The purpose of the Medical Advisory Committee (MAC) is to assist Board members in fully discharging their duties as directors of the corporation.

The function of the Hospital Board is not to be in the hallways of the hospital assessing patient care, and yet as a Board, its duty is to ensure the quality of care and treatment provided to patients. The MAC assists the Board in determining whether a particular physician is qualified to be a member of the medical staff. The Chiefs/departmental heads of the hospital have a duty to report to the MAC, and in turn the Board, in the case of a physician's serious failure to maintain quality in the diagnosis and treatment of a patient. The relationship between the Board and the MAC must therefore be one of trust, not scepticism, so that Board members can feel confident in exercising their statutory duties, knowing that the officers of the medical staff are also fulfilling theirs.

The duties and responsibilities of a Hospital Board are prescribed under the Public Hospitals Act (PHA) and may require the Board to make decisions regarding the medical treatment and care provided to patients. Legally, the Board is the decision-making body of the corporation and is ultimately responsible for actions taken by the hospital. As such, one of the duties of members of the Board is to inform themselves and cast votes according to the best interest of the hospital. However, as lay-persons, individual members cannot be expected to have the specialized medical knowledge required to make decisions related to clinical issues. This fact is acknowledged by the requirement of the MAC.

The provisions of the PHA, Ontario Regulation 965 (the Regulation) under the PHA and the hospital's by-laws form the statutory and regulatory framework for the relationship between the MAC and the Board. In considering the specific provisions of this framework, the primary purpose of the MAC is to assist the Board in exercising its statutory duty to assess and ensure the quality of care in the hospital.

The Officers of the Medical Staff

While it is true that physicians are generally not employees of the hospital, and their actions are therefore not attributed to the corporation, there are certain members of the medical staff who, either by appointment or election, take on administrative functions for the hospital. In this respect, these individuals must act in the best interests of the hospital and play an important, statutorily prescribed role in furthering the interests of the hospital.
The PHA identifies the Chief of Staff and the chiefs/department heads of individual departments as officers of the medical staff and prescribes their duties to advise the MAC with respect to the quality of medical diagnosis, care and treatment provided to the patients of the hospital.

Pursuant to section 34 of the PHA, where, in the opinion of an officer of the medical staff, a serious problem exists in the treatment of a patient, that officer has a duty to address the problem and take steps to remEDIATE it. The officer is required to immediately discuss care with the attending physician and, if the problem is not remedied adequately or promptly, assume care while notifying the attending physician, the administrator and, if possible, the patient. Where an officer has assumed care, he or she is required to inform two members of the MAC within 24 hours and file a written report within 48 hours. Where the MAC agrees with the opinion of the officer of the medical staff, it is required to immediately make a report to the administrator of the hospital.

In addition to those duties set out in section 34 of the PHA, the Board is required under section 4 of the Regulation to set out any additional duties of the officers of the medical staff in the hospital's by-laws. The Board is therefore permitted to define the role of a medical officer, and may delegate certain functions to the MAC.

When acting in his or her capacity as an officer of the medical staff, a physician is acting on behalf of the hospital. For purposes of insurance, for example, the officers are insureds in the same way that individual members of the Board are. Similarly, for purposes of litigation, when an officer of the medical staff acts in his or her administrative capacity, they are acting on behalf of the hospital and the corporation is therefore ultimately responsible for their actions.

The Medical Advisory Committee

Section 35 of the Act requires that every Hospital Board establish a MAC. Section 7 of the Regulation permits the Board to define the members of the MAC in its by-laws, which usually define it as comprised of the Chief of Staff and the Chief of each department in the hospital, i.e. the officers of the medical staff.

The role of the MAC generally is to advise the Board on matters of the quality of care being provided to patients. Under section 7 of the Regulation, the MAC is required to supervise the practice of medicine in the hospital and report to the Board on such matters, in writing, at each regularly scheduled meeting of the Board. Similarly, the MAC is required to report to the medical staff at each of its regularly scheduled meetings. The MAC therefore serves as a conduit between the medical staff and the Board. As stated above, the Board is not expected to have the knowledge and expertise to supervise and assess the medical staff directly and yet it is responsible for making the decisions of the corporation, which include decisions about the medical staff and medical care provided to patients.

The relationship between the Board and the MAC is further solidified as the Hospital Board is required by section 4 of the Regulation to set up one or more committees regarding credentials, medical records, patient care, infection control, the utilization of hospital facilities and all other aspects of medical care and treatment in the hospital. The MAC, in turn, is responsible under section 7 of the Regulation for appointing medical staff members to all committees established by the Board.

The most important issue on which the MAC advises the Board is the credentialing of members of the medical staff. The Board is required by section 4 of the Regulation to entrench the criteria for granting privileges in the by-laws of the hospital. The MAC is subsequently responsible for assessing applications and reapplications for privileges with reference to that criterion.

Furthermore, the MAC is required by section 7 of the Regulation to make recommendations to the Board regarding the dismissal, suspension or restriction of the hospital privileges of any medical staff members. Thus, the MAC's responsibilities regarding privileges are extended beyond the period of application or reapplication and include the consideration of a physician's privileges on an ongoing or mid-term basis.

Finally, if an MAC recommends the denial or revocation of a physician's privileges, and the physician requests a hearing before the Board, the Board becomes dependent on the MAC to test the physician's position and provide evidence and argument as to why the Board, acting in a quasi-judicial manner, should follow its recommendation. Of course, ultimately, the decision belongs to the Board, but if not for the MAC it would be ill-equipped to make it.
Pursuing a Common Interest

As noted above, physicians are not employees of the hospital. Instead, they are acting as independent contractors when providing care and treatment to patients within its walls. By contrast, the members of the Board have a fiduciary obligation to act in the best interests of the hospital and to be vigilant in performing their corporate duties. Due to the fact that a hospital is a special kind of corporation, there are decisions for which individual board members require assistance and members of the medical staff are best suited to assist in this regard. The governing body of legislation therefore creates a committee of the medical staff with an explicit purpose of advising the Board on medical issues. Fostering a relationship of cooperation between the two bodies must therefore be part of any plan for the successful management of a hospital.

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