

This rule was filed as MCMC 90-1.

**TITLE 7           HEALTH**  
**CHAPTER 7       HOSPITALS**  
**PART 4           BOARD OF TRUSTEES OF MINERS' COLFAX MEDICAL CENTER BY-LAWS**

**7.7.4.1           ISSUING AGENCY:** Miners' Colfax Medical Center  
[Recompiled 10/31/01]

**7.7.4.2           SCOPE:** [RESERVED]  
[Recompiled 10/31/01]

**7.7.4.3           STATUTORY AUTHORITY:** Miners' Colfax medical center (hereinafter medical center") is the miners' hospital for the state of New Mexico, deriving its legal status and authority from the Enabling Act for New Mexico SS 7 and 12, the Constitution of the state of New Mexico, art. XIV, SS 1, 2 and 3, and 23-3-1, et seq. NMSA 1978.  
[Recompiled 10/31/01]

**7.7.4.4           DURATION:** [RESERVED]  
[Recompiled 10/31/01]

**7.7.4.5           EFFECTIVE DATE:** [RESERVED]  
[Recompiled 10/31/01]

**7.7.4.6           OBJECTIVE: PURPOSE OF THE MINER'S HOSPITAL:** The miners' hospital is a general hospital and is intended and meant to be for the free treatment and care of resident miners of the state of New Mexico who may become sick or injured in the line of their occupation. The board of trustees may make provision for charges to miners with sufficient means to pay for their care. The medical center also provides health care services for non-miners and miners who do not meet the statutory requirements for free treatment in a manner consistent with trust requirements.  
[Recompiled 10/31/01]

**7.7.4.7           DEFINITIONS:** [RESERVED]  
[Recompiled 10/31/01]

**7.7.4.8           GOVERNING BOARD:**

A.       The governing board is a board of trustees, the members of which are appointed by the governor of the state of New Mexico with the advice and consent of the senate. One member of the board shall be a licensed physician, two members shall be miners or their representatives and two members shall be representatives of the general public. Members of the board shall be appointed for staggered terms of five years each.

B.       The board of trustees is a body corporate under the name of the "board of trustees of miners' hospital of New Mexico" and has the power to sue and be sued, to contract, to acquire land by purchase or donation, and to do all other things in furtherance of its duties to provide for the operation of a medical center and to determine, set, and execute medical center policy. The board of trustees shall supervise and control all functions of the operation and management of the medical center. The board of trustees has absolute discretion to take whatever action may be necessary in the best interest of the medical center, including but not limited to: full power and authority with regard to the medical staff; authority to approve all medical staff by-laws, rules and regulations, to suggest amendments of these to the medical staff and to amend them with due consideration to medical staff recommendations; authority to oversee all aspects of the medical staff operations to ensure compliance with applicable federal and state laws and with standards proposed by the joint commission on accreditation of healthcare organizations.

C.       By duly-adopted medical staff by-laws governing appointments to the medical staff of the hospital, the board shall provide a system of continual review and evaluation of the quality of health care being rendered at the hospital. The medical staff by-laws shall assure the board of trustees that any patient treated by the medical center shall receive quality care.

D. Members of the board of trustees owe a fiduciary duty of care and loyalty to the medical center. A trustee shall avoid active participation in a transaction in which they or a corporation with which they are associated has a significant interest. Members of the board of trustees shall adhere to the Conflict of Interest Act, 10-16-1, et seq., NMSA 1978. Disclosures of financial interests shall be made to the secretary of state during the month of January of each year pursuant to 10-16-10, supra. In addition, the conflict of interest statements required by 10-16-10, NMSA 1978 shall be submitted to the chairperson of the board and to the medical center's chief executive officer.

E. Trust eligibility requirements shall be established by the board with due regard to the statutes and trust requirements governing the medical center and its responsibilities as the miners' hospital.  
[Recompiled 10/31/01]

**7.7.4.9 REGULAR AND SPECIAL MEETINGS OF THE BOARD OF TRUSTEES:** The board of trustees shall hold regular meetings at such times and places as set by the board of trustees, with such meetings to occur not less than 8 times per year. Special meetings of the board of trustees may be called by the chair or upon the request of any two members of the board. A quorum shall consist of three members. Meetings shall be open to the public in accordance with the Open Meetings Act, 10-15-1, et seq. NMSA 1978, as amended. The board shall resolve annually, at the first regularly-scheduled meeting of each new year, the procedure for providing reasonable notice of meetings pursuant to 10-15-1(C), supra. The resolution shall state the number of days in advance that notice shall precede a regular, special or emergency meeting and how such notice will be given. Meetings of the board of trustees shall be regularly attended.

