

# **GOVERNANCE, ADMINISTRATIVE & SUPERVISORY ISSUES FOR THE MEDICAL DIRECTOR**

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# Disclosure

- I would like to disclose that I am an employee with DaVita, Inc., and I receive salary. My presentation does not endorse any commercial interest, product or services.
- This presentation will not advocate for the off-label use of medications.

# Sources

- Conditions for Coverage for End-Stage Renal Disease Facilities; Final Rule. *Federal Register* 42 *CFR Parts 405, 410, 413 et al.* (Part II):1-116, 2008.
- T. E. Hamilton. Advance Copy – End Stage Renal Disease (ESRD) Program Interpretive Guidance Version 1.1. Baltimore, Maryland: Department of Health and Human Services; Center for Medicaid and State Operations/Survey & Certification Group. 1-304, 2008.

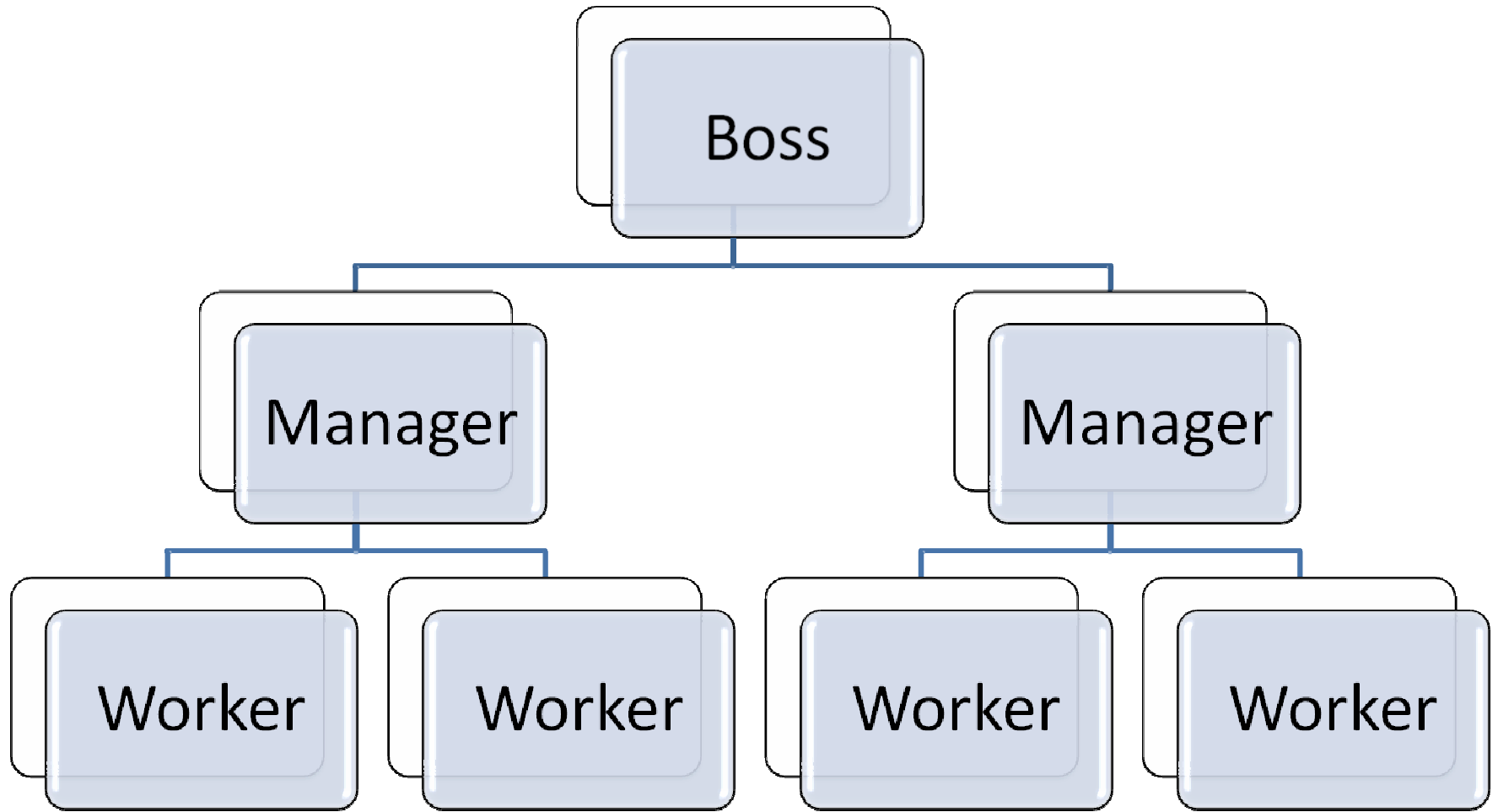
# The Definition of the Governing Body is not Very Specific

