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# TO REPORT OR NOT REPORT: FPPE IN HOSPITAL PRIVILEGE APPLICATIONS

Many hospitals struggle whether to report a physician who withdraws an application for clinical privileges while undergoing Focused Professional Practice Evaluation (FPPE). Most hospitals rely on the use of FPPE to evaluate whether a new application by either an existing or new member of the medical staff seeks new clinical privileges. In 2008, the Joint Commission created two evaluation categories; (1) Ongoing Professional Practice Evaluation (OPPE), and (2) Focused Professional Practice Evaluation (FPPE). There are then two types of FPPE, which are: (1) proactive - assigned to all providers underdoing credentialing, and (2) reactive - in response to a specific event or concern. For purposes of this discussion, we will focus on proactive FPPE whereby the medical staff evaluates the competence for the specific privileges requested.

What are the hospital's reporting requirements to the National Practitioner Data Bank (NPDB) when an applicant withdraws the application for new clinical privileges during a period of required FPPE? The Health Care Quality Improvement Act of 1986 (HCQIA) requires a "health care entity" to report the surrender of clinical privileges while the physician is "under an investigation" relating to possible incompetence or improper professional conduct, or in return for not conducting such an investigation or proceeding. 42 U.S.C.A. § 11133(a)(1)(B); see also 45 C.F.R. § 60.12(a)(1)(ii). It is highly recommended that hospitals have bylaws or policies that specifically address and define the difference between proactive and reactive FPPE. These evaluations can be conducted as peer review activities under state peer review statutes or under the federal Patient Safety and Quality Improvement Act.

In general, proactive FPPE is not reportable to the NPDB when it is required for all new and existing practitioners seeking new clinical privileges. The process for new privileges requiring all practitioners undergo FPPE should be defined as routine for applications for new clinical privileges and highly standardized. Thus, proactive FPPE is not initiated due to an event, pattern, or particular concern. This means that in the event a practitioner withdraws an application for new privileges during a routine period of FPPE, this event is not considered a surrender of clinical privileges while "under an investigation."

The takeaway is that your hospital should have bylaws or policies that specifically set forth the process for evaluating practitioners for new clinical privileges. These should further be defined as routine and non-disciplinary and apply equally to all applicants. The bylaws or policies should also define what constitutes a formal investigation so that there is no confusion. A practitioner should know under your bylaws or polices whether the FPPE is routine, or non-routine constituting a formal investigation.

The attorneys at Lashly & Baer, P.C. are available to consult on NPDB reporting issues as well as a wide array of health care matters. Our Health Care Advisory Team consists of health care attorneys with experience in health care contracting, regulatory, licensure, and litigation. Please free to reach out to our Health Care Advisory Team to see if we can assist your specific needs.

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*This summary and legal alert is an overview of the new developments in the health care industry. It is not intended to be, and should not be construed as, legal advice for a specific factual situation.*



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