[Recompiled 10/31/01]

**7.7.4.10 OFFICERS OF THE BOARD OF TRUSTEES:**

A. The officers of the board of trustees shall be a chair, a vice-chair and a secretary-treasurer, all of whom shall be elected by a majority vote at a regular board meeting. Elections shall be conducted at an annual meeting to be held during the month of July, unless necessitated by vacancies on the board. Should the term of appointment for a member-officer expire and a new member be appointed; should a member-officer resign his position as board member by tendering his resignation; or should a member-officer be removed from office on the board, the board shall conduct an election to fill the office of such member-officer for the remaining term of his or her office.

B. The chair shall call and preside at all meetings. The chair may approve the meeting agenda in consultation with the chief executive officer of the medical center and shall be available for consultation with the chief executive officer on request. The vice-chair shall act as chair in the absence of the chair and, when so acting, shall have all the powers and authority of such office. The secretary-treasurer shall act as chair in the absence of both the chair and vice-chair and, when so acting, shall have all the powers and authority of such office. The chair shall have such additional powers and duties as may be prescribed elsewhere in the by-laws or established by resolution or policy of the board. The secretary-treasurer shall act as custodian of all records and reports of the board of trustees and shall be responsible for the keeping and reporting of adequate records of all transactions and the minutes of all meetings of the board of trustees.

[Recompiled 10/31/01]

**7.7.4.11 ADMINISTRATION OF THE MEDICAL CENTER:**

A. The board of trustees may provide for the management and administration of the medical center by contracting with a corporation engaged in providing management services in conformity with standards for an accredited hospital. The board of trustees may employ directly a competent, experienced, professional hospital administrator. In either case, a medical center administrator shall be secured and shall be the chief executive officer responsible for the management of the medical center.

B. The chief executive officer of the medical center shall have all authority and responsibility necessary to operate the medical center in all its activities and departments, subject only to policies issued by the board of trustees and to applicable federal and state laws and regulations. He or she shall act as the duly authorized representative to the board in all matters in which the board has not formally designated some other person to act. He or she shall report as directed to the chair between board meetings and to the board at each meeting.

C. The authority and duties of the chief executive officer shall include, but not be limited to: to sign, together with such other authorized board member, any deeds, mortgages, bonds, contracts or other instruments which the board has authority to execute except in cases where the execution shall have been expressly delegated by

the board or by the by-laws or by statute; to carry out all policies established by the board of trustees; to conduct all activities of the medical center in compliance with federal and state laws and regulations; to prepare an annual budget showing the expected receipts and expenditures as required by the board and by departments of state government; as head of the medical center, to select, employ, control, and discharge all employees, consistent with the regulations of the state personnel board, and to develop and maintain additional personnel policies and practices approved by the board of trustees; to see that all physical properties are accounted for, safeguarded, and kept in a good state of repair and operating condition; to supervise all business affairs and to ensure that all funds are collected and expended to the best possible advantage; to assist the chief of staff, the medical staff, and all those concerned with the rendering of professional services to the end that the best possible care may be rendered to all patients; to submit regularly to the board of trustees, or its authorized committees, periodic reports of medical center services, statistics, and financial activities and to prepare and submit such special reports as may be required by the board of trustees; to attend all meetings of the board of trustees, of the committees on which he or she serves and other committees as necessary or required, and the medical staff executive committee; to perform any other duty that may be necessary or in the best interest of the medical center; to serve as the liaison officer and channel of communications for all official communications between the board of trustees and the medical staff.  
[Recompiled 10/31/01]

**7.7.4.12 COMMITTEES OF THE BOARD OF TRUSTEES:** There shall be two types of committees of the board of trustees--permanent and special.

A. Permanent committees:

(1) Committee of the whole: The general conduct of the board of trustees' business shall be through the five-member body acting as a whole on matters pertaining to the operation of the medical center, unless otherwise specified in these by-laws or voted by the board of trustees. In acting as a whole, the board should provide for effective means of liaison between the governing body, the medical staff and the administration, and shall evaluate annually the administrator's performance.

(2) Joint conference committee: The joint conference committee shall serve as a liaison between the board of trustees, the medical staff, and the administration. The committee shall provide a forum for effective communication regarding medical center policy and operation; institutional/program planning and goal setting; accrediting and licensing requirements and inspections; requests and recommendations from the medical staff; quality assurance; matters related to the medical staff by-laws, rules and regulations and other matters of mutual concern to the medical staff, the administration, and the board, which may be referred to this committee by the board of trustees. The committee shall consist of the chair and secretary-treasurer of the board of trustees, the chief and vice-chief of the medical staff, and the hospital administrator. The chair of the board of trustees shall serve as chair of the joint conference committee. The committee shall meet at least quarterly, and shall maintain a written record of its attendance, proceedings, recommendations, and actions, which shall be forwarded to the board and to the medical staff.

