\$6,505,400	\$1,094,000	\$1,932,000	\$2,511,000	\$2,979,125	\$5,073,390	--	\$34,575,600
2021	1,702,516	3,470,942	8,796,573	468,911	6,511,275	1,094,000	1,932,000	2,511,000	2,975,625	6,137,124	\$2,639,053	38,239,019
2022	1,704,928	3,470,942	8,764,199	459,520	6,509,900	1,094,000	1,932,000	2,511,000	2,978,875	6,176,182	2,622,200	38,223,746
2023	1,707,871	3,470,942	8,730,821	450,129	6,511,025	1,094,000	1,932,000	2,511,000	2,978,625	6,215,732	2,621,600	38,223,745
2024	1,709,000	3,470,941	8,685,623	440,918	6,509,275	1,094,000	1,932,000	2,511,000	2,979,750	6,257,567	2,624,400	38,214,474
2025	1,708,589	3,470,941	-	431,347	6,509,275	2,183,368	3,837,904	4,960,692	2,977,125	6,295,603	2,900,400	35,275,244
2026	1,711,363	3,470,942	-	421,956	6,515,400	2,177,545	3,826,709	4,944,748	2,981,688	6,341,736	2,903,600	35,295,687
2027	1,714,520	3,470,942	-	412,565	6,507,050	2,172,495	3,816,814	4,930,396	2,973,250	6,385,960	2,899,600	35,283,592
2028	1,716,929	3,470,942	-	403,251	6,510,200	2,166,053	3,804,431	4,912,760	2,980,375	6,436,123	2,902,100	35,303,164
2029	1,718,505	2,646,549	-	393,782	6,509,575	2,160,056	3,792,768	4,895,964	2,977,875	6,483,325	2,900,600	34,478,999
2030	1,717,616	2,646,549	-	384,391	6,513,325	2,153,312	3,779,738	4,877,317	2,975,750	5,648,528	2,905,100	33,601,626
2031	1,723,729	2,646,548	-	-	6,506,075	2,146,629	3,766,753	4,858,631	2,978,625	4,285,865	2,900,100	31,812,955
2032	925,002	2,646,548	-	-	6,507,325	2,138,817	3,751,725	4,837,216	2,981,125	4,287,333	2,900,850	30,975,941
2033	-	2,646,548	-	-	6,506,325	2,131,656	3,737,767	4,817,069	2,978,125	4,784,230	2,901,850	30,503,570
2034	-	-	-	-	6,507,450	2,123,900	3,722,695	4,795,377	2,979,375	4,560,250	2,902,850	27,591,897
2035	-	-	-	-	6,505,075	2,115,331	3,706,121	4,771,636	2,974,625	4,547,000	2,898,600	27,518,388
2036	-	-	-	-	6,508,950	2,105,729	3,687,661	4,745,344	2,978,500	4,833,750	2,902,000	27,761,934
2037	-	-	-	-	6,511,050	2,096,821	3,670,330	4,720,374	2,975,625	4,500,250	2,906,600	27,381,050
2038	-	-	-	-	6,501,075	-	-	-	1,640,000	4,486,500	2,902,200	15,529,775
2039	-	-	-	-	-	-	-	-	-	4,472,000	2,904,000	7,376,000
2040	-	-	-	-	-	-	-	-	-	4,156,500	2,901,600	7,058,100
2041	-	-	-	-	-	-	-	-	-	4,154,750	-	4,154,750
2042	-	-	-	-	-	-	-	-	-	4,156,500	-	4,156,500
2043	-	-	-	-	-	-	-	-	-	4,156,250	-	4,156,250
2044	-	-	-	-	-	-	-	-	-	4,158,750	-	4,158,750
2045	-	-	-	-	-	-	-	-	-	4,153,500	-	4,153,500
2046	-	-	-	-	-	-	-	-	-	4,155,500	-	4,155,500
2047	-	-	-	-	-	-	-	-	-	3,254,000	-	3,254,000
2048	-	-	-	-	-	-	-	-	-	3,298,750	-	3,298,750
2049	-	-	-	-	-	-	-	-	-	3,344,250	-	3,344,250

<sup>(1)</sup> Includes the Series 2013-A Bond, the Series 2013-B Bond and the Series 2013-C Bond

<sup>(2)</sup> Interest on the Series 2014-A Bond is calculated at the net swap rate of 5.4553% under the 2014 Swap described herein.

<sup>(3)</sup> Interest on the Series 2016-B Bond, the Series 2016-C Bond and the Series 2016-D Bond is calculated at the net swap rate for each such bond of 5.47%, 5.52% and 5.58%, respectively, under the 2016 Swap described herein. The amortization shown for each of the 2016-B Bond, the 2016-C Bond, and the 2016-D Bond assumes no exercise of a Put Right prior to maturity, or that such indebtedness is refinanced on any Put Date so as to achieve the same current principal amortization and same net swap rate. See "Put Rights Respecting Certain Outstanding Bonds" below.

<sup>(4)</sup> Includes debt service on Series 2019-A Bonds, Series 2019-B Bonds and the Series 2019-C Bond.

## **Variable Rate Bonds**

Each series of Outstanding Bonds bears interest at a fixed rate, except the Series 2014-A Bond and the Series 2016-B Bond, the Series 2016-C Bond and the Series 2016-D Bond (collectively, the “Series 2016 Put Bonds”). The Series 2014-A Bond and the Series 2016 Put Bonds bear interest at variable rates. These variable rates are computed based on 68% of the one-month London Interbank Offered Rate (“LIBOR”), plus a set number of basis points that differs for each series. The University has entered into an interest rate exchange agreement respecting the Series 2014-A Bond and an interest rate exchange agreement respecting the Series 2016 Put Bonds. See “Derivatives” below for a discussion of these interest rate swap agreements.

## **Derivatives**

The University has entered an interest rate swap (the “2014 Swap”) with Wells Fargo Bank, N.A., as successor to Wachovia Bank, N.A., (the “Counterparty”), respecting the Series 2014-A Bond. The notional amount of the 2014 Swap will at all times match the outstanding scheduled principal amount of the Series 2014-A Bond, and the 2014 Swap will mature on March 15, 2024. Under the 2014 Swap, the University pays a fixed rate of 4.9753% and receives 68% of one-month LIBOR plus 0.25%.

The University also has entered an interest rate swap (the “2016 Swap”) with the Counterparty respecting the Series 2016 Put Bonds. Under the 2016 Swap, the University pays a fixed rate of 5.0% and receives 68% of one-month LIBOR, plus 0.25%. The 2016 Swap matures on December 1, 2036. The combined principal amortization of the Series 2016 Put Bonds matches the notional amount on the 2016 Swap through its maturity; however, each of these Series 2016 Put Bonds contains a right exercisable at the sole discretion of the bondholder to cause such Bond to mature and become due and payable prior to its final maturity. See “Put Rights Respecting Certain Outstanding Bonds” below for a discussion of these put rights.

Pursuant to the terms of the 2014 Swap and the 2016 Swap, the University is required to post collateral from time to time equal to any then negative valuation of such swaps. For additional information regarding derivative exposure, see Note 9 of the University’s audited financial statements for the fiscal year ended September 30, 2019 attached hereto at Appendix A.

## **Put Rights Respecting Certain Outstanding Bonds**

Each of the Series 2016 Put Bonds has principal amortized from December 1, 2024 through and including December 1, 2036. However, each Series 2016 Put Bond contains a feature (a “Put Right”) permitting its holder to cause all outstanding principal on such Bond to mature and become due and payable by the University on a date (such date, a “Put Date”) before scheduled maturity.

The earliest Put Date for the Series 2016-B Bond is December 1, 2021, the earliest Put Date for the Series 2016-C Bond is December 1, 2023, and the earliest Put Date for the Series 2016-D Bond is December 1, 2026. For each Series 2016 Put Bond, the Put Right must be exercised at least 210 days before the applicable Put Date, and if not timely exercised such right extends immediately to the succeeding bond year until timely exercised or such Bond reaches final maturity, whichever occurs first.

The University intends to refinance any Series 2016 Put Bond for which a Put Right is exercised so as to maintain the Bond’s then current principal amortization. While the University is not aware of any existing obstacles to its ability to refinance the Series 2016 Put Bonds, should Put Rights be exercised, market conditions, the financial condition of the University or the State of Alabama, and various other factors in existence at the time such rights are exercised could hamper or even prevent the University from refinancing Series 2016 Put Bonds as presently intended.

## Pledged Revenues

The following is a summary of the amount of General Fees, Auxiliary Enterprises Revenues, and Children's and Women's Hospital Revenues collected by the University for the fiscal years ended September 30, 2015 through September 30, 2019:

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
General Fees <sup>1</sup>	\$155,175,000	\$172,253,000	\$177,547,000	\$171,429,000	\$175,638,000
Auxiliary Enterprises Revenues <sup>1</sup>	22,857,000	30,008,000	29,413,000	26,996,000	22,587,000
Children's & Women's Hospital Revenues <sup>2</sup>	10,000,000	10,000,000	10,000,000	10,000,000	10,000,000
Total	<u>\$188,032,000</u>	<u>\$212,261,000</u>	<u>\$216,960,000</u>	<u>\$208,425,000</u>	<u>\$208,225,000</u>

<sup>1</sup>General Fees and Auxiliary Enterprises Revenues include amounts allocated to scholarship allowances for accounting purposes. General Fees and Auxiliary Enterprises Revenues net of scholarship allowances for fiscal year 2016 were approximately \$137,074,000 and \$28,861,000, respectively, for fiscal year 2017 were approximately \$141,949,944 and \$28,347,000, respectively, for fiscal year 2018 were approximately \$136,222,000 and \$25,907,000, and for fiscal year 2019 were \$139,871,000 and \$21,484,000, respectively.

<sup>2</sup> Only \$10,000,000 of the gross revenues from the USA Children's and Women's Hospital, in any fiscal year of the University, are pledged to payment of all the Bonds (*i.e.*, the Outstanding Bonds, the Series 2020 Bonds and any Additional Bonds hereafter issued). See "HEALTH CARE SYSTEM" below for total gross revenues from USA Children's and Women's Hospital for the years shown.

Tuition increases were placed into effect for each of the years shown above. Auxiliary fee increases were also placed into effect for all of the years shown above. Reference is hereby made to the audited financial statements of the University for the fiscal year ended September 30, 2019, appearing as Appendix A hereto, and the audited financial statements of the University for the other periods which are available on EMMA (as defined herein). See "CONTINUING DISCLOSURE" below for a description of EMMA.

Upon issuance of the Series 2020 Bonds, the total principal amount of indebtedness of the University payable from Pledged Revenues is not greater than \$434,501,178.

## Maximum Annual Debt Service Requirement

The scheduled Maximum Annual Debt Service Requirement respecting the Series 2020 Bonds and the Outstanding Bonds, based on the amortization schedule set forth above under "Debt Service Requirements – Outstanding Bonds and the Series 2020 Bonds", occurring in the fiscal year of the University ending September 30, 2021 (\$38,239,019), is covered 5.45 times by Pledged Revenues referable to the fiscal year of the University ended September 30, 2019 (\$208,225,000). See "Pledged Revenues" above. This coverage is based on the assumption that the Series 2016 Put Bonds mature in accordance with their scheduled principal amortization and without the exercise of Put Rights by any of the holders of those Bonds. See "Put Rights Respecting Certain Outstanding Bonds" above.

Assuming the exercise of the Put Right for each of the Series 2016-B Bond, the Series 2016-C Bond, and the Series 2016-D Bond on the earliest date permitted (*i.e.*, December 1, 2021 for the Series 2016-B Bond, December 1, 2023 for the Series 2016-C Bond, and December 1, 2026 for the Series 2016-D), the annual debt service for the University's fiscal years ending September 30, 2022, September 30, 2024 and September 30, 2027 would be \$58,223,745, \$72,120,473 and \$66,340,531, respectively, and the maximum annual debt service requirement for the Series 2020 Bonds and the Outstanding Bonds would occur in the fiscal year of the University ending September 30, 2024 (\$72,120,473), and would be covered approximately 2.887 times by Pledged Revenues referable to the fiscal year of the University ended September 30, 2019 (\$208,225,000).

## Other University Debt; Future Debt

*Compass Loan.* On March 27, 2015, the University obtained a \$5,000,000 revolving line of credit facility (the "Compass Line of Credit") with Compass Bank ("Compass"). The University was permitted to borrow funds from Compass from time to time under the Compass Line of Credit so long as its outstanding

principal balance did not exceed \$5,000,000. The Compass Line of Credit initially provided that principal amounts drawn thereunder would not become due until its April 14, 2018 maturity date. In July 2018, the University amended the Compass Line of Credit (as amended, the “Compass Loan”) so that (i) the principal balance at that time of \$3,433,789 was fixed, (ii) additional draws would not be permitted, (iii) interest would be computed at a fixed rate of 3.85%, and (iv) principal was amortized to become due and payable in annual installments over a period from 2018 through 2023. This obligation is not secured by Pledged Revenues, and Compass is not entitled to any rights or benefits under the Indenture respecting this obligation.

The Compass Loan is a general obligation of the University and is not secured by Pledged Revenues under the Indenture.

*RCA Lease.* On December 7, 2016, the University entered a Secured Equipment Financing Lease (the “RCA Lease”) with Regions Capital Advantage, Inc. to finance a linear accelerator for use at USA Mitchell Cancer Institute. The principal component of this lease totals \$2,089,690 and interest is calculated at a fixed per annum rate of 1.88%. This lease reaches final maturity on October 7, 2022. The RCA Lease is subject to annual appropriation by the University, and on each payment date debt service is payable solely out of then-current funds of the University. Such payments are not secured by Pledged Revenues under the Indenture.

*Med One Capital Lease.* The University has entered a capital lease agreement with Med One Capital Funding, LLC for certain medical equipment to be used at University Hospital. Under this arrangement, the University makes monthly lease payments, over a period of 60 months, aggregating just under \$4,000,000, and pays a nominal price to acquire title to the equipment at conclusion of the lease. Payments under this lease are not secured by Pledged Revenues under the Indenture or other special funds or assets of the University.

*Energy Savings Agreement with Alabama Power.* The University has entered a ten (10) year agreement dated February 1, 2016 (the “Energy Services Agreement”) with Alabama Power Company (“APC”) under which APC agrees to design, procure and install certain energy conservation equipment and measures to reduce energy and maintenance costs at USA Health University Hospital. Under this Agreement, the University pays APC \$18,882 per month over a period of 120 months (totaling \$2,265,840 in payments from the University). Payments under the Energy Savings Agreement lease are not secured by Pledged Revenues under the Indenture or other special funds or assets of the University.

*Master Lease Agreement with Hancock Whitney.* The University has entered a Master Lease Agreement dated June 13, 2019 (the “Master Lease Agreement”) with Hancock Whitney Equipment Finance and Leasing, LLC (“Hancock Whitney”) under and pursuant to which the University may request and receive extensions of credit from Hancock Whitney to purchase up to \$10,000,000 in equipment for use by the University. Under the Master Lease Agreement, Hancock Whitney purchases and leases equipment requested by the University. Lease payments from the University include principal and interest components. To date, the University has incurred \$550,703.65 in funding under the Master Lease Agreement, which such amount bears interest at a fixed annual rate of 3.01% and is payable on a monthly basis (with equal monthly payments of principal and interest) from December 22, 2019 through and including November 22, 2023). Payments under the Master Lease Agreement lease are not secured by Pledged Revenues under the Indenture or other special funds or assets of the University.

In 2017, the Board of Trustees approved the University campus master plan which covered the ten-year period from 2017 to 2027. Some of these projects (to cover capital improvements not appropriate for pay-as-you-go financing) may be funded through the issuance of capital debt. To date, the construction of the on-campus football stadium was funded with a portion of the proceeds of the Series 2019-A Bonds and Series 2019-B Bonds.

## **THE PLAN OF FINANCING**

The Series 2020 Bonds are being issued for the purpose of (i) acquiring certain real property, (ii) constructing and acquiring certain public capital improvements and equipment on the campus of the University including, without limitation, at the USA Health University Hospital, USA Health Children’s and Women’s Hospital, and University Commons, including completion of a trauma center at University Hospital, (iii) constructing and equipping University Commons Phase II and III, additional patient rooms, a new gastroenterology suite, a main campus warehouse and improvements to the main campus transportation building, (iv) demolishing an existing



building near the USA Health buildings to provide space for possible expansion, and (v) constructing, acquiring and installing various other public capital improvements, equipment and assets for the University (herein collectively called the "2020 Capital Improvements"). The Series 2020 Bonds are also being issued to pay the premium for the Policy from AGM respecting the Series 2020 Bonds and to pay the costs of issuing the Series 2020 Bonds.

### **ESTIMATED SOURCES AND USES OF PROCEEDS**

The estimated sources and uses of funds for the plan of financing with respect to the issuance of the Series 2020 Bonds are as follows:

<b>Sources of Funds</b>	
Principal amount of Series 2020 Bonds	\$37,005,000.00
Plus Original Issue Premium	<u>8,437,410.65</u>
<b>Total Sources</b>	<b>\$45,442,410.65</b>
<b>Uses of Funds</b>	
2020 Improvements	\$45,000,000.00
Costs of Issuance <sup>1</sup>	<u>442,410.65</u>
<b>Total Uses</b>	<b>\$45,442,410.65</b>

<sup>1</sup>Includes underwriting discount, legal and accounting fees, printing costs, rating agency fees, financial advisory fees, premium for municipal bond insurance policy, and other expenses of issuance.

### **CERTAIN GENERAL INFORMATION RESPECTING THE UNIVERSITY OF SOUTH ALABAMA**

#### **General**

The University of South Alabama is a public body corporate of the State of Alabama existing under provisions of Act No. 157, Acts of Alabama, Second Special Session 1963, and Chapter 55 of Title 16 of the Code of Alabama 1975, as amended. The University is a comprehensive, coeducational, state-assisted institution, which serves as a major center of undergraduate, graduate, and professional education for Alabama, the Gulf Coast region, and the southeastern United States.

The University's mission encompasses the three traditional academic functions of teaching, research, and public service through which it pursues the discovery, preservation, and communication of knowledge. The University was admitted to membership in the Southern Association of Colleges and Schools on December 4, 1968. Total enrollment for Fall 2019 was 14,397. Of those students, 9,595 were classified as undergraduate students, 4,796 were enrolled in graduate or professional programs, and 6 were unclassified. For the academic year ended May 31, 2019, the University awarded 3,366 degrees, of which 1,902 were Baccalaureate Degrees, 1,126 were Masters Degrees, 258 were Doctoral degrees, and 80 were M.D. degrees

The University of South Alabama main campus, located in a section of Mobile called Springhill, consists of 1,200 wooded acres. The primary instructional buildings are contained on this campus, as well as the medical college and dormitory facilities. A 750-acre municipal park is adjacent to the main campus.

