

Role and Responsibilities of Clinical Department Heads (Medical Chiefs)

Jewish General Hospital

(Centre intégré universitaire de la santé et de services sociaux du Centre-ouest de l'île de Montréal)

February 14, 2017

Presented by
Yves A. Dubois, Partner, Health Law
Patrick Trent, Lawyer, Labour Law



Outline of the presentation

- **Dos and don'ts: management basics**
- **Legislative framework and administrative structure**
- **Dual role of Medical Chiefs**
 - Coordination and management of the department
 - Supervision of the medical practice and quality of care
- **Upcoming changes to the law and to the role of Medical Chiefs**



Dos and don'ts: management basics

- **The rules:**

- Know them
- Apply them

- **Be proactive**

- Don't wait and hope that problems will solve themselves
- Act before a concern becomes a problem



Dos and don'ts: management basics

- **Communication**

- Clearly identify concerns / issues
- Clearly express your expectations / demands
- Set delays for action / results
- Explain consequences for failure to act / change

- **Consistency**

- Treat all members of the department the same way



Dos and don'ts: management basics

- **Notes and documents**

- Keep notes of what you do and say
- Email records of meetings with physicians are great!
- Assess need to file notes / records in the physician's professional file:

"The qualifications committee shall perform the following duties: (4) it shall constitute a professional file for each physician [...] practising in the hospital centre. The file shall contain documents regarding the appointment of a physician [...] as well as the renewal of the appointment of a physician [...], participation on the committees of the council of physicians [...], and information in writing on the activities of a physician [...] submitted by any committee of the council of physicians, dentists and pharmacists, by the head of a clinical department, by the head of the pharmacy department or by the director of professional services. (s. 104 4° OMIR)



Dos and don'ts: management basics

- **Making Changes**

- Carefully review and consider current rules, bylaws, contracts, etc.
- Ascertain whether or not change can legally be made
- Assess full range of effects and impact of the change
- Consult interested parties
- Give sufficient advance notice of the change



Dos and don'ts: management basics

- **Have questions? Consult (early and often):**
 - Other medical chiefs
 - The DPS
 - The Executive Director
 - Legal affairs
 - Collège de médecins du Québec
 - Fédération des médecins spécialistes
- **You are not alone!**



Legislative framework

- ***An Act Respecting Health Services and Social Services, CQLR c S-4.2***
- ***Organization and Management of Institutions Regulation, CQLR c S-5, r 5***
- **Changes are coming...**



Administrative Structure: organization plan

- Every institution must prepare an administrative, professional and scientific organization plan
- Plan describes the administrative structure of the institution
- Provides for the formation of clinical departments and services. It indicates the number of general practitioners and specialists in each specialty and in the case of a centre designated as a university hospital centre or a university institute, the distribution of clinical, research and teaching tasks among the physicians
- Plan indicates which department or service is responsible for the medical, pharmaceutical or dental acts of a clinical program

Administrative Structure: heads of clinical depts.

- **Clinical departments are managed by the heads (Medical Chiefs)**
 - Appointed by the Board following nomination/selection process
 - Maximum 4 year term (renewable)
 - Medical chiefs are called upon to interact with variety of actors within the hospital:
 - Board
 - DPS
 - CPDP

Administrative Structure: the Board

- **The hospital's Board of Directors:**
 - Appoints Medical Chiefs
 - Approves various bylaws / rules governing
 - the use of medical and dental resources and of material resources
 - medical and dental care
 - use of medicines
 - Appoints physicians, taking into account the opinion of the medical chief



Administrative Structure: DPS

- **The Director of Professional Services, under the authority of the executive director:**
 - Directs, coordinates and supervises the activities of the Medical Chiefs with respect to administrative duties
 - Obtains the opinion of the Medical Chiefs on the administrative and financial consequences of the activities of the physicians and dentists of the clinical departments
 - Exercises the responsibilities of the Medical Chief where none is designated
 - Draws up rules governing the use of resources for a clinical dept. where the Medical Chief has neglected to do so and applies sanctions thereunder