(3) Credentials committee: The credentials committee shall be composed of three licensed physicians appointed by the board of trustees. The chief of the medical staff shall submit recommendations of qualified individuals to the board of trustees for their review and consideration. The committee shall review the professional credentials of all physicians and health care professionals, except those allied health professionals employed by the medical center, who apply to join or to continue as medical center staff for the purpose of rendering patient care. The committee shall, to the best of its ability, determine the competence of the applicant, the need for the services which the applicant would offer, and the availability of related support services which may be required for quality patient care. After consideration of these factors, the committee shall make a recommendation to the board of trustees regarding the granting, suspension, or revocation of privileges and the appropriate scope of privileges. The board of trustees will act to grant, suspend, or rescind privileges, with consideration of the committee's recommendations.

B. Special committees: The chair of the board of trustees, with the concurrence of the board, shall create and make appointments of such standing and special committees as may be considered necessary or desirable. Such committees may be for, but are not limited to, the purposes of budget and finance, long-range planning, building and equipment, preliminary credentials review, etc. Appointments shall be made during a regular or special business meeting of the board of trustees; such appointments become effective immediately. Reappointment to a committee, including reappointment as chair, is authorized if the individual is otherwise eligible. Each committee so created shall consist of at least two trustees and may include persons who are not trustees. The chair of any such committee shall be a member of the board of trustees. Members of committees who are not members of the board of

trustees are accorded full voting participation in the committees of which they are members. Minutes shall be kept of all committee meetings and reports of committee activities and recommendations shall be sent to the board.

C. Committee meetings shall be held on the call of the committee chair: Meetings will be held at a time and place to conserve travel and time of the members. Committees shall have the power of making recommendations to the board of trustees.

[Recompiled 10/31/01]

#### **7.7.4.13 MEDICAL STAFF:**

A. Appointment: Ultimate responsibility for medical staff appointments rests with the board of trustees. Medical staff membership shall be limited, unless otherwise provided by law, to individuals who are currently licensed to practice medicine, osteopathy, and dentistry. These individuals may be appointed to the medical staff in accordance with the by-laws of the medical staff, and pursuant to the following criteria:

(1) Appointment to the medical staff is a privilege which shall be extended only to professionally competent individuals who continuously meet the qualifications, standards, and requirements set forth in these By-laws and in the policies adopted by the board. All individuals practicing medicine and oral surgery in the medical center, unless by specific provisions of these by-laws, must first have been appointed to the medical staff.

(2) Only physicians and oral surgeons who:

(a) are currently licensed to practice in this state;

(b) are located close enough to provide timely care for their patients;

(c) possess current, valid professional liability insurance coverage in amounts specified in Subsection B [now Subsection B or 7.7.4.13 NMAC] of this Article;

(d) are certified by the appropriate specialty board, unless such requirement is waived by the board after considering the special competence and experience of the applicant, and

(e) can document their background, experience, training and demonstrated competence, their adherence to the ethics of their profession, their good reputation and character and their ability to work harmoniously with others sufficiently so that all patients treated by them shall receive quality care and that the hospital and the medical staff will be able to operate in an orderly manner, shall be qualified for appointment to the medical staff. The word "character" is intended to include the applicant's mental and emotional stability.

(3) No individual shall be entitled to appointment to the medical staff or to the exercise of particular clinical privileges in the Medical Center merely by virtue of the fact that:

(a) he or she is licensed to practice any profession in this or any other state;

(b) he or she is a member of any particular professional organization; or

(c) he or she had in the past, or currently has, medical staff appointment or privileges in another hospital.

(4) No individual shall be denied appointment on the basis of age, sex, race, creed, color or national origin.

B. Malpractice insurance: Good management of the assets of the hospital and legitimate protection of the patients of the hospital require that all appointees to the medical staff and all applicants for appointment have and maintain malpractice insurance in adequate amounts to cover claims or suits arising from alleged malpractice. Qualification under the Medical Malpractice Act of New Mexico 41-5-1 et. seq., NMSA 1978, or coverage under the Tort Claims Act of New Mexico, 41-4-1 et. seq., NMSA 1978, in cases of physicians who are "public employees" is sufficient. In all other cases, the adequacy of insurance protection required may depend upon the scope of staff privileges to be exercised and other considerations. Accordingly, the minimum policy limits in each instance shall not be less than those approved by the board after it has considered a recommendation in this regard from the medical staff executive committee. Compliance with this policy by medical staff appointees shall be evidenced by filing with the chief executive officer of the medical center a certificate of insurance from the carrier, showing at least the minimum amount required as aforesaid. Any lapse in insurance coverage or cancellation of insurance coverage will result in suspension of privileges until insurance is obtained.

