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Document Title: Implementation of the Section 330 Governance Requirements

To: Community Health Centers

Migrant Health Centers

Health Care for the Homeless Grantees

Health Services for Residents of Public Housing Grantees

Primary Care Associations

Primary Care Offices

The enclosed Policy Information Notice (PIN) describes the implementation of the governance requirements for all programs covered under section 330 of the Public Health Service Act as a result of the passage of the Health Centers Consolidation Act of 1996 (P.L. 104-299).

The statute states, in section 330(j)(3)(H), that all programs must have a governing body that meets certain requirements. Although required for the former section 329/330 programs, Community and Migrant Health Centers, this statute stipulates, for the first time, governing body requirements for organizations funded under section 330(h), the Health Care for the Homeless program, and section 330(i), the Health Services for Residents in Public Housing program.

If you have any questions regarding governance requirements for section 330 programs, please do not hesitate to contact your project officer in your HRSA Field Office.

/s/

Marilyn H. Gaston, M.D.
Assistant Surgeon General
Associate Administrator
Director

BPHC POLICY INFORMATION NOTICE: # 98 - 12

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IMPLEMENTATION OF THE SECTION 330 GOVERNANCE REQUIREMENTS

U.S. Department of Health and Human Services
Health Resources and Services Administration
Bureau of Primary Health Care

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IMPLEMENTATION OF THE SECTION 330
GOVERNANCE REQUIREMENTS

I. Background

Passage of the Health Centers Consolidation Act of 1996 (P.L. 104-299) resulted in a number of revisions to section 330 of the Public Health Service (PHS) Act. The new section 330(j)(3)(H) of the PHS Act requires that all organizations which receive health center funding under section 330 have a governing body which assumes full authority and oversight responsibility for the health center. The governing board must maintain an acceptable size, composition, and meeting schedule. Furthermore, the responsibilities of the board include the authority to control the health center's budget and major resource decisions, set center policies, and approve the selection and dismissal of the health center program director or chief executive officer.

Community and migrant health centers were subject to governing board requirements under previous legislation. This statute includes, for the first time, governing body requirements for section 330(h) health care for the homeless and section 330(i) health services for residents of public housing grantees.

II. Section 330 Governance Requirements

Section 330(j)(3)(H) stipulates that, in order to receive a health center grant, the applicant must demonstrate that "...the center has established a governing body which...

(i) is composed of individuals, a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center;

(ii) meets at least once a month, selects the services to be provided by the center, schedules the hours during which services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a public center (as defined in the second sentence of this paragraph), establishes general policy for the center; and

(iii) in the case of the application for a second or subsequent grant for a public center, has approved the application or, if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable."

These requirements of the governing body do not apply to an entity operated by an Indian tribe or tribal organization.

Most health centers are private, non-profit corporations. Public entities operating health center programs may meet the governance requirement in either of two ways. The public entity's board may meet health center board composition requirements including having a consumer majority. In this case, no special considerations are needed.

When the public entity's board does not meet health center composition requirements, a separate health center governing board may be established. The health center board must meet all the membership requirements and perform all the responsibilities expected of governing boards except that the public entity may retain the responsibility of establishing fiscal and personnel policies. The health center board can be a formally incorporated entity and it and the public entity board are co-applicants for the health center program. When there are two boards, each board's responsibilities must be specified in writing so that the responsibilities for carrying out the governance functions are clearly understood.

The statute allows for a waiver by the Secretary for any of the requirements stipulated in section 330(j)(3)(H) of the PHS Act for health centers receiving funds pursuant to subsections 330(g), (h), (i), or (p). Specifically, the statute stipulates:

"upon showing of good cause the Secretary shall waive, for the length of the project period, all or part of the requirements of this subparagraph in the case of a health center that receives a grant pursuant to subsections (g), (h), (i), or (p)."

Thus, the waiver authority applies to grants under the Migrant Health, Health Care for the Homeless, and Health Services for Residents of Public Housing programs, as well as, for programs funded under subsection 330(p) in sparsely populated rural areas.

