



PROGRAM ASSISTANCE LETTER

DOCUMENT NUMBER: 2024-01

DOCUMENT NAME: Temporary Privileging of Clinical Providers by Deemed Public Health Service Employee Health Centers Impacted by Certain Declared Emergencies or Other Emergency Situations

DATE: April 1, 2024

TO: Health Center Program Award Recipients
National Training and Technical Assistance Partners
Primary Care Associations
Primary Care Offices

I. PURPOSE

The purpose of this Program Assistance Letter (PAL) is to provide updated clarification of the credentialing and privileging documentation required to support temporary privileging of clinical providers by health centers that have been deemed by the Health Resources and Services Administration (HRSA) as Public Health Service (PHS) employees when impacted by certain declared emergencies or other emergency situations. This PAL clarifies how health centers that are impacted by certain declared emergencies or emergency situations, as determined by HRSA, can demonstrate in a streamlined manner, and for a limited time period, that the health center meets established requirements for health centers and their providers to be deemed by HRSA as PHS employees for purposes of liability protections, including eligibility for Federal Tort Claims Act (FTCA) coverage, under the Federally Supported Health Centers Assistance Act (FSHCAA), section 224(g)-(n) of the PHS Act, and section 224(q) of the PHS Act.

This PAL adds references to Health Center Program requirements relating to ensuring quality clinical services and additional guidance regarding credentialing and privileging requirements as part of the deeming application. Consistent with the Health Center FTCA Policy Manual, HRSA PALs establish application requirements relating to credentialing and privileging for deemed PHS employment of health centers and their providers, including volunteer health professionals (VHPs), for purposes of FSHCAA/FTCA liability protections. This PAL replaces PAL 2017-07, Temporary Privileging of Clinical Providers by Federal Tort Claims Act (FTCA) Deemed Health Centers in Response to Certain Declared Emergency Situations, which is hereby superseded.

II. UPDATES

This PAL updates and clarifies HRSA policy and requirements applicable to credentialing and privileging of clinical providers by health centers in certain declared emergency situations and other emergency situations, as described in PAL 2017-07 (superseded) and the Health Center FTCA Policy Manual (still in effect). Specifically, this PAL:

- 1) Adds reference to section 330(k)(3)(C) of the PHS Act, which requires that health centers ensure that their quality improvement programs address clinical services, and to 42 CFR 51c.303(p), which requires that health center staff are qualified by training and experience to carry out the activities of the center;
- 2) Adds reference to section 224(q) of the PHS Act, which extended eligibility for liability protections to VHPs that have been individually deemed by HRSA as PHS employees; and
- 3) Revises standards for temporary credentialing and privileging of deemed health center providers during a limited time period, as determined by HRSA, to be warranted to support the provision of health services by impacted health centers during certain declared emergencies.

III. BACKGROUND

Health centers are required to have an ongoing quality improvement system that includes clinical services and management.¹ In addition, health center staff must be qualified by training and experience to carry out the activities of the center.² The Health Center Program Compliance Manual also provides policy guidance regarding how a health center may demonstrate that its quality improvement system addresses quality clinical services through its processes for credentialing and privileging of its clinical providers in Chapter 5, Clinical Staffing.

In addition, the Federally Supported Health Centers Assistance Acts of 1992 and 1995, at section 224(g)-(n) of the PHS Act (FSHCAA), extended eligibility for FTCA protections to health centers funded under section 330 of the PHS Act, and to any of their officers, governing board members, employees, and qualified contractors, if the health center applies and is approved by HRSA to be a deemed PHS employee for this purpose. Each applicant health center is required by section 224(h) of the PHS Act to demonstrate, through their deeming application, that they have policies and procedures in place to reduce the risk of malpractice and the risk of lawsuits and that they “review and verify the professional credentials, references, claims history, fitness, professional review organization findings, and license status of its physicians and other licensed or certified health care practitioners.” Section 9025 of the 21st Century Cures Act, which added section 224(q) to the PHS Act, expanded eligibility for FTCA protections to certain deemed health center VHPs.

¹ Section 330(k)(3)(C) of the PHS Act, 42 U.S.C. § 254b(k)(3)(C)

² 42 CFR 51c.303(p)

IV. APPLICABILITY

This PAL applies to all health centers funded under sections 330(e), (g), (h), and (i) of the PHS Act that apply for PHS deemed employment and are deemed by HRSA as PHS employees pursuant to FSHCAA for purposes of liability protections for the performance of medical, surgical, dental, and related functions. This PAL also applies to all deemed health centers sponsoring volunteer health professionals for deemed PHS employment status under section 224(q) of the PHS Act.

Throughout this PAL, “health center” refers to each such entity and “providers” refers to a health center’s licensed and certified clinical providers.

V. DEFINITION OF EMERGENCY

For purposes of this PAL, and consistent with Section F of the FTCA Health Center Policy Manual, an “emergency” or “disaster” is defined as an event affecting the overall health center target population and/or the health center’s community at large, which precipitates the declaration of a state of emergency at a local, state, regional, or national level by an authorized public official such as a governor, the Secretary of the Department of Health and Human Services, or the President of the United States. Examples include but are not limited to hurricanes, floods, earthquakes, tornadoes, widespread fires, and other natural/environmental disasters; civil disturbances; terrorist attacks; collapses of significant structures within the community (e.g., buildings, bridges); and infectious disease outbreaks or other public health threats. In limited situations where an emergency has not been officially declared, but the circumstances and facts of the situation would otherwise meet the criteria stated above except for the lack of an official declaration (“other emergency situation”), HRSA will evaluate on a case-by-case basis whether extraordinary circumstances justify a determination that the situation faced by the health center constitutes an “emergency” for purposes of this PAL. In either case, HRSA will determine whether the circumstances surrounding the emergency warrant application of this PAL to certain specific health center(s).