The University of South Alabama Baldwin County Campus was established as a branch campus in 1984 to better meet the needs of students located in Baldwin County, Alabama, and offers graduate courses, upper-level undergraduate courses, and non-credit courses/public service programs. The University of South Alabama Springhill Avenue Campus is a multi-purpose facility of approximately 454,000 square feet located in Midtown Mobile, and houses various academic and health-related programs of the University. The U.S. Department of Veterans Affairs also leases about 48,000 square feet in the Springhill Avenue Campus that it uses as an outpatient clinic.

The University of South Alabama health system, known as USA Health, is composed of the USA Health University Hospital, the USA Health Children & Women’s Hospital, the USA Health Mitchell Cancer Institute, and USA Health Ambulatory Services. USA Health provides primary and tertiary care for a multi-county service area. The USA Health University Hospital (“USAUH”) is a 406-Licensed bed hospital which includes a level one trauma center, a burn unit, and state-of-the-art facilities for internal medicine, surgery and cardiovascular diagnostic and treatment techniques. The USA Health Children's & Women's Hospital (“USACW”) is a 152-Licensed bed facility specializing in pediatric, obstetric and gynecological services. The USACW includes neonatal and pediatric intensive care nurseries, progressive care nurseries, and other facilities for dealing with high risk deliveries. In 2015, the 195,000 square foot expansion of USACW was placed into service. The USA Health Mitchell Cancer Institute (“USAMCI”) is an academic cancer treatment and research enterprise housed in a state-of-the-art 125,000 square foot integrated clinical and research building. USA Health Ambulatory Services (“Ambulatory Services”) is a 160-physician multi-specialty faculty practice dedicated to delivering leading-edge care to patients and supporting the mission of the USA College of Medicine in the education and training of students and resident physicians and in the advancement of medical care through medical research. The Strada Patient Care Center, a 133,000 square foot building located near USACW, was placed in service in December 2016 and provides 153 patient exam rooms, 16 nurses’ stations, and 7 educational conference rooms for use by University physicians.

For the 2018-2019 academic year, the University employed 843 full-time faculty persons. Approximately 31.2% of faculty members are tenured. The University employs 5,971 persons in all categories.

The main campus in Mobile, Alabama, consists of 152 major buildings, including hospital and medical related facilities. Those facilities include buildings providing 2,686 beds available for student residency on campus.

For its fiscal year ended September 30, 2019, the University reported grants and contracts revenue from Federal, State and private sources of approximately \$36,647,000, and an additional \$115,209,000 from direct State of Alabama legislative appropriations. Tuition and fees revenues reported during the fiscal year ended September 30, 2019 (net of scholarship allowances) were approximately \$139,871,000, and net patient service revenues from USA Health during such period were approximately \$491,796,000. See Appendix A.

*Summary Enrollment Profile - Fall 2019  
(excluding Medical Residents)*

	Fall 2019	
	Number	Percent
College of Arts and Sciences	3,056	21.2%
College of Education & Professional Studies	2,000	13.9%
College of Engineering	1,127	7.8%
College of Medicine	336	2.3%
College of Nursing	4,338	30.1%
Covey College of Allied Health Professions	1,598	11.1%
Graduate School	41	0.3%
Mitchell College of Business	1,230	8.5%
School of Computing	671	4.7%
<b>Total</b>	<b><u>14,397</u></b>	<b><u>100.0%</u></b>

USA offers programs leading to fifty-three baccalaureate degrees, thirty-eight master’s degrees, an Education Specialist (Ed.S.) degree, twelve doctoral degrees, and a Medical Doctor (M.D.) degree. USA also offers a number of post-secondary certificates. In addition to the traditional on-campus course offerings, the

University offers over two hundred and fifty online courses each semester to fit the needs of a diverse student body.

## Financial

The following section contains certain financial information for the University, including a comparison of the revenues, expenses and changes in net position for the fiscal years 2015 through 2019 (dollars in thousands).

	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
Operating revenues:					
Tuition and fees, net	\$120,265	\$137,074	\$142,024	\$136,222	\$139,871
Net patient service revenue	271,655	360,657	390,931	416,034	491,796
Federal, state and private grants and contracts	85,756	38,187	36,853	34,093	36,647
Other	<u>78,845</u>	<u>88,943</u>	<u>92,674</u>	<u>66,730</u>	<u>62,527</u>
Total	556,521	624,861	662,482	653,079	730,841
Operating expenses:					
Salaries and benefits	433,679	460,219	483,113	486,156	495,123
Supplies and other services	169,873	198,518	219,362	255,145	268,416
Other	<u>57,476</u>	<u>65,530</u>	<u>64,942</u>	<u>78,081</u>	<u>79,492</u>
Total	661,028	724,267	767,417	819,382	843,031
Operating loss	<u>(104,507)</u>	<u>(99,406)</u>	<u>(104,935)</u>	<u>(166,303)</u>	<u>(112,190)</u>
Nonoperating revenues (expenses):					
State appropriations	103,974	105,024	107,332	108,268	115,209
Investment income (loss)	(10,718)	2,631	18,398	17,857	8,203
Other, net	<u>13,259</u>	<u>8,135</u>	<u>20,613</u>	<u>22,674</u>	<u>25,189</u>
Net nonoperating revenues	<u>106,515</u>	<u>115,790</u>	<u>146,343</u>	<u>148,799</u>	<u>148,601</u>
Income (loss) before capital appropriations, capital contributions, grants, and additions to endowment	2,008	16,384	41,408	(17,504)	36,411
Capital appropriations, capital contributions, grants and additions to endowment	<u>7,231</u>	<u>9,521</u>	<u>6,417</u>	<u>16,770</u>	<u>20,316</u>
Change in net position	<u>9,239</u>	<u>25,905</u>	<u>47,825</u>	<u>(734)</u>	<u>56,727</u>
Beginning net position, before cumulative effect of change in accounting principle	499,550	195,052	217,994	265,819	35,398
Cumulative effect of change in accounting principle	<u>(313,737)<sup>(1)</sup></u>	<u>(2,963)</u>	<u>-</u>	<u>(229,687)<sup>(2)</sup></u>	<u>-</u>
Beginning net position- as adjusted	<u>185,813</u>	<u>192,089</u>	<u>217,994</u>	<u>36,132</u>	<u>35,398</u>
Ending net position	<u>\$195,052</u>	<u>\$217,994</u>	<u>\$265,819</u>	<u>\$35,398</u>	<u>\$92,125</u>

<sup>(1)</sup> Reflects the University's share of unfunded pension liability as required to be reported pursuant to GASB 68.

<sup>(2)</sup> Active and retired employees of the University are covered by the Public Education Employees Health Insurance Plan ("PEEHIP"), which is a cost sharing multiple-employer defined benefit other post-employment benefit ("OPEB") plan administered by the Teachers Retirement System of Alabama. Alabama law requires the Public Education Employees Health Insurance Board to create an irrevocable trust to fund OPEB benefits to retirees participating in PEEHIP. In 2018, the University adopted the provisions of GASB Statement No. 75 - *Accounting and Financial Reporting for Postemployment Benefits Other than Pensions* ("GASB 75"). GASB 75 requires that the University recognize its proportional share of net OPEB liability, based on an actuarial valuation, and the OPEB expense, in the University's financial statements. See Appendix A – note (1)(bb) "Recently Adopted Accounting Pronouncements" and note (13) – "Other Post-Employment Benefit Plans".

The University's audited financial statements for the year ended September 30, 2019 are attached as Appendix A.

## Faculty and Staff

Faculty and staff employees for the University were as follows at September 30 for the years shown:

	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>	<u>2014</u>
Full-time faculty by rank:					
Professor	176	187	180	182	200
Associate Professor	186	179	194	191	186
Assistant Professor	342	336	313	302	267
Instructor	138	142	145	132	121
Lecturer	<u>1</u>	<u>1</u>	<u>1</u>	<u>-</u>	<u>2</u>
TOTAL	<u>843</u>	<u>845</u>	<u>833</u>	<u>807</u>	<u>776</u>
Full-time faculty by length of service:					
Up to 2 years	190	215	205	193	152
3-4 years	131	107	102	88	80
5-9 years	152	151	163	162	186
10-14 years	146	155	147	158	135
15+ years	<u>224</u>	<u>217</u>	<u>216</u>	<u>206</u>	<u>223</u>
TOTAL	<u>843</u>	<u>845</u>	<u>833</u>	<u>807</u>	<u>776</u>
Percent of faculty tenured	31.2%	31.7%	33.3%	33.5%	36.3%
Part-time faculty	440	428	429	381	364
Non-faculty	4,707	4,611	4,666	4,535	4,365
Total University employees	5,971	5,866	5,911	5,723	5,505

## Student Enrollment and Trends

Total student enrollment by head count was as follows for the semesters shown.

	<u>Fall 2019</u>	<u>Fall 2018</u>	<u>Fall 2017</u>	<u>Fall 2016</u>	<u>Fall 2015</u>
Undergraduate	9,595	10,275	10,975	11,740	11,456
Graduate/Professional	4,796	4,541	4,581	4,682	4,687
Unclassified	<u>6</u>	<u>18</u>	<u>13</u>	<u>21</u>	<u>68</u>
Total	<u>14,397</u>	<u>14,834</u>	<u>15,569</u>	<u>16,443</u>	<u>16,211</u>

Applications, acceptances and matriculations for freshmen students:

	<u>Fall 2019</u>	<u>Fall 2018</u>	<u>Fall 2017</u>	<u>Fall 2016</u>	<u>Fall 2015</u>
Applications	6,282	6,446	5,855	6,087	6,558
Acceptances	4,929	5,102	4,798	4,882	5,111
Matriculations <sup>(1)</sup>	1,549	1,910	1,843	1,904	2,038
Percent of applicants accepted	78.5%	79.1%	81.9%	80.2%	77.9%
Percent of applicants enrolled	24.7%	29.6%	31.5%	31.3%	31.1%

<sup>(1)</sup> Reflects only first-time freshmen that started in the fall semester indicated.

Total enrollment by full-time equivalent:

	<u>Fall 2019</u>	<u>Fall 2018</u>	<u>Fall 2017</u>	<u>Fall 2016</u>	<u>Fall 2015</u>
Undergraduate	8,928	9,563	10,144	10,842	10,638
Graduate/Professional	<u>4,230</u>	<u>4,027</u>	<u>4,013</u>	<u>4,288</u>	<u>4,290</u>
Total	<u>13,158</u>	<u>13,590</u>	<u>14,156</u>	<u>15,130</u>	<u>14,928</u>

Retention rate for full-time freshmen entering in:

	<u>Fall 2018</u>	<u>Fall 2017</u>	<u>Fall 2016</u>	<u>Fall 2015</u>	<u>Fall 2014</u>
Number matriculated <sup>(1)</sup>	1,889	1,868	1,955	2,082	2,030
Number returned	1,400	1,390	1,517	1,524	1,481
Retention rate	74.0%	74.0%	77.6%	73.2%	73.0%

<sup>(1)</sup> Includes first-time freshmen that started in the fall semester indicated, plus first-time freshmen that started in the immediately preceding summer semester and reenrolled in the fall semester indicated.

### Graduation Rates

Cumulative Graduation Rate:

<u>Fall Class</u>	<u>Number Matriculated</u>	<u>Four Years</u>		<u>Five Years</u>		<u>Six Years</u>	
		<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
2015	2,082	581	28.0%	N/A	N/A	N/A	N/A
2014	2,030	537	26.4%	812	40.0%	N/A	N/A
2013	1,825	449	24.6%	751	41.2%	834	46.0%
2012	1,886	408	21.6%	707	37.4%	820	43.5%
2011	1,826	342	18.7%	599	32.8%	726	39.8%
2010	1,654	262	15.8%	493	29.8%	623	37.7%
2009	1,711	244	14.3%	494	28.9%	607	35.5%

### Test Scores

Average ACT scores of matriculated students for years shown:

<u>Fall 2019</u>	<u>Fall 2018</u>	<u>Fall 2017</u>	<u>Fall 2016</u>	<u>Fall 2015</u>
23.9	23.9	23.4	23.5	22.8

### Geographic Concentrations of Students

	<u>Fall 2019</u>	<u>Fall 2018</u>	<u>Fall 2017</u>	<u>Fall 2016</u>	<u>Fall 2015</u>
Mobile County	5,099	5,313	5,655	6,088	6,364
Baldwin County	1,288	1,292	1,366	1,328	1,366
Other Alabama counties	3,128	3,274	3,278	3,186	3,005
Florida	975	1,007	1,033	1,066	1,109
Mississippi	1,231	1,201	1,147	1,217	1,241
Other states in the U.S.A.	2,364	2,362	2,353	2,363	2,243
International	<u>312</u>	<u>385</u>	<u>737</u>	<u>1,195</u>	<u>883</u>
Total	<u>14,397</u>	<u>14,834</u>	<u>15,569</u>	<u>16,443</u>	<u>16,211</u>

**Main Schools in Competitive Group and Listed Tuition – 2019-2020 Academic Year:**

	Undergraduate		Graduate	
	Resident	Non-Resident	Resident	Non-Resident
University of South Alabama	\$9,870	\$19,740	\$10,608	\$21,216
In-state reference group:				
Alabama A & M University	8,610	17,220	10,128	20,160
Alabama State University	8,328	16,656	9,888	19,776
Athens State University	6,180	12,360	6,936	12,000
Auburn University	9,816	29,448	9,828	29,484
Auburn University at Montgomery	9,690	21,780	9,816	22,056
Jacksonville State University	9,720	19,440	9,600	19,200
Troy University	9,750	19,500	10,200	20,400
University of Alabama	10,780	30,250	10,780	30,250
University of Alabama at Birmingham	10,710	25,500	10,800	25,584
University of Alabama in Huntsville	9,730	22,126	10,632	24,430
University of Montevallo	12,090	25,110	10,512	22,462
University of North Alabama	9,600	19,200	8,880	17,760
University of West Alabama	9,100	18,200	8,904	17,808
Mean of in-state reference group	9,546	21,292	9,762	21,644
Regional reference group:				
University of Southern Mississippi	9,050	11,050	9,050	11,050
University of New Orleans	7,150	13,480	7,150	13,480
University of West Florida	6,360	19,238	4,536	12,444
Mean of regional reference group	7,520	14,589	6,912	12,325

Source: National Center for Education Statistics

**Certain Fees and Charges**

The following shows the fee schedule for Undergraduate and Graduate Arts and Sciences majors for the periods shown. The course fees for other majors are slightly higher. Except as otherwise indicated, course fees are per semester hour. Graduate School does not include the College of Medicine.

	<u>2019-2020</u>	<u>2018-2019</u>	<u>2017-2018</u>	<u>2016-2017</u>	<u>2015-2016</u>
Application fee	\$35	\$35	\$35	\$35	\$35
Registration fee (charged only if enrolled in less than 15 semester hours)	150	150	150	150	150
Late registration fee	100	100	100	100	50
<i>In-state course fee, per semester hour</i>					
Undergraduate	329	329	313	302	293
Graduate	442	442	421	407	395
<i>Out-of-state course fee, per semester hour</i>					
Undergraduate	658	658	626	604	586

	<u>2019-2020</u>	<u>2018-2019</u>	<u>2017-2018</u>	<u>2016-2017</u>	<u>2015-2016</u>
Graduate	884	884	842	814	790

### College of Medicine

Fees and certain charges for the College of Medicine were as follows for the periods indicated:

	<u>2019-2020</u>	<u>2018-2019</u>	<u>2017-2018</u>	<u>2016-2017</u>	<u>2015-2016</u>
Application fee	\$110	\$75	\$75	\$75	\$75
Resource fee	472	436	436	400	400
Course fee, academic year					
In-state	31,004	31,004	30,101	29,083	28,236
Out-of-state	62,008	62,008	60,202	58,166	56,472

### Degrees Awarded

The University awarded the following degrees for the academic years ending May 31 for the years shown below:

	<u>2019</u>	<u>2018</u>	<u>2017</u>	<u>2016</u>	<u>2015</u>
Baccalaureate	1,902	2,080	2,066	1,996	1,815
Masters	1,126	1,209	1,253	1,080	987
Para-professional certificates	207	273	188	169	190
Professional:					
M.D.	80	73	70	73	74
Ph.D.	29	23	31	31	15
Au.D.	13	11	11	10	10
D.P.T.	39	40	40	37	33
D.N.P.	157	185	96	135	90
D.Sc.	4	2	0	1	0
Ed.D.	<u>16</u>	<u>10</u>	<u>8</u>	<u>1</u>	<u>0</u>
Total	<u>3,366</u>	<u>3,906</u>	<u>3,763</u>	<u>3,533</u>	<u>3,214</u>

### Student Financial Aid

The University awarded and paid financial aid at the following levels for the following academic years, as follows:

	<u>2018-2019</u>	<u>2017-2018</u>	<u>2016-2017</u>	<u>2015-2016</u>	<u>2014-2015</u>
Federal government:					
Student Loans	\$128,987,195	\$128,510,503	\$129,303,631	\$118,370,532	\$109,104,484
Grants	21,951,792	21,855,448	20,719,720	20,258,516	19,247,942
Student employment	341,437	295,491	277,393	329,675	382,537
University:					
Loans	173,022	169,711	202,621	137,311	199,056
Scholarships	<u>29,944,597</u>	<u>26,338,719</u>	<u>25,093,131</u>	<u>18,924,943</u>	<u>17,498,850</u>
Total	<u>\$181,398,043</u>	<u>\$177,169,872</u>	<u>\$175,596,496</u>	<u>\$158,020,977</u>	<u>\$146,432,869</u>

## GOVERNING BODY

State law provides for a Board of Trustees as the governing body of the University with all of the rights, privileges and authority necessary to promote the purpose of its creation, which is to establish and provide for the maintenance and operation of a state university in Mobile County, Alabama. The Board of Trustees consists of sixteen members. The Governor is the ex officio President of the Board of Trustees. Three members of the Board of Trustees are appointed from Mobile County. Five members are appointed from the State at large. Two members are appointed from the United States at large. One member is appointed from each of the following state senatorial districts, or combinations thereof, as those districts were designated at the time the University was organized: (1) Sixteenth and Seventeenth Districts; (2) Nineteenth and Twentieth Districts; (3) Twenty-first District; (4) Twenty-third, Twenty-fifth, and Thirtieth Districts; and (5) Thirty-fifth District. All Trustees except ex officio members are appointed by the Governor by and with the advice and consent of the State Senate, and hold office for a term of six years and until their successors shall be appointed and qualified. The present members of the Board of Trustees are as follows:

<u>Name of Trustee</u>	<u>Occupation</u>	<u>Current Term Expires</u>
Katherine Alexis Atkins	Businesswoman	September 30, 2025
Dr. Scott A. Charlton	Physician	September 30, 2021
Mr. E. Thomas Corcoran	Businessman	September 30, 2021
Dr. Steven P. Furr	Physician	September 30, 2023
William Ronald Graham	Business Administration	September 30, 2023
Mr. Robert D. Jenkins, III	Businessman	September 30, 2025
Mrs. Arlene Mitchell	Philanthropist and Civic Volunteer	September 30, 2021
Lenus M. Perkins	Business Administration	September 30, 2023
Mr. James H. Shumock	Businessman	September 30, 2021
The Honorable Kenneth O Simon	Attorney	September 30, 2025
Mrs. Chandra Brown Stewart	Business Administration	September 30, 2025
Dr. Steven H. Stokes	Physician	September 30, 2023
Margie Malone Tuckson	Business Administration	September 30, 2023
Mr. Michael P. Windom	Attorney	September 30, 2020
Mr. James A. Yance	Attorney, Retired	September 30, 2021
The Honorable Kay Ivey	Governor, State of Alabama	Ex Officio

The organization below the Board of Trustees is composed of the President and eight Vice Presidents: Executive Vice President; Provost and Senior Vice President for Academic Affairs; Vice President for Development and Alumni Relations; Vice President for Student Affairs; Vice President for Medical Affairs and Dean of the College of Medicine; Vice President for Research and Economic Development; Vice President for Marketing and Communications; and Vice President for Finance and Administration.

