

Minutes Do's and Don'ts

A Legal Perspective (w/AI)

Erin Muellenberg, JD, CPMSM, CPCS, FMSP
 ermuellenberg@volsinelli.com
 310.203.5522

PROPRIETARY & CONFIDENTIAL PAGE 1

1

Where we are going.....

- Purpose of minutes
- Role of Agendas
- Minutes Elements
- Level of Detail
- Motion
- Correction
- Follow up
- Use of Minutes



PROPRIETARY & CONFIDENTIAL PAGE 2

2

What are Minutes?

Minutes are the official written record of a meeting. Minutes serve as a permanent record of the topics considered, conclusion reached, actions taken, and assignments given

3

Importance of Minutes

- Minutes serve to:
 - Inform the intended audience
 - Give enough detail to show compliance with notice provisions and entitle reliance
 - Reflect the decisions made
 - Protect the hospital & medical staff



4

Who looks at Minutes

- Participants
- MEC
- Board
- Surveyors
- Hearing Panel
- **Court**



5

AI – Artificial Intelligence is ARTIFICIAL!

- Role of AI in Minutes
- Security
- Safeguards
- Recording Management
- Routine Minutes vs. Peer Review
- Legal Guidance
- Policy

6



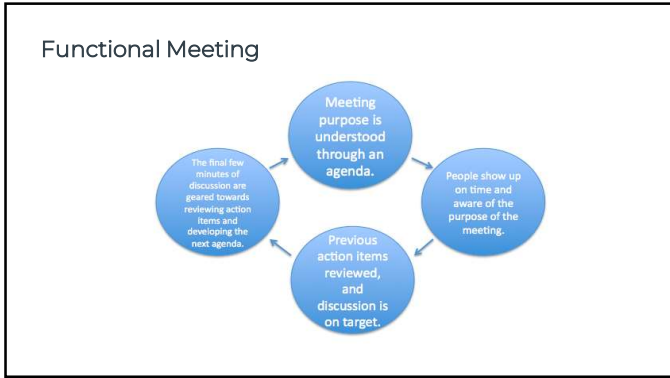
7



8



9



10

Agendas

- Agendas = Functional Meeting
- Agendas = Preparation
- Agendas = Basis for Minutes

11



12

What are Minutes?

- Written record of meeting
- Furnish a record of actions
- Summarize the important content of a meeting
- Communication to those not in attendance
- Effective tool required by leadership to demonstrate the functioning of the organization

13

Minutes

- Not a verbatim transcript of what was said
- Not a place to record opinions

Are Factual!



14

Meeting Elements



15


Minutes

- Kind of meeting: regular, special, ad hoc, executive session
- Name of department/committee
- Time called to order and by whom
- Individuals in attendance – distinguish guests
- Review and approval of prior minutes

16

What is in Minutes?

- Names of Participants
- Agenda Items
- *Summary* of relevant portions of discussion (less is more)
- Decisions
- Recommendations
- Follow up



17

What is in Minutes

- Definitive Action Oriented Minutes
 - Topic
 - Conclusions
 - Decisions
 - Recommendations for action
 - Actions taken
 - Follow-up
 - Effectiveness of action
 - Progress achieved or lack thereof

18

Minutes

- All motions
 - Not required to include withdrawn motions
- Separate paragraph for each topic
- Summary of pros and cons of controversial topic
- Rationale for decision
- Decision
- Adjournment

19

Motions

- A formal proposal that is made and seconded
 - No requirement to record name of person who moved or seconded
- Restate motion to be sure wording is correct
- Long motions or resolutions can be prepared in advance
- Motion can be amended or tabled
- Unanimous consent can replace motion

20

Resolutions

Whereas, the Department of Surgery has grown too large to effectively monitor all surgical procedures;

Whereas, the Section of Orthopedics desires to become its own department for the purpose of monitoring the care and treatment provided to orthopedic patients;

It is hereby resolved, that the Orthopedic Section of the Department of Surgery will be established as the Orthopedic Department.

21

Resolutions

- Have copies of resolutions prepared for the meeting
- Resolutions are written requests for action
- Attach resolutions to minutes
- Minutes should refer to attached resolutions



Meeting Minutes

22

Tabled

- The reason for tabling
- What information or action is needed
- Can be tabled for a maximum of six months
- Must be kept on Agenda



23

Names and Numbers

- Do not use patient names – MR #s
- Do not use practitioner names for medical record discussions – Code #s
- Avoid using committee member names
- Consider stating: “one of the members suggested” or “a concern was raised regarding”

24

Voting

- “Motion carried” or “Motion passed” is sufficient
- Chair or committee can request recording of numbers
- Abstentions must be included if pro and con votes are requested



25

Correction of Minutes

- Once approved cannot be changed
- Only corrected at subsequent meeting
- Changes –
 - Directly on minutes for word deletions or corrections
 - Note to see addendum
 - Correction should be reflected in minutes



26

Reporting

- To MEC
 - Committee/Department minutes or reports
 - Peer review activities of monitoring and evaluation
- MEC to Governing Body
 - No copies of minutes
 - Bulleted summary of MEC actions
 - Summary of credential recommendations

27

Follow-up

- Memos regarding actions
- Requests for information from physicians
- Policies, rules, bylaws, etc.



