The Christ Hospital

MEC Educational Conference

October 27, 2026

Ian Donaldson

Horty, Springer & Mattern, P.C.

Jointly sponsored by the University of Pittsburgh School of Medicine

Center for continuing education in the health and science and HortySpringer Seminars

AGENDA

6:00 p.m. **Welcome/Introduction**

6:00 to 6:15 p.m. **Understanding the Role of the Medical Staff, the MEC, and the Board as It Relates to Quality and Safety**

6:15 to 6:50 p.m. **Confidence to Become Great Leaders – The Law Is on Your Side!**

- Medical Staff Law 101
- Legal Protections When Serving as a Medical Staff Leader
- Understanding the Peer Review Privilege

6:50 to 7:30 p.m. **Credentialing for Excellence**

- The Role of the MEC (and Service Line Medical Directors & Division Chiefs) in the Credentialing Process
- Key Tools in the Credentialing Process
- Can We Ask about Health on the Application?
- Coordinating the Credentialing Process with Recruiting

7:30 p.m. **Q & A Session**

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Accreditation Statement

In support of improving patient care, this activity has been planned and implemented by the University of Pittsburgh and Horty Springer 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.

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The University of Pittsburgh designates this live activity for a maximum of 1.50 AMA PRA Category 1 Credits™. Physicians should claim only the credit commensurate with the extent of their participation in the 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

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IAN M. DONALDSON – is a partner with the law firm of Horty, Springer & Mattern in Pittsburgh, Pennsylvania. He devotes his practice exclusively to health care law, working with physician and hospital leaders on various medical staff issues, including credentialing and peer review matters. He also works with medical groups on developing and managing peer review processes.

Ian is a current faculty member of HortySpringer's The Peer Review Clinic seminar and previously served as a faculty member of The Credentialing Clinic and The Complete Course for Medical Staff Leaders seminars. He also served on the faculty of ACOG's Quality and Safety for Leaders in Women's Health Care postgraduate course for several years.

Ian earned his B.S. in Economics from Penn State University. He earned his J.D. and Certificate in Health Law from the University of Pittsburgh School of Law.

Conflict of Interest Disclosure

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The Board is required to make all final decisions on credentialing, privileging, and peer review

- **CMS**
- **Accrediting organizations**
- **State law**

3

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The Board relies on:

- **Department Chairs**
- **Credentials Committee**
- **Peer Review Committee**
- **Medical Executive Committee**
- **Other Hospital and Medical Staff leaders**

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So, how does this all work?

5

1910

"It would be futile to attempt to estimate the amount of suffering caused by the ignorance, incompetence, commercialism, and criminal indifference of those who call themselves disciples of Aesculapius [the Greek God of Medicine]."

Medical Chaos and Crime
Dr. Norman Barnesby

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Medical Chaos and Crime

In true muckraking tradition…

- **"No such carnival of butchery [has been seen] since the downfall of the empire of the Mongols"**
- **"The operating tables of the United States drip with the blood of helpless sacrifices."**

7

Reception for *Medical Chaos and Crime*

- **Became a best seller**
- **Captures attention of legislators**
- **New York Times has stated the book "caused a sensation in the medical world"**

8

Flexner Report (1910)

- **Too many poorly trained physicians**
  - **133 medical schools, many for-profit**
- **No regulation or standards**
- **Called for higher admission and graduation standards and adherence to protocols**
  - **Note: as a result, about half of all medical schools closed by 1929**

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1913

- **American College of Surgeons is formed**
- **Purpose was to "advance the science of surgery"**
- **ACS had a significant interest in the quality of hospitals**

10

- **Hospitals were nothing more than place to house patients**
- **No standards or controls**
- **ACS work group developed consensus statement on minimum standards for hospitals, used it as basis for surveys**

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1916 – 1919

- **Surveyed 2,700 hospitals**
- **Only 89 passed**

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1916 – 1919



- **All copies of initial report were "solemnly cremated" in furnace room of Waldorf-Astoria hotel**

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1919

ACS develops final "Minimum Standards" for hospitals

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ACS Minimum Standard (1919)

"That physicians and surgeons privileged to practice in the hospital be organized as a definite medical staff…."

