

# **New Medicolegal Issues in Hospital Credentialing**

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## **The Evolution of Medical Credentialing**

Over the past 20 years, the scope of credentialing for hospitals has changed dramatically. In the past, Credentialing was limited to physicians providing hospital care, and an administrative team would periodically review their performance. However, with the changing landscape of healthcare, the credentialing process has become increasingly complex. Now, multiple provider types enter the credentialing process in addition to physicians - physician assistants, nurse practitioners, and pharmacists are additional providers that must now enter the credentialing process. Additionally, the scope of practice now allows nurse practitioners and physician assistants additional leeway to practice independently, with specific requirements varying by state. Regulatory changes have also made the process challenging, with both CMS and the Joint Commission having their own credentialing requirements.

## **What is Negligent Credentialing?**

Hospitals, by law, are required to ensure that medical professionals have completed the required competencies. Negligent credentialing is the term used when hospitals allow a physician or other provider to continue to practice medicine even if there are questions about his or her credentials. Common areas of concern for a provider during the credentialing process include:

- Educational background: Can the providers' educational background be verified and confirmed (i.e. medical school, residency training, fellowship training)
- Board Certification: Has the provider successfully passed their board certification tests to be considered board-certified, or if they are new graduates are they board-eligible?
- Updated licensure requirements: Do the providers have prior malpractice history, disciplinary action, or failure to keep continuing medical education credits (CME)?
- Providers practicing within or outside the scope of practice: Are providers performing procedures that are not outlined in their delineation of privileges?

## **Role of a Credentialing Medical Expert**

The role of the medical expert in credentialing can revolve around several areas:

- Standard Industry Practices

The expert witness can explain what constitutes standard practice in medical credentialing, including the policies and procedures that should be followed by healthcare institutions. This information can establish whether an entity was negligent in following the appropriate protocol.

- **Verification Procedures**

Experts can detail the verification process of a medical professional's credentials, discussing how primary source verification is conducted and the typical timeframe for such processes. They can highlight any shortcuts or oversights that may have occurred.

- **Accreditation and Regulatory Compliance**

Medical credentialing experts can speak on compliance with accreditation standards (like those of the Joint Commission) and state and federal regulations. They can discuss how non-compliance could affect the quality of care and patient safety.

- **Risk Management**

The expert can discuss the implications of insufficient credentialing on risk management, including potential risks to patients and liability risks for the institution.

- **Implications of Credentialing on Patient Care**

Experts can correlate how proper or improper credentialing can directly affect patient care outcomes. They can assess whether a lack of credentialing contributed to a medical error or malpractice incident.

- **Litigation and Disciplinary Action**

In cases of litigation or disciplinary action, the expert witness can review the credentials of the healthcare professional in question and provide an opinion on the adequacy of those credentials and any potential impact on the legal matter at hand.

## **Medical Expert Role**

A medical credentialing expert witness plays a vital role in legal matters involving the qualifications and competencies of healthcare providers. Their testimony can influence the outcome of malpractice lawsuits, credentialing disputes, and other legal actions related to healthcare delivery. By elucidating complex credentialing processes and standards, these expert witnesses ensure that healthcare entities uphold high standards for patient care and adhere to legal and ethical obligations.

Lawyers handling cases related to medical credentialing should seek expert witnesses with impeccable credentials of their own, ensuring they have the requisite experience and knowledge to provide reliable testimony. As the healthcare landscape continues to evolve, the insight of these experts becomes even more indispensable in navigating the intricacies of medical credentialing in legal contexts.