Be aware of temporary reappointment option

Just like the initial appointment process, the reappointment process is rife with pitfalls for MSPs who aren’t on their toes. Consider these scenarios: A physician is up for reappointment to the medical staff, but rumors are circulating about his or her conduct at another hospital. Although the physician has not had problems at your hospital, the rumors, if true, would be relevant to the decision to reappoint. You want to determine the truth of the situation before processing his or her reappointment application, but it will take time to acquire the data needed. Or perhaps a practitioner is enrolled in an assistance program and you need verification of compliance with the program, but the reports will not be available until after his or her term of appointment expires. What are your options when a practitioner’s medical staff appointment is likely to expire before an issue is resolved?

In some cases, nonrenewal of the appointment and termination of privileges may be appropriate, but not necessarily in scenarios like the ones above. MSPs must realize that options other than nonrenewal and privilege termination are available if data sufficient to process a reappointment application and request for privileges are lacking. However, determining the best option depends on the cause of the delay and the nature of the outstanding questions.

Paint a complete picture

Credentialing committees must have adequate information on which to base their decisions, says Jay Silverman, Esq., chair of the healthcare practice at Ruskin Moscou & Faltischek, PC, on Long Island, NY.

Ensuring that you have adequate and proper information on which to base your reappointment and privileging decision will help you:

- Comply with Joint Commission (formerly JCAHO) requirements
- Insulate your facility from negligent credentialing liability to the extent possible
- Protect patients

“One [action] that is not an option is to go ahead and grant the applicant the two-year reappointment term and allow him or her to exercise privileges without satisfactory information on which to assess the physician,” Silverman says. Hospitals may think that granting the two-year reappointment is the path of least resistance—after all, the hospital can always implement practice restrictions or initiate some kind of corrective action later.

“Temporary reappointment should be a stopgap measure, and the physician should either be offered a full two-year term or nonrenewed as soon as possible.”

—Jay Silverman, Esq.

> continued on p. 2
when it has complete information at hand. However, Silverman says, this strategy creates greater risk to patients and the hospital and violates Joint Commission standards. Plus, initiating corrective action will trigger a physician’s rights to a hearing, with all the attendant expense and disruption that a hearing involves.

Choosing not to renew privileges and medical staff appointment may also be problematic. Nonrenewal based on reasons related to a physician’s conduct or competence may need to be reported to the National Practitioner Data Bank (NPDB) and also may trigger a member’s rights to a hearing under the medical staff bylaws, says Michael R. Callahan, Esq., a healthcare attorney with Katten Muchin Rosenman, LLP, in Chicago. Deciding not to renew membership and/or terminate privileges without having sufficient evidence to make such decisions would arguably violate the hospital bylaws, he says.

Given these facts, a hospital may choose to allow a physician’s privileges and medical staff membership to lapse if it lacks information it feels is necessary to make an informed decision. If a hospital’s attempt to gather information has not become an investigation, allowing privileges to lapse, and considering the application for reappointment and privileges withdrawn, is not reportable to the NPDB, Callahan says. But nonrenewal of privileges and medical staff membership penalizes

**Reappointment**

<continued from p. 1>

Michael R. Callahan, Esq., a healthcare attorney with Katten Muchin Rosenman, LLP, in Chicago. Deciding not to renew membership and/or terminate privileges without having sufficient evidence to make such decisions would arguably violate the hospital bylaws, he says.

Given these facts, a hospital may choose to allow a physician’s privileges and medical staff membership to lapse if it lacks information it feels is necessary to make an informed decision. If a hospital’s attempt to gather information has not become an investigation, allowing privileges to lapse, and considering the application for reappointment and privileges withdrawn, is not reportable to the NPDB, Callahan says. But nonrenewal of privileges and medical staff membership penalizes

**Reappointment**

<continued from p. 1>

Michael R. Callahan, Esq., a healthcare attorney with Katten Muchin Rosenman, LLP, in Chicago. Deciding not to renew membership and/or terminate privileges without having sufficient evidence to make such decisions would arguably violate the hospital bylaws, he says.

Given these facts, a hospital may choose to allow a physician’s privileges and medical staff membership to lapse if it lacks information it feels is necessary to make an informed decision. If a hospital’s attempt to gather information has not become an investigation, allowing privileges to lapse, and considering the application for reappointment and privileges withdrawn, is not reportable to the NPDB, Callahan says. But nonrenewal of privileges and medical staff membership penalizes

**Reappointment**

<continued from p. 1>

Michael R. Callahan, Esq., a healthcare attorney with Katten Muchin Rosenman, LLP, in Chicago. Deciding not to renew membership and/or terminate privileges without having sufficient evidence to make such decisions would arguably violate the hospital bylaws, he says.