Regulations regarding governing board requirements are set forth in 42CFR§51c.304. These regulations have been and are applicable to Community and Migrant Health Center programs, but not to Health Care for the Homeless and Health Services for Residents in Public Housing programs. However, the regulations serve as a useful framework for all health center programs. Statutory and regulatory requirements are described in further detail in the BPHC Health Center Program Expectations for the cluster.

Governance requirements for all health center programs will continue to be evaluated and monitored through the Primary Care Effectiveness Review process, the annual review of continuation applications, and other review mechanisms.

III. Implementation

A. Section 330(e) Community Health Centers

The Health Centers Consolidation Act of 1996 includes no legislative changes to governance requirements for section 330(e) as community health centers. For those community health center grantees which also receive funding designated to serve a special population (i.e., section 330(g),

(h), or (i)) representation among the consumer members of the governing body should be reasonably proportional to the percentage of consumers the special population group represents. Community health center governing boards without special population representation should add such consumers or representatives with the next available vacancy(ies). The intent is not to impose quotas on board membership, but to ensure that boards are sensitive to the needs of all of their consumers.

In addition, implementation of one or more of the following options can assist the health center in its assessment of the health service needs of special populations:

inclusion on the governing body of persons who previously have been health center consumers, but no longer receive services;

use of a formal advisory board;

regularly-constituted focus groups comprised of health center consumers who are migrants, homeless, or residents of public housing which advise the governance body on a routine basis; or

inclusion on the governing body of representatives of other service provider organizations and/or local advocacy groups that have experience in serving these special populations.

B. Section 330(g) Migrant Health Centers

The Health Centers Consolidation Act of 1996 includes no legislative changes to governance requirements for section 330(g) migrant health centers, although it does permit section 330(g) grantees to request "good cause" waivers of the governance requirements. However, the Secretary will only consider a request to waive all or part of the governance requirements from section 330(g) grantees that do not additionally receive funding under section 330 (e) as community health centers. This is because community health centers, with or without funding to provide health services to a special population, are not eligible for a waiver. In addition, migrant health centers that previously complied with governing board requirements will have a heavy burden to satisfy the good cause requirement for a waiver.

Migrant Health Programs (formerly known as migrant voucher programs) do not have to meet the requirements in 42CFR§56.601 for governing board composition. These entities may meet consumer participation for migrant/seasonal agricultural worker representation through advisory councils. Please refer to PIN #94-7, issued February 7, 1994, and PIN # 98-07, issued March 6, 1998, for more information regarding governance activities for the Migrant Health Programs.

C. Section 330(h) Health Care for the Homeless

Section 330(i) Health Services for Residents of Public Housing

As stated previously, the Health Centers Consolidation Act of 1996 includes governance requirements for all section 330(h) health care for the homeless and section 330(i) health services for residents of public housing grantees. Grantees which do not currently meet the governance requirements must immediately come into compliance with the requirements, unless granted a waiver.

The statute permits section 330(h) and section 330(i) grantees to request good cause waivers of the governance requirements. However, the Secretary will only consider a request to waive all or part of the governance requirements from section 330(g) grantees that do not additionally receive funding under section 330 (e) as community health centers. This is because community health centers, with or without funding to provide services to a special population, are not eligible for a waiver.

IV. Waiver Approval

All Section 330(h) and 330(i) grantees must provide the BPHC with a status report describing governance arrangements and, where necessary, a time frame for coming into compliance with the section 330 governance requirements. Any request for a waiver of all or any of the specific governance requirements must include a compelling argument as to why the program cannot meet the statutory requirements, as well as, alternative strategies detailing how the program intends to meet the intent of the statute for appropriate user input.

The status report (including any waiver requests) from each health care for the homeless and health services to residents of public housing grantee and any waiver request from migrant health center grantees must be submitted no later than June 30, 1998 to:

Lawrence Poole
Grants Management Officer
Bureau of Primary Health Care
4350 East West Highway, 11th floor
Bethesda, Maryland 20814

Programs should indicate "Governance Status Report" prominently on the first page of their submission, as well as include the grant number for their health care for the homeless, health services to residents of public housing, and/or migrant health center program.

Any questions regarding this Policy Information Notice should be addressed to Jean Hochron, Chief, Health Care for the Homeless program at (301) 594-4437.