The Board of Trustees appoints the President of the University. Dr. Tony G. Waldrop has served as President of the University since April 1, 2014. Dr. Waldrop is the third President in the history of the University. Dr. Waldrop came to the University after serving four years as provost and executive vice president at the University of Central Florida, and prior roles as vice chancellor for research and economic development at the University of North Carolina and vice chancellor for research at the University of Illinois. Dr. Waldrop received his Ph.D. from University of North Carolina.

G. Scott Weldon is the Vice President for Finance and Administration. Mr. Weldon oversees the Finance and Administration Division of the University, which is collectively responsible for developing and overseeing the budget process, treasury and accounting, financial planning and analysis, facilities, human resources, risk management and the telecommunications systems for the University. Prior to his appointment as Vice President for Finance and



Administration in October 2015, Mr. Weldon served as Assistant Vice President for Finance and Administration at the University. Mr. Weldon received his B.S. and M.A. from the University of Alabama.

### **HEALTH CARE SYSTEM**

USA Health, a division of the University, is an academic healthcare system that consists of two academic tertiary hospitals, a cancer institute and a physician faculty practice. USAUH is a 406-Licensed bed tertiary care center with the region’s only Level 1 trauma center and burn center that supports the adult teaching and research missions of the USA College of Medicine. Recognized as a top performer on key quality measures, USAUH offers advanced treatment of stroke, cardiovascular disease and sickle cell disease. Patients treated at USAUH tend to require medically complex and extensive care and treatment. USAUH has seen a 96% increase in gastroenterology cases from 2013-2019 and a 31% growth from fiscal year 2018 to 2019. This growth is a result of USAUH’s focus on research and services unique to the region, as well as high patient satisfaction ratings. Surgery cases at USAUH increased by 41% from fiscal year 2013 – 2019 and increased 24% from fiscal year 2018 to 2019. The total number of patients seen in the USAUH Trauma Center in 2019 was 28,914, an increase of 9% from fiscal year 2018. USAUH plans to open a 32,000 sq. ft. Trauma Center to replace the current 11,000 sq. ft. Emergency Department currently in use. This will allow for expansion of other services into the current 11,000 sq. ft. to include critical care beds. In the last quarter of fiscal year 2018, USAUH added 20 inpatient beds and 4 additional outpatient operating rooms, which contributed to surgical and revenue growth of USAUH in fiscal year 2019. At present, USAUH has grown from 120 staffed beds to 186. In 2020, USAUH plans to open 34 additional inpatient beds. Gross Revenues of USAUH for the last eight fiscal years were as follows:

<u>Year</u>	<u>Gross Revenues</u>
2019	\$614,219,907
2018	474,193,133
2017	470,741,917
2016	406,528,233
2015	360,250,280
2014	348,119,160
2013	328,142,373
2012	308,341,443

USACW is a 152-licensed bed hospital dedicated to providing services to children and women. From 2013 to 2019, USACW has experienced an 11% increase in pediatric emergency visits, a 34% increase in surgeries, and a 4% increase in average daily census. Between July 2018 and June 2019, USACW delivered 2,546 babies, which is 41% of the babies born in Mobile County. The overall birth rate for Mobile County fell 9% from 2014 to 2018, with USACW’s percentage of area births remaining constant. The services provided by USACW are among those provided by fewer than five hospitals nationwide that are dedicated solely to the provision of care for both children and women. USACW has the region’s highest level Neonatal ICU unit, Pediatric ICU unit, 24-hour Pediatric Evaluation Unit, High-risk Obstetrics program and Pediatric Surgery Anesthesia Services. USACW also supports the teaching and research missions of the University of South Alabama. In 2015, the 195,000 sq. ft. expansion of USACW was placed into service. USACW currently has plans to renovate the mother suites to convert every 3 rooms into 2 rooms to be more competitive in the market. In addition, plans are being reviewed to enhance the USACW pediatric emergency room.

Gross Revenues of USACW for the last eight fiscal years were as follows:

<u>Year</u>	<u>Gross Revenues</u>
2019	\$287,570,187
2018	249,122,847
2017	243,090,525
2016	248,819,071

2015	241,114,324
2014	219,808,672
2013	203,746,723
2012	211,758,092

USAMCI is the only academic cancer research and treatment center in the upper Gulf Coast corridor. Providing cancer care to a catchment area of over 4.1 million persons in a 150-mile radius, USAMCI brings state-of-the art, research-based cancer treatment to the region, serving over 6,200 individual patients in the last year. Its capabilities span the entire continuum of cancer care, from prevention and early detection to treatment and survivorship. With highly skilled and trained team of oncologists, USAMCI is improving cancer outcomes for patients, including the most vulnerable residents of the county, state and beyond. USAMCI provides cancer treatment in two Mobile locations and in Fairhope. For patients who are not candidates for traditional cancer therapy, USAMCI offers a host of clinical trials with over 90 patients enrolled in therapeutic clinical trials per year, approximately 20% of whom are minority patients. USAMCI has 17 Principal Investigators conducting research funded through the National Institutes of Health, the Department of Defense, the American Cancer Society and other foundations. As an integrated cancer treatment and research center, USAMCI provides innovative cancer care in a caring environment, while accelerating the research to enhance care delivery for future patients. MCI reported 2,907 new patient visits in fiscal year 2019, with 19,841 follow up visits. Of note, GYN Oncology volume increased 13% and Radiation Oncology in Fairhope increased 330% from fiscal year 2018 to 2019. In addition, USAMCI opened a Specialty Pharmacy in July of 2018 and filled 4,277 prescriptions in fiscal year 2019. At the end of 2018, USAMCI was restructured and placed under USA Health leadership and operations instead of operating as a stand-alone facility within the University. As a result, USAMCI has been able to leverage healthcare facilities to grow clinical opportunities which, in turn, has led to an increase in volume in infusion, radiation, medical & gynecological oncology. Additionally, USAMCI became a provider based entity and added a speciality pharmacy. These changes contributed to the increase in gross revenues of MCI in fiscal year 2019.

Gross Revenues of MCI for the last eight fiscal years were as follows:

<u>Year</u>	<u>Gross Revenues</u>
2019	\$51,099,476
2018	19,709,735
2017	19,933,067
2016	15,829,428
2015	18,048,802
2014	25,158,623
2013	22,038,595
2012	22,087,983

Comprised of more than 160 academic physicians on faculty at the USA College of Medicine, the Ambulatory Services physician faculty practice is the region's largest multi-specialty practice and the only academic physicians group along the central Gulf Coast. Ambulatory Services physicians practice throughout Mobile County, including at the University's hospital and clinic campuses and on the University's main campus. The Strada Patient Care Center, a 133,000 square foot building that was placed in service in December 2016 and is located near USACW, provided 153 patient exam rooms, 16 nurses' stations, and 7 educational conference rooms. The Physicians Group has over 250 clinical providers and over 90 Advanced Practice providers that completed 191,359 clinic visits in fiscal year 2019. The collective mission of the Ambulatory Services health care providers is to deliver leading-edge care to patients and to support the larger mission of the USA College of Medicine in the education and training of students and resident physicians and in the advancement of medical care through medical research. Prior to July 1, 2016, Ambulatory Services was operated by the University of South Alabama Health Services Foundation (the "HSF"), a 501(c)(3) organization that has been included in the University's financial statements as a discretely presented component unit. As of July 1, 2016, Ambulatory Services activities were transferred by HSF to the University and the revenues and expenses of the faculty

practice included in the University's Statement of Revenues, Expenses and Changes in Net Position. Gross charges by year from these activities were as follows:

<u>Year</u>	<u>Gross Revenues</u>
2019	\$176,840,712
2018	120,488,250
2017	125,686,741
2016	136,470,653

On May 2, 2017, the University formed the University of South Alabama Health Care Authority (the "USA HCA"). The USA HCA was formed pursuant to Section 16-17A-1 *et seq.*, otherwise known as the "University Authority Act." The University utilizes the USA HCA for certain administrative and personnel functions at USA Health. Medical practices included within USA HCA have generated revenues for USA. Although indebtedness issued by USA HCA would not be secured by Pledged Revenues under the Indenture, the University does not currently intend or expect the USA HCA to take title to any material health care assets of the University. Gross charges by year for HCA were as follows:

<u>Year</u>	<u>Gross Revenues</u>
2019	\$35,128,988
2018	24,243,252

KPMG has audited the financial statements for HCA for the fiscal year ended September 30, 2019. See Page 26 of Appendix A attached hereto.

#### **ACADEMIC MEDICAL CENTERS**

Academic Medical Centers ("AMCs") throughout the United States face a dynamic healthcare environment. These changes include potential funding reductions from governmental entities and insurance companies, as well as a transition from productivity to value-based reimbursements.

As a result, AMCs are evaluating their business models and restructuring themselves to respond to the current and future healthcare environments. Nationwide, AMCs are evaluating partnerships with other AMCs or even non-AMC healthcare providers. Consistent with this national trend, the University, although in the very early stage, is proactively addressing its structure and governance with respect to these issues.

#### **USA TECHNOLOGY & RESEARCH CORPORATION**

The USA Research and Technology Corporation (the "Corporation") was incorporated in 2002 as a not-for-profit corporation under the laws of the State of Alabama. The mission of the Corporation is to facilitate new and enhanced types of interaction between the University and the wider public and private sectors and to serve as a catalyst for regional development by furthering innovation and enterprise in a collaborative and principled fashion that respects and elevates the social and economic well-being of the community. The facilities of the Corporation are located on approximately 160 acres adjacent to the main campus of the University, an area known as the USA Technology & Research Park (the "Park"). The Corporation owns three buildings in the Park which together comprise approximately 222,300 square feet of space available for lease, with approximately 200,000 square feet currently under lease.

Since the Corporation's inception, total tenant employment (non-University) has grown to approximately 360, including approximately 50 University graduates. In addition, there were six student interns employed at the Park over the course of the past year.

## FACILITIES

### Current Facilities

The University has 5,386,044 gross square feet of inventory space presently in use, including the USA Baldwin County-Fairhope Campus, University Hospital, USA Springhill, and USA Children’s and Women’s Hospital. Existing main campus structures include the Administration Building; Instructional Laboratory Building; Library; Biomedical Library; Chemistry Building; Life Science Building; Health, Physical Education and Recreation Building; Student Center; Humanities Building; Medical Sciences Building; Multi-Purpose Arena; Performing Arts Building; Business Building; Student Services Building; Archaeology Building; Intramural Fieldhouse; Transportation Services Building; three Technology and Research buildings; Shelby Hall; Health Science; Dining Facility; Faculty Club; Academic Services; Mitchell Cancer Institute; Business Resource Center; Innovation in Learning Center; Education Services Building; Education and Outreach Building, and a variety of residence halls. The Bethel Theater, Mobile Townhouse, and Alumni Hall, all located on the campus, are renovated buildings of great historic value.

Historical details of construction, acquisition and renovations at the University campus are as follows:

Years of construction or <u>acquisition</u>	Gross Square Feet Constructed or <u>Acquired</u>	Gross Square Feet <u>Renovated</u>
Prior to 1960	1,091,119	207,676
1960-1969	813,280	302,671
1970-1979	1,046,420	192,963
1980-1989	595,710	81,712
1990-1999	277,443	-
2000-2009	550,333	153,575
2010-2015	714,605	502,204
2016-2019	<u>413,985</u>	<u>199,906</u>
Total	<u>5,502,895</u>	<u>1,640,707</u>

The campus is served by water, gas and electric utilities supplied by public utilities serving the greater Mobile metropolitan area.

### Insurance

Claims for damages to the University's campus property are covered by the State Insurance Fund of the State of Alabama's Division of Risk Management. All buildings and contents are covered by the State Insurance Fund policy. The University uses two self-insured trust funds to pay general liability and professional liability claims. Injuries from work-related incidents to those employees covered by the University's self-insured health plan are covered by that plan. Work-related injuries to employees not covered by the health plan are reviewed by the State Board of Adjustment for final resolution.

### Student Housing

With respect to on-campus student housing, 2,289 beds are available for occupancy in campus student residences. Over the last five years, occupancy rates have averaged 94%, with the Fall 2019 semester at 91%. Approximately 14% of total headcount enrollment occupied student housing for the Fall 2019 semester.

In addition to the 2,419 University-owned beds, there are four other non-University-owned, apartment-style housing complexes that focus on University students – one is located on campus, and the other two are

located across major roads from campus. A fifth, non-University owned housing complex near the University has been announced. The on-campus complex was built on land leased by the University to the housing developer under a long-term lease, and the University is under no obligation to guarantee the financing or occupancy or any other revenue source with respect to the apartments. The off-campus complexes were built on land that is not owned by the University. The four complexes have a total of approximately 2,500 additional beds available for occupancy. Also, a new, 370 bed dormitory opened on the campus of the University in the Fall of 2018.

## SUMMARY INFORMATION RESPECTING STATE AND PRIVATE FUNDING

### State Appropriations

The University has received appropriations from the State of Alabama for certain of its operating costs and other non-operating cash requirements, including capital expenditures. State appropriations may not lawfully be used for the payment of debt service on the Bonds, including the Series 2020 Bonds. There can be no assurance that future Legislatures will continue to make such appropriations, or, if made, that they will be timely or sufficient when added to operating revenues and General Fees, Auxiliary Enterprise Revenues, and Children's and Women's Hospital Revenues remaining after the payment of debt service, to cover in full, operating expenses of the University.

The following tabulation compiled by the University staff from University accounting records shows State appropriations to the University for the fiscal years ended September 30, 2015, through September 30, 2019:

Fiscal year ended <u>September 30</u>	Total Appropriations	
	<u>Authorized</u>	<u>Received</u>
2019	\$115,209,000	\$115,209,000
2018	107,284,718	107,284,718
2017	107,284,717	107,284,717
2016	104,976,761	104,976,756
2015	103,973,584	103,973,584

Although not pledged for payment of debt service on the Bonds or otherwise subject to the lien of the Indenture, the University relies on State appropriations to fund basic operations, student services and other costs of the University. The Alabama State Legislature is considering the implementation of an outcomes-based funding model for a portion of state appropriations paid to State of Alabama universities, such as the University. In theory, an outcomes-based formula increases or reduces appropriations to a particular university based upon its success or failure, respectively, against certain established performance measures. This initiative is in the early phase, and, as such, it is not possible at this time to determine whether this initiative will be adopted and become part of the State appropriation process for public university funding, or how the University's funding would be impacted.

### Endowment Assets

Endowment assets for the University are deposited both in the University and in the Foundation (described below). Net endowment assets in the accounts of the University at September 30, 2019 were \$176,346,459. Of the net endowment assets, \$59,378,604 are classified as restricted, nonexpendable, \$66,613,735 are classified as restricted, expendable, and \$50,354,120 are classified as unrestricted. The Board of Trustees has an approved endowment management and investment policy that includes an established spending rate of 4.5% based on the 5-year moving average of net assets of endowments. In maintaining its endowment, it is the goal of the University to provide revenue while preserving principal to fund those projects which have been endowed for specific purposes. Net assets of endowments are allocated as follows at September 30, 2019:

Equities, Pooled direct investments and mutual funds	\$81,755,001
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Fixed income, pooled direct investments and mutual funds	55,229,168
Managed income alternative investments	35,529,747
Other	<u>3,832,543</u>
Total	<u>\$176,346,459</u>

### The University of South Alabama Foundation

The University of South Alabama Foundation (the “Foundation”), a legally separate entity, exists for the primary purpose of advancing the purpose of the University in furthering, improving, and expanding its properties, services, facilities, and activities. Its total assets at June 30, 2019, its most recent audited fiscal year-end, were \$384,384,000, and its net assets were \$383,512,000 at the same date. Assets are primarily invested in marketable securities (39%), timber and mineral properties (43%), and real estate (16%). Cash and non-cash distributions to the University over the past seven fiscal years are, as reported in the audited financial statements of the Foundation for the years ended June 30, 2014, through June 30, 2019, as follows:

2019	\$9,755,000
2018	9,703,000
2017	9,603,000
2016 <sup>1</sup>	10,561,000
2015	4,731,000
2014	4,515,000

<sup>1</sup> In fiscal year 2010, the University and the Foundation executed a purchase and sale agreement calling for the University to sell approximately 327 acres on Mobile Bay, known as the Brookley campus, to the Foundation. The terms of the agreement required the Foundation to pay the University \$20,000,000; \$4,000,000 at closing and \$4,000,000 annually thereafter through fiscal year 2015. The distribution for the Foundation’s fiscal year ended June 30, 2016 reflects the Foundation’s completion of its obligations under the purchase and sale agreement and corresponding increase in annual distributions to the University.

### SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

The following is a brief summary of certain provisions of the Indenture, as heretofore amended and supplemented and as further amended and supplemented by the Seventeenth Supplemental Indenture, to which Indenture and Seventeenth Supplemental Indenture in their entirety reference is made for the detailed provisions thereof. Unless the context clearly indicates otherwise, all references herein shall be deemed to include the Series 2020 Bonds, the Outstanding Bonds, and any Additional Bonds hereafter issued under the Indenture.

As used in the following summary, the following definitions shall have the following respective meanings.

“*Annual Debt Service Requirement*” means, as of any date of determination, the amount of principal and interest maturing with respect to the then outstanding Bonds in such Bond Year; provided, (i) that the principal amount of any Bonds subject to a Mandatory Redemption Provision during such Bond Year shall, for purposes of this definition, be considered as maturing in the Bond Year during which such redemption is required and not in the Bond Year in which their stated maturity occurs; (ii) in the case of Bonds (whether outstanding or proposed to be issued) that bear interest at a variable or adjustable rate, the interest payable on such Bonds shall be calculated on the assumption that such Bonds bear interest at a fixed rate of interest estimated by a professional consulting firm or investment banking firm acceptable to the Trustee by reference to bonds of similar credit rating maturity and tax characteristics on the date such calculation is made; and (iii) for purposes of the foregoing formula, Bonds that are “deemed paid” under the Indenture shall not be deemed outstanding.

