
Arkansas Children's
Medical Staff Leadership Training:
ACH
Medical Executive Committee

July 18, 2023

Phil Zarone
Horty, Springer & Mattern

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CENTER FOR CONTINUING EDUCATION IN THE HEALTH SCIENCES AND HORTYSPRINGER SEMINARS

**ARKANSAS CHILDREN'S
Medical Staff Leadership Training (Virtual)
July 2023**

Date and Time	Committee
<p>July 10, 2023 5:00– 5:45 p.m.</p>	<p>Credentials Committee</p> <ul style="list-style-type: none"> • Legal protections for credentialing • Spotting red flags • Importance of eligibility criteria • Not processing incomplete applications
<p>July 13, 2023 Noon – 12:45 p.m.</p>	<p>Health Committee</p> <ul style="list-style-type: none"> • Legal protections for reviews of health concerns • How to support colleagues while protecting patients • Review of process in Practitioner Health Policy
<p>July 13, 2023 4:30 – 5:15 p.m.</p>	<p>ACNW Medical Executive Committee</p> <ul style="list-style-type: none"> • Legal protections for credentialing and peer review • Overview of PPE/Peer Review Policy • Overview of Professionalism Policy • Overview of Practitioner Health Policy
<p>July 18, 2023 4:30 – 5:15 p.m.</p>	<p>ACH Medical Executive Committee</p> <ul style="list-style-type: none"> • Legal protections for credentialing and peer review • Overview of PPE/Peer Review Policy • Overview of Professionalism Policy • Overview of Practitioner Health Policy
<p>July 26, 2023 4:00 – 4:45 p.m.</p>	<p>Committee for Professional Enhancement</p> <ul style="list-style-type: none"> • Legal protection for peer review • Overview of process • Obtaining meaningful input from those under review • Effective Voluntary Enhancement Plans

ACCREDITATION STATEMENT

Accreditation and Credit Designation

In support of improving patient care, this activity has been planned and implemented by the University of Pittsburgh and HortySpringer Seminars. The University of Pittsburgh is jointly accredited by the Accreditation Council for Continuing Medical Education (ACCME), the Accreditation Council for Pharmacy Education (ACPE), and the American Nurses Credentialing Center (ANCC), to provide continuing education for the healthcare team.

Physician (CME)

The University of Pittsburgh School designates this live activity for a maximum of 0.75 AMA PRA Category 1 Credits™. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

Other Healthcare Professionals

Other health care professionals will receive a certificate of attendance confirming the number of contact hours commensurate with the extent of participation in this activity.

EDUCATIONAL INTENT

This program is designed for physicians who serve in Medical Staff leadership positions in hospitals. Upon completion of this program, participants should be able to identify common credentialing issues and develop best practices relating to initial appointment, reappointment, and clinical privileges. They should also be able to identify and manage the variety of peer review issues that confront them in their roles as physician leaders. Finally, participants should be able to define the legal responsibilities of Medical Staff leaders and the legal protections available to them.

TARGET AUDIENCE

- Medical Staff Officers
- Department Chiefs
- Credentials Committee Members
- MEC Members
- Bylaws Committee Members
- VPMAs, CMOs, and Medical Directors
- Medical Staff Services Professionals
- Quality/Performance Improvement Directors
- Hospital Management
- Hospital Counsel

PHIL ZARONE

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PHIL ZARONE is a partner with the law firm of Horty, Springer & Mattern in Pittsburgh, Pennsylvania, which specializes in the practice of hospital and health care law. For over 20 years, he has worked with hospital and physician leaders from across the country on Medical Staff matters related to credentialing, privileging and peer review, and on compliance with federal and state regulatory requirements. He serves as a faculty member for HortySpringer's *The Peer Review Clinic* and has spoken frequently about credentialing, peer review, and other topics of interest to physician leaders. He teaches a health law class for the Master of Medical Management program at Carnegie Mellon University and has taught a health law class at the Duquesne University School of Law.

Prior to joining Horty, Springer & Mattern, Phil served as an officer in the United States Coast Guard and as a regulatory counsel and prosecuting attorney for the Commonwealth of Pennsylvania's Bureau of Professional and Occupational Affairs. Phil earned his B.A. from the University of Pittsburgh (*summa cum laude*, Phi Beta Kappa) (1989), his M.A. from Ohio State University (1994) and his J.D. from the University of Pittsburgh (*cum laude*) (1998).

