American Hospital Association

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Dr. Robert Wise
Vice President
Division of Standards and Survey Methods
Joint Commission on Accreditation of Healthcare Organizations
One Renaissance Blvd.
Oakbrook Terrace, IL 60181

Dear Dr Wise:

On behalf of our 3,200 member hospitals, heath care systems, and other health care organizations that are accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the American Hospital Association (AHA) appreciates this opportunity to comment on the revised Medical Staff Standard MS 1.20.

MS 1.20 attempts to establish detailed uniform standards for medical staff bylaws or other governance documents and the manner for approving such documents. The AHA appreciates that through multiple revisions JCAHO has attempted to address concerns previously raised about the lack of clarity and unnecessary burden for hospitals and their medical staffs under the proposed standard. Those concerns, however, continue to exist with the latest version of the proposed standard.

It seems that in crafting this standard, the central purpose of JCAHO accreditation, which is to ensure that proper structures and processes are in place that will ensure that high quality, safe health care is delivered to patients, has been lost. It is not clear how the specifics of the standard as currently written will lead to higher quality, and without that clear link, it appears that JCAHO is being unnecessarily and inappropriately prescriptive about the details of medical staff bylaws and related documents and the processes of amending bylaws and related documents.

The standard's prescriptive requirements:

- Eliminate hospitals' and medical staffs' ability and essential flexibility to articulate, organize and adopt provisions for medical staff governance, management and accountability;
- Lack the clarity and precision fundamental to understanding the standard's requirements and how compliance will be determined; and
- Create unnecessary burdens that would inappropriately divert medical staff leadership and hospital administrative time away from patient care.

Equally important, the decision to issue revisions to MS 1.20 for review separate from other related standards that define the ultimate responsibility and authority of the governing body and the role of the medical staff does not allow hospitals to evaluate the standard's true impact on hospital governance and medical staff relations. More detail on each of these points is provided below.

Standards Should Have Clear, Demonstrable Linkage to Improved Quality

Absent a direct demonstration of the relationship to improvements in quality of care or patient safety, JCAHO should not attempt to force hospitals and medical staffs to meet prescribed uniform standards regarding the content of medical staff bylaws or other governance documents or the manner for approving such documents. In the Rationale section for the revised standard, JCAHO points to the governing body and the medical staff "work[ing] cooperatively, reflecting clearly organized roles, responsibilities, and accountabilities, to enhance the quality and safety of care, treatment, and services provided to patients." It is not clear, however, that such a starting point necessitates imposing a uniform prescriptive accreditation standard detailing how a medical staff must be organized and operated. JCAHO has not articulated any connection or rationale explicitly relating how its detailed and prescriptive standard impacts or enhances quality of care or patient safety. In fact, it remains unclear precisely what "problem" revisions to MS 1.20 are designed to address, making it difficult to evaluate how and to what extent the standard as written creates an effective and workable solution to that "problem."

Hospital-Medical Staff Relationships Should Be Managed Locally

Hospitals and medical staffs must have the ability and necessary flexibility to determine how – consistent with state law and regulations and patient care and other organizational and community needs – they will articulate, organize, and adopt provisions for the governance, management and accountability of the medical staff. JCAHO's accreditation standard should address only the core components of bylaws demonstrably essential for ensuring that high quality, safe, and appropriate care is provided to patients. JCAHO's standard should not be the equivalent of, or function as, model or sample bylaws. **Rather than micromanaging content and the adoption process, JCAHO should endorse hospitals and medical staffs using the bylaws to articulate the basic roadmap for medical staff structures, management operation and accountability.**

The bylaws, not the accreditation standard, should identify what, where and how specific issues are to be addressed, including through documents other than the bylaws provisions. Permitting those members of the medical staff whom the bylaws entitle to have voting rights to approve this roadmap by voting to adopt or amend the bylaws document is legitimate, practical and reasonable for the medical staff. It is equally legitimate for the medical staff leadership to be authorized under the bylaws to implement policies and procedures essential to provide proper governance of medical staff matters and clinical practices for which the medical staff is accountable.

Greater Clarity Is Needed

JCAHO's current articulation of the MS 1.20 standard and its extensive elements of performance does not provide the necessary clarity that would permit hospitals and medical staffs to understand what the standard requires and how compliance will be determined. As written, the standard uses terms (*e.g.,* "administrative procedures associated with structures and processes") that are not self-defining, are capable of multiple interpretations, and may be at

odds with usual usage. In order to understand and implement the requirements of MS 1.20, hospitals will need extensive and unnecessary consultation with legal counsel or other professional experts, and there is no guarantee that a uniform interpretation of the meaning of the standard's requirements will emerge.

Standards Should Not Impose Unnecessary Compliance Burdens

Revision of current practices to conform to the new proposed standard will create unnecessary resource and time burdens for hospitals and their medical staffs. The process of revising medical staff bylaws is complex and appropriately requires extensive time and intensive deliberations to draft and approve modifications. Medical staff leadership and hospital administrative time required for a major bylaws revision, which MS 1.20 would require, is time spent away from patient care. An examination of the proposed changes to MS 1.20 re-enforces the view that such issues could be handled more easily and effectively by delegation through the bylaws to the medical executive committee.

MS 1.20 Needs To Be Understood In Relation To Other Leadership Standards

Lastly, the AHA also is concerned with the piece-meal issuance of standards that interrelate with other standards. This applies to MS 1.20 and more broadly. JCAHO's failure to issue MS 1.20 for review in conjunction with revisions to other major JCAHO standards, all of which implicate the ultimate responsibility and authority of the governing body and the role of the medical staff, does not allow MS 1.20 to be evaluated in the proper context. Release of proposed revisions to MS 1.20 separate from other medical staff standards creates significant challenges for hospitals' understanding of the impact of the standard on hospital governance and medical staff relations. Lack of the final Leadership Accountabilities chapter further complicates the problem because the fundamentals of the roles and responsibilities of the governing body and the medical staff remain unarticulated.

A revised *and complete* set of medical staff standards should be issued for review and released in conjunction with a final Leadership Accountabilities chapter in order to insure that MS 1.20 and the other MS standards can be evaluated in proper context. A thorough and accurate review of a standard of such complexity and consequence also must allow for more than a short 30-day Internet consideration and directed commentary by hospitals. Awareness that the standard has been released for review, comprehending its content, and seriously evaluating its precise impact upon hospital governance, operations and performance necessitates that hospitals be given significantly more time to complete the field review of the proposed revision of such a fundamentally important standard.

On behalf of accredited hospitals, the AHA looks forward to working together with JCAHO to ensure that appropriate medical staff standards, including revisions to MS 1.20, are devised and adopted following meaningful review by hospitals. Please feel free to direct questions about our comments to Lawrence Hughes, regulatory counsel and director, member relations at (202) 626-2346 or Maureen Mudron, Washington counsel at (202) 626-2301.

Sincerely,

Nancy Foster
Vice President, Quality and Patient Safety Policy