“*Bond Year*” means the period beginning November 2 in each calendar year and ending on November 1 of the next succeeding calendar year.

“*Interest Payment Date*” means (a) with respect to the Series 2020 Bonds, each April 1 and October 1, commencing October 1, 2019, and (b) with respect to any series of Additional Bonds, such date or dates as shall be specified in the Supplemental Indenture pertaining to such Additional Bonds as the dates for payment of interest of such Additional Bonds.

“*Mandatory Redemption Provision*” means any provisions that may be set forth in a Supplemental Indenture for mandatory redemption of any Additional Bonds at a redemption price equal to the principal amount thereof.

“*Principal Payment Date*” means (a) with respect to the Series 2020 Bonds, each April 1 commencing April 1, 2021, and (b) with respect to any series of Additional Bonds, a date (which shall in every case be the first day of a Month) specified in the Supplemental Indenture pertaining to such Additional Bonds as a date for payment of principal of such Additional Bonds.

“*Supplemental Indenture*” means an agreement supplemental to the Indenture.

### **Special Funds**

**Bond Fund.** The Indenture provides for the creation of a special trust fund called the “Bond Principal and Interest Fund.” The University is required to pay into the Bond Fund, in addition to all other amounts required by the Indenture, the following:

(a) Contemporaneously with the issuance and sale of any of the Bonds and out of the proceeds derived from such sale, the University (or the Trustee on behalf of the University) is required to pay into the Bond Fund such part of the proceeds from the sale as is allocable to premium (if any) and accrued interest.

(b) On or before the Business Day next preceding each Interest Payment Date until the principal and the interest on the Bonds is paid in full, the University is required to pay into the Bond Fund, out of the Pledged Revenues, an amount equal to the sum of (i) the semiannual installment of interest that will mature on the Bonds on the then next succeeding semiannual Interest Payment Date with respect thereto, plus (ii) the principal that will become due on the Bonds on the then next succeeding Principal Payment Date, plus (iii) the principal required to be redeemed on the next succeeding Principal Payment Date pursuant to any Mandatory Redemption Provision.

All moneys paid into the Bond Fund are required to be used only for payment of the principal of and the interest on the Bonds upon or after the respective maturities of such principal and interest and to redeem Bonds subject to a Mandatory Redemption Provision. If at the final maturity of the Bonds, however such Bonds may mature, there are in the Bond Fund moneys in excess of what is required to pay in full the principal of and the interest on the Bonds, then any such excess will be returned to the University.

Prior to the issuance of any Additional Bonds, there shall be executed and delivered a Supplemental Indenture containing a provision that the semiannual payments into the Bond Fund be adjusted to provide for such additional amounts as may be necessary to pay the principal of and interest on such Additional Bonds provided, however, that in making such adjustment the principal amount of any such Additional Bonds required by the terms of the Supplemental Indenture to be redeemed during any Bond Year shall be considered as maturing in the Bond Year during which such redemption is required and not in the Bond Year in which their stated maturity occurs.

### **Additional Bonds**

The Indenture authorizes the issuance of Additional Bonds, subject to the provisions of the Indenture. Among the conditions to the issuance of any Additional Bonds are the following:

(a) **Supplemental Indenture.** Prior to the issuance of any Additional Bonds, there shall be executed and delivered a Supplemental Indenture containing: (i) a description of the Additional Bonds proposed to be

issued, including the date, the aggregate principal amount, the series designation, the denomination or denominations, the interest rate or rates (or provisions for determining the same), the maturity or maturities and the form of such Additional Bonds, and any provisions for redemption thereof prior to their respective maturities; (ii) a statement of the purpose or purposes for which the Additional Bonds are proposed to be issued; and (iii) any other provisions that do not conflict with the provisions of the Indenture.

(b) Certificate as to Pledged Revenues. The item or items required by either of the following subparagraphs (i) or (ii):

(i) A certificate by the Vice President for Finance and Administration of the University certifying that the amount of Pledged Revenues received during the Fiscal Year next preceding the date of the issuance of the Additional Bonds then proposed to be issued was not less than 125% of the maximum Annual Debt Service Requirement with respect to the then current or any then succeeding Bond Year immediately following the issuance of the then proposed Additional Bonds, which certificate shall set forth the figures on which it is based and shall recite that the Pledged Revenues for such Fiscal Year specified therein were taken from the annual audit of the University for such Fiscal Year or, if such audit shall not have been completed for the most recent Fiscal year at the date of such certificate, were taken from the official records of the University, or

(ii) A Resolution or Resolutions adopted by the University after the commencement of the Fiscal Year next preceding the issuance of the then proposed Additional Bonds either (i) increasing the General Fees, or (ii) levying new fees and charges of a type or kind different from the General Fees, or (iii) a combination thereof, accompanied by a certificate of the Vice President for Finance and Administration stating that if the increased General Fees or the new fees set forth in the said Resolution or Resolutions had been in effect throughout the Fiscal Year next preceding the date of issuance of the then proposed Additional Bonds, the amount of Pledged Revenues during the Fiscal Year next preceding the date of issuance of the then proposed Additional Bonds would have been not less than 125% of the maximum Annual Debt Service Requirement during the then current or any then succeeding Bond Year with respect to Bonds that will be outstanding immediately following the issuance of the then proposed Additional Bonds; and

(c) Opinion of Independent Counsel. An opinion dated on the date of issuance of such Additional Bonds, signed by Independent Counsel acceptable to the Trustee, approving the forms of all documents required above to be delivered to the Trustee and reciting that they comply with the applicable requirements set out above.

### **Maintenance of Pledged Revenues**

The University has covenanted in the Indenture that, so long as any of the Bonds remain outstanding and unpaid, the University will fix, levy and collect General Fees and Auxiliary Enterprises Revenues from all students attending the University during each Fiscal Year in such amounts and at such times as shall be required to produce revenues sufficient to pay the principal of, unamortized premium, if any, and interest on the Bonds during the same Fiscal Year. No covenant with respect to the Children's and Women's Hospital Revenues has been made.

### **Supplemental Indentures**

Supplemental Indentures Without Bondholder Consent. The University and the Trustee may at any time and from time to time enter into such Supplemental Indentures (in addition to such Supplemental Indentures as are otherwise provided for in the Indenture) as shall not be inconsistent with the terms and provisions of the Indenture, for any one or more of the following purposes:

(a) to add to the covenants and agreements of the University contained in the Indenture other covenants and agreements thereafter to be observed and performed by the University, provided that such other



covenants and agreements may not either expressly or impliedly limit or restrict any of the obligations of the University contained in the Indenture;

(b) to cure any ambiguity or to cure, correct or supplement any defect or inconsistent provisions contained in the Indenture or in any Supplemental Indenture or to make any provisions with respect to matters arising under the Indenture or any Supplemental Indenture for any other purpose if such provisions are necessary or desirable and are not inconsistent with the provisions of the Indenture or any Supplemental Indenture and do not adversely affect the interests of the holders of the Bonds;

(c) to subject to the pledge contained in the Indenture additional revenues or to identify more precisely any of the revenues of the University subject to the Indenture;

(d) to cause the Indenture to comply with the provisions of the Trust Indenture Act of 1939 or such other federal securities laws as may hereafter be applicable to the Indenture; or

(e) to provide for the issuance of Additional Bonds in accordance with the Indenture.

Any such Supplemental Indenture will not require the consent of any bondholders.

Supplemental Indentures Requiring Bondholders Consent. In addition to those Supplemental Indentures described above, the Indenture provides that the University and the Trustee may, at any time and from time to time, with the written consent of the holders of not less than a majority in aggregate principal amount of Bonds then outstanding, enter into such Supplemental Indentures as shall be deemed necessary or desirable by the University and the Trustee for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the term or provisions contained in the Indenture or in any Supplemental Indenture; provided that without the written consent of the Holder of each Bond affected, no reduction in the principal amount of, rate of interest on, or the premium payable upon the redemption of, any Bond shall be made; and provided, further, that, without the written consent of the holders of all the Bonds, none of the following shall be permitted:

(a) an extension of the maturity of any installment of principal of or interest on any Bond;

(b) any change in any Mandatory Redemption Provision;

(c) the creation of a lien or charge on the Pledged Revenues ranking prior to or (except in connection with the issuance of Additional Bonds) on a parity with the lien or charge thereon contained in the Indenture;

(d) the establishment of preferences or priorities as between the Bonds (but only with respect to the security provided for all Bonds); or

(e) a reduction in the aggregate principal amount of Bonds the holders of which are required to consent to such Supplemental Indenture.

Any Supplemental Indenture that requires the consent of holders of the Series 2020 Bonds or adversely affects the rights or interests of BAM shall also be subject to the prior written consent of BAM.

Upon the execution of any Supplemental Indenture under and pursuant to the provisions described above, the Indenture shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under the Indenture of the University, the Trustee and all holders of the Bonds then outstanding shall thereafter be determined, exercised and enforced under the Indenture, subject in all respects to such modifications and amendments.

## **Defaults and Remedies**

Events of Default under the Indenture include the following:

(a) failure by the University to pay principal of, the interest on or the premium (if any) on any Bond as and when the same shall become due, as provided therein and in the Indenture (whether such shall become due pursuant to any Mandatory Redemption Provisions or otherwise);

(b) failure by the University to perform and observe any of the agreements and covenants on its part contained in the Indenture (other than in the manner described in (a) above) which such failure continues for a period of not less than thirty (30) days after written notice of such failure has been given to the University by the Trustee or by the holders of not less than twenty-five percent (25%) in outstanding amount of Bonds, unless during such period or any extension thereof the University has commenced and is diligently pursuing appropriate corrective action; or

(c) determination by a court having jurisdiction that the University is insolvent or bankrupt, or appointment by a court having jurisdiction of a receiver for the University or for a substantial part thereof, or approval by a court of competent jurisdiction of any petition for reorganization of the University or rearrangement or readjustment of the obligations of the University under any provisions of the bankruptcy laws of the United States of America or the State of Alabama.

Upon the occurrence of an Event of Default the Trustee shall have the following rights and remedies:

(a) **Acceleration.** The Trustee may, by written notice to the University and with the consent of the bond insurer respecting any Bonds then outstanding and insured thereby (including, without limitation, consent of BAM respecting acceleration of the Series 2020 Bonds), declare the principal of all the Bonds forthwith due and payable, and such principal shall thereupon become and be immediately due and payable, anything in the Indenture or in the Bonds to the contrary notwithstanding. If, however, the University makes good that default and every other default under the Indenture (except for those installments of principal declared due and payable that would, absent such declaration, not be due and payable), with interest on all overdue payments of principal and interest, and made reimbursement of all of the reasonable expenses of the Trustee, then the Trustee may (and, if requested in writing by the holders of a majority in principal amount of the then outstanding Bonds, shall), by written notice to the University, waive such default and its consequences, but no such waiver shall affect any subsequent default or right relative thereto.

(b) **Mandamus and Other Remedies.** The Trustee shall have the right of mandamus or other lawful remedy in any court of competent jurisdiction to enforce its rights and the rights of the holders of the Bonds against the University and any officers, agents or employees of the University, including but not limited to the right to require the University and its officers, agents or employees to perform and observe all of its or their duties under Section 16-3-28 of the Code of Alabama 1975, as amended.

Anything in the Indenture to the contrary notwithstanding, upon the occurrence and continuation of a default or an Event of Default, BAM shall be deemed the sole holder of the Series 2020 Bonds and shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the Series 2020 Bonds under the Indenture, and no default or Event of Default may be waived without the prior written consent of BAM.

### **Concerning the Trustee**

The Trustee shall be under no obligation to institute suit or to take any proceedings under the Indenture or to enter any appearance or in any way defend in any suit in which it may be made defendant or to take steps in the execution of trust created or in the enforcement of any rights or powers under the Indenture, until it shall be indemnified to its satisfaction against any and all costs and expense, outlays and counsel fees and other reasonable disbursements and against all liability.

The Trustee shall not be liable in connection with the performance of its duties under the Indenture except for its gross negligence or willful misconduct.

The University has agreed to pay to the Trustee from time to time reasonable compensation for all services rendered by it under the Indenture, including the services of bond registrar and paying agent and also all of its reasonable expenses, charges, counsel fees and other disbursements and those of its attorneys and employees incurred in and about the performance of its powers and duties under the Indenture prior to the Bonds. Nothing contained in the Indenture or any supplemental indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties or in the exercise of any of its rights or powers if it believes that the repayment of such funds or the making whole in respect of such liability is not reasonably assured to it.

## **RATINGS**

Moody's Investors Service, Inc. ("Moody's") and S&P Global Ratings, a division of the McGraw-Hill Companies, Inc. ("S&P"), have given the Series 2020 Bonds an underlying rating of "A1" and "A+", respectively.

S&P is expected to assign the Series 2020 Bonds a rating of "AA" with the understanding that, upon delivery of the Series 2020 Bonds, AGM will deliver the Policy to the Trustee. Moody's is expected to assign the Series 2020 Bonds a rating of "A1" with the understanding that, upon delivery of the Series 2020 Bonds, AGM will deliver the Policy to the Trustee, which such rating represents the highest of the underlying rating assigned by Moody's ("A1") and the rating assigned by Moody's of AGM's financial strength rating ("A2").

The underlying rating provided by each of Moody's and S&P (collectively, the "Rating Agencies") reflects that agency's rating of the creditworthiness of the University with respect to obligations payable from the Pledged Revenues. The insured rating provided by each of the Rating Agencies respecting the Series 2020 Bonds reflects such agency's current assessment of the creditworthiness of AGM, and its ability to pay claims on its policies of insurance such as the Policy; provided, however, in accordance with the current policy of Moody's, the insured rating provided by Moody's is based upon the higher of (i) the insurer's financial strength rating published by Moody's (in this case, "A2") and (ii) the published underlying Moody's rating assigned to the securities (in this case, "A1").

Any further explanation of the significance of such ratings may be obtained only from the appropriate Rating Agency. The University furnished to the Rating Agencies the information contained in this Official Statement and certain other information respecting the University and the Series 2020 Bonds. Generally, rating agencies base their underlying ratings on such materials and information, as well as on their own investigations, studies and assumptions.

The ratings indicated on the cover page are not recommendations to buy, sell or hold the Series 2020 Bonds, and any such ratings may be subject to revision or withdrawal at any time by the Rating Agencies. Any downward revision or withdrawal of any or all of such rating may have an adverse effect on the market price of the affected Series 2020 Bonds. Neither the University nor the Underwriters have undertaken any responsibility either to bring to the attention of the holders of Series 2020 Bonds any proposed revision, suspension or withdrawal of a rating or to oppose any such revision, suspension or withdrawal.

## **LITIGATION**

To the best of the University's knowledge, there is no litigation pending or threatened (i) restraining or enjoining the issuance or delivery of the Series 2020 Bonds, (ii) contesting or affecting the validity of the Series 2020 Bonds or the proceedings or authority under which they are to be issued, (iii) contesting the creation, organization or existence of the University or the title of any of its present officials to their respective offices, or (iv) contesting the right of the University to enter into the financing documents to which it is a party or to secure the Series 2020 Bonds in accordance with the Indenture.

The University and its hospitals are immune from suit in medical malpractice matters; however such claims may still be brought against healthcare providers employed to provide such services on behalf of the University. These providers are insured by the University's Professional Liability Trust Fund. If a final judgment were entered in any professional liability action in an amount in excess of its insurance coverage, the University would not be liable for the excess.

The University has been notified by the Equal Employment Opportunity Office (“EEOC”) of charges filed with the EEOC against the University or its employees. The charges arise from alleged employment practices or policies. Should a lawsuit arise out of such charges, they would be covered by the University’s General Liability Trust Fund.

Finally, the University has been notified of claims filed against it in the State Board of Adjustment. None of the aforementioned charges or claims involve any significant sums in excess of the sums otherwise provided for and would not have an impact upon the collection of the Pledged Revenues. In the opinion of the University Attorney, the aggregate exposure of the University with respect to all pending claims and suits would not be material to the University’s financial position.

## **LEGAL MATTERS**

The Series 2020 Bonds will be issued subject to the approving opinion of Bradley Arant Boult Cummings LLP, Birmingham, Alabama, Bond Counsel to the University. It is anticipated that the opinion of Bond Counsel to the University will be in substantially the form set forth in Appendix B.

The various legal opinions to be delivered concurrently with the delivery of the Series 2020 Bonds express the professional judgment of the attorneys rendering the opinions as to the legal issues explicitly addressed therein. By rendering a legal opinion, the authoring firm or attorney does not become an insurer or guarantor of that expression of professional judgment, of the transaction opined upon, or the future performance of parties to the transaction, and the rendering of an opinion does not guarantee the outcome of any legal dispute that may arise out of the transaction.

## **TAX MATTERS**

### **General**

In the opinion of Bradley Arant Boult Cummings LLP, Bond Counsel to the University, under existing statutes and court decisions and assuming continuing compliance with certain tax covenants described herein, interest on the Series 2020 Bonds is excluded from gross income for federal income tax purposes pursuant to Section 103 of the Code. Interest on the Series 2020 Bonds is not treated as a preference item in calculating the alternative minimum tax imposed on individuals and corporations under the Code. In rendering its opinion, Bond Counsel to the University has relied on certain representations, certifications of fact, and statements of reasonable expectations made by the University and others in connection with the Series 2020 Bonds, and Bond Counsel to the University has assumed compliance with certain ongoing covenants to comply with applicable requirements of the Code to assure the exclusion of interest on the Series 2020 Bonds from gross income under Section 103 of the Code.

Bond Counsel expresses no opinion regarding any other federal or state tax consequences with respect to the Series 2020 Bonds. Bond Counsel renders its opinion under existing statutes and court decisions as of the issue date and assumes no obligation to update its opinion after the issue date to reflect any future action, fact or circumstance, or change in law or interpretation, or otherwise. Bond Counsel expresses no opinion on the effect of any action taken in reliance upon an opinion of other counsel on the exclusion from gross income for federal income tax purposes of interest on the Series 2020 Bonds.

Certain Ongoing Federal Tax Requirements and Covenants. The Code establishes certain significant ongoing requirements that must be met subsequent to the issuance and delivery of the 2020 Bonds in order that interest on the Series 2020 Bonds be and remain excluded from gross income under Section 103 of the Code. These requirements include, but are not limited to, requirements relating to use and expenditure of gross proceeds of the Series 2020 Bonds, yield and other restrictions on investments of gross proceeds, and the arbitrage rebate requirement that certain excess earnings on gross proceeds be rebated to the federal government. Noncompliance with such requirements may cause interest on the Series 2020 Bonds to become included in gross income for federal income tax purposes retroactive to their issue date, irrespective of the date on which such noncompliance occurs or is discovered. The University has covenanted to comply under the Indenture with certain applicable requirements of the Code to assure the exclusion of interest on the Series 2020 Bonds from gross income under Section 103 of the Code.