VI. HRSA DETERMINATION OF TEMPORARY CREDENTIALING AND PRIVILEGING PROCESS APPLICABILITY

In either of the situations described in Section V, HRSA will determine whether one or more health centers may use the temporary credentialing and privileging processes described in this PAL due to the impact of such an emergency on the health center(s). Thus, a declared emergency by an authorized public official or a determination of extraordinary circumstances by HRSA, absent a further determination by HRSA that the specified health centers may use the temporary credentialing and privileging processes described in this PAL, does not support the use of those processes.

VII. TEMPORARY CREDENTIALING AND PRIVILEGING PROCESSES

For health center providers responding to certain declared emergencies, including volunteer health professionals, health centers may, upon approval by HRSA, use temporary credentialing

and privileging processes to fulfill their obligation to ensure that their clinical staff are qualified to provide quality health care services to the health center's patient population. In such approved situations, the health center's expedited review and verification process may take into account signed, written findings of the impacted health center's Chief Medical Officer or applicable clinical department head, as to the following items:

- **Identity:** Identity verification must be done by verifying the individual's federal or state-issued identification documentation (e.g., driver's license, U.S. passport).
- **Professional Credentials/Licensure/Certification:** Licensure verification must be done by primary source verification (PSV) (preferred) or by secondary source verification (SSV), as further described below.

Primary source verification: PSV is the process of verifying a credential by directly contacting or obtaining documentation from the original source that issued the specific credential to determine the accuracy of a qualification reported by an individual health care practitioner. According to the Joint Commission, is used to confirm through the source of a credential that an individual possesses a valid license, certification, or registration to practice a profession when required by law or regulation. The Joint Commission recognizes that it is the responsibility of the accredited organization to complete PSV, not the licensed individual. For example, PSV of a current and unrestricted medical license could be obtained by a health center staff member (who is not the provider) obtaining a copy of the provider's medical license directly from the state or jurisdiction Board of Medical Licensing.

Secondary source verification: If PSV cannot be accomplished, the health center may document its attempts to obtain PSV and may then accept SSV of the provider's credentials.

SSV must be obtained by a health center representative – who is not the provider – from a knowledgeable, reliable, and uninterested entity. One such secondary source could be through another HRSA-deemed health center that recently employed or contracted with the health provider (within the past 2 years of the current credentialing and privileging action), where applicable laws permit, which may include a requirement for the provider's consent to the sharing of such information.

Note: SSV applies only to the extent that the secondary source previously conducted PSV to obtain the credentialing or privileging information and represents that it recently relied upon such verified information during a specified time period when credentialing and privileging the provider.

Note: Documentation obtained and presented to the health center by the provider, who is an interested individual, does not constitute acceptable SSV and may not be used for purposes of temporary credentialing and privileging as described in this PAL.

Note: Requirements that individuals adhere to state laws and requirements when performing services in a state or jurisdiction ordinarily will not be suspended by the state or jurisdiction during an emergency.

- **Claims History:** This shall be done by querying the National Practitioner Data Bank. If not possible, they must obtain a secondary source copy of the most recent National Practitioner Data Bank query or a recent health employer (e.g., another deemed health center) may attest in writing that the provider was not the subject of any medical malpractice claims filed or pending within the last 12 months, or, if such claims exist, the applicant should provide explanatory information for each such claim.
- **Fitness/References:** This must be assessed by reviewing privileging documentation and/or at least one reference from another recent employer that demonstrates the individual can provide certain identified health services on behalf of the health center. The reference may be provided via email or other electronic correspondence from a recent employer (such as another deemed health center) to the current health center and must clearly state that the recent employer has verified from its existing records that the individual can competently perform the health services identified by the health center. If privileging information cannot be obtained from a recent employer (for example, if the individual is a recent graduate), secondary sources may be used to confirm the provider's competence to practice, such as a statement or other documentation from a degree-issuing institution.

VIII. HEALTH CENTER RESPONSIBILITIES

The health center (or its authorized representative, such as a credentialing verification organization that meets Joint Commission standards, acting on the health center's behalf), must establish a health center credentialing and privileging file for the provider that includes the documentation noted in Section VII of this PAL and that demonstrates:

- a) The provider's licensing is current and unrestricted;
- b) The provider has been privileged by the current health center to provide competent health services, as further specified by the health center, on its behalf; and
- c) The health center has conducted further verification if any information is unclear or needs more investigation.

Based on the information documented in its credentialing and privileging file, the health center also documents that it has approved certain health services that the provider is authorized to deliver (i.e., has granted privileges to the provider to authorize certain services).

This process ensures that providers with recent affiliations can be credentialed and privileged more efficiently, while still maintaining the integrity and safety of the health center's services.

IX. DURATION

Temporary credentialing and privileging is limited to a period of no more than 90 days, unless an additional extension is requested by the health center and approved by HRSA. After the initial 90-day period, or as extended (where applicable), the health center must have completed all the necessary verification for standard credentialing and privileging as outlined in Chapter 5 of the Health Center Program Compliance Manual and granted privileges to the provider based on that information.

X. CONTACT INFORMATION

For programmatic support regarding the Health Center Program, the Health Center FTCA Program and application requirements, and technical/electronic handbooks support, please contact:

Health Center Program Support

Phone: 877-464-4772, option 1

8:00 a.m. to 5:30 p.m. ET., Monday through Friday (except federal holidays)

Web form: <https://hrsa.my.site.com/support/s/>

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James Macrae

Associate Administrator

Bureau of Primary Health Care