Conflict of Interest Disclosure

No planners, members of the planning committee, speakers, presenters, authors, content reviewers and/or anyone else in a position to control the content of this education activity have relevant financial relationships to disclose.

No relevant financial relationships with commercial entities were disclosed by:

Phil Zarone, Partner
Horty, Springer & Mattern, PC

Disclaimer Statement

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Medical Staff Leadership Training:
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July 18, 2023
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**Legal Protections For
Medical Staff Leaders:**
The Law Is on Your Side



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**Legal Protections for
Medical Staff Leaders**



- Health Care Quality Improvement Act of 1986

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Legal Protections for Medical Staff Leaders

- Health Care Quality Improvement Act of 1986
- Arkansas Peer Review Statute
 - Immunity
 - Confidentiality Privilege

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Legal Protections for Medical Staff Leaders

- Health Care Quality Improvement Act of 1986
- Arkansas Peer Review Statute
- Release Provisions in Medical Staff Credentials Policy

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Section 2.C.2 of Credentials Policy states:

To the fullest extent permitted by law, the individual releases from any and all liability, extends immunity to, and agrees not to sue the Hospital or any of its affiliates or subsidiaries, or any of their Boards, Board members, Medical Staffs, Medical Staff members, Advanced Practice Clinicians, Licensed Independent Practitioners, representatives or agents, or any third parties who provide information for any matter relating to appointment, reappointment, clinical privileges, or the individual's qualifications for the same.

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Section 2.C.2 of Credentials Policy states:

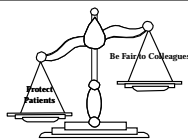
If, despite this Section, an individual institutes legal action challenging any credentialing, privileging, peer review, or other action affecting appointment or clinical privileges, or any report that may be made to a regulatory board or agency, and does not prevail, he or she shall reimburse [everyone] for all costs incurred in defending such legal action, including reasonable attorney's fees, expert witness fees, and lost revenues.

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Legal Protections for Medical Staff Leaders

- Health Care Quality Improvement Act of 1986
- Arkansas Peer Review Statute
- Release Provisions in Medical Staff Credentials Policy
- Hospital D&O Insurance

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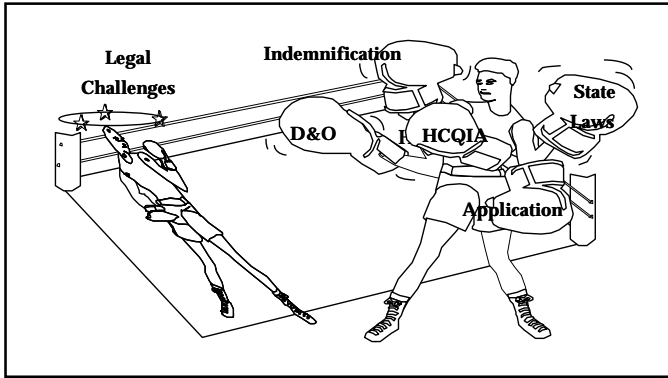


When Balancing...

- Always Put the Patient First
- Don't Worry About Personal Legal Risk

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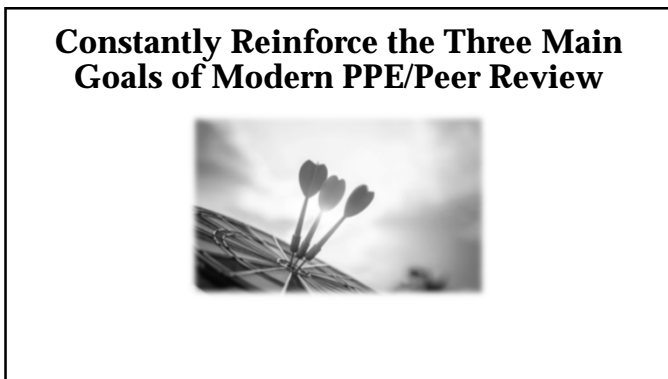
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Goal #1

Practitioner-Specific Reviews that Focus on Education and Improvement

- Emphasize input from colleagues, feedback, and practical, specific recommendations to promote improvement
- Many non-disciplinary tools available

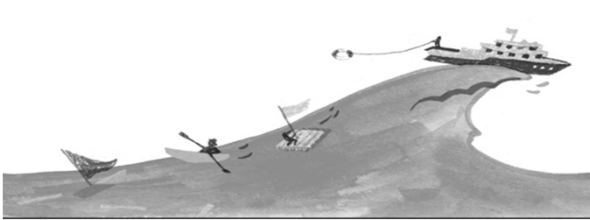
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A process that does not require MEC involvement in day-to-day reviews, and that does not require reports to government agencies, is more likely to be viewed as educational.