C. By-laws, rules and regulations: The medical staff will develop, adopt, and periodically review medical staff by-laws, rules and regulations which are consistent with medical center policy and legal or other requirements. Such medical staff by-laws, rules and regulations shall become effective only upon approval by the board of trustees and when so approved, shall become a part of the board's by-laws. The medical staff by-laws, rules and regulations shall include at least the following principles and procedures by which the medical staff shall govern itself; formal means for medical staff participation in the development of medical center policy relative to both management and patient care; procedure for processing and evaluating applications for appointment or

reappointment to the medical staff and for the granting of clinical privileges; a requirement that no qualified applicant shall be denied appointment and/or clinical privileges on the bases of sex, race, creed, or national origin; a requirement that all applicants must sign a statement to the effect that they have read and agree to be bound by the medical staff by-laws, rules and regulations and by the current medical center policies that apply to their activities; mechanisms designed to assure the achievement and maintenance of quality medical practice and patient care to include board policy, the quality assurance program, and other quality measures; a grievance procedure, triggered by adverse recommendations for appointment, reappointment, addition or modification of clinical privileges, that entitles the affected party to notice, hearing, and appellate review.

D. Delegated authority:

(1) The board delegates to the medical staff the authority and responsibility to: provide appropriate medical care; to evaluate the quality of medical care; to organize itself by adopting by-laws, rules and regulations for review and approval by the board of trustees; and, to accept and process applications for initial appointment and reappointment to the medical staff and delineation of privileges.

(2) In the exercise of its overall responsibility the board shall assign to the medical staff executive committee reasonable authority

(a) to ensure appropriate professional care to patients so that all patients with the same health problems shall receive the same level of care;

(b) to ensure the ongoing review and appraisal of the quality of professional care rendered, and to report results and findings to the board; and

(c) to ensure that:

(i) only medical staff appointees with admitting privileges admit patients;

(ii) each medical staff appointee practices only within the scope of privileges granted by the board;

(iii) all individuals who provide patient care services but who are not subject to the medical staff delineation process, are competent to provide such services and that their competency is monitored;

(iv) each patient's general medical condition is the responsibility of a qualified medical staff appointee. The committee shall also report to the board the mechanisms for monitoring and evaluating the quality of patient care, for identifying and resolving problems, and for identifying opportunities to improve patient care.

(3) The medical staff executive committee shall make recommendations directly to the board concerning:

(a) the structure of the medical staff;

(b) all matters relating to professional competency including the conduct, evaluation, and revision of quality assurance mechanisms;

(c) disciplinary actions and the mechanism for fair hearing procedures;

(d) such specific matters as the board may refer to it.

E. Board-medical staff liaison: The official method of communication and liaison between the board of trustees and the medical staff shall take place with the chief of staff or his designee attending regular meetings of the board of trustees.

[Recompiled 10/31/01]

**7.7.4.14 VOLUNTEER AUXILIARY:** The board may authorize an auxiliary comprised of community-minded volunteers who are interested in serving patients and furthering the purpose of the medical center. Such auxiliary shall be organized in responsible administrative units with elected officers and shall adopt by-laws and/or rules and regulations for the governance of their conduct and service within the medical center, subject to prior approval by the board of trustees.

[Recompiled 10/31/01]

**7.7.4.15 AMENDMENTS:** The board acting through the committee-of-the-whole shall review these by-laws on a continuing basis and at least once per year prior to the annual meeting and may amend them by an affirmative vote of a majority of the members of the board of trustees, provided that all members shall possess a full statement of such proposed amendments prior to the meeting where amendment of the by-laws is discussed or effected.

[Recompiled 10/31/01]

**7.7.4.16** Adopted and approved this eighth day of December, 1990, by the board of trustees of Miners' Colfax Medical center.

- A. Charles B. Gonzales, Chairman
- B. James Mayer, M.D., Vice Chairman
- C. Filed with State Records Center on

[Recompiled 10/31/01]

**HISTORY OF 7.7.4 NMAC:**

Pre NMAC History: The material in this Part was derived from that previously filed with the State Records Center:

MH-83-1, Board Of Trustees Of Miners' Hospital Bylaws, 12/29/83.

MCMC 87-1, Board Of Trustees Of Miners' Colfax Medical Center Bylaws, 7/30/87.

MCMC 90-1, Board Of Trustees Of Miners' Colfax Medical Center Bylaws, 3/12/91.

History of Repealed Material: [RESERVED]