

## MEDICAL STAFF & GOVERNANCE



Healthcare organizations have unique Human Resources challenges due to the multiple interests affected by behaviors of employed or independent members of its medical staff. Relationships with physicians and other licensed professionals are a high priority for healthcare organizations, but those relationships must be considered in light of a healthcare employer's obligation to its employees and patients. In some instances, the handling of disruptive, incompetent, or impaired medical staff can be a matter of life or death.

Decision-making must comply with employment laws and regulations in the context of complex healthcare regulatory requirements. The Husch Blackwell team helps clients strike this challenging balance. With a national reputation for our healthcare legal services, we have confronted medical staff and HR issues including:

- Medical staff and physician relations
- Peer review policies and investigations
- Physician contracting and compensation issues
- Physician impairment resulting from drug or alcohol use or mental or physical illness
- Competency concerns associated with aging physicians
- Discrimination and harassment alleged by and/or about physicians/medical staff members
- Competency questions concerning employed or privileged

*We can always count on the team at Husch Blackwell to help us with business and operational challenges so that we can focus on caring for our patients and being innovative.*

— Mark Baker, CEO,  
Jack Hughston  
Memorial Hospital  
and The Hughston  
Clinic —

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physicians

Termination of employed or privileged physicians “for cause” related to behavioral or quality of care concerns

Medical staff bylaws drafting

National Practitioner Data Bank and state licensure agency reporting

Health Care Quality Improvement Act Fair Corrective Action Hearings

Our services start from the beginning, helping you build the structures necessary to monitor physician and medical staff behavior and competence, as well as cultivate a culture that will encourage reporting. We’re on hand to ensure that compliance and ethics programs support honest evaluation, reporting of problems and rehabilitation when possible; guide you through the due diligence required when seeking references for new hires; and provide counsel on creating an environment where peers feel comfortable raising concerns. We regularly review and help revise medical staff bylaws and walk through the varied credentialing, privileging and due process considerations applicable to the medical staff.

We also examine your policies and procedures—and guide you through individual incidents—to ensure that you remain compliant with employment and civil rights laws. Our team is experienced in navigating concerns relating to:

Title VII of the Civil Rights Act and discrimination, harassment, and retaliation allegations

Aging providers and the Age Discrimination in Employment Act

Americans With Disabilities Act accommodations for medical staff, including related to impaired physicians

National Labor Relations Act requirements

Whistleblower protections and False Claims Act allegations

First Amendment rights

White collar allegations involving healthcare executives

Our aim is to help clients protect themselves, their employees, and their patients while avoiding litigation. However, when litigation related to medical staff and HR concerns occurs, we are your fierce advocate. With a long track record of success, our team of more than 150 skilled attorneys has the in-depth healthcare industry knowledge to provide effective, efficient representation.

## Representative Experience

Drafted uniform medical staff bylaws of a multistate health system for compliance with the Joint Commission Standard MS.01.01.01.

Facilitated resolution of dispute between the governing board and medical staff of a large health system. Dispute involved revisions to medical staff bylaws, negotiations on hospital operational policies, and medical staff's participation in developing and implementing them.

Advised a hospital's medical executive committee through an extensive peer review process that included hundreds of medical records requiring external peer reviewers.

Mediated conflict management disputes between medical

staff and medical executive committees or hospital administrators.

Drafted credentialing policies and procedures, trained hospitals on credentialing, and advised hospitals and other healthcare entities on credentialing matters.

Represented hospital and healthcare providers in mediations involving peer review, restrictive covenants, and hospital privileges. Assisted hospital in enforcing covenants against physicians.

Advised hospitals on credentialing processes for telemedicine providers and drafted primary source verification agreements.

Assisted the transition of entire medical staff during a hospital acquisition.

Defended a hospital against a lawsuit filed by a physician whose medical staff membership had been revoked.

Worked with hospital medical executive committees to draft effective physician interaction plans.

Advised hospital medical executive committee on impaired physician issues.

Led a lengthy and complex negotiation between anesthesiology group and hospital to facilitate the transition of 11 anesthesiologists and select clinical and operations staff to the hospital.

Assisted hospital in preserving relationships with departing cardiologists who were forming an independent group. Created complex, comprehensive set of arrangements with

cardiologists and outside management company to preserve services to hospital patients.