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Goal #2

Elevate Performance of ALL Practitioners in Specialty



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Peer Review Should Be a Tool for the Best CME Ever

- Adopt practices to identify “lessons learned” from reviews (e.g., case review form, algorithm for committee review, meeting minutes)
- Share with relevant specialties

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Goal #3 Improve “Systems” of Care



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Fixing System/Process Issues

- Adopt practices to identify “system/process” issues (e.g., case review form, algorithm for committee review, meeting minutes)
- Issue referred to appropriate committee or person for resolution
- Issues stays on agenda of Committee for Professional Enhancement (CPE) until notice of resolution is received

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How Are These Three Goals Constantly Reinforced?

1. One big thing
2. Lots of small things



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The BIG thing. Policy states:

- Routine PPE is distinct from disciplinary action
- The committees implementing the PPE process:
 - Use performance improvement tools;
 - Have no disciplinary authority;
 - Seek voluntary agreement of practitioners
- Medical Executive Committee receives oversight reports but is not involved in day-to-day PPE

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How Are These Three Goals Constantly Reinforced? Lots of small things.



"It's the little details that are vital. Little things make big things happen."

John Wooden

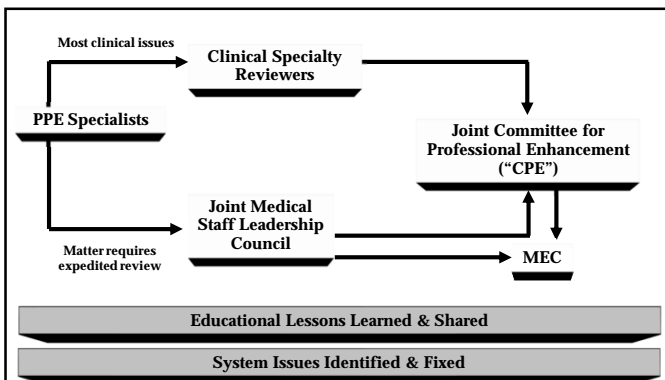
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Little details:

- Starts with first paragraph of policy
- Every letter and e-mail (use templates)
- Case review forms
- Every meeting with practitioner (have talking points)
- Performance improvement options
- Committee minutes
- Periodic reports to Medical Staff

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Committee for Professional Enhancement ("CPE")

Role of Highly-Functioning CPE

- Practitioner-Specific Reviews
 - Educational Letter
 - Collegial Counseling
 - Voluntary Enhancement Plan

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Committee for Professional Enhancement ("CPE")

Role of Highly-Functioning CPE

- **Lessons Learned and Shared**
- **Monitoring System/Process Fixes**
- **Policy Decisions**
- **Public Relations**

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Committee for Professional Enhancement ("CPE")

Composition of CPE

- **One prior Medical Staff leader from ACH and one from ACNW**
- **Medical Staff Secretary from ACH and from ACNW**
- **At least 3 other Medical Staff members**
- **At least 1 APP**

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MEC

MEC's Role

- **Approves PPE Policies**
- **Oversight of process through review of aggregate data**
- **Disciplinary action, when necessary**
- **Delegates authority for day-to-day PPE activities to CPE**

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**Medical Staff
Professionalism Policy**

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**The Connection Between
Physician Behavior
and
Patient Safety
Does Any Doubt Remain?**

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Not From ...