Certain Collateral Federal Tax Consequences. The following is a brief discussion of certain collateral federal income tax matters with respect to the Series 2020 Bonds. It does not purport to deal with all aspects of federal taxation that may be relevant to a particular owner of any Series 2020 Bonds. Prospective investors, particularly those who may be subject to special rules, are advised to consult their own tax advisors regarding the federal tax consequences of owning and disposing of Series 2020 Bonds.

Prospective owners of the Series 2020 Bonds should be aware that the ownership of such obligations may result in collateral federal income tax consequences to various categories of persons, such as corporations (including S corporations and foreign corporations), financial institutions, property and casualty and life insurance companies, individual recipients of Social Security and railroad retirement benefits, individuals otherwise eligible for the earned income tax credit, and taxpayers deemed to have incurred or continued indebtedness to purchase or carry obligations the interest on which is not included in gross income for federal income tax purposes. Interest on the Series 2020 Bonds may be taken into account in determining the tax liability of foreign corporations subject to the branch profits tax imposed by Section 884 of the Code.

Original Issue Premium. The initial public offering price to be paid for the Series 2020 Bonds (the "Original Issue Premium Series 2020 Bonds") is greater than the principal amount thereof. Under existing law, any owner who has purchased an Original Issue Premium Series 2020 Bond in the initial public offering of the Series 2020 Bonds is required to reduce his basis in such Original Issue Premium Series 2020 Bond by the amount of premium allocable to periods during which he holds such Original Issue Premium Series 2020 Bond, and the amount of premium allocable to each accrual period will be applied to reduce the amount of interest received by the owner during each such period. All owners of Original Issue Premium Series 2020 Bonds should consult their own tax advisors with respect to the determination for federal, state and local income tax purposes of interest accrued upon redemption, sale or other disposition of such Original Issue Premium Series 2020 Bond and with respect to the federal, state, local and foreign tax consequences of the purchase, ownership, redemption, sale, gift or other disposition of such Original Issue Premium Series 2020 Bond.

Bank Qualification. The Series 2020 Bonds have not been designated as "qualified tax-exempt obligations" under Section 265 of the Code.

Post-Issuance Matters. The tax-exempt status of the Series 2020 Bonds could be affected by post-issuance events. *See* "SPECIAL CONSIDERATIONS RESPECTING THE SERIES 2020 BONDS – Tax-Exempt Status of Series 2020 Bonds" herein. The Indenture does not provide for mandatory redemption of the Series 2020 Bonds or payment of any additional interest or penalty if a determination is made that the Series 2020 Bonds do not comply with the existing requirements of the Code, if a subsequent change in law adversely affects the tax-exempt status of the Series 2020 Bonds or the economic benefit of investing in the Series 2020 Bonds, or if any other event or occurrence takes place that impacts the tax status of the Series 2020 Bonds.

## **CONTINUING DISCLOSURE**

Under a Continuing Disclosure Agreement, dated the date of the Series 2020 Bonds (the "Continuing Disclosure Agreement"), the University has agreed to provide or cause to be provided to the Municipal Securities Rulemaking Board (the "MSRB") using its electronic municipal market access system (referred to as "EMMA"), certain updated financial information and operating data annually, and timely notice of specified events for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule").

See Appendix C for a form of the Continuing Disclosure Agreement relating to the Series 2020 Bonds.

A failure by the University to comply with the Continuing Disclosure Agreement will not constitute an event of default under the Indenture. Beneficial owners of the Series 2020 Bonds are limited to the remedies described in the Continuing Disclosure Agreement. A failure by the University to comply with the Continuing Disclosure Agreement must be reported in accordance with the Rule and must be considered by any broker, dealer or municipal securities dealer before recommending the purchase or sale of the Series 2020 Bonds in the

secondary market. Consequently, such a failure may adversely affect the transferability and liquidity of the Series 2020 Bonds and their market price.

### **Compliance with Prior Continuing Disclosure Agreements**

In connection with the prior issuance of certain of the Outstanding Bonds, the University has entered into other continuing disclosure agreements under the Rule. During the past five years, the University has failed to file information required to be filed pursuant to those previous agreements. Audited financial statements for fiscal year 2012 were filed approximately one year late as part of the fiscal year 2013 financial report. Although the audited financial statements for fiscal year 2014 were filed timely, the filing did not link such financial statements to the University's \$40,130,000.70 original principal amount University Tuition Revenue Bonds, Series 1999, dated March 1, 1999 (the "Series 1999 Bonds"), which such bonds have been retired as of the date of this Official Statement. Certain supplemental financial and operating data required by the prior agreements was not timely filed through EMMA for the past five years. The University has not filed notices of late filings as required by the Rule.

Effective August, 2016, the University adopted new procedures intended to improve timeliness of its required filings under the Rule. In addition, the University made remedial filings with EMMA of (i) the fiscal year 2012 audited financial statements, (ii) the fiscal year 2014 audited financial statements to link to the Series 1999 Bonds, and (iii) the required supplemental financial and operating data. The University also has prepared a template into which all financial and operating data can be compiled into a single document for future filings.

THE UNIVERSITY UNDERTAKES NO OBLIGATION TO PUBLICLY UPDATE OR REVISE ANY FORWARD LOOKING STATEMENT AS A RESULT OF NEW INFORMATION, FUTURE EVENTS OR OTHER INFORMATION.

### **STATE NOT LIABLE ON SERIES 2020 BONDS**

The Series 2020 Bonds are limited obligations of the University payable solely out of, and secured by a pledge of, the Pledged Revenues. Neither the principal of nor the interest on the Series 2020 Bonds nor the aforesaid pledge or any other agreement contained in the Indenture shall constitute an obligation of any nature whatsoever of the State of Alabama, and neither the Series 2020 Bonds nor any obligation arising from said pledge or agreements shall be payable out of any moneys appropriated to the University by the State of Alabama.

### **FINANCIAL INFORMATION**

Appendix A contains audited financial statements of the University for the fiscal year ended September 30, 2019. KPMG LLP, the University's independent auditor, has not been engaged to perform and has not performed, since the date of its report included herein as Appendix A, any procedures on the financial statements addressed in that report. KPMG LLP also has not performed any procedures relating to this Official Statement.

### **FORWARD LOOKING STATEMENTS**

Certain statements contained in this Official Statement including, without limitation, statements containing the words "estimates," "believes," "anticipates," "expects," and words of similar import, constitute forward-looking statements. Such forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause the actual results, performance or achievements of the University or other entities to which the forward-looking statements relate to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements.

The forward-looking statements included herein are necessarily based on various assumptions and estimates and are inherently subject to various risks and uncertainties, including risks and uncertainties relating to the possible invalidity of the underlying assumptions and estimates and possible changes or developments in social, economic, business, industry, market, legal, and regulatory circumstances and conditions and actions taken or omitted to be taken by third parties, including customers, suppliers, business partners and competitors, and legislative, judicial, and other

governmental authorities and officials. Assumptions to the foregoing involve judgments with respect to, among other things, future economic, competitive, and market conditions and future business decisions, all of which are difficult or impossible to predict accurately and many of which are beyond the control of the University. Any of such assumptions could be inaccurate and, therefore, there can be no assurance that the forward-looking statements included in this Official Statement will prove to be accurate. Given these uncertainties, prospective investors are cautioned not to place undue reliance on such forward-looking statements. The University and the Underwriters disclaim any obligation to update any such factors or to publicly announce the results of any revision to any of the forward-looking statements contained herein to reflect future events or developments.

## **SPECIAL CONSIDERATIONS RESPECTING THE SERIES 2020 BONDS**

### **General**

An investment in the Series 2020 Bonds involves certain risks which should be carefully considered by investors. The sufficiency of Pledged Revenues to pay debt service on the Series 2020 Bonds may be affected by events and conditions relating to, among other things, general economic conditions, population in the University's basic service area, the demand for higher education, and legislative and administrative requirements on the University's operations.

Prospective investors should carefully examine this Official Statement and their own financial condition in order to make a judgment as to their ability to bear the economic risk of such an investment and whether or not the Series 2020 Bonds are an appropriate investment for them.

Holders of the Series 2020 Bonds should be aware that their rights and the enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights and the exercise of judicial discretion in appropriate cases.

### **Limitations on Source of Payment, Security and Remedies**

Limited Source of Payment. The Series 2020 Bonds will be limited obligations of the University, payable solely from, and secured by a pledge of, the Pledged Revenues. See "SECURITY AND SOURCE OF PAYMENT".

The Series 2020 Bonds will not be debts or obligations of the State of Alabama, and debt service on the Series 2020 Bonds will not be payable out of any money provided or appropriated to the University by the State of Alabama. Holders of the Series 2020 Bonds shall never have the right to demand payment of the Series 2020 Bonds from the University from any source other than the special funds established under the Indenture and the Pledged Revenues and shall be entitled to payment from such sources only on a parity basis with all other bonds outstanding under the Indenture.

Additional Debt. All Bonds are secured on a parity by the lien on Pledged Revenues. If the University incurs additional debt secured by the Indenture, the security interest in Pledged Revenues for the benefit of Bondholders will in effect be diluted.

Hospitals Are Limited Use Facilities. The hospitals and other health care facilities of the University, which are operating assets of the University, are limited use facilities, suitable primarily for hospital or health care purposes. Consequently, the market for sale or other disposition of such facilities is limited. In the event of a sale of such facilities, whether in a bankruptcy proceeding or otherwise, the number of potential purchasers and the sale price may be affected by the limited possible use.

Limitation on Remedies Upon Default. The Indenture does not constitute a mortgage on or security interest in any properties of the University, and no foreclosure or sale proceedings with respect to any property of the University may occur. The University is exempt from all suits under the doctrine of sovereign immunity, but state law provides that agents and employees of the University may, by mandamus, be compelled to apply the Pledged Revenues to the payment of the Series 2020 Bonds in accordance with the terms of the Indenture.

The remedies available to the registered holders of the Series 2020 Bonds upon the occurrence of a default under the Indenture are in many respects dependent upon regulatory and judicial actions, which are often subject to discretion and delay. Under existing law, the remedies provided under the Indenture may not be readily available or may be limited, and no assurance can be given that a mandamus or other legal action to enforce payment under the Indenture would be successful. The various legal opinions to be delivered concurrently with the delivery of the Series 2020 Bonds will be qualified as to enforceability of the various legal instruments, limitations imposed by bankruptcy, reorganization, insolvency or similar laws affecting the rights of creditors generally and by judicial discretion applicable to equitable remedies and proceedings generally.

### **Health Care Industry Factors**

The health care industry is subject to a number of factors that could adversely affect the business prospects of the University. Among those factors are the following:

The Health Care Industry is Highly Regulated. The health care industry is highly regulated by the federal and state governments. These regulations relate to areas such as the required delivery of care whether or not patients have the resources for payment, the quality of care and outcomes of health care services provided, excessive re-admission of patients, accuracy of billing and collecting for services rendered, privacy of patients and their health care information, and the relationship between providers and physicians who refer patients to the provider's health care facilities. For providers organized as charitable organizations under Section 501(c)(3) of the Internal Revenue Code there are additional regulations that must be satisfied to preserve tax-exempt status. The cost of compliance with these regulations is significant.

Payment Systems. The University's Health System derives most of its revenues from Medicare, Medicaid, Blue Cross and other third party payor programs. Such programs may provide payment for services rendered to their beneficiaries in an amount that is less than actual patient charges. These payment systems are complex, subject to periodic change, and require a high degree of accuracy in the billing and collecting process. Failure to submit accurate billing may result in large financial penalties or claims or disqualification from the program. Penalties or claims may be from governmental authorities, such as the Justice Department and the Office of Inspector General, independent auditing firms under contract with the government, or from private litigants under so-called "qui tam actions".

Alternate Payment Systems. The payment systems for health care services may be expanded to cover capitation or other coverage programs in which the providers assume the risk of health care services for a defined population. The University currently does not provide coverage on a capitated basis; however, the development of such coverage programs in the University's market could force the University to assume increased risk for the amount and cost of services it provides.

Health Care Reform. In 2010, Congress adopted extensive health reform legislation commonly referred to as the Affordable Care Act (the "ACA"). This legislation attempts to extend commercial insurance coverage and Medicaid coverage to many patients not previously covered. The State of Alabama declined the ACA option to expand the Medicaid coverage, which reduces the amount of reimbursement that might otherwise be available to the health care facilities operated by the University. This legislation also imposes numerous operating and reporting requirements on health care providers. Implementation of the various ACA initiatives will take several years and will require extensive time and expense. Implementation has been and continues to be uncertain. It is expected that governments will continue to consider various reform proposals in the health care industry. If adopted, such proposals may subject health care providers like the University to increased compliance requirements, reduced reimbursement for services, increased costs, or a combination of such results. As has been widely reported, President Donald Trump and Congressional leadership have expressed their intention, and recently attempted, to repeal some or all of the ACA and to enact related legislation in its place. The impact of such efforts on the University cannot be gauged at this time.

Trend Toward Large-Deductible Insurance Policies. Coverage provided by insurance is trending toward large deductibles or self-insurance retention for patients, which reduces the required premiums, but increases out-of-pocket expense for the insured. These large deductible policies can be expected to increase the challenge of collecting for services rendered and may result in an increase of bad debt expense for health care providers.



Budgetary Pressure for Medicare and Medicaid Funding. Medicare and Medicaid are government-sponsored programs. Funding for those programs is subject to the legislative process of federal and state governments. The spending policies or deficit reduction initiatives of those governments have resulted in significant reductions in reimbursement for health care services in the past and can be expected to apply pressure on reimbursement for the foreseeable future.

Competition from Other Providers. The health care industry is highly competitive. Other health care providers may develop competing facilities or services in the University's service area. Competing facilities or services may include, among others, new hospitals, specialty hospitals, outpatient facilities, and managed care or insurance products. Other forms of competition could also affect the University's ability to maintain or improve its market share, including increasing competition (1) between physicians who generally use hospitals and non-physician practitioners such as nurse practitioners, chiropractors, physical and occupational therapists and others who may not generally use hospitals, and (2) from nursing homes, home health agencies, ambulatory care facilities, surgical centers, outpatient radiology centers, rehabilitation and therapy centers, physician group practices, and other non-hospital providers of many services for which patients generally rely on hospitals currently.

Capital Investment and Technology. The technology for diagnosis and treatment of patients changes rapidly and requires large capital investment on an ongoing basis in order for a health system to meet the needs of its patients.

Other Factors Affecting the Health Care Industry. In addition to the factors discussed above, the following additional factors, among others, may adversely affect the operations of health care providers, including the University:

- (a) Increased efforts by insurers, private employers and governmental agencies to limit the cost of hospital services, to reduce the number of hospital beds and to reduce utilization of hospital facilities by such means as preventive medicine, improved occupational health and safety, and outpatient care.
- (b) Termination of existing agreements between a provider and employed physicians who render services to the provider's patients, or alteration of referral patterns by independent physicians and physician groups.
- (c) The availability and cost of insurance or self-insurance to protect against malpractice and general liability claims.
- (d) Environmental and hazardous waste disposal regulations.
- (e) Future legislation and regulations affecting the tax-exempt status of governmental and 501(c)(3) hospitals or imposing additional requirements on qualification.
- (f) The reduced need for hospitalization or other traditional health care services as a result of medical and other scientific advances.
- (g) Imposition of wage and price controls for the health care industry.
- (h) The availability of or cost of retaining nursing, technical or other health care personnel.
- (i) The spread of any bacteria, virus or infectious disease that is resistant to existing drugs or medical treatment.
- (j) Reduction in population, increased unemployment or other adverse economic conditions in the market.

#### **Factors Affecting Academic Medical Centers**

Academic medical center hospitals, like those operated by the University, are subject to certain negative credit factors that do not affect other not-for-profit hospitals. Among those factors are the following:

Special Revenue and Expense Challenges. The research and teaching divisions at academic medical centers often operate at break-even or deficit levels. Funding these missions sometimes requires organizational subsidies that can detrimentally affect the hospital's overall operating performance. Fundraising, endowment spending and excess cash generated from patient care can be used to support the non-clinical departments at an academic medical center, but these sources of funding may not be enough to offset the drag on operating funds.

Negative Reimbursement Pressure from Medicare and Medicaid. The federal government has proposed a reduction in graduate medical education funding from CMS as one way to address federal budget challenges. Although funding cuts would impact all teaching hospitals with medical residents, academic medical centers would be disproportionately impacted due to higher numbers of residents and greater indirect cost payments for high acuity services performed. In addition, securing federal funding for research has become increasingly competitive among research institutions, primarily due to federal budget constraints. Changes in federal funding patterns could adversely affect academic medical centers and their ability to make debt service payments.

Inordinately High Exposure to Medicaid Patients. Many academic medical centers provide a disproportionate amount of charity care in their communities, which results in high exposure to Medicaid patients and receipt of Disproportionate Share Funding ("DSH"). Medicaid reimbursement cuts in recent years have disproportionately impacted academic medical centers. Additionally, reductions in DSH payments were mandated by the ACA beginning in 2016.

Increased Financial Support for Sponsoring University. Academic medical centers are increasingly facing requests for financial transfers to their associated universities to support strategic investments, program development and educational activities. These financial transfers are typically negotiated between the university and the hospital on an annual basis, and immediate needs at the university level could lead to a growing financial subsidy. These payments could adversely affect the academic medical center's operating performance.

#### **State Proration**

The State of Alabama appropriates money each year to the University for operating costs and non-operating cash requirements, including capital expenditures. Because the State is mandated by its constitution to operate with a balanced budget, the State occasionally has reduced its appropriations, through a process known as "proration", when its annual revenues are not expected to meet budgeted appropriations. The last fiscal year in which State appropriations were "prorated" was fiscal year 2011. It is possible that proration may be implemented from time to time in the future and, when proration does occur, the University may be required to implement various cost-saving measures in order to balance its own budget. Although proration may impact the University's budget, the Series 2020 Bonds are not payable from State appropriations.

#### **Certain Factors Affecting Pledged Revenues**

No representation can be made and no assurance can be given that receipts from the Pledged Revenues will be sufficient to make the required payment of debt service on the Series 2020 Bonds and to pay necessary operating expenses. The amount of Pledged Revenues collected by the University will be subject to a variety of factors that could adversely affect debt service coverage on the Series 2020 Bonds, including general economic conditions, population in the University's basic service area, the demand for higher education, and the impact of legislative and administrative requirements on the University's operations.

#### **Tax-Exempt Status of Series 2020 Bonds**

It is expected that the Series 2020 Bonds will qualify as tax-exempt obligations for federal income tax purposes as of the date of issuance. See "TAX MATTERS – General." It is anticipated that Bond Counsel to the University will render an opinion substantially in the form attached hereto as Appendix B, which should be read in its entirety for a complete understanding of the scope of the opinions and the conclusions expressed therein. A legal opinion expresses the professional judgment of the attorney rendering the opinion as to the legal issues explicitly addressed therein. By rendering a legal opinion, the opinion giver does not become an insurer or guarantor of that expression of professional judgment, of the transaction opined upon, or of the future

performance of parties to the transaction. Nor does the rendering of an opinion guarantee the outcome of any legal dispute that may arise out of the transaction.

