

AAFP Protocol for Handling Hospital Privilege Problems for Family Physicians Who Are Medical Staff Members

The American Academy of Family Physicians (AAFP) unequivocally supports the concept that all physicians should obtain privileges in accordance with their individual training, experience and demonstrated current competence.

If you are faced with a problem in obtaining or modifying hospital privileges, you should follow the protocol listed below, which has been approved by the AAFP Board of Directors.

1. Have adequate training and experience

Review your credentials. You must show that your training and experience qualify you for the privileges you have requested.

2. Assemble all pertinent documentation

Make sure that the documentation of your training, experience, and current competence is in order. Collect letters of recommendation from past instructors, preceptors, those who have monitored your clinical work, and colleagues who have worked with you throughout the years. Assemble case reports, including data about the number and types of cases, treatment outcomes, etc. Also, assemble documentation records maintained during your family medicine residency.

Your complete documentation, case reports, and letters of recommendation should be in order at the time you fill out your applications for medical staff membership and privileges. The hospital may only require that you submit a list of references; however, these additional materials should be readily available upon request.

It is important that you make a copy of each document you submit in the event that the original documents are lost or misplaced. Ongoing documentation of your clinical experiences should be maintained. AAFP's [Primary +](#) can help you to report CME, log procedures, and keep up with professional requirements.

3. Review the [Hospital Privileging for Family Physicians](#) page

This web content provides resources for family physicians on hospital credentialing and privileging and how to prepare for a privileging dispute.

4. Read the legal opinion obtained by the AAFP

[The Basis for Credentialing Decisions](#) legal opinion examines the law on the granting and denial of privileges and supports AAFP policy that privileges should be based on the qualifications of the individual physician, not the specialty.

5. Be informed of all hospital rules and procedures

Obtain a copy of the current version of the medical staff bylaws and rules and regulations that apply to privileges (and department rules and regulations, if available). Determine how your hospital's medical staff bylaws are different from the policies outlined in the [Hospital Privileging for Family Physicians](#) web page.

Assure yourself that the hospital is complying with its own bylaws. (You may need to seek professional advice on this if the bylaws are written in difficult-to-understand technical terms.) Carefully study and scrupulously comply with your medical staff bylaws, rules, and regulations. Before taking any action, fully understand the appeal process as delineated in the bylaws, including any time restrictions.

6. If your request for privileges has been denied, insist on a written explanation

Be sure that specific information regarding the decision is submitted to you in writing and the letter explicitly states the reason(s) why your privileges have been denied or restricted and under what circumstances these privileges may be obtained.

Identify the “real” problem. Have you reasonably documented your training, experience and current competence capabilities? On what reasonable grounds have your privileges been restricted or denied? Are all family physicians denied these privileges at this hospital or have you alone been singled out for restriction? Are there other reasons behind those which have been stated in writing? Keep written notes on any conversations related to your attempts to obtain privileges.

7. Seek local support

In the event of a hospital privilege dispute, your relationships with other physicians may be helpful in influencing your credentialing committee. Their conversations with committee members and other members of the medical staff, and their letters of support may contribute to an early resolution of your problem.

- a. Seek the support of family physicians on the medical staff

If there is an organized department of family medicine, submit your position to it and seek its enthusiastic support. If such support cannot be obtained, other family physicians on the staff will need to vouch for your abilities.

- b. Seek the support of physicians in other specialties with whom you have a working relationship, especially those with whom you consult and to whom you refer patients

Be sure to build alliances with members of other specialties at your hospital. They may find themselves with a similar problem in the future and may seek your support.

- c. Notify your AAFP chapter that you have a hospital privilege problem you are working to resolve

Some chapters may have a committee that deals specifically with privilege problems. They may suggest other actions you could take, or perhaps write a letter of support or make a site visit.

State your problem in writing to the chapter and send all pertinent data (copies of letters regarding your privileges, the medical staff bylaws, etc.).

8. Exhaust all local avenues of appeal

- a. Know the appeal process

Familiarize yourself with the section of the hospital's medical staff bylaws that describes the appeal process. In particular, review the section of your medical staff bylaws that pertains to fair hearings and appellate review mechanisms for medical staff recommendations to deny, curtail, suspend, or revoke hospital privileges. Note the time frame for requesting an appeal. You must follow your hospital's medical staff bylaws explicitly to preserve your legal right to appeal.

- b. Take advantage of the hearing process

Since your best opportunity for successfully resolving your privilege problem is at the hearing, you should consider legal counsel. You may wish to consult your own personal attorney or contact your AAFP chapter, your state or county medical association, or your local bar association to obtain the name of an attorney experienced in health care law, particularly medical staff affairs.

