

## **Update: CMS "Suspends" Hospital CoP - Mandatory Board Position for a Medical Staff Member**

Legal Alert  
June 21, 2012

Garvey Schubert Barer, June 2012.

In a prior Healthcare Alert, we recommended that hospitals contact the Centers for Medicare and Medicaid Services ("CMS") to comment on CMS' newly published regulation which requires a hospital's governing board to include a member of the medical staff. This rule has been criticized both because of its impact on hospitals and because of the process leading to its adoption. See [Letter from AHA to CMS dated June 5, 2012](#).

We have been following developments with respect to this issue to determine how the rule will likely impact Washington hospitals. (The rule does not apply to Critical Access Hospitals ("CAHs"). However, CAH-specific rules are expected, but no specifics about those future rules have been released.)

CMS took action on Friday, issuing a notice that it is reconsidering the new regulation and instructing "surveyors [that they] should not interpret on their own the requirement concerning medical staff membership on the governing body, and must not issue citations related to this specific provision. In addition . . . [CMS instructed] the three accreditation organizations with a CMS-approved Medicare hospital accreditation program, the American Osteopathic Association (AOA), Det Norske Veritas (DNV) Healthcare, and The Joint Commission, not to revise their accreditation standards related to this aspect of the composition of the governing body until we have addressed the issue completely. See [Summary of Revised Hospital Conditions of Participation \(CoPs\) – Governing Body](#).