The tax status of the Series 2020 Bonds could be affected by post-issuance events. There are various requirements of the Internal Revenue Code that must be observed or satisfied after the issuance of the Series 2020 Bonds in order for the Series 2020 Bonds to qualify for, and retain, tax-exempt status. These requirements include appropriate use of the proceeds of the Series 2020 Bonds, use of the facilities financed by the Series 2020 Bonds, investment of bond proceeds, and the rebate of so-called excess arbitrage earnings. Compliance with these requirements is the responsibility of the University.

The Internal Revenue Service (the "IRS") conducts an audit program to examine compliance with the requirements regarding tax-exempt status. Under current IRS procedures, in the initial stages of an audit with respect to the Series 2020 Bonds, the University would be treated as the taxpayer, and the owners of the Series 2020 Bonds may have limited rights to participate in the audit process. The initiation of an audit with respect to the Series 2020 Bonds could adversely affect the market value and liquidity of the Series 2020 Bonds, even though no final determination about the tax-exempt status has been made. If an audit results in a final determination that the Series 2020 Bonds do not qualify as tax-exempt obligations, such a determination could be retroactive in effect to the date of issuance of the Series 2020 Bonds.

In addition to post-issuance compliance, a change in law after the date of issuance of the Series 2020 Bonds could affect the tax-exempt status of the Series 2020 Bonds or the effect of investing in the Series 2020 Bonds. For example, the federal government is considering various proposals to reduce federal budget deficits and the amount of federal debt, including proposals that would eliminate or reduce indirect expenditures made through various deductions and exemptions currently allowed by the income tax laws. The exemption for interest on tax-exempt bonds is one of the indirect expenditures that could be affected by a deficit reduction initiative. Some deficit-reduction proposals would eliminate the exemption for interest on tax-exempt bonds. Other proposals would place an aggregate cap on the total amount of exemptions and deductions that may be claimed by a taxpayer, or a cap on the exemption for interest on tax-exempt bonds. Changes in the rate of the federal income tax, including so-called "flat tax" proposals, could also reduce the value of the exemption. Changes affecting the exemption for interest on tax-exempt bonds, if enacted, could apply to tax-exempt bonds already outstanding, including the Series 2020 Bonds offered pursuant to this Official Statement, as well as bonds issued after the effective date of such legislation. It is not possible to predict whether Congress will adopt legislation affecting the exemption for tax-exempt bonds, what the provisions of such legislation may be, whether any such legislation will be retroactive in effect, or what effect any such legislation may have on investors in the Series 2020 Bonds. Investors should consult their own tax advisers about the prospects and possible effect of future legislation that could affect the exemption for interest on tax-exempt bonds.

The Indenture does not provide for mandatory redemption of the Series 2020 Bonds or payment of any additional interest or penalty if a determination is made that the Series 2020 Bonds do not comply with the existing requirements of the Code, if a subsequent change in law adversely affects the tax-exempt status of the Series 2020 Bonds or the economic benefit of investing in the Series 2020 Bonds, or if any other event or occurrence takes place that impacts the tax status of the Series 2020 Bonds.

### **The United States Bankruptcy Code**

Chapter 9 of Title 11 of the United States Code, 11 U.S.C. 101, et seq. (the "Bankruptcy Code") permits a political subdivision, public agency or instrumentality of a State to file a petition for relief in federal bankruptcy courts if the subdivision, agency or instrumentality is insolvent within the meaning of Chapter 9 and is authorized under applicable state law to seek such relief. The University, as an instrumentality of the State of Alabama, meets the initial eligibility requirement for a debtor under Chapter 9 of the United States Bankruptcy Code, as set forth at 11 U.S.C. §109(c)(1), because it is a "municipality" as defined at 11 U.S.C. §101(40), but the University is not expressly authorized by Article XIV, Section 266 of the Alabama Constitution of 1901 or by §16-48-1 et seq. of the Code of Alabama 1975, as amended, to initiate a Chapter 9 proceeding. Therefore, absent

enactment of legislation by the Alabama Legislature that specifically authorizes a filing by the University, or by all instrumentalities of the State of Alabama, the University does not appear to be eligible to be a “debtor” under Chapter 9 of the United States Bankruptcy Code.

Nonetheless, Chapter 9 has been rarely used, and there is little precedent concerning its interpretation or the interpretation of related state laws, so there can be no definitive assurance that the University would be prevented from filing a petition for relief under Chapter 9, and if it did so, what relief would be provided. For example, Chapter 9 of the Bankruptcy Code provides certain protections to creditors whose debts are secured by pledged special revenues; however, because of the limited precedent available with respect to Chapter 9, it is possible that a federal bankruptcy court could reject or circumscribe certain of these provisions under the facts of a specific case.

It should be noted that Section 922(d) of Chapter 9 of the Bankruptcy Code provides that a bankruptcy petition does not operate as a stay of "application of pledged special revenues" to the payment of indebtedness secured by such revenues in a manner consistent with other provisions of the Bankruptcy Code. Without limitation, section 928 of the Bankruptcy Code provides that special revenues acquired by the debtor after commencement of a chapter 9 case remain subject to any lien resulting from any security agreement entered into by the debtor before commencement of the case, but further provides that any such lien on special revenues (other than municipal betterment assessments) derived from a project or system shall be subject to "the necessary operating expenses of such project or system." It is not clear whether the pledge of Pledged Revenues made by the University for the benefit of the Series 2020 Bonds would constitute "special revenues" as that term is defined in section 902(2) of the Bankruptcy Code. Moreover, the phrase "application of pledged special revenues" has given rise to arguments that the provisions of section 922(d) apply only to funds in possession and control of the debtholders, or their trustee. Therefore, it is uncertain whether or not the filing of a chapter 9 petition (if the University had such power under Alabama law) would affect application of Pledged Revenues for the payment of principal and interest on the Series 2020 Bonds. Similarly, it is uncertain whether section 928 of the Bankruptcy Code would control the claims of holders of the Series 2020 Bonds with respect to the Pledged Revenues.

As a “municipality” within the meaning of the United States Bankruptcy Code, the University’s eligibility to be a debtor is governed solely by 11 U.S.C. §109(c). A “municipality” within the meaning of Chapter 9 of the United States Bankruptcy Code cannot seek relief as a “debtor” under other chapters of the Bankruptcy Code, including without limitation Chapters 7 and 11.

The approving legal opinion of Bond Counsel to the University will contain the customary reservation that the rights of the holders of the Series 2020 Bonds and the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, sovereign immunity, moratorium and other similar laws affecting creditors’ rights and the exercise of judicial discretion in appropriate cases. See the proposed form of approving legal opinion set forth in Appendix B – "Proposed Form of Approval Opinion of Bond Counsel to the University."

#### **FINANCIAL ADVISOR**

PFM Financial Advisors LLC (“PFM”) is employed by the University to perform professional services in the capacity of financial advisor. In its role as financial advisor to the University, PFM has provided advice on the plan of financing and structure of the Series 2020 Bonds, and reviewed certain legal and disclosure documents, including this Official Statement, for financial matters. PFM has not independently verified the factual information contained in this Official Statement, but relied on the information supplied by the University and other sources and the University’s certification as to the Official Statement.

#### **UNDERWRITING**

The Series 2020 Bonds are being purchased for reoffering by Raymond James & Associates, Inc. ("Raymond James") and Protective Securities, a division of ProEquities, Inc. (together with Raymond James, the “Underwriters”) at an aggregate purchase price of \$45,316,795.94 (representing the initial par amount of the Series 2020 Bonds, less an underwriting discount of \$125,614.71, plus original issue premium of \$8,437,410.65). The public offering price of the Series 2020 Bonds as set forth on the inside of the cover page of this Official

Statement may be changed from time to time by the Underwriters, and the Underwriters may allow a concession from the public offering price to certain dealers.

#### **MISCELLANEOUS**

The references herein to statutory provisions, the Indenture and other documents and instruments are summaries of certain provisions thereof and do not purport to be complete. For full and complete statements of such provisions reference is hereby made to the specific statutory provision, document or instrument to which such summary relates.

So far as any statements made in this Official Statement involve matters of opinion or of estimates, whether or not expressly stated, they are set forth as such and not as representations of fact. No representation is made that any of the statements will be realized. Neither this Official Statement nor any statement which may have been made verbally or in writing is to be construed as a contract with the owners of the Series 2020 Bonds.

The information contained in this Official Statement has been compiled or prepared from information obtained from sources believed to be reliable; however, the University makes no representation as to the accuracy or completeness of such information. The information and the expressions of opinion herein are subject to change without notice. Accordingly, neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that, since the date hereof, there has been no change in the affairs of the University or any other governmental agencies or entities discussed herein.

The distribution of this Official Statement and its use in the offering and sale of the Series 2020 Bonds have been approved by the governing body of the University.

#### **UNIVERSITY OF SOUTH ALABAMA**

/s/ G. Scott Weldon

Vice President for Finance and Administration

**APPENDIX A**

**AUDITED FINANCIAL STATEMENT FOR THE  
FISCAL YEAR ENDED SEPTEMBER 30, 2019**

**APPENDIX B**

**PROPOSED FORM OF APPROVAL OPINION OF BOND COUNSEL TO THE UNIVERSITY**

Proposed Form of Approval Opinion of Bond Counsel

March 10, 2020

Board of Trustees of the  
University of South Alabama  
Mobile, Alabama

Ladies and Gentlemen:

We have examined the Constitution and laws of the State of Alabama and certified copies of proceedings of the Board of Trustees of the University of South Alabama (herein called the "University") and other documents submitted to us pertaining to the authorization, issuance and validity of:

**\$37,005,000**  
**University of South Alabama**  
**University Facilities Revenue Bonds**  
**Series 2020**

The statements hereinafter made and the opinions hereinafter expressed are based upon our examination of said constitution, laws, proceedings, and documents, which show as follows:

(1) that the above-referenced Series 2020A Bonds (the "Series 2020 Bonds") have been issued under a University Facilities Revenue Trust Indenture dated as of February 15, 1996, as heretofore supplemented and amended and as further supplemented by a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of the Series 2020 Bonds between the University and The Bank of New York Mellon Trust Company, N.A., as successor trustee (said Indenture, as so supplemented and amended, herein called the "Indenture"), wherein there has been pledged for payment of all bonds issued thereunder so much as may be necessary therefor of (a) the proceeds of the general tuition fees levied against all students attending the University, (b) the gross revenues derived from auxiliary enterprises services furnished by the University, including, without limitation, food services, housing, college stores, dining, concessions and other similar services, as such revenues are shown as a separate item on the audited financial statements of the University, and (c) an amount not exceeding \$10,000,000 in any fiscal year of the University of the gross revenues derived from that certain hospital facility owned and operated by the University and known as USA Children's and Women's Hospital (collectively herein called the "Pledged Revenues"); and

(2) that the University is authorized under the Indenture to issue, without express limit as to principal amount but only upon compliance with certain conditions precedent specified in the Indenture, Additional Bonds (as such term is defined in the Indenture) secured by a pledge of the Pledged Revenues on a parity with all other bonds issued under the Indenture and at any time outstanding.

We are of the following opinion: that the University is a public body corporate under the laws of the State of Alabama and has corporate power to issue the Series 2020 Bonds and to execute and deliver the Indenture; that the Series 2020 Bonds have been duly authorized, executed and issued in the manner provided by the applicable provisions of the Constitution and laws of the State of Alabama, are in due and legal form and evidence valid and binding limited and special obligations of the University payable, as to principal and interest, solely out of the Pledged Revenues; that the payment of the principal of and the interest on the Series 2020 Bonds is secured on a parity with all Bonds (as such term is defined in the Indenture) previously issued under the Indenture and with any other Additional Bonds hereafter issued under the Indenture by a pledge of the Pledged Revenues pro rata and without preference or priority of the Bonds of one series over those of another; that the said pledge is valid, subject to all lawful prior charges on the Pledged Revenues; and that the Indenture has been duly authorized, executed and delivered on behalf of the University.



We are of the opinion that the interest on the Series 2020 Bonds is, under existing statutes and regulations as presently construed, exempt from Alabama income taxation.

We are further of the opinion that under the Internal Revenue Code of 1986, as amended (herein called the "Code"), as presently construed and administered, and assuming compliance by the University with its covenants pertaining to certain requirements of federal tax law that are set forth in the Indenture and the proceedings authorizing the issuance of the Series 2020 Bonds, the interest on the Series 2020 Bonds will be excludable from gross income of the recipient thereof for federal income tax purposes pursuant to the provisions of Section 103(a) of the Code and will not be an item of tax preference included in alternative minimum taxable income for the purpose of computing the minimum tax imposed by Section 55 of the Code. We express no opinion regarding tax consequences arising with respect to the Series 2020 Bonds other than as expressly set forth herein.

We express no opinion herein regarding the accuracy, adequacy or completeness of the Official Statement of the University relating to the Series 2020 Bonds. We express no opinion with respect to the federal tax consequences to the recipient of the interest on the Series 2020 Bonds under any provision of the Code not referred to above.

The rights of the holders of the Series 2020 Bonds and the enforceability of the Series 2020 Bonds and the Indenture are subject to all applicable bankruptcy, insolvency, reorganization, sovereign immunity, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and the exercise of judicial discretion in appropriate cases.

Neither the principal of nor the interest on the Series 2020 Bonds nor the aforesaid pledge or any other agreements contained in the Indenture constitute an obligation of any nature whatsoever of the State of Alabama, and neither the Series 2020 Bonds nor any obligation arising from said pledge or other agreements are payable out of any moneys appropriated to the University by the State of Alabama. The Indenture does not constitute a mortgage on any of the property of the University and no foreclosure or sale proceedings with respect to any property of the University shall ever be had under its authority.

This opinion is given as of the date hereof and we assume no obligation to update, revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Very truly yours,

**APPENDIX C**  
**FORM OF CONTINUING DISCLOSURE AGREEMENT**

## CONTINUING DISCLOSURE AGREEMENT

The University of South Alabama, a public body corporate under the laws of the State of Alabama (the "University"), has entered into this Agreement for the benefit of the holders of its University Facilities Revenue Bonds, Series 2020, in the aggregate principal amount of \$37,005,000 (the "Bonds"). The University is the Obligated Person with respect to the Bonds.

### Recitals

A. The Bonds are being issued pursuant to a University Facilities Revenue Trust Indenture dated as of February 15, 1996 (the said Indenture, as heretofore supplemented and amended and as further supplemented and amended by a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of the Bonds (the "Indenture"), between the University and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee").

B. An Official Statement dated February 25, 2020 (the "Official Statement") has been prepared for distribution to prospective purchasers of the Bonds.

C. The Bonds are subject to the provisions of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), as amended. This Agreement is being entered into pursuant to the continuing disclosure requirements of the Rule.

D. Capitalized terms not otherwise defined in this Agreement shall have the meaning assigned in the Rule or, to the extent not in conflict with definitions in the Rule, in the Official Statement.

E. There is no Obligated Person with respect to the Bonds other than the University.

**NOW, THEREFORE**, for and in consideration of the premises, the University hereby covenants, agrees and binds itself as follows:

#### **1. Financial Statements; Annual Report.**

(a) The University will provide to the Municipal Securities Rulemaking Board (the "MSRB") the audited financial statements of the University, prepared in accordance with generally accepted accounting principles as applicable to the University, not later than 210 days after the close of each fiscal year of the University, beginning with the fiscal year ending September 30, 2020.

(b) The University will provide, not later than 210 days after the end of each fiscal year of the University, commencing with the fiscal year ending September 30, 2020, to the MSRB the following financial and operating data, unless such information is included in the filed audited financial statements (the "Annual Report"):

- (1) the revenues from the general tuition fees the proceeds of which are pledged for payment of the Bonds;
- (2) the revenues from the auxiliary enterprises fees the proceeds of which are pledged for payment of the Bonds;
- (3) the schedule of undergraduate and graduate fees and Medical College fees;
- (4) the number of students, by geographic classification, attending the fall term commencing within the fiscal year covered by the University Annual Report;
- (5) the total State appropriations authorized and received.

(c) If the University's fiscal year is changed subsequent to the execution of this Agreement, the University shall provide timely notice of the change to the MSRB stating that its fiscal year has changed and specifying the new period constituting the University's fiscal year.

**2. Event Notices.** The University agrees to provide or cause to be provided, in a timely manner not in excess of ten (10) business days after the occurrence of the event, as required by the Rule, to the MSRB, notice of the occurrence of any of the following events (each a "Listed Event") with respect to the Bonds:

1. principal and interest payment delinquencies.
2. non-payment related defaults, if material.
3. unscheduled draws on debt service reserves reflecting financial difficulties.
4. unscheduled draws on credit enhancements reflecting financial difficulties.
5. substitution of credit or liquidity providers, or their failure to perform.
6. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds.
7. modifications of the rights of holders of the Bonds, if material.
8. bond calls, if material, and tender offers.
9. defeasances.
10. release, substitution or sale of property securing repayment of the Bonds, if material.
11. rating changes.
12. bankruptcy, insolvency, receivership, or similar event of the obligated person.
13. the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
14. appointment of a successor or additional trustee or the change of name of a trustee, if material.
15. incurrence of a Financial Obligation of an Obligor, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of an Obligor, any of which affect security holders, if material.
16. default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of an Obligor, any of which reflect financial difficulties.

As used herein, "Financial Obligation" shall mean a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) a guarantee of (a) or (b). The term financial obligation does not include municipal securities as to which a final official statement has been otherwise provided to the MSRB under the Rule.

**3. Additional Information.** Nothing in this Agreement shall be deemed to prevent the University from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other information in any notice of occurrence of a Listed Event, in addition to that which is required by this Agreement. If the University chooses to disseminate information in addition to that required herein, whether by including such information in any notice of occurrence of a Listed Event in addition to that which is specifically required by this Agreement or otherwise, the University shall have no obligation under this Agreement to update or continue to provide such information or include it in any future notice of occurrence of a Listed Event.

**4. Form and Method of Filing.** All filings to be provided hereunder to the MSRB shall be made by posting such information in electronic format on the MSRB's Electronic Municipal Market Access ("EMMA") system at <http://emma.msrb.org> accompanied by identifying information as prescribed by the MSRB. All such filings shall be made in conformity with the procedures and requirements established by the MSRB in effect at the time of such filing.

**5. Beneficiaries; Limitation of Remedies Hereunder.** This Agreement is for the benefit of the holders of the Bonds and shall be enforceable by such holders, subject to the limitations herein. The University shall never be subject to money damages in any sum or amount, whether compensatory, punitive or otherwise, for its failure to comply with its obligations contained herein. The only remedy available to the holders of the Bonds for breach by the University of its obligations hereunder shall be the remedy of specific performance or mandamus against the appropriate officials of the University to obtain performance of the University's obligations hereunder. No failure by the University to comply with the provisions of this Agreement shall be an event of default with respect to the Bonds under the Indenture.