Obtain a written list of witnesses expected to testify at the hearing on behalf of the medical staff. Develop your own list of witnesses to testify on your behalf, which may include the chair of the department of family medicine, other physicians who are well-informed and respected, and those who can vouch for your current competence.

Bring to the hearing all documents and letters you have compiled that are relevant to your case, as well as the [policy statements](#) developed by the AAFP and the American Medical Association (AMA). Submit a written statement of your position at the close of the hearing. Be sure you receive the hearing panel's written recommendation, including an explanation of the basis for the recommendation.

In the event of an adverse ruling by the hearing panel, request appellate review. Appellate review is usually conducted before the board of trustees. Although a hospital board usually will comply with the hearing recommendation, a ruling in your favor is still possible. You should prepare a written statement for the board explaining why the hearing recommendation should not be adopted. Find out whether

oral presentations will be permitted. Be sure to obtain the board of trustees' final decision in writing.

- c. Keep your AAFP chapter informed of the status of your case

Utilize the chapter's advice and assistance on an ongoing basis. Keep the chapter informed of the outcome of your appeals.

- d. Consider legal action with caution

Whether you actually pursue a lawsuit is ultimately a decision to be made between you and your attorney. Talk with physicians who are respected in the community before you decide how far you want to go. As a word of caution, however, do not allow yourself to be overly influenced by an attorney's encouragement for you to litigate. In general, courts are hesitant to substitute their judgment for the judgment of hospital boards. Absent a flagrant wrong, such as failing to follow medical staff bylaws, courts will usually defer to hospitals as the supreme authority in determining medical staff privileges.

Before deciding, you should request an opinion letter from your attorney that addresses the merits of your case. The opinion letter should include: (i) the basis for taking legal action; (ii) an opinion on the likelihood of success; (iii) citations to specific statutes and cases that support your position; and (iv) an estimate of the cost involved to litigate.

NOTE: Neither the AAFP nor its chapters provide individual legal advice, nor are they responsible for financial support for legal expenses (see paragraphs 10, 11, and 12 below).

- 9. Apply for support from your AAFP chapter

The chapter reviews the information submitted by you to make certain that all steps have been followed; reviews the report of the chapter's investigative committee and the opinion of your personal attorney; and then determines whether to support your case. The chapter may decide to commit funds for your legal expenses (and, if so, what amount) or whether other measures are more appropriate. Before deciding to commit financial resources to potentially costly legal action, the chapter should seek the opinion of an attorney other than your attorney on the merits of the case. This opinion would be similar to that described in paragraph 8(d) above.

- 10. Your AAFP chapter may seek national support

If all attempts to resolve your privilege problem at the local and chapter levels have failed, the chapter's board of directors may wish to seek the support of the AAFP.

The chapter should submit its request for assistance directly to the AAFP's Commission on Quality and Practice (CQP). The commission will provide

advice and assistance to ensure that the protocol requirements have been met and documentation of the case is complete.

The chapter should submit:

- Complete documentation of your case
- A written report of the findings of the chapter's investigative committee
- A detailed list of all steps taken to resolve the case to date
- Legal opinions from your attorney and the chapter's attorney
- Specific information about the type of support the chapter would like the AAFP to provide (e.g., a letter of support for your case, a site visit by AAFP officials, financial assistance for a lawsuit)

11. Conditions for AAFP financial support

Before the AAFP Board of Directors will consider your request for financial assistance, it must receive an official request from your chapter's board of directors and a recommendation from the CQP. The AAFP Board of Directors has supported such requests only when the chapter has made its own financial commitment in support of its member's case. If the chapter requests AAFP financial support for the costs of a lawsuit, such requests will be considered only if you and the chapter each have obtained legal opinions covering the matters set forth in paragraph 8(d) above. Also, the AAFP is under no obligation to finance legal expenses incurred before an official request for financial support is approved.

The criteria that must be met before the AAFP accepts cases for financial support in the area of hospital privileges include:

- a. Strict following of the AAFP Protocol for Handling Hospital Privilege Problems for Family Physicians Who Are Medical Staff Members
- b. Impact on the family medicine movement
- c. Evidence of discrimination based on physician specialty rather than individual qualifications. In accordance with the legal principle of inurement, a tax-exempt organization may not expend funds for the benefit of an individual.

12. AAFP Board of Directors determines whether to support the case

The official request for support then will be considered by the AAFP Board of Directors. The board chair or his/her designee will contact the chapter's president immediately following the board meeting to notify the chapter of the board's decision. A letter to reiterate this conversation will follow, with a copy of the letter to the member whose case has been considered.

Members who follow the steps outlined in this protocol are not guaranteed that the Academy will automatically support their efforts.

Any questions regarding this protocol should be directed to the AAFP's Practice Advancement Division. If necessary, staff will consult on members' questions with the CQP.