Administrative Structure: CPDP

- **CPDP is involved in quality of care issues, under the authority of the Board, by:**
 - Giving its opinion on the appointment of the Medical Chiefs
 - Making recommendations to the Board regarding the appointment and re-appointment of physicians and with respect to the responsibilities associated to physicians' privileges (ex. On-call roster)
 - Where no Medical Chief is designated, supervising the manner in which medicine, dentistry and pharmacy are practised in a department
 - Where a Medical Chief neglects to do so, drawing up rules governing medical and dental care and rules governing the use of medicines



Dual role of Medical Chiefs

- **Dual role of Medical Chiefs**
 - Coordination and management of the department
 - Supervision of the medical practice and quality of care



Chief's Coordination and management of the department

- **Under the authority of the DPS, the Chief must :**
 - coordinate, subject to the responsibilities of the CPDP, the professional activities of the physicians, dentists and pharmacists in his department
 - draw up a duty roster in accordance with the by-laws of the CPDP as approved by the board of directors, and see to its enforcement
 - ensure an appropriate distribution of medical and dental care and of pharmaceutical services in his department
 - Provide his opinion to the DPS on the administrative and financial consequences of the activities of the physicians and dentists of his department

BLG
Borden Ladner Gervais

Chief's Coordination and management of the department

- **Under the authority of the DPS, the Chief must :**
 - manage the medical and dental resources of his dept.
 - draw up, for his department, rules governing the use of medical and dental resources and of material resources used by physicians and dentists
 - ensure compliance with the rules and inform the DPS in case of non-compliance

BLG
Borden Ladner Gervais

Chief's Coordination and management of the department

- **Under the authority of the DPS, the Chief must :**
 - ensure that the rules and procedures of the central access management mechanism provided for in section 185.1 are observed in his department
 - S. 185.1: The organization plan of a hospital centre must also provide for a central mechanism for managing access to the specialized and superspecialized services of the centre's clinical departments. The mechanism must include specific rules to be followed to enter a user on the access list for the specialized or superspecialized services of a department, the manner in which the estimated date when services will be received is to be determined and communicated to the user and, should the services not be provided on that date, the alternative arrangements to be offered to the user, such as setting a new date to be agreed to by the user, seeing another physician in the department concerned or having recourse to another institution.



Supervision of the medical practice and quality of care

- **Under the authority of the CPDP, the Chief must:**
 - supervise the manner in which medicine, dentistry and pharmacy are practised in his department
 - Wide ranging responsibilities
 - Compliance with code of ethics, applicable laws, regulations, medical association standards, hospital / CPDP / dept. rules and bylaws
 - Ensure quality of care in the dept.
 - How does the Chief do this?



Supervision of the medical practice and quality of care

- **Chief is responsible for:**
 - drawing up, for his department, rules governing medical and dental care and rules governing the use of medicines which take into account the necessity of providing adequate services to users and the organization and available resources of the institution
 - This mainly applies to departments in which certain professionals are authorized to carry out medical acts
 - Physicians may prefer protocols (less restrictive)



Supervision of the medical practice and quality of care

- **Administrative measures that Chief can take to promote quality of care**
 - Dept. meetings
 - One-on-one meetings
 - Continuing medical education
 - Formal mentoring
 - Written administrative notices



Supervision of the medical practice and quality of care

- **Complaints to medical examiner (by way of local service quality and complaints commissioner)**
 - User = anyone, including Medical Chief
 - Complaint of any nature other than administrative or organizational:
 - Qualification
 - Scientific / Clinical competence
 - Conduct
 - Medical examiner acts as
 - Investigator
 - Mediator
 - Recommends or not referral to disciplinary investigation by committee



Supervision of the medical practice and quality of care

- **Disciplinary Committee**
 - Fact finding role
 - Committee of peers
 - Rules of natural justice / right of physician to be heard
- **Role of Chief in discipline:**
 - Gather and provide information / evidence
 - Make complaint, when necessary
 - Support dept. physicians, professionals and staff
 - Promote the integrity of the process