Given these facts, a hospital may choose to allow a physician’s privileges and medical staff membership to lapse if it lacks information it feels is necessary to make an informed decision. If a hospital’s attempt to gather information has not become an investigation, allowing privileges to lapse, and considering the application for reappointment and privileges withdrawn, is not reportable to the NPDB, Callahan says. But nonrenewal of privileges and medical staff membership penalizes

**Reappointment**

<continued from p. 1>

Michael R. Callahan, Esq., a healthcare attorney with Katten Muchin Rosenman, LLP, in Chicago. Deciding not to renew membership and/or terminate privileges without having sufficient evidence to make such decisions would arguably violate the hospital bylaws, he says.

Given these facts, a hospital may choose to allow a physician’s privileges and medical staff membership to lapse if it lacks information it feels is necessary to make an informed decision. If a hospital’s attempt to gather information has not become an investigation, allowing privileges to lapse, and considering the application for reappointment and privileges withdrawn, is not reportable to the NPDB, Callahan says. But nonrenewal of privileges and medical staff membership penalizes

**Reappointment**

<continued from p. 1>

Michael R. Callahan, Esq., a healthcare attorney with Katten Muchin Rosenman, LLP, in Chicago. Deciding not to renew membership and/or terminate privileges without having sufficient evidence to make such decisions would arguably violate the hospital bylaws, he says.

Given these facts, a hospital may choose to allow a physician’s privileges and medical staff membership to lapse if it lacks information it feels is necessary to make an informed decision. If a hospital’s attempt to gather information has not become an investigation, allowing privileges to lapse, and considering the application for reappointment and privileges withdrawn, is not reportable to the NPDB, Callahan says. But nonrenewal of privileges and medical staff membership penalizes

**Reappointment**

<continued from p. 1>

Michael R. Callahan, Esq., a healthcare attorney with Katten Muchin Rosenman, LLP, in Chicago. Deciding not to renew membership and/or terminate privileges without having sufficient evidence to make such decisions would arguably violate the hospital bylaws, he says.

Given these facts, a hospital may choose to allow a physician’s privileges and medical staff membership to lapse if it lacks information it feels is necessary to make an informed decision. If a hospital’s attempt to gather information has not become an investigation, allowing privileges to lapse, and considering the application for reappointment and privileges withdrawn, is not reportable to the NPDB, Callahan says. But nonrenewal of privileges and medical staff membership penalizes

**Reappointment**

<continued from p. 1>

Michael R. Callahan, Esq., a healthcare attorney with Katten Muchin Rosenman, LLP, in Chicago. Deciding not to renew membership and/or terminate privileges without having sufficient evidence to make such decisions would arguably violate the hospital bylaws, he says.

Given these facts, a hospital may choose to allow a physician’s privileges and medical staff membership to lapse if it lacks information it feels is necessary to make an informed decision. If a hospital’s attempt to gather information has not become an investigation, allowing privileges to lapse, and considering the application for reappointment and privileges withdrawn, is not reportable to the NPDB, Callahan says. But nonrenewal of privileges and medical staff membership penalizes

**Reappointment**

<continued from p. 1>

Michael R. Callahan, Esq., a healthcare attorney with Katten Muchin Rosenman, LLP, in Chicago. Deciding not to renew membership and/or terminate privileges without having sufficient evidence to make such decisions would arguably violate the hospital bylaws, he says.

Given these facts, a hospital may choose to allow a physician’s privileges and medical staff membership to lapse if it lacks information it feels is necessary to make an informed decision. If a hospital’s attempt to gather information has not become an investigation, allowing privileges to lapse, and considering the application for reappointment and privileges withdrawn, is not reportable to the NPDB, Callahan says. But nonrenewal of privileges and medical staff membership penalizes
the applicant even if the action is not reportable to the NPDB. It interrupts the provider’s practice and forces him or her to reapply for privileges and medical staff membership.

That said, nonrenewal is appropriate if a hospital lacks information due to the actions or inaction of a physician, Callahan says. Determining whether the physician is at fault for the delay is critical. “If the delay in processing was due to a failure of the physician to be responsive in a timely fashion to various additional inquiries, the privileges should lapse due to the physician’s own fault. He or she can then reapply,” says Callahan.

