

# CLIENT ADVISORY:

## PRIVILEGING AND CREDENTIALING PROCESSES AND DISPUTES

In order to promote patient safety and high quality health care services it is essential that a strong credentialing program for providers be maintained, which will also reduce or eliminate medical errors. Credentialing is the process of assessing and confirming the qualifications of a health care practitioner, through which the practitioner is given the authority to provide patient care within a health care facility.



Credentialing is a complex process that includes: (i) collecting and verifying information about a practitioner; (ii) assessing and interpreting the data found; and (iii) making decisions about the practitioner. Specific credentialing requirements are imposed on health care facilities by the Joint Commission on Accreditation of Health care Organizations (JCAHO). This process includes a review and verification of the professional competence, references, claims history, fitness, organizational findings, license status of the provider's physicians as well as other licensed or certified health care practitioners. The physician is generally credentialed by the facility in which he or she practices as well as by insurance providers.

The bylaws of the organization typically outline the credentialing processes. Additionally, peer review committees will review actions taken by a specific health

care practitioner in determining the practitioner's fitness to continue his or her career at the facility. Given the stakes to the practitioner when they are involved in this process, it is important that a competent and experienced attorney be consulted during the process in order to protect the rights of the physician and make certain that the process is fair. Many times the disposition of a credentialing dispute requires negotiation, mediation and in some cases a court proceeding which requires an experienced advocate.

Privileging is the process employed by health care facilities to authorize practitioners to provide specific services to their patients. Health care facilities must verify that its health care practitioners possess the requisite skills and expertise to manage and treat patients, and to perform the medical procedures that are required to provide the authorized services. Examples of privileges include admitting, prescribing, and performing procedures.

Health care facilities must assure their patients that their practitioners have met standards of practice and training that enable them to manage and treat patients and/or perform procedures and practices with a high level of proficiency, which minimizes the risk of causing harm. To that end, the facility must adopt its own policy that outlines specific privileging requirements and the periodicity of the review of practitioners' privileges.

The privileging process may involve any combination of the following: (i) primary source verification of a course of study from a recognized and certifying educational institution showing that the practitioner met or passed a level of training required to perform a defined procedure or management protocol; (ii) direct, first hand documentation by a supervising clinician who possesses the privilege of the particular procedure or management protocol; and/or (iii) direct proctoring by a qualified clinician possessing a degree of expertise in the particular procedure or protocol beyond the level of expertise of most primary care providers.

The verification procedures employed by the facility should be appropriate to the specialty of each practitioner, the breadth of clinical services offered by the health care facility and the particular circumstances of the clinic's accessibility to ancillary and tertiary medical practitioners.

In order to avoid unnecessary conflict, health care facilities should make certain that the privileging process is fair and that privileges are granted based upon documented training, experience and current clinical competence. Privileging based on any other factors is contrary to the written standards of the JCAHO. Importantly, medical specialty designation, in and of itself, is not grounds for granting or denying any privilege.

Privileging issues are most effectively resolved through professional and collegial discussions at the health care facility level. However, when the issue remains unresolved and requires litigation the practitioner generally prevails when the attorney establishes that the privileging process deviated from the above-referenced standard.

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