**6. Responsibility for Compliance.**

(a) No person other than the University shall have any liability or responsibility for compliance by the University with its obligations under this Agreement. The Trustee has undertaken no responsibility with respect to any reports, notices or disclosures required by this Agreement or the Rule.

(b) The University will pay all costs incurred in connection with the performance of its obligations under this Agreement, including without limitation the fees and expenses of any dissemination agent, consultants, advisers, accountants, legal counsel or other persons that may be retained by the University to assist in the performance of the University's obligations.

**7. Amendment; Waiver.** Notwithstanding any other provision of this Agreement, the University may amend this Agreement and any provision of this Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws, to the effect that such amendment or waiver would not cause the undertakings herein to violate the Rule taking into account any subsequent change in or official interpretation of the Rule.

**8. Termination.** The University reserves the right to terminate its obligation to provide an Annual Report, audited financial statements and notices of material events, as set forth above, if and when the University no longer remains an obligated person with respect to the Bonds within the meaning of the Rule.

**9. Contract Formed.** This Agreement shall constitute a contract between the University and the holders from time to time and at any time of the Bonds, but no other person, firm or corporation shall have any rights hereunder.

[Balance of page intentionally left blank]

**IN WITNESS WHEREOF**, this Agreement has been duly authorized by the University and has been executed by and on behalf of the University by its duly authorized officer, all as of the 10<sup>th</sup> day of March, 2020.

**UNIVERSITY OF SOUTH ALABAMA**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**APPENDIX D**  
**DTC PROCEDURES**

## **DTC Book-Entry Only System**

1. The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the Series 2020 Bonds (the “Securities”). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each maturity of the Securities, in the aggregate principal amount of such maturity, and will be deposited with DTC.

2. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 7A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com).

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC’s records. The ownership interest of each actual purchaser of each Security (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC’s partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC’s records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.



6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the University as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from University or Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Trustee, or University, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of University or Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to University or Trustee. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

10. The Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Issuer believes to be reliable, but the Issuer takes no responsibility for the accuracy thereof.

THE UNIVERSITY, THE UNDERWRITERS AND THE TRUSTEE CANNOT AND DO NOT GIVE ANY ASSURANCES THAT THE DIRECT PARTICIPANTS OR THE INDIRECT PARTICIPANTS WILL DISTRIBUTE TO THE BENEFICIAL OWNERS OF THE SERIES 2020 BONDS (1) PAYMENTS OF PRINCIPAL OF OR INTEREST AND PREMIUM, IF ANY, ON THE SERIES 2020 BONDS, (2) CERTIFICATES REPRESENTING AN OWNERSHIP INTEREST OR OTHER CONFIRMATION OF BENEFICIAL OWNERSHIP INTERESTS IN THE SERIES 2020 BONDS, OR (3) REDEMPTION OR OTHER NOTICES SENT TO DTC OR CEDE & CO., ITS NOMINEE, AS THE REGISTERED OWNERS OF THE SERIES 2020 BONDS, OR THAT THEY WILL DO SO ON A TIMELY BASIS OR THAT DTC OR DIRECT OR INDIRECT PARTICIPANTS WILL SERVE AND ACT IN THE MANNER DESCRIBED IN THIS OFFICIAL STATEMENT. THE CURRENT "RULES" APPLICABLE TO DTC ARE ON FILE WITH THE SECURITIES AND EXCHANGE COMMISSION AND THE CURRENT "PROCEDURES" OF DTC TO BE FOLLOWED IN DEALING WITH DTC PARTICIPANTS ARE ON FILE WITH DTC.

NEITHER THE UNIVERSITY, THE UNDERWRITERS NOR THE TRUSTEE WILL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO SUCH DTC PARTICIPANTS OR THE BENEFICIAL OWNERS WITH RESPECT TO (1) THE SERIES 2020 BONDS; (2) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DTC PARTICIPANT; (3) THE PAYMENT BY ANY DTC PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL AMOUNT OF OR INTEREST OR PREMIUM, IF ANY, ON THE SERIES 2020 BONDS; (4) THE DELIVERY BY ANY DTC PARTICIPANT OF ANY NOTICE TO ANY BENEFICIAL OWNER WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THE BOND INDENTURE TO BE GIVEN TO BONDHOLDERS; (5) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE SERIES 2020 BONDS; OR (6) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY DTC AS BONDHOLDER.

**APPENDIX E  
SPECIMEN MUNICIPAL BOND INSURANCE POLICY**



**MUNICIPAL BOND  
INSURANCE POLICY**

ISSUER:

Policy No: -N

BONDS: \$ in aggregate principal amount of

Effective Date:

Premium: \$

ASSURED GUARANTY MUNICIPAL CORP. ("AGM"), for consideration received, hereby UNCONDITIONALLY AND IRREVOCABLY agrees to pay to the trustee (the "Trustee") or paying agent (the "Paying Agent") (as set forth in the documentation providing for the issuance of and securing the Bonds) for the Bonds, for the benefit of the Owners or, at the election of AGM, directly to each Owner, subject only to the terms of this Policy (which includes each endorsement hereto), that portion of the principal of and interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer.

On the later of the day on which such principal and interest becomes Due for Payment or the Business Day next following the Business Day on which AGM shall have received Notice of Nonpayment, AGM will disburse to or for the benefit of each Owner of a Bond the face amount of principal of and interest on the Bond that is then Due for Payment but is then unpaid by reason of Nonpayment by the Issuer, but only upon receipt by AGM, in a form reasonably satisfactory to it, of (a) evidence of the Owner's right to receive payment of the principal or interest then Due for Payment and (b) evidence, including any appropriate instruments of assignment, that all of the Owner's rights with respect to payment of such principal or interest that is Due for Payment shall thereupon vest in AGM. A Notice of Nonpayment will be deemed received on a given Business Day if it is received prior to 1:00 p.m. (New York time) on such Business Day; otherwise, it will be deemed received on the next Business Day. If any Notice of Nonpayment received by AGM is incomplete, it shall be deemed not to have been received by AGM for purposes of the preceding sentence and AGM shall promptly so advise the Trustee, Paying Agent or Owner, as appropriate, who may submit an amended Notice of Nonpayment. Upon disbursement in respect of a Bond, AGM shall become the owner of the Bond, any appurtenant coupon to the Bond or right to receipt of payment of principal of or interest on the Bond and shall be fully subrogated to the rights of the Owner, including the Owner's right to receive payments under the Bond, to the extent of any payment by AGM hereunder. Payment by AGM to the Trustee or Paying Agent for the benefit of the Owners shall, to the extent thereof, discharge the obligation of AGM under this Policy.

Except to the extent expressly modified by an endorsement hereto, the following terms shall have the meanings specified for all purposes of this Policy. "Business Day" means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State of New York or the Insurer's Fiscal Agent are authorized or required by law or executive order to remain closed. "Due for Payment" means (a) when referring to the principal of a Bond, payable on the stated maturity date thereof or the date on which the same shall have been duly called for mandatory sinking fund redemption and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by mandatory sinking fund redemption), acceleration or other advancement of maturity unless AGM shall elect, in its sole discretion, to pay such principal due upon such acceleration together with any accrued interest to the date of acceleration and (b) when referring to interest on a Bond, payable on the stated date for payment of interest. "Nonpayment" means, in respect of a Bond, the failure of the Issuer to have provided sufficient funds to the Trustee or, if there is no Trustee, to the Paying Agent for payment in full of all principal and interest that is Due for Payment on such Bond. "Nonpayment" shall also include, in respect of a Bond, any payment of principal or interest that is Due for Payment made to an Owner by or on behalf of the Issuer which has been recovered from such Owner pursuant to the

United States Bankruptcy Code by a trustee in bankruptcy in accordance with a final, nonappealable order of a court having competent jurisdiction. "Notice" means telephonic or telecopied notice, subsequently confirmed in a signed writing, or written notice by registered or certified mail, from an Owner, the Trustee or the Paying Agent to AGM which notice shall specify (a) the person or entity making the claim, (b) the Policy Number, (c) the claimed amount and (d) the date such claimed amount became Due for Payment. "Owner" means, in respect of a Bond, the person or entity who, at the time of Nonpayment, is entitled under the terms of such Bond to payment thereof, except that "Owner" shall not include the Issuer or any person or entity whose direct or indirect obligation constitutes the underlying security for the Bonds.

AGM may appoint a fiscal agent (the "Insurer's Fiscal Agent") for purposes of this Policy by giving written notice to the Trustee and the Paying Agent specifying the name and notice address of the Insurer's Fiscal Agent. From and after the date of receipt of such notice by the Trustee and the Paying Agent, (a) copies of all notices required to be delivered to AGM pursuant to this Policy shall be simultaneously delivered to the Insurer's Fiscal Agent and to AGM and shall not be deemed received until received by both and (b) all payments required to be made by AGM under this Policy may be made directly by AGM or by the Insurer's Fiscal Agent on behalf of AGM. The Insurer's Fiscal Agent is the agent of AGM only and the Insurer's Fiscal Agent shall in no event be liable to any Owner for any act of the Insurer's Fiscal Agent or any failure of AGM to deposit or cause to be deposited sufficient funds to make payments due under this Policy.

To the fullest extent permitted by applicable law, AGM agrees not to assert, and hereby waives, only for the benefit of each Owner, all rights (whether by counterclaim, setoff or otherwise) and defenses (including, without limitation, the defense of fraud), whether acquired by subrogation, assignment or otherwise, to the extent that such rights and defenses may be available to AGM to avoid payment of its obligations under this Policy in accordance with the express provisions of this Policy.

This Policy sets forth in full the undertaking of AGM, and shall not be modified, altered or affected by any other agreement or instrument, including any modification or amendment thereto. Except to the extent expressly modified by an endorsement hereto, (a) any premium paid in respect of this Policy is nonrefundable for any reason whatsoever, including payment, or provision being made for payment, of the Bonds prior to maturity and (b) this Policy may not be canceled or revoked. THIS POLICY IS NOT COVERED BY THE PROPERTY/CASUALTY INSURANCE SECURITY FUND SPECIFIED IN ARTICLE 76 OF THE NEW YORK INSURANCE LAW.

In witness whereof, ASSURED GUARANTY MUNICIPAL CORP. has caused this Policy to be executed on its behalf by its Authorized Officer.

ASSURED GUARANTY MUNICIPAL CORP.

By \_\_\_\_\_  
Authorized Officer

A subsidiary of Assured Guaranty Municipal Holdings Inc.  
1633 Broadway, New York, N.Y. 10019  
(212) 974-0100

Form 500NY (5/90)

**EXHIBIT V**  
**FORM OF CONTINUING DISCLOSURE AGREEMENT**

## **CONTINUING DISCLOSURE AGREEMENT**

The University of South Alabama, a public body corporate under the laws of the State of Alabama (the "University"), has entered into this Agreement for the benefit of the holders of its University Facilities Revenue Bonds, Series 2020, in the aggregate principal amount of \$37,005,000 (the "Bonds"). The University is the Obligated Person with respect to the Bonds.

### **Recitals**

A. The Bonds are being issued pursuant to a University Facilities Revenue Trust Indenture dated as of February 15, 1996 (the said Indenture, as heretofore supplemented and amended and as further supplemented and amended by a Seventeenth Supplemental University Facilities Revenue Trust Indenture dated the date of the Bonds (the "Indenture"), between the University and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee").

B. An Official Statement dated February 25, 2020 (the "Official Statement") has been prepared for distribution to prospective purchasers of the Bonds.

C. The Bonds are subject to the provisions of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"), as amended. This Agreement is being entered into pursuant to the continuing disclosure requirements of the Rule.

D. Capitalized terms not otherwise defined in this Agreement shall have the meaning assigned in the Rule or, to the extent not in conflict with definitions in the Rule, in the Official Statement.

E. There is no Obligated Person with respect to the Bonds other than the University.

**NOW, THEREFORE**, for and in consideration of the premises, the University hereby covenants, agrees and binds itself as follows:

### **1. Financial Statements; Annual Report.**

(a) The University will provide to the Municipal Securities Rulemaking Board (the "MSRB") the audited financial statements of the University, prepared in accordance with generally accepted accounting principles as applicable to the University, not later than 210 days after the close of each fiscal year of the University, beginning with the fiscal year ending September 30, 2020.

(b) The University will provide, not later than 210 days after the end of each fiscal year of the University, commencing with the fiscal year ending September 30, 2020, to the MSRB the following financial and operating data, unless such information is included in the filed audited financial statements (the "Annual Report"):

- (1) the revenues from the general tuition fees the proceeds of which are pledged for payment of the Bonds;

- (2) the revenues from the auxiliary enterprises fees the proceeds of which are pledged for payment of the Bonds;
- (3) the schedule of undergraduate and graduate fees and Medical College fees;
- (4) the number of students, by geographic classification, attending the fall term commencing within the fiscal year covered by the University Annual Report;
- (5) the total State appropriations authorized and received.

(c) If the University's fiscal year is changed subsequent to the execution of this Agreement, the University shall provide timely notice of the change to the MSRB stating that its fiscal year has changed and specifying the new period constituting the University's fiscal year.

**2. Event Notices.** The University agrees to provide or cause to be provided, in a timely manner not in excess of ten (10) business days after the occurrence of the event, as required by the Rule, to the MSRB, notice of the occurrence of any of the following events (each a "Listed Event") with respect to the Bonds:

1. principal and interest payment delinquencies.
2. non-payment related defaults, if material.
3. unscheduled draws on debt service reserves reflecting financial difficulties.
4. unscheduled draws on credit enhancements reflecting financial difficulties.
5. substitution of credit or liquidity providers, or their failure to perform.
6. adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds.
7. modifications of the rights of holders of the Bonds, if material.
8. bond calls, if material, and tender offers.
9. defeasances.
10. release, substitution or sale of property securing repayment of the Bonds, if material.

11. rating changes.
12. bankruptcy, insolvency, receivership, or similar event of the obligated person.
13. the consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.
14. appointment of a successor or additional trustee or the change of name of a trustee, if material.
15. incurrence of a Financial Obligation of the University, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the University, any of which affect security holders, if material.
16. default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the University, any of which reflect financial difficulties.

As used herein, "Financial Obligation" shall mean a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) a guarantee of (a) or (b). The term financial obligation does not include municipal securities as to which a final official statement has been otherwise provided to the MSRB under the Rule

**3. Additional Information.** Nothing in this Agreement shall be deemed to prevent the University from disseminating any other information, using the means of dissemination set forth in this Agreement or any other means of communication, or including any other information in any notice of occurrence of a Listed Event, in addition to that which is required by this Agreement. If the University chooses to disseminate information in addition to that required herein, whether by including such information in any notice of occurrence of a Listed Event in addition to that which is specifically required by this Agreement or otherwise, the University shall have no obligation under this Agreement to update or continue to provide such information or include it in any future notice of occurrence of a Listed Event.

**4. Form and Method of Filing.** All filings to be provided hereunder to the MSRB shall be made by posting such information in electronic format on the [MSRB's Electronic Municipal Market Access](#) ("EMMA") system accompanied by identifying information as prescribed by the MSRB. All such filings shall be made in conformity with the procedures and requirements established by the MSRB in effect at the time of such filing.

**5. Beneficiaries; Limitation of Remedies Hereunder.** This Agreement is for the benefit of the holders of the Bonds and shall be enforceable by such holders, subject to the limitations herein. The University shall never be subject to money damages in any sum or amount,



whether compensatory, punitive or otherwise, for its failure to comply with its obligations contained herein. The only remedy available to the holders of the Bonds for breach by the University of its obligations hereunder shall be the remedy of specific performance or mandamus against the appropriate officials of the University to obtain performance of the University's obligations hereunder. No failure by the University to comply with the provisions of this Agreement shall be an event of default with respect to the Bonds under the Indenture.

**6. Responsibility for Compliance.**

(a) No person other than the University shall have any liability or responsibility for compliance by the University with its obligations under this Agreement. The Trustee has undertaken no responsibility with respect to any reports, notices or disclosures required by this Agreement or the Rule.

(b) The University will pay all costs incurred in connection with the performance of its obligations under this Agreement, including without limitation the fees and expenses of any dissemination agent, consultants, advisers, accountants, legal counsel or other persons that may be retained by the University to assist in the performance of the University's obligations.

**7. Amendment; Waiver.** Notwithstanding any other provision of this Agreement, the University may amend this Agreement and any provision of this Agreement may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws, to the effect that such amendment or waiver would not cause the undertakings herein to violate the Rule taking into account any subsequent change in or official interpretation of the Rule.

**8. Termination.** The University reserves the right to terminate its obligation to provide an Annual Report, audited financial statements and notices of material events, as set forth above, if and when the University no longer remains an obligated person with respect to the Bonds within the meaning of the Rule.

**9. Contract Formed.** This Agreement shall constitute a contract between the University and the holders from time to time and at any time of the Bonds, but no other person, firm or corporation shall have any rights hereunder.



**IN WITNESS WHEREOF**, this Agreement has been duly authorized by the University and has been executed by and on behalf of the University by its duly authorized officer, all as of the 10<sup>th</sup> day of March, 2020.

**UNIVERSITY OF SOUTH ALABAMA**

By: \_\_\_\_\_

Its: \_\_\_\_\_

# **COMMITTEE MINUTES**

**UNIVERSITY OF SOUTH ALABAMA  
BOARD OF TRUSTEES**

**Audit Committee**

**March 6, 2020**

**10:00 a.m.**

A meeting of the Audit Committee of the University of South Alabama Board of Trustees was duly convened by Mr. Ron Graham, Chair, on Friday, March 6, 2020, at 10:02 a.m. in the Board Room of the Frederick P. Whiddon Administration Building.

Members Present: Alexis Atkins, Ron Graham, Ron Jenkins, Lenus Perkins and Ken Simon.

Member Absent: Tom Corcoran.

Other Trustees: Scott Charlton, Steve Furr, Arlene Mitchell, Jimmy Shumock, Steve Stokes, Margie Tuckson, Mike Windom and Jim Yance.

Administration & Guests: Owen Bailey, Kristin Dukes, Joel Erdmann, Monica Ezell, Paul Frazier, Mike Haskins, David Johnson, Nick Lawkis, John Marymont, Susan McCready (Faculty Senate), Mike Mitchell, John Smith, Margaret Sullivan, Sahilee Waitman (SGA), Tony Waldrop and Scott Weldon.

The meeting came to order and the attendance roll was called. Mr. Graham moved for the approval of the minutes of the meeting held on December 4, 2019. Judge Simon seconded and the Committee voted unanimously to adopt the minutes.

Mr. Graham called on Mr. Weldon for presentation of **ITEM 6**, the KPMG report on intercollegiate athletics for the year ended September 30, 2019. Mr. Weldon clarified that the examination related to compliance with agreed-upon procedures as set forth by NCAA (National Collegiate Athletic Association) bylaws. He stated the report did not communicate any findings.

