



Center for Medicaid and State Operations/Survey and Certification Group

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DATE: November 12, 2004

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Centers for Medicare & Medicaid Services (CMS) Requirements for Hospital Medical Staff Privileging

Letter Summary

- The hospital's Governing Body must ensure that all practitioners who provide a medical level of care and/or conduct surgical procedures in the hospital are individually evaluated by its Medical Staff and that those practitioners possess current qualifications and demonstrated competencies for the privileges granted.
- State Survey Agency (SA) surveyors are to determine whether the hospital's privileging process and its implementation of that process comply with the hospital Conditions of Participation (CoPs).

The purpose of this memorandum is to provide survey and certification clarification regarding the hospital privileging system requirements in the hospital CoPs at 42 CFR §482.

Background

The hospital's Governing Body is legally responsible for the conduct of the hospital as an institution. The Medical Staff is accountable to the Governing Body for the quality of care provided to patients at the hospital. Both hospital bodies must ensure that all patient care is provided by or in accordance with the orders of a practitioner who meets the Medical Staff criteria for the privileges granted; who has been granted privileges by the Governing Body in accordance with established procedures for applying those criteria; and who is working within the scope of those granted privileges.

The hospital must have a privileging process in place that complies with CMS requirements. The hospital's privileging process must be in compliance with the hospital CoPs at §482.12 (Governing Body), §482.22 (Medical Staff), and with other CoPs that require medical staff oversight of practitioner qualifications and privileges, federal and state law, and the process must be approved by the hospital's Governing Body. The hospital's Medical Staff bylaws must describe the privileging process to be used in the hospital. The process must include criteria for determining the privileges that may be granted to individual practitioners and a procedure for applying the criteria to individual practitioners.

Medical Staff Composition

The Medical Staff must be composed of doctors of medicine (MD) or osteopathy (DO) and, in accordance with state law, may also be composed of other practitioners appointed by the Governing Body. These other practitioners may include, but are not limited to dentists, podiatrists, chiropractors, advanced practice registered nurses (nurse practitioners (NP) and nurse midwives), certified registered nurse anesthetists (CRNA), physician assistants (PA), psychologists, licensed clinical social workers, optometrists, etc. The Medical Staff, as a group, is responsible for the quality of care provided to patients by the hospital, for establishing the bylaws, rules, regulations, policies, etc. for the medical staff and for overseeing the quality of care provided by all the individual practitioners who provide a medical level of care or who conduct surgical procedures at the hospital.

Categories of Practitioners

The hospital's Governing Body must determine which categories of practitioners (i.e. MD, DO, NP, PA, dentists, podiatrists, chiropractors, CRNA, midwives, etc. who, in accordance with state law, may be granted active, courtesy, emergency, temporary, etc. privileges in the hospital) are eligible for appointment to its Medical Staff, as well as, which categories of practitioners are not allowed membership on the Medical Staff but are eligible for privileges. Not all practitioners with privileges would necessarily be members of the hospital's Medical Staff. The hospital's Governing Body may grant non-members of the Medical Staff medical level privileges and/or privileges to conduct surgical procedures. For example, advanced practice registered nurses, PAs, RN first assistants, psychologists, CRNAs, licensed social workers, optometrists, and other practitioners, including physician residents and other physicians who hold only temporary or honorary privileges may or may not be allowed to become members of the Medical Staff. However, these practitioners are responsible for complying with the bylaws, rules, regulations, and policies in rendering care and services.

The hospital's Medical Staff bylaws must state the duties and scope of privileges each category of practitioner may be granted. Specific privileges for each category must clearly and completely list the specific privileges or limitations for that category of practitioner. The specific privileges must reflect activities that the majority of practitioners in that category can do and that the hospital can support. It cannot be assumed that a practitioner can perform every task/activity/privilege listed/specified for the applicable category of practitioner. The individual practitioner's ability to perform each task/activity/privilege must be assessed and not assumed.

If the practitioner is not competent to perform one or more tasks/activities/privileges, the list of privileges is modified for that practitioner. Hospitals must assure that practitioners are competent to perform all granted privileges.

The Medical Staff must periodically (defined as no less frequently than every 24 months in the absence of a State law that requires more frequent appraisals) conduct appraisals of individual current practitioners for continued or revised hospital privileges and must conduct individual appraisals of practitioner applicants requesting privileges. The Medical Staff must actually examine each individual practitioner's qualifications and demonstrated competencies to perform each task/activity/privilege he/she has requested from the applicable scope of privileges for their category of practitioner. Components of practitioner qualifications and demonstrated competencies would include at least: current work practice, special training, quality of specific work, patient outcomes, education, maintenance of continuing education, adherence to medical staff rules, certifications, appropriate licensure, and currency of compliance with licensure requirements. All practitioners providing a medical level of care and/or conduct surgical procedures either directly or under supervision, whether employed by the hospital, physician or other entity, or contracted, must be individually evaluated. Board certification, certification, or licensure in and of itself is not recognized as an appropriate basis to bestow or award any or all of the privileges included in a particular practitioner's category.

Any procedure/task/activity/privilege requested by and recommended for a practitioner beyond the specified list of privileges for their particular category of practitioner would require evidence of additional qualifications and competencies, and be an activity/ task/procedure that the hospital can support and is conducted within the hospital. Privileges cannot be granted for tasks/procedures/activities not conducted within the hospital despite the practitioner's ability to perform the requested tasks/ procedures/ activities. The hospital's Governing Body and Medical Staff must assure that every individual practitioner who provides a medical level of care and/or who conducts surgical procedures in the hospital is competent to perform all granted privileges.

The purpose of the Medical Staff's evaluation of each individual practitioner is to determine that a new applicant possesses the qualifications and competencies to have specific privileges granted or, in the case of current members of the medical staff, to evaluate the individual practitioner's qualifications and demonstrated competencies in order to determine if that practitioner's clinical privileges should be continued, discontinued, or revised. After the Medical Staff conducts its appraisal of individual practitioners, it makes recommendations to the Governing Body as to the extent of the privileges it is recommending be granted to each individual practitioner.

Role of Governing Body in Granting Privileges

After considering the Medical Staff's recommendations to grant, deny, continue, revise, discontinue, limit, or revoke specified privileges, and in accordance with established hospital Medical Staff criteria and state and federal laws and regulations, the Governing Body determines whether to grant the recommended privileges for that practitioner. Only the hospital's Governing Body can grant a practitioner privileges to provide care in the hospital.

The hospital must ensure that the practitioner and appropriate hospital patient-care areas/departments are informed of the privileges granted to the practitioner, as well as, any revisions or revocations to the practitioner's privileges. Furthermore, whenever a practitioner's privileges are limited, revoked, or in any way constrained, the hospital must, in accordance with state and/or federal laws or regulations, report those constraints to appropriate state and federal authorities, registries, and/or databases, such as the National Practitioner Databank.

CMS does not have a preference as to the "term" used to name the hospital's privileging process. A hospital's privileging process must comply with the CMS hospital CoPs. A privileging process that results in a practitioner being granted privileges based on other than the medical staff's assessment of that individual practitioner's qualifications and demonstrated competencies would not comply with CMS requirements.

Effective Date: Immediately. The state agency should disseminate this information within 30 days of the date of this memorandum.

Training: The information contained in this announcement should be shared with all survey and certification staff, their managers and the state/RO training coordinator.

/s/
Thomas E. Hamilton

cc: Survey and Certification Regional Office Management