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ACS Minimum Standard (1919)

"That the medical staff initiate and, with the approval of the governing board of the hospital, adopt rules, regulations, and policies governing the professional work of the hospital;"

16

42 C.F.R. §482.22
Condition of Participation: Medical Staff

"The hospital must have an organized medical staff that operates under bylaws approved by the governing body, and which is responsible for the quality of medical care provided to patients by the hospital."

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LD.01.05.01

The hospital has an organized medical staff that is accountable to the board.

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Conditions of Participation

The medical staff must

- **Periodically conduct appraisals of its members**
- **Examine credentials of candidates for membership and make recommendations to the board**

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Conditions of Participation

The medical staff must

- **Be well organized in a manner approved by the board and**
- **Be accountable to the board for the quality of the care**

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Core Functions of the Medical Staff

- **Credentialing**
- **Privileging**
- **Peer Review**

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What happens when these core functions are not performed?

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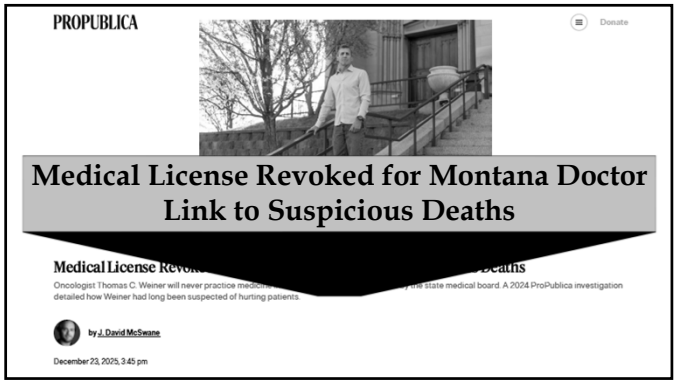

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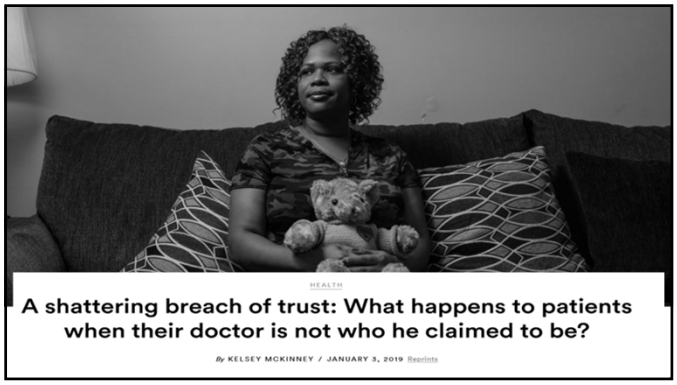

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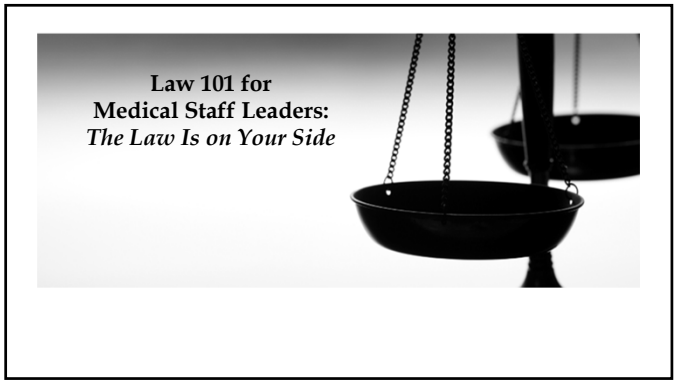

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Legal Protections for Hospitals and Medical Staff Leaders

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- **Health Care Quality Improvement Act of 1986**

29



Health Care Quality Improvement Act

Provides "<u>immunity</u>"

30



Health Care Quality Improvement Act

- **Immunity for:**
  - **Those who provide information**

31

- **No liability UNLESS**
  - **Information false; AND**
  - **Knew it was false**

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Health Care Quality Improvement Act

- **Immunity for:**
  - **Those who provide information**
  - **Peer reviewers**

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HCQIA immunity applies when action is taken:

- **in the reasonable belief it was in furtherance of quality care**
- **after an opportunity to obtain the facts**
- **after notice and hearing**

34

HCQIA immunity applies to a suspension:

- **when failure to act may result in "imminent danger to the health of any individual"**

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How does this work?

