



## Client Alert

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### **Joint Commission Approves a New Medical Staff Standard MS.01.01.01**

The Joint Commission has approved Medical Staff standard MS. 01.01.01, with an effective date of March 31, 2011. The approval follows an unusually short six week field review that ended on January 28, 2010. No changes were made in the standard as a result of the field review. The new standard addresses the relationship between the hospital governing body, and the medical staff leadership and also between the medical staff itself and both its own leadership and with the hospital's governing body.

The standard has a history of controversy. Originally proposed as MS 1.20, it drew heavy criticism for requiring many details of medical staff governance to be in the bylaws, for disrupting relationships among the governing body, the medical executive committee (MEC) and the organized medical staff, for weakening the MEC and generally for the anticipated high cost and burden of revising bylaws to conform to the new requirements.

The high level of criticism led the Joint Commission in December 2007 to create a MS 1.20 Implementation Task Force composed of representatives of hospital, physician, and dentist organizations. The Task Force recommended some revisions to resolve some of the concerns expressed about the original proposal. Now identified as MS 01.01.01, the recently approved version incorporates the Task Force's recommendations.

The approved version will still require Bylaws to contain more detail about procedures and processes than has been the modern practice. Under MS 01.01.01, for those elements of performance that require a process, the "basic steps" must be set out in the Bylaws while the "associated details" may be in the Bylaws or in the Medical Staff Rules and Regulations or Policies.

Some processes whose "basic steps" would be required to be included in the bylaws are those for the selection and removal of medical staff officers and MEC members; for adopting and amending medical staff bylaws, rules & regulations and policies, for automatic suspensions and summary suspensions; for recommending termination or suspension of medical staff membership and for the fair hearing and appeals process.

Another notable provision of MS 01.01.01 requires the bylaws to contain a procedure for the medical staff directly to propose to the hospital governing body bylaws, rules and regulations and policies after first communicating the

proposal to the MEC. FAQ #10 notes that this authority to over-ride, or by-pass, the MEC is intended to apply only to bylaws, rules, regulations and policies. It is not intended to extend to decisions about individual practitioners.

The proposed standard also requires the bylaws to contain a process for “provisional” adoption and approval of rules and regulations to comply with law or regulation in urgent situations, without prior notification to the medical staff.

A process for managing (not necessarily resolving) conflict between the medical staff and the MEC must also be included in the bylaws.

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