

# GETTING PRACTICAL WITH **MEDICAL STAFF**

**GOVERNANCE, CREDENTIALING & PEER REVIEW**

Effective Record Keeping and Documentation

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# Effective Record Keeping and Documentation

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# Overview

- Meeting minutes
- Peer Review documentation
- Medical Staff file



# Proper Documentation

- Is vital to any number of issues:
  - Patient care
  - Quality of care outcomes
  - Continuity of care
  - Legal compliance
  - Payment and reimbursement
  - Risk management/malpractice claims
  - Liability insurance
  - Appropriate utilization review and quality of care evaluations



# Meeting Minutes

- Meeting minutes can be critical:
  - Often the only record of the committee's work
  - May be reviewed by higher lever and/or other committees
  - Establish that the work/actions of the committee are in line with its designated functions/authority
- Need to strike a balance between too little and too much information
- The level of detail to include in the minutes often depends on the work being performed
  - Routine operational matters – less is generally more
  - Focused peer review matters – additional detail is often required



# Meeting Minutes

- Recommended general content:
  - Date of meeting and time of commencement
  - Name of Committee Chair
  - Members and guests in attendance
  - Prior minutes approval
  - Items under consideration and actions taken
    - Motion made, seconded, those abstaining, those opposed



# Meeting Minutes

- What to generally avoid:
  - “Transcript-based” minutes at all costs
  - Identity of specific commentary
  - Personal observations, opinions, adjectives
  - Start time and Ending time
  - Recording!



# Meeting Minutes

- When a focused peer review matter:
  - Minutes should establish compliance with process
  - Minutes should indirectly address elements for state and federal immunity
  - Minutes are often significant evidence at hearing and in related litigation
  - Consider having draft minutes reviewed (for form and completeness) prior to approval
  - Consider separate minutes for executive session





# Peer Review Documentation

- Peer Review documentation should be appropriately designated as "Confidential Peer Review" (or similar per state statute) and stored in a central and secure location
  - Designation is not dispositive, but is good evidence of intent
- Avoid "numerous" files/personal files
- Personal notes/documentation outside of peer review process may not be protected
- Gaps in documentation may adversely impact ability to conduct reasonable investigation and take reasonable action



# Peer Review Documentation

- All relevant "peer review" documents/information should generally be contained in either the:
  - Medical Staff file (credentialing, recredentialing, OPPE, FPPE, quality review, etc.); or
  - Committee/Departmental Minutes



# Peer Review Documentation

- Disruptive Conduct:
  - Collegial intervention is, when possible, an important first step in addressing conduct concerns
  - Collegial intervention may be as simple as a sit-down meeting/conversation with no action taken
- Mistake: Not documenting the collegial intervention
- Lesson Learned/Result:
  - Medical Staff Leaders change/bad behavior often continues
  - 12 years of "collegial intervention" makes for a very difficult case to prosecute



# Peer Review Documentation

- Peer Review Notices should also be carefully drafted
  - Notice of Investigation
    - Generally required by Bylaws as component of due process
    - Provides notice of subject matter (isolated event vs. trending)
  - Notice of Adverse Recommendation
    - Required to establish immunity
    - Establishes the basis for the action/recommendation
  - Notice of Hearing
    - Required to establish immunity
    - Further evidence of good faith



# Event Reporting

- Incident Reports vs. Peer Review Documents
- Event Management Systems, e.g., Midas, etc.
- Entries limited to factual statements (who, what, where and when) related to the reportable event and any interventions taken
  - Do not include speculation, admit to or attempt to assign blame, liability or causation or include opinions of any kind
  - If the individual completing the report desires to discuss additional aspects of the event, that individual can contact BLANK



# Peer Review Documentation

- Be careful with email communication in the peer review setting
  - HIPAA security rules apply if communication contains PHI
  - Secure transmission best practice, in any event
  - Make sure Bylaws consistent (often require return/receipt) depending on use
  - Consider who you are copying
  - Consider the language you are using
    - Particularly with internal communications



# Medical Staff File

- Remember: much of the Medical Staff “file” (whether one or more sub-files) contains confidential peer review information
- Should contain all credentialing and quality review information pertinent to practitioner
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# Medical Staff File

- State laws differ regarding application of peer review privilege/confidentiality to medical staff application and related credentialing docs
  - Optional to separate credentialing from corrective action/quality review
- Consider provider access to Medical Staff file and related docs
  - Best approach is minimal access per state law requirement
- Consider third party access (including AGs and Licensing Bds)





# Record Retention

- Primarily an issue of risk
- General rule of thumb: At least as long as practitioners are on staff + the statute of limitations for negligence, breach of contract, defamation or corporate negligence
- To maintain or not maintain personal files?
  - Limited value
  - Best course of action is to follow-up with correspondence
- Destroy personal notes once captured by minutes or correspondence?



# Medical Staff File

- Retention of Medical Staff File
  - General rule: At least as long as practitioners are on staff + the statute of limitations for negligence, breach of contract, defamation or corporate negligence
- Scanned/digitized version is equivalent



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Please visit the Hall Render Blog at <https://www.hallrender.com/resources/blog/>  
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