Cohlmia v. St. John Medical Center
(10th Cir.)

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Facts:

- **CT surgeon's privileges suspended based on two procedures he performed on lung cancer patients.**
  - **One patient died seven days after the procedure.**
  - **A second was permanently disfigured.**

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Facts:

- **VPMA reviews and determines "there was an inadequate workup…before [the patients] were operated on."**
- **VPMA and MEC then determine Dr. Cohlmia's continued practice "posed potential harm to patients" and suspended his privileges.**
- **MEC investigation begins**

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Facts:

- **Three external reviews confirm findings related to care.**
- **Suspension turns into a recommendation for termination, which is upheld at a hearing.**
- **After termination, his privileges are not renewed at another hospital and he voluntarily resigns privileges at two other hospitals where he held privileges.**

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Facts:

Oh, by the way, two years prior to the suspension, Dr. Cohlmia had explored opening his own competing specialty heart hospital.

40

Dr. Cohlmia sues…

41

HCQIA immunity applies when action is taken:

- **in the reasonable belief it was in furtherance of quality care**
- **after an opportunity to obtain the facts**
- **after notice and hearing**

42

Holding:

Immunity Granted!

43

HCQIA immunity applies when action is taken:

- **in the reasonable belief it was in furtherance of quality care**
- **after an opportunity to obtain the facts**
- **after notice and hearing**

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HCQIA Protections Do Not Apply to Employment Claims

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Johansen v. Myers

2025 WL 2487788 (S.D. Miss. Aug. 28, 2025)

- **Surgeon alleged employer + hospital violated Section 1983 after they refused to process his application due to incomplete disclosures.**
  - **Hospital claimed HCQIA immunity because dispute related to peer review-associated credentialing.**
  - **Court held HCQIA does not shield entities from federal civil rights liability; Section 1983 claim allowed to proceed.**

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Legal Protections for Peer Review Documents and Analysis

47

Ohio Peer Review Privilege

"Proceedings and records within the scope of a peer review committee of a health care entity shall be held in confidence and shall not be subject to discovery or introduction in evidence in any civil action against a health care entity or health care provider, including both individuals who provide health care and entities that provide health care, arising out of matters that are the subject of evaluation and review by the peer review committee."

48

Limits on Peer Review Privilege

- **Federal courts DO NOT recognize :**
  - **Employment discrimination**
  - **Antitrust**
  - **False Claims Act**
  - **EMTALA**

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Patient Safety and Quality Improvement Act

Privilege stronger than your state peer review privilege.

50

Patient Safety Work Product Privilege

Not subject to subpoena, discovery, or admission as evidence "in connection with a Federal, State, local, or Tribal, civil, criminal, or administrative proceeding…."

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"Patient Safety Work Product"

Includes any data, reports, records, memoranda, analyses, or written or oral statements which could improve patient safety and:

Are assembled or developed by a provider for reporting to a PSO

Identify or constitute the deliberations or analysis of, or identify the fact of reporting pursuant to, a Patient Safety Evaluation System

Are developed by a PSO for the conduct of Patient Safety Activities

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In Re: Baycare Medical Group, 101 F.4th 1287 (2024)

- **Employment discrimination claim**
- **Plaintiff physician sought the records of other doctors**
- **Court holds that records are protected PSWP**
- **Rejects "sole purpose" test**

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How Do You Keep Your Legal Protections

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Keeping Your Legal Protections

- **Follow your Bylaws and Policies (and document any variances)**
- **Maintain confidentiality**
- **Manage Conflicts of Interests**
- **Do what's best for your patients**

55

Credentialing



56

What's the most common complaint about credentialing?

