



**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
Oakbrook Terrace, IL 60181

Dear Dr. Wise:

On behalf of our 3,200 member hospitals, health 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 latest draft revisions to Medical Staff Standard MS 1.20 (MS 1.20).

The AHA is pleased that JCAHO significantly revised MS 1.20 to respond to hospitals' concern that earlier proposed versions would have unnecessarily and inappropriately established uniform prescriptive standards for medical staff bylaws and other governance documents and the processes for their approval. **We support the adoption of this significantly revised draft of MS 1.20 with two important qualifications related to the proposed new Element of Performance (EP) 27, which we discuss in greater detail below.**

We believe that JCAHO's latest draft of MS 1.20 allows hospitals and their medical staffs greater flexibility to articulate, organize and adopt provisions for medical staff governance, management and accountability. The revised proposal would not require extensive overhaul of existing bylaws and inappropriate diversion of medical staff leadership and hospital administrative time away from patient care as the previous versions seemingly would have required.

As JCAHO has explained, proposed new EP 27 is intended to create a way for organized medical staff as a whole *to bring directly* to the governing body for their consideration specific proposed bylaws and amendments. JCAHO reports that this new EP is being proposed because "in some cases, medical staff executive committees have acquired a level of authority that is no longer appropriate for the organization."



The AHA recommends some slight but nevertheless meaningful edits to the wording of EP 27 to clarify for hospitals and their medical staffs what is required and how compliance will be determined. As currently drafted, EP 27 suggests that the governing body's approval of any medical staff bylaws and amendments that originate with the organized medical staff as a whole is inevitable or nothing more than a formality. The AHA recommends that EP 27 be revised as indicated below:

A provision that the organized medical staff as a whole is able to propose ~~adopt~~ medical staff bylaws and amendments to medical staff bylaws ~~and present them~~ directly to the governing body ~~for approval~~. (underline indicates addition and strikethrough indicates deletion)

The alternative language conveys a necessarily more precise meaning that EP 27 is to be implemented consistent with the ultimate decision-making authority of a hospital's governing body. These edits also ensure consistency with JCAHO's own statement of the EP which appears earlier in the last sentence of the *Introduction* to MS.1.20.

We also urge JCAHO to establish a reasonable deadline for hospitals and their medical staffs to amend medical staff bylaws to comply with the obligation EP 27 would impose upon accredited hospitals. Experts who work with medical staff bylaws suggest that the bylaws in effect at few - if any - hospitals currently authorize the medical staff as a whole to act as EP 27 contemplates. Consequently, hospitals and their medical staffs will need sufficient time to amend their medical staff bylaws to incorporate the requirements.

Amending medical staff bylaws is not a simple, quick process, however. The process requires time for careful drafting and thoughtful deliberation about proposed amendments. Hospitals report that a minimum of two years is frequently necessary to adopt bylaws amendments. **The AHA, therefore, specifically recommends that JCAHO permit hospitals and their medical staffs to amend their medical staff bylaws during the hospital's next regular updating cycle and establish an outer time limit of three years from the date JCAHO adopts a final version of MS 1.20 for all organizations to be in compliance with EP 27.** This compliance timeframe will minimize for hospitals and their medical staffs the administrative burdens of complying with EP 27 and ensure that their time and resources remain focused on patient care rather than the complexities of an unexpected and unplanned bylaws campaign.

We also believe that a key consideration in evaluating the ultimate impact of the changes to MS 1.20 upon hospitals and their medical staffs is how JCAHO revises its requirements related to conflict management that are part of the Leadership Chapter (Standard LD.2.40.) which JCAHO cross references in MS 1.20. As we stated in our previous comments, these two standards must be considered together because the Leadership Chapter, and especially its conflict management provisions, helps to define the ultimate responsibility and authority of the governing body and the role of the medical staff. Hospitals are eager to see all proposed revisions to the Leadership

Dr. Robert Wise
October 23, 2006
Page 3

Chapter, including the conflict management (LD.2.40) revisions, in order to evaluate and better understand how these revisions to MS 1.20 will impact governance, operations and ultimately patient care. On behalf of accredited hospitals, the AHA looks forward to JCAHO's release for field review proposed revisions to LD.2.40.

Please feel free to direct questions about our comments on MS 1.20 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