

# Revised Condition of Participation for Hospital Governance Permits Single Governing Body for Multiple Hospitals

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Hospital and health care systems should note that the **Centers for Medicare and Medicaid Services** has finalized the proposed provision that would permit a multi-hospital system to have a single governing body. The final rule also augments the proposed rule through the addition of a requirement that a hospital/health system governing body include at least one member of the hospital's medical staff (or a medical staff member of one hospital, if for a health system).

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In a final rule published May 16, 2012, the Centers for Medicare and Medicaid Services (CMS) finalized the proposed provision that would permit a multi-hospital system to have a single governing body. In addition, the final rule augments the proposed rule through the addition of a requirement that a hospital/health system governing body include at least one member of the hospital's medical staff (or a medical staff member of one hospital, if for a health system).

In the preamble to the final rule, CMS explained that the changes related to the governing body are intended to provide hospital systems with increased flexibility to determine the appropriate governing structure for their systems. Under CMS rules, a health care system may choose to continue to operate under separate governing bodies for each component hospital, or to create a structure that has a single governing body with oversight for multiple facilities within the system. Note that the CMS rule does not preempt any state or local laws/regulations or other rules that may presume or require that each facility have a separate governing body.

Regarding the requirement that a medical staff member serve on the governing body, CMS expressed the belief that having such an individual serve on the governing body will “build an important element of continuity and ensure regular communication between a hospital’s governing body and its medical staff(s) . . . .” CMS also clarifies that in the case of multi-hospital systems with a single governing body, CMS does not require that the governing body include a member of each hospital’s medical staff, only that the governing body include a member of the medical staff of at least one system hospital. CMS further notes that it expects that the governing body would consider the needs of the patient population of each hospital and medical staff in determining the number and

composition of medical staff members to appoint to the governing body. CMS expects that the medical staff member will “hold some measure of enhanced standing within the governing body.”

This provision has led to concern in the hospital community. Certain hospitals, such as governmental hospitals whose board is appointed by the local government or elected, may have difficulty mandating that a medical staff member be part of the governing body. CMS will have an opportunity to clarify this situation and any others that arise in relation to the revised conditions of participation (CoPs) in new or updated Interpretive Guidelines or other guidance after the revised CoPs are made effective in July 2012. The American Hospital Association has sent a letter to CMS expressing concerns about this change, while the American Medical Association has sent a letter in support. Further, how accrediting bodies such as the Joint Commission might revise their standards to further align with the revised CoPs is not yet known.

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