Supervision of the medical practice and quality of care

- **Emergency suspension (physician)**
- The director of professional services, the chairman of the CPDP, the head of the clinical department concerned or, if these persons are absent or unable to act, or fail to act, the executive director may, in case of emergency, suspend the privileges of a physician or dentist (status of a pharmacist) practising at the centre.
- A person who makes the decision to suspend the privileges of a physician or a dentist or the status of a pharmacist must immediately notify the chairman of the executive committee of the council of physicians, dentists and pharmacists and, within 48 hours, send him a report.
- A suspension is valid until the board of directors has made a decision in that regard, but it may not exceed a period of 10 days.

Supervision of the medical practice and quality of care

- **Emergency suspension must only be used in exceptional circumstances (ex. where there is immediate risk to safety of patients or of staff or where there is reputational risk to hospital)**
- **Must not be any ambiguity or uncertainty concerning the facts**
- **Must be applied within hours or days following misconduct or incident**
- **Must apply to all privileges of the physician**

Supervision of the medical practice and quality of care

- **With respect to nurses that engage in activities normally reserved for physicians, the Chief is also responsible for :**
 - where applicable, supervising, subject to the responsibilities of the director of nursing care under subparagraphs 1 and 1.1 of the first paragraph of section 207, the activities referred to in the second paragraph of section 31 of the Medical Act (chapter M-9) that are engaged in by nurses or other professionals of the department who are authorized to engage in those activities by a regulation of the board of directors of the Collège des médecins du Québec



Supervision of the medical practice and quality of care

- **Limitation or suspension of practice (nurses)**
 - The director of nursing care may, for disciplinary reasons or on grounds of incompetence, particularly on the advice of the head of a clinical department or the director of professional services, limit or suspend a nurse's right to engage in one or more of the activities referred to in section 36.1 of the Nurses Act (chapter I-8) in the centre.
 - In urgent cases, if the director of nursing care is unable or fails to act, the head of a clinical department or the director of professional services may apply a measure referred to in the first paragraph for a period not exceeding five days. The head of a clinical department or the director of professional services shall notify the director of nursing care as soon as possible



Supervision of the medical practice and quality of care

- **With respect to the appointment of physicians, the Chief is responsible towards to CPDP to:**
 - give his opinion on the privileges and status to be granted to a physician or dentist upon an application for appointment or renewal of appointment and on the obligations attached to the enjoyment of such privileges
- **Use this process to your advantage!**



Supervision of the medical practice and quality of care

- **Role of the Chief in appointment process:**
 - Do your due diligence, obtain references, dig deep!
 - Be selective
 - Set clear ground rules and expectations with applicants
 - Set objectives with timeline in the appointment confirmation letter



Supervision of the medical practice and quality of care

- **Role of the Chief in the appointment renewal process:**

- Do your due diligence, meet with physicians, staff
- Ideal scenario is to have formal annual review process
- Use renewal process to address issues or deficiencies
- Recommend that renewal be conditional on achieving certain objectives
- Recommendation of non-renewal must be supported by facts, evidence and a build up of administrative notices, meetings and supervision of physician



Relevant cases regarding Chief's role

- ***Azar v. CHUM*, EYB 2013-226105 (REJB) (CS Qc); EYB 2013-227300 (REJB) (CS Qc);**
- ***Giroux v. Centre hospitalier régional de Trois-Rivières*, EYB 2012-211150 (REJB) (CA Qc);**
- ***Tawil v. Hôpital Maisonneuve-Rosemont*, EYB 2009-157215 (REJB) (CS Qc), appeal granted in part EYB 2011-186934 (CA Qc)**



Relevant cases regarding Chief's role

- *Hôpital Maisonneuve-Rosemont v. Montambault*, EYB 1990-76954 (REJB) (CS Qc) conf by REJB 2001-23081 (REJB) (CA Qc)
- *Robaey c CHU Sainte-Justine*, 2008 QCCS 230 conf by *Robaey v. CHUME*, 2010 QCCA 1469



BREAK

