

Title 22 is Governing Law in California – Think Twice Before Adopting a Three-Year Practitioner Reappointment Cycle

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In November 2022, when The Joint Commission (“TJC”) announced its decision to update its accreditation standards to permit practitioner recredentialing every three years instead of two, many California hospitals and their medical staff questioned whether they could extend their reappointment cycles.^[1] In particular, health care facilities were curious whether TJC’s new reappointment cycle would align with their obligations under Title 22, which requires that the medical staff establish controls to reevaluate the ability of all practitioners to competently perform surgical and other procedures at least every two years.^[2] Although state law has not changed, the California Department of Public Health (“CDPH”) *may* grant program flexibility from regulatory requirements to a facility that qualifies. Facilities should evaluate the challenges and risks of adopting an extended reappointment cycle before taking action.

TJC’s Decision to Update the Reappointment Cycle

Currently, many California health entities perform dual credentialing functions by operating two reappointment tracks; one track operates every two years for purposes of medical staff credentialing, and the other track operates every three years for purposes of provider enrollment. Changing to a three-year reappointment cycle for clinical privileges and membership would align the two reappointment tracks and potentially reduce the administrative burden on medical staff offices, eliminate redundancies and in turn ease costs on facilities.

Title 22 Has Not Changed but Hospitals May Seek Program Flexibility

California has not changed the Title 22 requirement, and the CDPH has not indicated they will advocate for a change in the regulation. However, in some situations, the CDPH has the authority to grant program flexibility from regulatory requirements, which could be an option for some facilities looking to make the change. Applications for program flexibility must include justification for the request and adequate supporting documentation that the proposed alternative does not compromise patient care.^[3]

Additional Issues to Consider Before Requesting Program Flexibility

There are practical considerations before a California facility decides to apply for program flexibility. While a three-year reappointment cycle may bring about certain administrative benefits, extending the reappointment cycle may prolong the length of time before potential problem practitioners are addressed. Failure to conduct thorough, frequent assessments may lead to claims of medical malpractice or negligent credentialing. There are also implementation challenges, such as medical staff establishing a comprehensive and, potentially years long, transition procedure to ensure that all practitioners are appropriately processed.^[4]

Conclusion

California health care facilities must weigh the practical risks and implementation challenges of switching to a three-year reappointment cycle. Facilities should consult legal counsel to thoughtfully evaluate the legal risks, as well as the logistical challenges.

FOOTNOTES

[1] See, <https://www.jointcommission.org/standards/standard-faqs;>
[https://www.jointcommission.org/standards/prepublication-standards/revisions-related-to-licensed-practitioner-evaluation-time-frames/.](https://www.jointcommission.org/standards/prepublication-standards/revisions-related-to-licensed-practitioner-evaluation-time-frames/)

[2] 22 CCR Section 70701(a)(7).

[3] See, <https://www.cdph.ca.gov/Programs/CHCQ/LCP/Pages/ProgramFlexibility.aspx>

[4] For an in-depth analysis on issues to consider, please read the feature article “A Practical Review: Risks and Challenges of The Joint Commission’s New Three-Year Reappointment Cycle” By Erik A. Martin & Rebecca Hoyes, Med-Staff Newsletter, February 2023?Vol. 11
(<https://sites-polsinelli.vuturvevx.com/112/3964/uploads/feb2023-medstaff-newsletter.pdf>)

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