- The ESRD facility is under the control of an identifiable governing body, or designated person(s) with full legal authority and responsibility for the governance and operation of the facility. (§ 494.180)

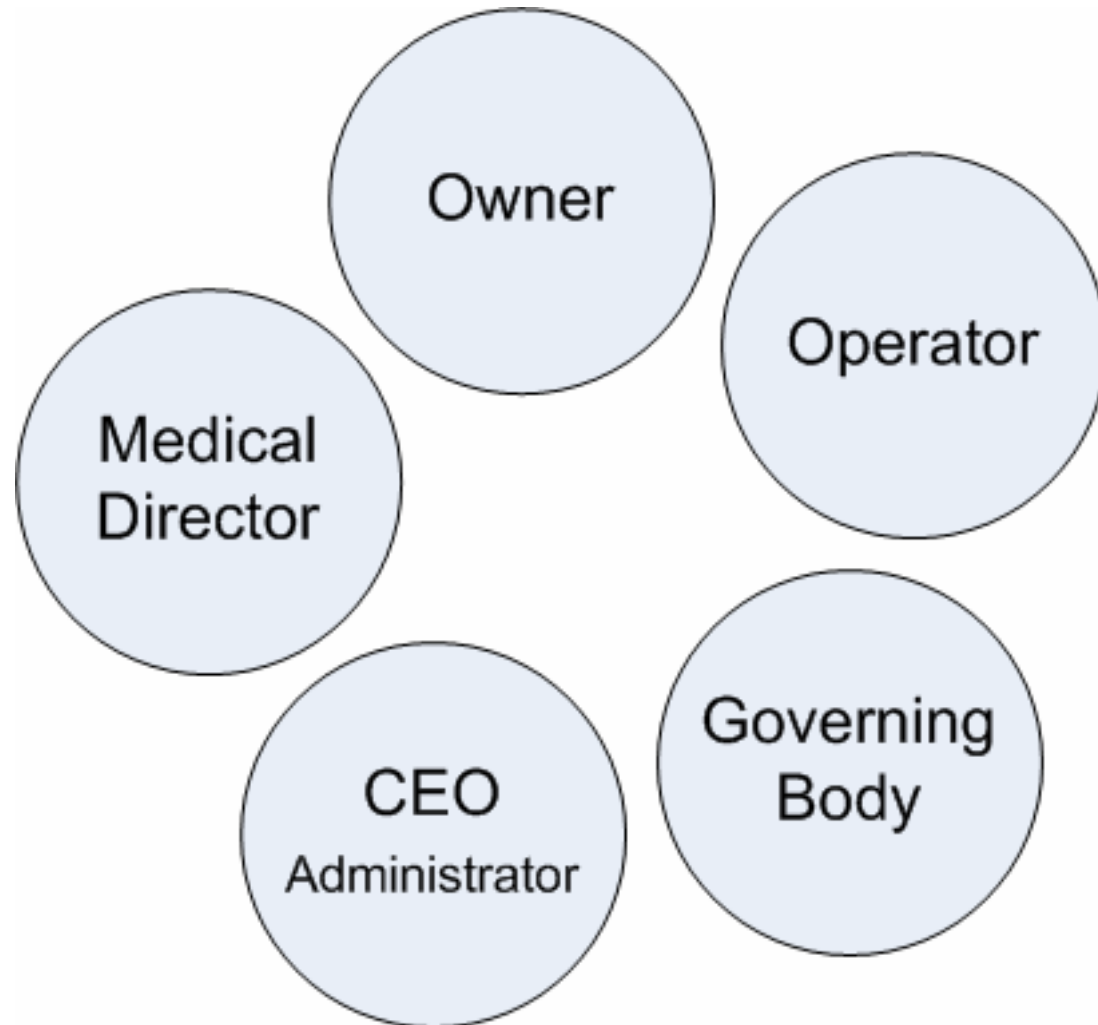
# Governance: Key Positions named in the Conditions for Coverage

