Credentialing and Quality Review in the Era of the Employed Physician
Back in the Day

- Physician
- Membership
- Privileges

- Hospital
- MSS
- Medical Staff
Trend to Employed Status
Change in Preferred Practice Setting Choice

- More than 50% had a student loan debt exceeding $100,000
- 60% identified educational debt as the most concerning factor entering their first professional practice

Merritt Hawkins & Associates 2008 Survey of Final Year Medical Residents - 2011 Survey of First Year Medical Residents
Current Day

Physician

Employment Contract

HR/PM

MSS

Medical Staff

Membership

Privileges
Current Day in Corporate Practice of Medicine State

Physicians Clinic PLLC

Employment Contract

Physician

Hospital

MSS

Medical Staff

Membership Privileges
Physician Employment Contract

• Be nice to everyone
• Be clinically competent
• Termination for cause if not nice and/or not competent
• Termination without cause on ninety (90) days notice
• No patient contact during ninety (90) days notice period
• Clean sweep provision
• Physician waives right under bylaws/policies to hearing/appellate review for actions adversely affecting privileges
What Happened?

Physicians Clinic PLLC

Employment Contract

Physician

Hospital

MSS

Medical Staff

Membership Privileges
Why Do We Care?

General Hospital Reporting Requirements
RCW 70.41.210

• WHO:
  Hospital Chief Administrator or Chief Executive Officer must report

• WHAT:
  Restriction, limitation, suspension, or termination of practice

• WHY:
  Based on determination or finding of action constituting unprofessional conduct
Why Do We Care?

General Hospital Reporting Requirements
RCW 70.41.210

•WHEN:
  Within 15 days of determination or acceptance of voluntary restriction/termination

•AND ALSO:
  Voluntary restriction or termination of practice while under investigation or subject of proceeding by the hospital for unprofessional conduct or in return for the Hospital not conducting such an investigation or proceeding or not taking action
Why Do We Care?

General Hospital Reporting Requirements
WAC 246-16-245

• WHO: Chief Administrator, Chief Executive Officer or Designee must report

• WHAT: Termination or restriction of services
Why Do We Care?

General Hospital Reporting Requirements
WAC 246-16-245

• WHY:
  Harmed or placed at unreasonable risk of harm a patient

  Poses an unreasonable risk of harm to patients due to
  mental or physical condition

• WHEN:
  Regulation is silent on timing of report
Why Do We Care?

Employer Reporting Requirements
RCW 18.130.080

• WHO:
  Corporations, Hospitals and Organizations that employ physicians must report

• WHAT:
  Termination or restriction of services
Why Do We Care?

Employer Reporting Requirements
RCW 18.130.080

• WHY:
  Final determination that physician has committed act that may constitute unprofessional conduct or may not be able to practice with reasonable skill and safety as a result of a mental or physical condition

• WHEN:
  Within 20 days of determination
Why Do We Care?

Employer Reporting Requirements
WAC 246-16-270

• WHO: Corporations, Hospital and Organizations that employ physicians

• WHAT: Termination or restriction of services
Why Do We Care?

Employer Reporting Requirements
WAC 246-16-270

• WHY:
  Final determination that physician has committed an act that may constitute unprofessional conduct or may not be able to practice with reasonable skill and safety due to a mental or physical condition

• WHEN:
  Within 20 days of determination
Why Do We Care?

Employer Reporting Requirements
WAC 246-16-270

MEANING:

“Determination or finding” means a final decision by an entity required to report and applies even if no sanction or adverse action has been imposed or the physician is appealing the decision.

“Unable to practice with reasonable skill and safety due to a mental or physical condition” means that the physician is not satisfactorily managing a mental or physical condition and as a result poses a risk to patient safety.
Credentialing Inquiries and Responses

RCW 70.41.230

WHAT YOU MUST ASK OF PHYSICIAN: (RCW 70.41.230(1))

Identity of hospitals/facilities where physician employed, privileged or practiced within last five years and can go back further.

Whether the physician has ever been or is in process of being:

- Denied
- Revoked
- Suspended
- Limited
- Placed on probation
- Not renewed
- Reduced
- Terminated
- Restricted
- Sanctioned
- Monitored
- Not renewed

For Medical Staff membership or privileges
Credentialing Inquiries and Responses
RCW 70.41.230

Whether, in order to avoid an adverse action, or to preclude an investigation or while under investigation relating to professional competence or conduct, the physician has:

• Voluntarily or involuntarily relinquished, withdrawn or failed to proceed with an application

• For Medical Staff membership or privileges
Credentialing Inquiries and Responses

RCW 70.41.230
WHAT YOU MUST ASK OF THE IDENTIFIED HOSPITALS: (RCW 70.41.230(2))

• Pending professional misconduct proceedings or pending medical malpractice actions
• Judgments or settlements of medical malpractice action and any findings of professional misconduct
• Any information required to be reported by hospitals under RCW 18.71.0195
Credentialing Inquiries and Responses
What You Must Answer in Response to Credentialing Inquires (RCW 70.41.203(4))

Hospital that receives a request for information from another hospital or facility pursuant to subsections (1) and (2) must:

• Provide such information about the physician to the extent known to the hospital including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital
Returning From Leave

Standard Medical Staff Bylaw Provision:

Continuing requirement of medical staff membership is that the practitioner have under control any mental or physical condition that could pose a risk to patient safety if not controlled and authorizing medical staff to request examination/testing to determine control if necessary.

Medical staff often properly concerned about ability of returning member to take up where he/she left off upon return from medically required leave.

- Often want to be directly involved in crafting a return to work plan with independent examination of returning practitioner
Family and Medical Leave Act

Does It Apply?

• More than 50 employees
• Employee worked more than 1250 hours in last 12 months
• 12 weeks leave
• Process is form driven and time sensitive
  • Request from employee
    • 30 days before leave or ASAP
Family and Medical Leave Act

Does It Apply?

- Notice of eligibility and rights from employer - immediate
  - Meet the eligibility requirements
  - Certification from employee health care provider
- Certification from employee health care provider
  - Nature and duration of condition that precludes working
Family and Medical Leave Act
Does It Apply?

• Approval of FMLA leave – five business days from return of certification
  • Return to work will require fitness-for-duty certificate
    – No second opinions
  • List of essential functions can be attached
    – Opportunity for medical staff involvement