

November 2007

The Joint Commission Has Spoken on MS.1.2O — Now What?

No doubt many of you listened in on the October 25 and November 1 Joint Commission audio conferences on the Pre-publication Leadership Standards and MS.1.2O. The purpose of these discussions was to provide The Joint Commission an opportunity to briefly explain each of the standards and then to solicit questions and comments from accredited hospitals. Most of the issues, concerns and questions focused on the impact of MS.1.2O on existing medical staff bylaws and the governance relationship between the Medical Executive Committee, the organized medical staff and a hospital's board of directors.

Although some important clarifications were provided—for example, that the medical staff and board can determine which physicians are entitled to vote and that The Joint Commission did not intend to require that all medical staff members be given this right—many questions still remain. The Joint Commission's Dr. Paul Schyve, Senior Vice President, Dr. Robert Wise, Vice President of Standards and Survey Methods, and Hal Bressler, General Counsel, discussed the possibility of preparing some form of communication that would reiterate the points raised during the call and also try to respond to other questions from hospitals and representative trade associations. These "clarifications" would be issued as additional comments are received from the field so that hospitals have more guidance on how to implement MS.1.2O.

We have learned that during a Joint Commission meeting on November 2, a decision or recommendation was made to form a task force to look further into the issues identified on the call, and to sort out the required or recommended implementation options. This could be a useful development, although it is still unclear what impact, if any, this exercise will have on the substance of the Standard.

The bottom line is that accredited hospitals should, for now, hold off on taking steps to implement MS.1.2O. We expect that further interpretations and clarifications will be issued by The Joint Commission. It is also possible that certain provisions could be dropped or modified given the strong opposition which is still being voiced by hospitals, medical staffs and trade associations. Stay tuned.

For Additional Information

If you have questions about how MS.1.2O might impact you, or if you have any other questions regarding medical staff bylaws, or other peer review and credentialing matters, please contact Michael Callahan at 312.902.5634 or michael.callahan@kattenlaw.com.

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