- Owner
- Operator
- Governing body
- Medical Director
- CEO or administrator

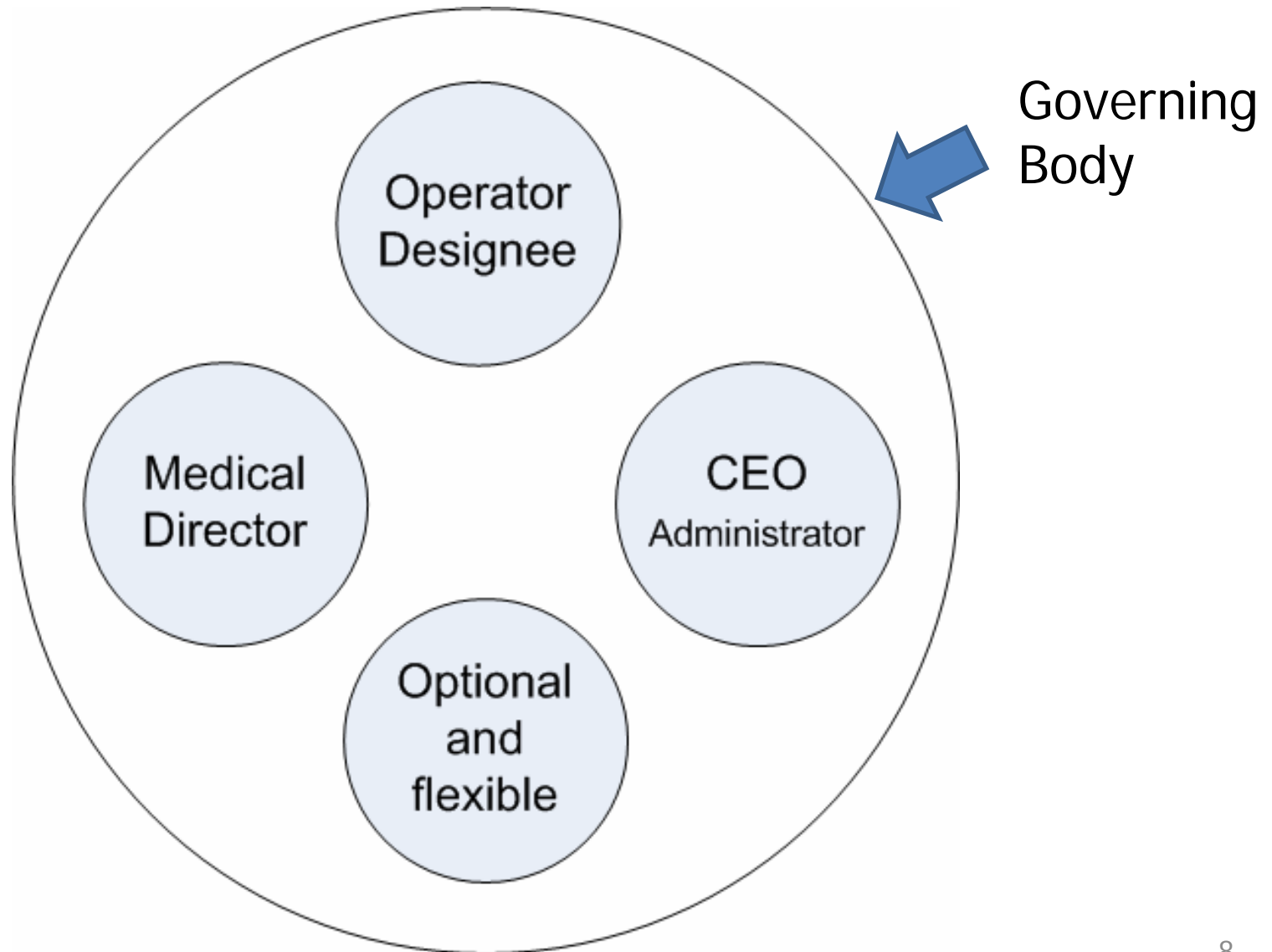
So do they work together like this?