57

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Align Your Contracting and Credentialing Processes

58

Sing from the same song sheet:

- **Don't work in silos**
- **Share timelines and checklists**
- **Share information when possible**

59

Practical suggestions:

- **Coordinate timing of contract offer and appointment application**
- **Reinforce importance of credentialing**

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Rely on Your Objective Threshold Eligibility Criteria

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Threshold eligibility criteria:

- **Screen individuals**
- **Reduce risk of discrimination claims**
- **Applicable to all types of practitioners**

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Threshold eligibility criteria:

- **Distinguish objective from subjective criteria**
- **Establish higher standards (e.g., screen out below average applicants)**
- **Help you avoid the "D" word**

63

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Traditional Threshold Criteria

- License
- Malpractice coverage
- Office and residence in defined area

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Recommended Threshold Criteria

- Unrestricted license and never had license denied, revoked or restricted
- Board certification, including recertification
- Not currently under investigation by federal/state agency
- No felony or certain misdemeanor convictions

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Recommended Threshold Criteria

- Never terminated from another staff
- Never resigned during investigation
- Never excluded from Medicare

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Life's not black	**and white.**
Have a waiver process	

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Use Waivers Sparingly

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Waivers

- **For exceptional circumstances only**
- **Place the burden on individual requesting waiver**
- **Not intended as precedent**
- **No right to a hearing if waiver is denied**

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Consider …

- **The nature of the disqualifying factor**
- **The number of disqualifying factor(s)**
- **The timing of the disqualifying factor**
- **Whether the disqualifying factor has been resolved**

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Not …

- **He's already employed by our System Group**
- **She's already received a signing bonus**
- **He's moved his family and bought a house**
- **She's on the schedule next week**

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Do NOT Process Incomplete Applications

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An application is incomplete if:

- There are unanswered questions
- There are gaps in professional experience
- Supporting information is not supplied

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An application is also incomplete:

- If questions/concerns are not resolved
- When your sixth sense is telling you *"No!"*

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Incorporate appropriate and helpful provisions into your Bylaws!

- Application becomes incomplete if need arises for additional information *at any point!*
- Incomplete applications will not be processed, and will be deemed withdrawn after 30 days
- No right to hearing or appeal

75

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Evers v. Edward Hospital

No obligation to process incomplete application at initial appointment.

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Manage Misstatements and Omissions Effectively (and Consistently)

77

Know When to Delve Into malpractice Claims

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Malpractice Information

- **Application Form**
- **National Practitioner Data Bank**

79

Getting sued ≠ concerns with clinical competence.



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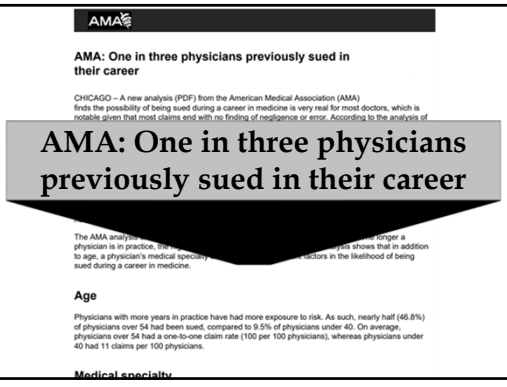

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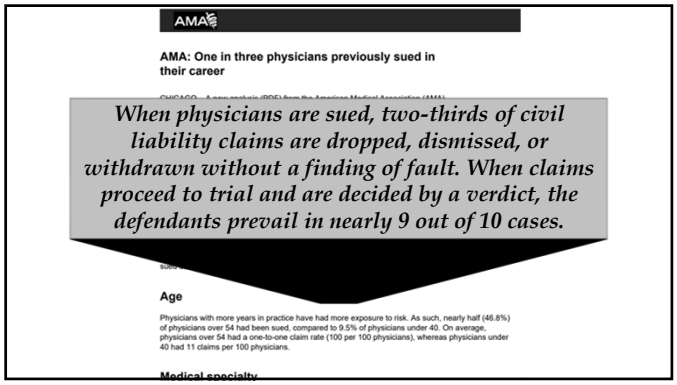

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SO….

When Is Additional Malpractice Information Needed?

83

There Are No Hard and Fast Rules

- **Consider Number of Cases Within Defined Time Period**
- **Claims Involving an Unexpected Death, Serious Injury or Impairment**
- **Settlement or Judgment in Excess of a Certain Dollar Amount**

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Additional Information

Documentation Related to the Litigation
- **Complaint**
- **Answer**
- **Expert Reports**
- **Depositions**

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Additional Information

Medical Record Review by an Internal or Outside Expert at the Practitioner's Expense

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Make Reappointment Meaningful

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Got data?