There being no further business, the meeting was adjourned at 10:05 a.m.

Respectfully submitted:



William Ronald Graham, Chair

**UNIVERSITY OF SOUTH ALABAMA  
BOARD OF TRUSTEES**

**Development, Endowment and Investments Committee**

**March 6, 2020  
10:05 a.m.**

A meeting of the Development, Endowment and Investments Committee of the University of South Alabama Board of Trustees was duly convened by Mr. Jim Yance, Chair, on Friday, March 6, 2020, at 10:05 a.m. in the Board Room of the Frederick P. Whiddon Administration Building.

Members Present: Scott Charlton, Arlene Mitchell, Steve Stokes, Margie Tuckson, Mike Windom and Jim Yance.

Member Absent: Chandra Brown Stewart.

Other Trustees: Alexis Atkins, Steve Furr, Ron Graham, Ron Jenkins, Lenus Perkins, Jimmy Shumock and Ken Simon.

Administration & Guests: Terry Albano, Owen Bailey, Kristin Dukes, Joel Erdmann, Monica Ezell, Paul Frazier, Mike Haskins, David Johnson, Nick Lawkis, John Marymont, Susan McCready (Faculty Senate), Mike Mitchell, Norman Pitman, John Smith, Margaret Sullivan, Sahilee Waitman (SGA), Tony Waldrop and Scott Weldon.

The meeting came to order and the attendance roll was called. Mr. Yance called for consideration of the minutes of the meeting held on December 4, 2019. On motion by Dr. Charlton, seconded by Mr. Windom, the Committee voted unanimously to adopt the minutes.

Mr. Yance called on Mr. Albano for presentation of **ITEM 7**, a report on endowment and investment performance. Mr. Albano advised of a 5.4 percent return on investments for the first quarter of fiscal year 2020 versus the relative index return of 5.38 percent, an outperformance by 2 basis points that generated investment income of approximately \$8.5 million. Mr. Pitman discussed market factors impacting manager performance. Mr. Albano addressed asset allocation, noting adherence with endowment guidelines, and reported the annualized performance since inception was 5.48 percent compared to the relative index of 4.31 percent, an outperformance of 1.17 percent. He said investment earnings and appreciation over the life of the endowment totaled approximately \$94.4 million.

Mr. Yance called for an update on the activities of the Division of Development and Alumni Relations, **ITEM 8**. Dr. Stokes, Upward & Onward Campaign Co-chair, stated that, while the \$150 million goal had been achieved with just over six months remaining in the campaign, a variety of needs and opportunities continue to exist to which alumni and supporters might direct contributions. Ms. Sullivan advised of close to \$6 million in pledges and gifts secured through March 2 of fiscal year 2020 and of just under \$151 million raised since the campaign began. She called attention to the 13,426 new donors identified during the campaign, which she noted would broaden the pipeline for future fundraising efforts. She stated that USA Give Day held on February 14 raised \$534,671 from 1,771 donors and that the South Fund campaign raised almost \$1.2 million with 57 percent of South's employees contributing. She stressed that this level of participation was remarkable when compared to other universities. She talked about the grand

Development, Endowment and Investments Committee

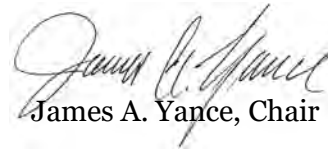
March 6, 2020

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opening of the MacQueen Alumni Center held on January 24, calling the facility a place for South's 85,000 alumni to engage. She credited Dr. Stokes for his vision to focus the remainder of the campaign on telling impactful stories that demonstrate why donors should invest in South Alabama and said the Development and Alumni Relations team was working closely with the Office of Marketing and Communications to develop a social media and web-based strategy that showcased each of the strategic priorities. She stated the campaign would culminate with South's first Alumni Reunion Weekend and said registration for this event would begin on March 27. She introduced a new marketing video featuring Southerner and Biomedical Sciences junior Ms. Davina Ho. Mr. Yance commended the Stokeses, Ms. Sullivan and her team for their hard work. Dr. Stokes emphasized the importance of alumni outreach as a means to strengthen philanthropy.

There being no further business, the meeting was adjourned at 10:18 a.m.

Respectfully submitted:



James A. Yance, Chair

**UNIVERSITY OF SOUTH ALABAMA  
BOARD OF TRUSTEES**

**Health Affairs Committee**

**March 6, 2020**

**10:18 a.m.**

A meeting of the Health Affairs Committee of the University of South Alabama Board of Trustees was duly convened by Dr. Scott Charlton, Chair, on Friday, March 6, 2020, at 10:18 a.m. in the Board Room of the Frederick P. Whiddon Administration Building.

Members Present: Scott Charlton, Steve Furr, Arlene Mitchell, Steve Stokes, Margie Tuckson and Jim Yance.

Member Absent: Chandra Brown Stewart.

Other Trustees: Alexis Atkins, Ron Graham, Ron Jenkins, Lenus Perkins, Jimmy Shumock, Ken Simon and Mr. Windom.

Administration & Guests: Owen Bailey, Michael Chang, Sam Dean, Kristin Dukes, Joel Erdmann, Monica Ezell, Paul Frazier, Mike Haskins, David Johnson, Nick Lawkis, John Marymont, Susan McCready (Faculty Senate), Mike Mitchell, John Smith, Margaret Sullivan, Sahilee Waitman (SGA), Tony Waldrop and Scott Weldon.

The meeting came to order and the attendance roll was called. Dr. Charlton called for remarks from Mr. Bailey. Mr. Bailey thanked the Trustees for making time to tour University Hospital on March 5. He introduced University Hospital Administrator Mr. Sam Dean for an announcement. Mr. Dean advised that University Hospital was recently named a Comprehensive Stroke Center, the only hospital in the region to achieve this designation and one of only three such centers statewide. He stated the University of Alabama at Birmingham was the nearest other comprehensive stroke center and talked briefly about the stroke care program that earned University Hospital the title. Mr. Bailey commended the University Hospital team for this accomplishment.

Mr. Bailey introduced Chief Medical Officer Dr. Michael Chang to address **ITEM 9**, a resolution authorizing USA Hospitals Medical Staff Bylaws and associated documents. (To view approved resolutions, policies and other authorized documents, refer to the minutes of the Board of Trustees meeting held on March 6, 2020.) Dr. Chang explained that the rapid evolution of the USA Health system had prompted a reassessment of the medical staff bylaws. He stated the nationally recognized health law firm Harty, Springer & Mattern, P.C., was engaged to assist in this process and, as a result, recommended a restructuring of the bylaws to better suit the emerging needs of USA Health. He gave background on the internal vetting process. Mr. Bailey said the revamped bylaws were reflective of best practices for medical staff governance. On motion by Mr. Yance, seconded by Ms. Mitchell, the Committee voted unanimously to recommend approval of the resolution by the Board of Trustees.

Dr. Furr called on Dr. Marymont, who presented **ITEM 10**, a resolution authorizing the appointment of Mr. Charles Smith and the reappointment of Ms. Jinni L. Frisbey and Mr. Bill Starling as directors of the University of South Alabama Health Care Authority, Inc. (HCA), with six-year terms beginning May 1, 2020, and ending April 30, 2026. Dr. Marymont provided context

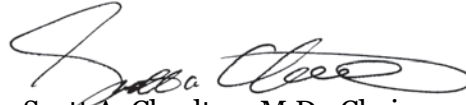
Health Affairs Committee  
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on the formation and make-up of the HCA. On motion by Ms. Mitchell, seconded by Mr. Yance, the Committee voted unanimously to recommend approval of the resolution by the Board of Trustees.

Dr. Charlton called for consideration of the minutes of the meeting held on December 4, 2019. On motion by Ms. Mitchell, seconded by Dr. Charlton, the Committee voted unanimously to adopt the minutes.

There being no further business, the meeting was adjourned at 10:27 a.m.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Scott A. Charlton", written in a cursive style.

Scott A. Charlton, M.D., Chair

**UNIVERSITY OF SOUTH ALABAMA  
BOARD OF TRUSTEES**

**Academic and Student Affairs Committee**

**March 6, 2020**

**10:27 a.m.**

A meeting of the Academic and Student Affairs Committee of the University of South Alabama Board of Trustees was duly convened by Mr. Mike Windom, Chair, on Friday, March 6, 2020, at 10:27 a.m. in the Board Room of the Frederick P. Whiddon Administration Building.

Members Present:                Scott Charlton, Steve Furr, Ron Graham, Ron Jenkins,  
   Lenus Perkins, Margie Tuckson and Mike Windom.

Other Trustees:                 Alexis Atkins, Arlene Mitchell, Jimmy Shumock, Ken Simon,  
   Steve Stokes and Jim Yance.

Administration & Guests:    Owen Bailey, Kristin Dukes, Joel Erdmann, Monica Ezell,  
   Paul Frazier, Austin Grace, Mike Haskins, David Johnson,  
   Rochelle Johnson, Nick Lawkis, Sal Liberto, John Marymont,  
   Susan McCready (Faculty Senate), Mike Mitchell,  
   Harriett Montgomery, Broderick Morrisette, Laventrice Ridgeway,  
   John Smith, Margaret Sullivan, Clay Richardson, Sahilee Waitman  
   (SGA), Tony Waldrop, Scott Weldon and Bob Wood.

The meeting came to order and the attendance roll was called. Mr. Windom called for consideration of the minutes of the meeting held on December 4, 2019. On motion by Capt. Jenkins, seconded by Mr. Perkins, the Committee voted unanimously to adopt the minutes.

Mr. Windom recognized Provost Johnson for his pending transition from his current role as Provost and Sr. Vice President of Academic Affairs to a faculty position in the fall. He asked Provost Johnson to present **ITEM 11**, a report on the activities of the Division of Academic Affairs. Provost Johnson introduced Interim Special Advisor to the Provost for Enrollment Management Mr. Sal Liberto, stating that Mr. Liberto represented the Registry, a national firm specializing in interim placements in higher education. He noted Mr. Liberto would lead South's enrollment management operation while a national search was conducted to fill the position of Associate Vice President for Enrollment Management. Mr. Liberto made brief comments about his new role.

Provost Johnson called on Mitchell College of Business (MCOB) Dean Dr. Bob Wood for a report. With reference to the College's commitment to expand experiential learning, Dr. Wood introduced seniors representing the Department of Economics and Finance Mr. Clay Richardson and Mr. Austin Grace, who discussed their participation with fellow student-managers in directing the Jaguar Investment Fund, which they demonstrated had performed favorably versus the S & P 500 benchmark. Dr. Wood provided general information about the program, such as the advantages to students and faculty of having access to on-site Bloomberg terminals.

Dr. Wood talked about another experiential learning opportunity through MCOB's Center for Real Estate and Economic Development (CREED). He stated students involved with this program recently placed first in the 2019 REALizing Returns University Race, a national competition whereby teams simulate investments in commercial real estate. He stated South prevailed against



more than 30 teams that included prestigious business schools, including the University of Indiana, New York University, Stanford University, the University of Chicago, Columbia University, Rice University, The University of Alabama and the University of Georgia. He added that South also won the 2018 competition, garnering cash prizes totaling \$50,000, which he noted would fund scholarships for students enrolled in the new Jag Realty program set to launch in the fall.

Mr. Windom called on Dr. Mitchell for a report on the activities of the Division of Student Affairs, **ITEM 12.** Dr. Mitchell introduced new Director of Student Disability Services Mr. Laventrice Ridgeway, who started in this role in January after serving as Disability Services Coordinator. He noted Mr. Ridgeway had earned two degrees from USA and was currently enrolled in South Alabama's doctoral program in Higher Education Leadership. He gave an overview of the services offered to the approximately 700 students registered to receive disability assistance.

Dr. Mitchell gave an overview of South's TRIO enrichment programs, Educational Talent Search and Upward Bound, which have provided \$2.8 million in federal grant funding from the U.S. Department of Education over five years. He said Educational Talent Search was designed to increase the number of disadvantaged youth who complete high school and earn college degrees. He added that more than 700 students from target high schools and middle schools had participated. He stated the Upward Bound program provided academic instruction, tutoring, counseling, mentoring and other support services to 50 students annually who attend target high schools. He discussed TRIO success indicators, eligibility and scheduling, and noted all services were free of charge to students. He introduced Educational Talent Search Coordinator Ms. Harriett Montgomery and Upward Bound Coordinator Dr. Rochelle Johnson. Dr. Johnson made brief remarks and introduced USA alumnus, current graduate student working in the Office of Diversity and Inclusion, and Upward Bound alumnus Mr. Broderick Morrissette. Mr. Morrissette shared a testimonial of the opportunities made possible through his involvement in Upward Bound. Ms. Montgomery discussed the referral process for high school graduates who enter colleges with TRIO Student Support Services programs. Dr. Frazier advised of three Student Support Services grant applications recently submitted that, if awarded, would provide \$1.2 million each to support students with disabilities, STEM (science, technology, engineering and mathematics) programming and general needs.

There being no further business, the meeting was adjourned at 10:48 a.m.

Respectfully submitted:

A handwritten signature in blue ink, appearing to read "Michael P. Windom".

Michael P. Windom, Chair

**UNIVERSITY OF SOUTH ALABAMA  
BOARD OF TRUSTEES**

**Budget and Finance Committee**

**March 6, 2020**

**10:48 a.m.**

A meeting of the Budget and Finance Committee of the University of South Alabama Board of Trustees was duly convened by Mr. Lenus Perkins, Vice Chair, on Friday, March 6, 2020, at 10:48 a.m. in the Board Room of the Frederick P. Whiddon Administration Building.

- Members Present: Alexis Atkins, Ron Graham, Lenus Perkins, Ken Simon and Steve Stokes.
- Members Absent: Chandra Brown Stewart and Tom Corcoran.
- Other Trustees: Scott Charlton, Steve Furr, Ron Jenkins, Arlene Mitchell, Jimmy Shumock, Margie Tuckson, Mike Windom and Jim Yance.
- Administration & Guests: Terry Albano, Owen Bailey, Kristin Dukes, Joel Erdmann, Monica Ezell, Paul Frazier, Mike Haskins, David Johnson, Rod Kanter (Bradley Arant), Nick Lawkis, John Marymont, Josh McCoy (PFM), Susan McCready (Faculty Senate), Mike Mitchell, John Smith, Margaret Sullivan, Sahilee Waitman (SGA), Tony Waldrop and Scott Weldon.

The meeting came to order and the attendance roll was called. Mr. Perkins called for consideration of the minutes of the meeting held on December 4, 2019. On motion by Dr. Stokes, seconded by Judge Simon, the Committee voted unanimously to adopt the minutes.

Mr. Perkins called on Mr. Weldon to discuss **ITEM 13**, the quarterly financial statements for the three months ended December 31, 2019. Mr. Weldon reported an increase in net position of approximately \$22.1 million, of which he attributed approximately \$9.5 million to the positive turnaround in USA Health finances and the remainder to market gains through the end of the 2019 calendar year and to University general operations. Questions and comments about state appropriations and health system improvements were addressed by Mr. Weldon and Dr. Marymont.

Mr. Perkins asked Mr. Weldon to present **ITEM 14**, a resolution ratifying a Series 2020 bond issue. (For copies of resolutions, policies and other authorized documents, refer to the minutes of the Board of Trustees meeting held on March 6, 2020.) Mr. Weldon reviewed that, in December 2019, the Board authorized the Administration to execute a bond purchase agreement for Series 2020 bonds. He advised that the sale closed in recent days and he called on Mr. Albano for remarks. Mr. Albano reported an extremely favorable outcome for the University and he introduced Mr. Josh McCoy of PFM, financial advisor to the University, for an overview. Mr. McCoy presented specifics related to debt service, the University's credit ratings, insurance and bond pricing results. In particular, he emphasized that the all-in true interest cost of 2.31 percent was thought to be the lowest in the University's history. He stated the \$45 million in proceeds would fund USA Health capital improvements totaling approximately \$37 million and main campus projects totaling approximately \$8 million. On motion by Ms. Atkins, seconded by Mr. Graham,

Budget and Finance Committee  
March 6, 2020  
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the Committee voted unanimously to recommend approval of the resolution by the Board of Trustees. Mr. Weldon introduced Mr. Rod Kanter of Bradley Arant, the University's bond counsel, to address a concern involving risk potential and insider trading. Mr. Kanter clarified the legalities related to public and private securities transactions and assured that insider trading was not an aspect of the municipal securities market.

There being no further business, the meeting was adjourned at 11:01 a.m.

Respectfully submitted:



Lenus M. Perkins, Vice Chair

On behalf of:



E. Thomas Corcoran, Chair

**UNIVERSITY OF SOUTH ALABAMA  
BOARD OF TRUSTEES**

**Committee of the Whole**

**March 6, 2020**

**11:01 a.m.**

A meeting of the Committee of the Whole of the University of South Alabama Board of Trustees was duly convened by Mr. Jimmy Shumock, Chair *pro tempore*, on Friday, March 6, 2020, at 11:01 a.m. in the Board Room of the Frederick P. Whiddon Administration Building.

Members Present: Alexis Atkins, Scott Charlton, Steve Furr, Ron Graham, Ron Jenkins, Arlene Mitchell, Lenus Perkins, Jimmy Shumock, Ken Simon, Steve Stokes, Margie Tuckson, Mike Windom and Jim Yance.

Members Absent: Chandra Brown Stewart, Tom Corcoran and Kay Ivey.

Administration & Guests: Owen Bailey, Kristin Dukes, Joel Erdmann, Monica Ezell, Paul Frazier, Mike Haskins, David Johnson, Nick Lawkis, John Marymont, Susan McCready (Faculty Senate), Mike Mitchell, John Smith, Margaret Sullivan, Sahilee Waitman (SGA), Tony Waldrop and Scott Weldon.

The meeting came to order and the attendance roll was called. Mr. Shumock stated an executive session would not be held and called for a motion to adopt an amended agenda excluding this item. On motion by Judge Simon, seconded by Ms. Atkins, the Committee voted unanimously to adopt a revised agenda.

Chairman Shumock called for adoption of the minutes of a Committee of the Whole meeting held on December 4, 2019, and of an Executive Committee meeting held on February 5, 2020. On motion by Ms. Mitchell, seconded by Mr. Windom, the Committee voted unanimously to adopt the minutes.

Chairman Shumock called for consideration of **ITEM 15**, a resolution commending retired University Attorney Ms. Jean Walker Tucker for many years of distinguished service to the University and conveying the Board's best wishes to Ms. Tucker and her husband, Mr. Jeffrey Forshee. (To view copies of approved resolutions, policies and other authorized documents, refer to the minutes of the March 6, 2020, meeting of the Board of Trustees.) On motion by Ms. Mitchell, seconded by Dr. Charlton, the Committee voted unanimously to recommend approval of the resolution by the Board of Trustees.

There being no further business, the meeting was adjourned at 11:03 a.m.

Respectfully submitted:



James H. Shumock, Chair *pro tempore*