# Conditions for Coverage do not define the *organizational structure*



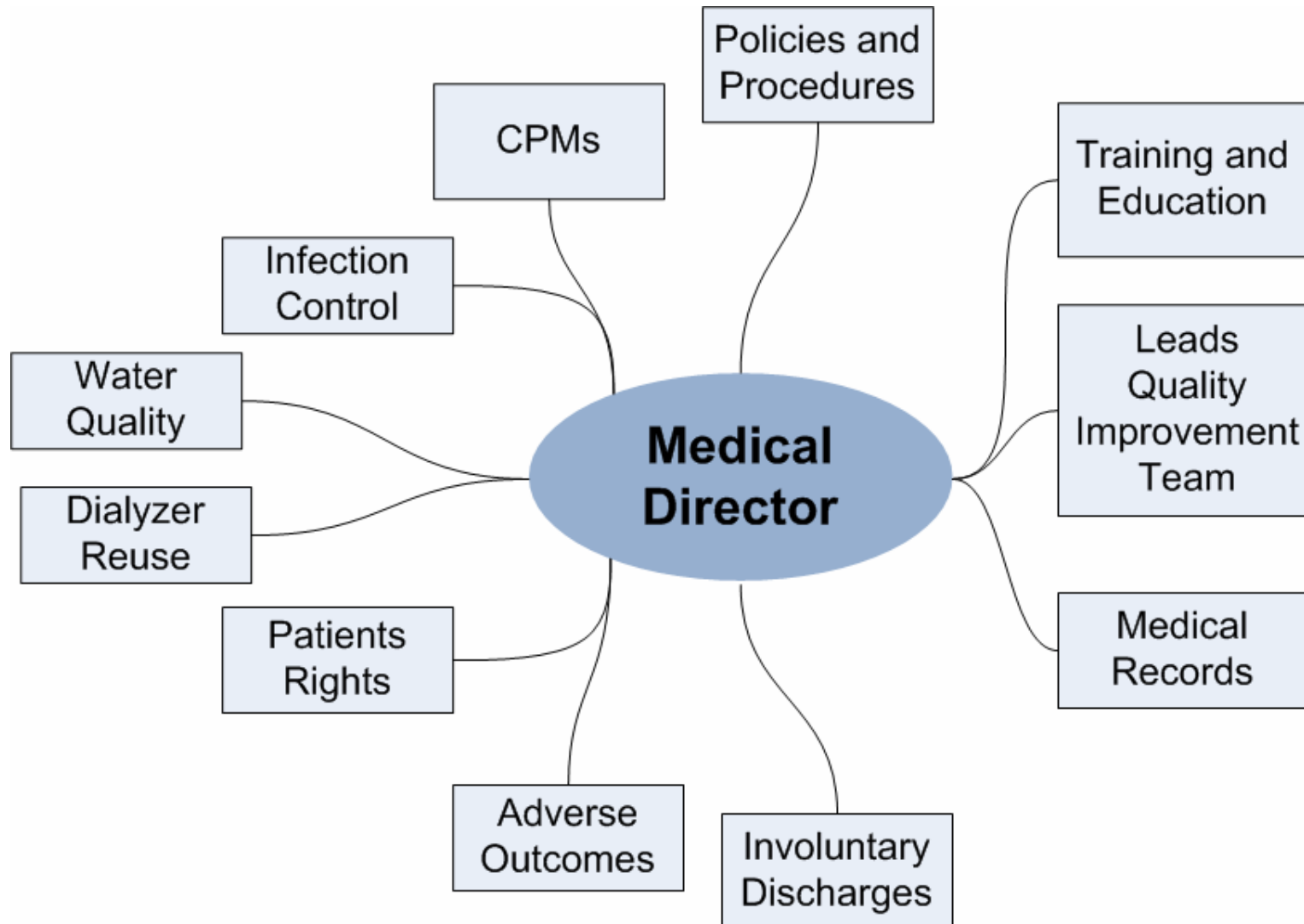
# Default Membership in Governing Body (chain model)



