Board of Directors
Credentialed Staff Appointment and Privileges

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1. The Legislative & Common environment
   - Public Hospitals Act
   - Regulation 965 – Hospital Management Regulation
   - By-Laws, Rules and Regulations

2. Credentialing: Appointments & Privileges
   - Recommendation vs. Decisions

3. Appointment & Privileges Disputes
Governance

Sources of Directors’ Duties and Responsibilities:

– Common law governing corporations
– Ontario Corporations Act
– Public Hospitals Act and Regulation 965
– Articles and by-laws of institution
– Any general legislation that applies to all Directors (e.g. Employment Standards, OHSA, etc.)
Fiduciary Relationship

1. Directors hold a relationship of trust with stakeholders
2. Highest standard of conduct
3. Duty owed to the Corporation (not to any one group or interest) – oversight; policies
4. All Directors owe same duty – elected; appointed; “ex officio”
Common Law Obligations

Board has a corporate and fiduciary duty to appoint physicians who:

- Meet the needs of the community
- Effectively utilize the resources of the Hospital
- Are skilled and experienced
- Will work as an effective member of the healthcare team (collaborative, respectful, follow rules, ensure patient and staff safety)
Board powers under *Public Hospitals Act* (s. 36)
- Appointment (and re-appointment)
- Determine privileges
- Revoke, Suspend, Deny

Board to pass by-laws (Reg. s. 4)
- Criteria for appointment and reappointment
- Procedures for appointing Chief of Staff and Department Chiefs
- Establishment of medical staff committees and their duties
- Criteria for appointment and duties of dentists, midwives and extended class nurses
Medical Advisory Committee ("MAC") (s. 35)

- To consider and review
- Recommendations re: appointment and reappointment
- Other duties as assigned by Act or Board
Public Hospitals Act – MAC

Advice as to quality of professional work, patient specific (s. 34)

- Shall receive notice from Chief of Staff or Chief of Department
- Shall receive report (written)
- Shall make written report to Chief Executive Officer and Board with action taken
Public Hospitals Act – MAC

Appointment/Reappointment Process (s. 37)
- Physicians entitled to apply/reapply
- MAC to make recommendation within 60 days of completed application
- MAC may delay recommendation
- Notice to applicant and Board
- Physician right to reasons and hearing
Regulation 965 – MAC

s. 2(4) the disclosure of every critical incident,
   - analysis and plan for systemic change
s. 7(2) make recommendations to the Board concerning
   - every application for appointment or reappointment and the hospital privileges to be granted
   - the dismissal, suspension or restrictions of hospital privileges
   - the quality of care provided in the hospital by the medical staff, dental staff, midwifery staff and by the extended class nursing staff
   - the by-laws, clinical and general rules of the professional staff
Regulation 965 – MAC

- supervise the practice of medicine, dentistry, midwifery and extended class nursing in the hospital
- advise the Board on any matter referred to the MAC by the Board
- identify systemic or recurring quality of care issues in making its recommendations to the hospital’s quality committee (ECFAA)
- report in writing to the Board at each regularly scheduled meeting of the Board, with respect to the practice of medicine in the hospital
Currently supervisory with delegated authority; to meet legal expectations requires provision that where, in the opinion of the Chief of Staff, Chief of Department or Chief Executive Officer the conduct, performance or competence of a member exposes or is reasonably likely to expose patient(s), other members or hospital staff to harm or injury, and immediate action must be taken to protect and no less restrictive measure can be taken, the Chief of Department, Chief of Staff or the Chief Executive Officer will take action.

Duties of the Chief of Department
- Medical Advisory Committee Duties and Responsibilities
MAC duty to recommend appointment and reappointment of physicians that,

– meet the needs of the community
– effectively utilize the resources of the hospital
– are skilled and experienced
– will work as an effective member of the healthcare team
  (collaborative, respectful, ensure pt. and staff safety)

Establishes a necessary partnership between MAC and Board which decides.
The Board of Governors of a public hospital is entrusted by its community with the responsibility of providing a program of health care tailored to the particular needs of that community. The Board must establish objectives that are within the capacity of its plan and resources. It must create a balance within its medical staff to ensure a broad base of expertise, and select the staff capable of developing excellence in health care while obtaining the most efficient utilization of the facilities and resources of the hospital. It is the task of a Board of Governors to balance the operation of its hospital and tune it to that level of optimum performance permitted by its inherent limitations. The Board of Governors has a responsibility to determine the pace at which the facilities of its hospital will be operated and to establish those staffing policies which satisfy the requirements of that operation.
Appointment Disputes

Foundation for Review on Appeal

- Competency and Quality of Care
- Manpower Need and Resource Availability
- Collegiality/Disruptive Behavior
  - team work, compliance with rules
  - disruptive behaviour can be defined as any action, verbal or physical, which is disrespectful of others and adversely affects staff morale or service provision. It can include behaviours inconsistent with rules and policies as well as behaviours that put patients or staff at risk.
Appointment Disputes

Foundation for Action (mid-term)
- an issue of patient safety
- immediate risk supporting extreme action
- urgent need to accommodate risk
- authority of Chief of Staff, Administrator and Board
Appointment Disputes

*Public Hospitals Act* (s. 39)

- parties: MAC; physician; others
- directors as tribunal members, cannot have prejudged or received information
- adversarial
- burden rests with the MAC
- HPARB
Questions?

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