- Those Who Provide Care**
- The Joint Commission**
- The Courts**

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***Journal of the American College
of Surgeons, July 2006
Impact and Implications of Disruptive
Behavior in the Perioperative Arena***

31

***Ear, Nose and Throat Journal,
March 2008
Disruptive Physicians: Sound More Familiar
Than You Thought?***

32

***American Nurse Today, March 2008
Don't Tolerate Disruptive Physician Behavior***

33

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Neurology, April 2008
**Managing Disruptive Physician Behavior:
Impact on Staff Relationships and
Patient Care**

34

Annals of Surgery, June 2008
**When Good Doctors Go Bad: A Leape
of Faith**

35

**American Journal of Medical Quality,
April 2011**
**The Quality and Economic Impact of
Disruptive Behaviors on Clinical
Outcomes of Patient Care**

36

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***Academic Radiology, September 2013
The Cost of Disruptive and Unprofessional
Behaviors in Health Care***

37

***Journal of the American Medical Association,
December 2014
Disruptive Behaviors Among Physicians***

38

***American Journal of Surgery, January 2015
Effects of Disruptive Surgeon Behavior in the
Operating Room***

39

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Journal of the Academy of Medical-Surgical Nurses, July/August 2015
"I'm Not Calling Him!" Disruptive Physician Behavior in the Acute Care Setting

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Pediatrics, September 2015
The Impact of Rudeness on Medical Team Performance: A Randomized Trial

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Not From ...

Those Who Provide Care

The Joint Commission

The Courts

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**Joint Commission 2009
L.D.03.01.01**

“Leaders create and maintain a culture of safety and quality throughout the hospital.”

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**Rationale for
Joint Commission Standard
L.D.03.01.01**

“Safety and quality thrive in an environment that supports teamwork and respect for other people, regardless of their position in the hospital.”

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LD.03.01.01

EOP 4

Leaders develop a code of conduct that defines acceptable behavior and behaviors that undermine a culture of safety.

EOP 5

Leaders create and implement a process for managing behaviors that undermine a culture of safety.

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Not From ...

Those Who Provide Care

The Joint Commission

The Courts

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**A Physician's
Terrible,
Horrible,
No Good,
Very Bad Day**

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The Court Said:

“...Disruptive and abusive behavior by a physician, even if not resulting in actual or immediate harm to a patient, poses a serious threat to patient health or welfare. A physician must work collaboratively with other members of a medical staff in order to provide quality care to patients.

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The Court Said:

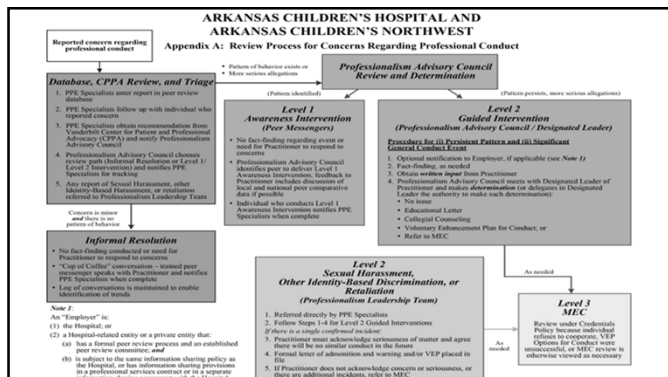
“...A hospital is one place where no one can do his job alone, where better teamwork means better care, and where disruptive behavior threatens lives.”

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Professionalism Policy

- Designed to use PARS and CORS data from Vanderbilt Center for Patient and Professional Advocacy
- Goal is to address potential issues quickly at lowest level possible
- Professionalism Advisory Council uses collegial efforts when needed
- MEC involved in (rare) cases where collegial efforts are unsuccessful

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Practitioner Health Policy

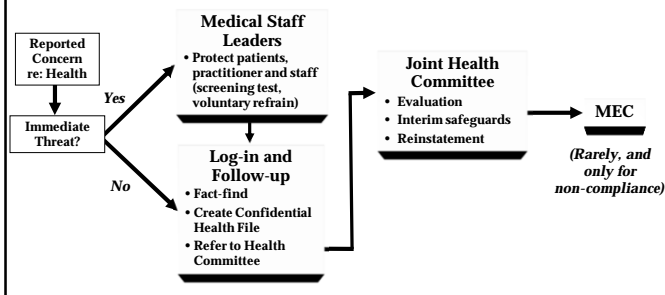
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Practitioner Health: Protect Patients, Help the Practitioner



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Practitioner Health Policy



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Questions?



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Thank You!

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Thank you.

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