# Governing Body's *Functions* are Defined (§ 494.180)

- Adopts and enforces rules and regulations
  - Its own governance, care and safety of patients, protection of the patients' personal and property rights, general operation of facility.
- Appoints an individual who serves as the dialysis facility's CEO or administrator responsible for
  - Staff appointments
  - Fiscal operations
  - Relationship with the ESRD network; and
  - Allocation of staff and other resources for QAPI

# Roles and Responsibilities of Medical Directors are Defined



Medical Director Roles and Responsibilities

# **RELATIONSHIP OF MEDICAL DIRECTOR TO FACILITY STAFF**

# Tools Medical Directors Can Use

- Policies and Procedures
- Training and Education Curriculum & Testing
- Audits for adherence to policy & procedure
- Water quality surveillance results
- Infection surveillance results
- Patient outcomes (e.g. CPMs)
- Leadership of QAPI
- Participation in governing body

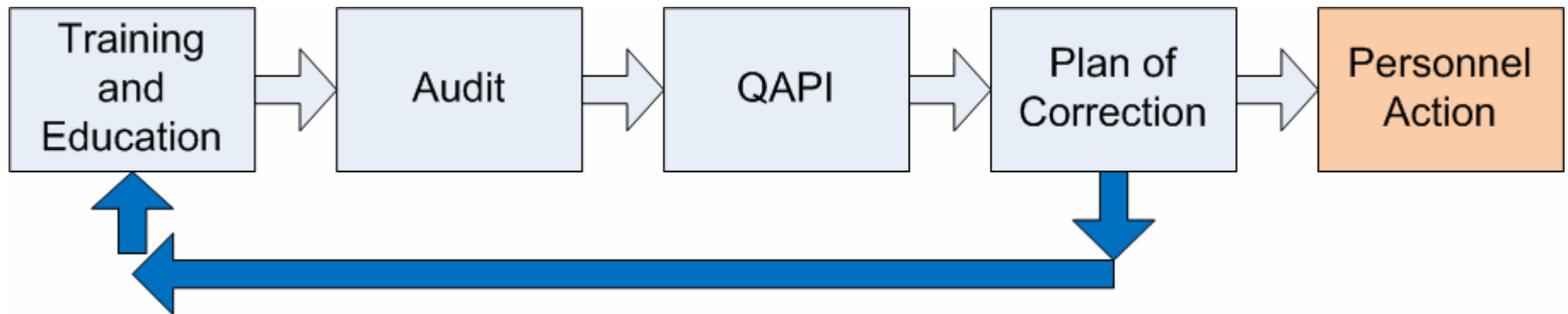
# Case Study

- Problem: *Pre-treatment nursing assessments are consistently missing or not documented*
- Question:
  - Who is accountable?
  - How is this problem identified?
  - What employment actions are needed?
  - Does the medical director have responsibility if he or she is not the employer or direct-line supervisor?