28



*"As I read the minutes of our last meeting,
please keep in mind that each minute
felt more like an hour."*

29

Peer Review Documentation

- Committee minutes are vital for demonstrating the basis for a disciplinary action
- Minutes should document the history, any prior remedial action, and why action is necessary and in furtherance of patient care
- Once corrective action is recommended minutes will be disclosed to the practitioner in the event of a hearing
- Errors can be devastating and embarrassing at a hearing—extra care needed with review of minutes
- Medical Board will have access if report is filed

30

Peer Review Documentation: Legal Issues

- Minutes record details of fair process
- Minutes prove MEC made all reasonable efforts to obtain the facts prior to taking action
- Minutes show that the affected practitioner had notice of the action
- Minutes prove that the affected practitioner had an opportunity to provide information
- Minutes prove the action was the least restrictive necessary to protect patients

31

Minutes Provide Immunities

- **Health Care Quality Improvement Act**
 - **Notice**
 - **Opportunity to be heard**
 - **Reasonable attempt to gather the facts**
 - **Action taken in reasonable belief it was warranted to protect patient care**

32

Types of Special Documentation

- Disciplinary physician interviews
 - Consult your attorney
 - Detailed?
 - Recorded?
 - Summarized?
- Disruptive physicians
 - Minutes reflect behavior
- Well Being Committee
 - Minimal documentation

33

Disciplinary Interviews

- Prior to meeting obtain all documentation
- Request practitioner to submit any documents in advance
- Provide sufficient time for meeting participants to meet in advance of interview and discuss goals



34

Disciplinary Interviews

- Minutes should include
 - Practitioner history
 - Description of new event
 - Description of investigation process
 - Summary of investigation findings
 - Comments on credibility of any witnesses
 - Goals of meeting
 - Meeting summary including agreed upon description of demeanor of practitioner
 - Recommendation for further action

35

Disciplinary Interviews

- Follow up with detailed letter
 - May include more detail than minutes
 - May be appended to minutes
- Transcribe minutes within two days and request immediate review for accuracy

36

Well-Being Committee

- Practitioner PHI is protected by HIPAA
- Minimize any documentation in minutes
- Agreements between WBC and practitioner can contain details
- Agreements to be kept by WBC – not in credentials file
- Keep separate file for WBC encounters – to be treated as confidential medical record

37

What Not to Put in Minutes

- Opinions
 - "Dr. Muellenberg is a bleeding heart liberal so naturally voted pro-choice."
- Speculation
 - "The MEC considered and discussed Dr. Jones recommendations but because they believed she may have been drinking that night with Dr. Muellenberg they did not agree with the recommendation."



38

What Not to Put in Minutes

- Only one side
 - "Dr. Muellenberg said that he rivaled Dr. Jekyll and Dr. Hyde so it was agreed to summarily suspend him."
- Too Many Details
 - "Dr. Jones and Dr. Muellenberg begin arguing during the meeting and Dr. Jones said that Dr. Muellenberg was a lush but Dr. Muellenberg said she can't be a lush because she eats cake."



39

What Not to Put in Minutes

- The Law
 - "Case law says that if he did that then we have to do this. However, the statute said we don't need to do that."
- The Lawyer
 - "Ms. Muellenberg told the MEC that they need to suspend the butcher."



NO DOCUMENTATION REPRINTED WITH PERMISSIONS FROM LINDA S. CRUMB, DPMOM, DPMG

40



41

Documenting Minutes

Your surgery committee has just reviewed the case of one of the busiest surgeons. The discussion was heated and you now have to write the minutes. You should write:

- a. The committee concluded that the procedure was not indicated.
- b. The committee concluded that there was insufficient documentation to support the indications for the procedure.
- c. A member of the committee commented that the only reason the patient had the surgery was because he had good insurance.

42

Correspondence

The committee has asked you to draft a letter to the surgeon regarding the indications. You write:

- a. You failed to document the indications for the procedure.
- b. Documentation in the record must include the medical decision making process rather than just the medical decision.
- c. Since you are the busiest surgeon in the hospital you don't have to worry about the documentation.
- d. You need to include copies of relevant diagnostic studies that support the performance of the procedure.

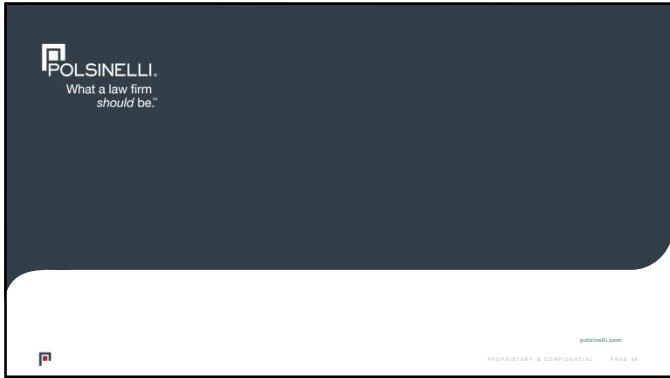
43



44



45



46