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Review information generated from peer review, professionalism and health processes.



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OPPE REPORTS

1. **Activity during OPPE period** *(Reports run at least every 12 months)*
2. **Performance as measured by Department and Medical Staff data elements** *(and thresholds, where possible)*
3. **Number of cases reviewed through PPE process and their dispositions**
4. **Number of concerns addressed pursuant to the Medical Staff Professionalism Policy and the disposition of those matters**

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Summary Health Report

- **Generated if health issue currently being monitored or was addressed during past appointment cycle**
- **Addresses practitioner's ability to perform Medical Staff duties and safely exercise clinical privileges**

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What about health issues?

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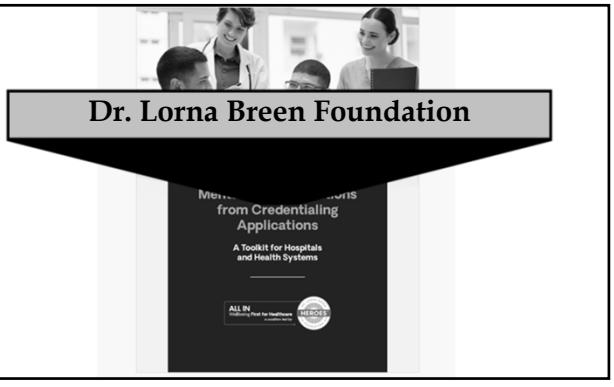

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What has changed?

- **State licensure bodies are reassing their applications**
- **The Joint Commission had revised its standards**
- **Hospitals are reassessing the questions they ask of applicants**

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Updated Application Language

VII. FITNESS TO PRACTICE

1. Are you able to safely and competently exercise the clinical privileges requested and perform the duties and responsibilities of appointment, including, but not limited to, emergency service coverage and committee service?
   Yes ___ No ___

2. Are you presently using any illegal drugs or any other substance in an illegal manner that would impair your ability to practice safely?
   Yes ___ No ___

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What if a Health Issue Is Disclosed?

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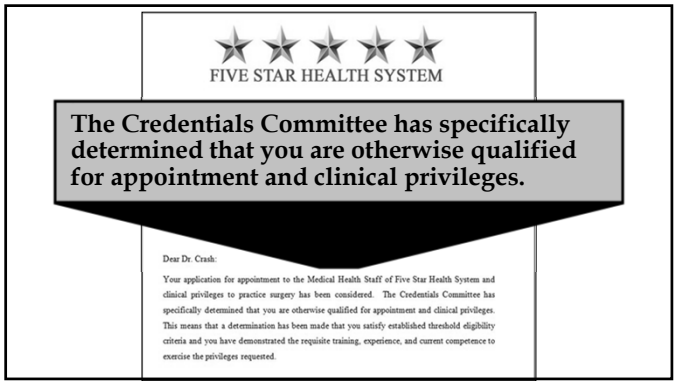

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What about responding to references?

100

Aaron Gant, M.D.

101

Option 1 –
Name, Rank, and Serial Number



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VALIANT HEALTH

To whom it may concern:

Aaron Gant, M.D. was on the Active Staff in urology for two years. No further information can be provided due to the large number of inquiries received in the office.

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What could go wrong?



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Option 2 – Verbal Response



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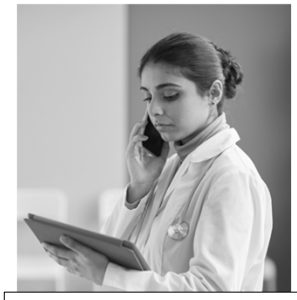
CMO
Indigo Health



Department Chair of Surgery
Valiant Hospital

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What could go wrong?



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When you receive a call and you have negative things to say, consider:

- **Getting request and putting response in writing**
- **Stick to the confirmed/documented facts**
- **Stay away from provocative/memorable opinions ("I wouldn't let him treat my dog")**

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When you receive a call and you have negative things to say, consider:

- **Consider whether there is a safer option (aka Option 3)**

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Option 3 – Specific Release



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Think about a "Forever Letter"

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Thank you!

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