# The Medical Director is ultimately responsible

- The medical director has the responsibility of ensuring that all policies and procedures relative to patient care and safety are followed by all who treat the patient, as required at § 494.150(c)(2).

# Medical Director oversight of facility staff derives from process & evidence, not lines of supervision



Governance

# **RELATIONSHIP OF GOVERNING BODY TO MEDICAL DIRECTOR**

# Medical Director is Accountable to the Governing Body

- “The medical director is accountable to the governing body for the quality of medical care provided to patients.”

§494.150

# Case Study

- Problem: A nephrologist is contracted to provide medical director services. She has no previous experience in this role.
- Questions:
  - What is the minimum required of the facility governing body in communicating expectations to the new medical director?
  - Does the governing body have the right to request the medical director receive additional training?

# Governing Body must provide orientation to Medical Director roles and responsibilities

- “The final rule at § 494.180(b)(3) requires that the governing body ensure that all staff have appropriate orientation regarding their employment responsibilities, *including medical directors...*”
- Given the extent of the new CfCs, this should be done for both new and current medical directors

# Can a New Medical Director be Required to Receive Additional Training?

- Yes.
  - “This requirement (for orientation to roles and responsibilities) does not preclude the governing body from requiring that the medical director receive additional training deemed necessary to perform the duties of his or her position.”

# Case Study

- Problem: A medical director has consistently failed to participate in QAPI meetings. He is busy and insists on just signing the committee reports.
- Question:
  - What can the governing body do if the medical director is under-performing?

# What can the governing body do if the Medical Director is under-performing?

- Governing body can require a plan of correction:
  - “The governing body could develop a process to improve the medical director’s performance.”
- Should performance not improve, report to
  - “Network Medical Advisory Boards, State Licensing Boards, State Professional Boards, and any other suitable agencies or organizations.”  
§494.180(c)(3).

Medical Director Roles and Responsibilities

# **RELATIONSHIP BETWEEN MEDICAL DIRECTOR AND ATTENDING PHYSICIANS**

# Case Study

- Problem: An attending physician, who is not a medical director, consistently fails to round at the facility; her patients have poor outcomes relative to others; and her medical records are incomplete.
- Question
  - What is the responsibility of the governing body?
  - What is the responsibility of the medical director?
  - What tools can the medical director use to help correct this problem?

# What is the responsibility of the governing body?

- Governing body is responsible for credentialing
  - “The medical staff appointments standard at §494.180(c) places responsibility for medical staff appointments with the governing body.”
- Governing body is responsible for setting expectations for quality of care
  - “The governing body must communicate to all medical staff the expectations for the role of the medical staff and required participation in improving the quality of medical patient care. § 494.180(c)“
- Physicians, nurse practitioners, physicians assistants and nurse specialists are included in these requirements

What is the responsibility of the Medical Director in dealing with underperforming physicians?

- Medical Director is accountable to the governing body for the quality of care provided
  - Dealing with the under-performing attending is not optional
- “If the Medical Director is unable to secure cooperation, the problem should be referred to the governing body.” (§ 494.150(c)(2))

# Scope of Authority

- The governing body should give medical director authority to address underperforming physician
  - “We believe that the facility governing bodies will provide medical directors with adequate institutional authority to permit the medical directors to perform these duties effectively.”
- The medical director has options if attempts to improve performance are unsuccessful
  - “If the medical director is unsuccessful in achieving staff compliance or managing disciplinary issues involving attending physicians and has exhausted all options, we expect that the matter would be referred to the governing body, the ESRD Network or other appropriate authorities, such as the state agency and state licensing boards.”

# QAPI Team (example)