But what if the physician is not at fault? If the renewal application was not handled efficiently, if inquiries were not made in a timely manner, or if the time frames for consideration of the application were inconvenient for the credentialing committee, the medical executive committee (MEC), or the hospital board, “to allow the physician’s appointment to lapse under these circumstances seems unfair,” Callahan says.

**Consider temporary reappointment**

Although The Joint Commission limits the duration of a hospital appointment to two years, it does not prevent a hospital from appointing a physician for a shorter period. In cases in which a final appointment decision cannot be made due to inadequate information, Callahan recommends the hospital consider reappointing the physician for a limited time—perhaps 60–180 days—until all investigations or reviews are complete or the missing information has been gathered. Your organization should inform the physician, in writing, of the temporary nature of the reappointment and of its duration, Callahan says.

> continued on p. 4

## Temporary reappointment vs. temporary privileges

The credentialing process requires the medical staff office (MSO) to gather documentation of a practitioner’s competence and fitness to perform all the privileges he or she requests. The MSO must also obtain other information regarding a physician’s eligibility to remain a member of the medical staff. Assuming an applicant is eligible for medical staff membership, the applicant may be reappointed with those privileges if the practitioner is demonstrably competent to exercise.

It is important to distinguish between temporary reappointment for a limited period pending the collection of further information, and temporary privileges. Temporary reappointment is an option that is appropriate if the hospital:

- Has no outstanding concerns about a practitioner’s competence, clinical skills, or fitness to practice medicine, but lacks some information it needs to complete its assessment
- Has concerns or outstanding questions about the practitioner’s conduct or competence, but lacks sufficient information to establish the existence of a problem and its magnitude

A temporary reappointment carries with it clinical privileges; however, the privileges will terminate with the temporary reappointment. If, at the end of the temporary period, the hospital decides not to offer a full two-year appointment to the applicant, the applicant’s privileges will terminate and he or she may assert hearing rights.

In contrast, sometimes it is necessary and appropriate to offer clinical privileges without medical staff membership. In such cases, temporary privileges are available. The Joint Commission (formerly JCAHO) permits a hospital to extend temporary privileges in the following circumstances:

- To new applicants, for a period not to exceed 120 days, while the MSO processes the application for permanent medical staff membership
- To save a life or prevent harm (e.g., temporary privileges may be extended to the primary physician of a patient with an unusual disease or disease course if there are no members of the medical staff who are as qualified as the physician to treat the patient)
- In the case of a natural disaster, act of war, or other emergency, during which most states recognize disaster privileges that require a practitioner to provide an after-the-fact affirmation of licensure
- Locum tenens privileging
Reappointment  < continued from p. 3

When temporarily reappointing a physician to the medical staff and granting privileges for the duration of the temporary appointment, a hospital should consider the nature of the missing data that prevented the reappointment. If the questions or issues do not concern patient care, then there may be no need to limit or modify the physician’s practice. But if there are concerns about the physician’s clinical practice or competence, Callahan suggests the hospital consider the following options to protect patients and reduce its potential liability during the temporary reappointment term: mandatory consultation requirements, practice monitoring, proctoring, or concurrent chart review. None of these options requires an NPDB report, and each helps the hospital assess a physician’s skills. Also, if there are particular concerns about a specific group of patients or a physician’s treatment of specific conditions, the hospital can ask the physician to refrain from those areas of practice during the temporary reappointment period.

Complete the process expeditiously

Once the hospital has offered a temporary reappointment, it should work diligently to complete the reappointment process and make a final decision, says Silverman. “Temporary reappointment should be a stopgap measure, and the physician should either be offered a full two-year term or nonrenewed as soon as possible.”

If, after gathering and considering all relevant information, the hospital decides not to offer a physician a two-year reappointment and instead opts for nonrenewal, that action will trigger the physician’s rights to a hearing. Callahan reiterates. As a result, your organization should be prepared to defend its decision not to renew the applicant’s medical staff appointment and the attendant termination of privileges.

Review processes to limit delay

Your hospital should be able to handle physician medical staff membership renewals and privileging applications without resorting to temporary reappointment, except in extraordinary circumstances. If your hospital finds that it often cannot process renewal applications in a timely fashion, there may be a process deficiency, Silverman says. In cases in which the credentials committee or MEC is unwilling to meet as often as necessary to carry out their duties effectively, hospital administration should intervene. The support and best efforts of medical staff leaders in the efficient processing of applications for medical staff membership are critical, because delayed or rushed applications put the hospital at risk. MSOs that are not receiving appropriate cooperation from medical staff leaders must ensure that hospital administration is aware of the problem, Silverman says.