

December 7, 2007

TO: Users of the *CHA Model Medical Staff Bylaws and Rules*

FROM: Dorel Harms, Senior Vice President, Clinical Services
Lois Richardson, Vice President, Legal Counsel

SUBJECT: New 2008 Edition of the *CHA Model Medical Staff Bylaws and Rules*; Summary of Key Changes; and Comparison of the *CHA Model Medical Staff Bylaws and Rules* to the California Medical Association's (CMA) *Model Medical Staff Bylaws*

The California Hospital Association has updated the *Model Medical Staff Bylaws and Rules* manual and related documents. This new 2008 edition has been edited by Ann O'Connell, a partner with the Sacramento law office of Nossaman Guthner Knox Elliot LLP.

This memorandum highlights the importance of and major changes to the 2008 *CHA Model Medical Staff Bylaws and Rules* and provides details on related documents found on the CD, most significantly a side-by-side comparison of the *CHA Model Medical Staff Bylaws and Rules* to the California Medical Association (CMA) *Model Medical Staff Bylaws*.

Importance of the *CHA Model Medical Staff Bylaws and Rules*

The *CHA Model Medical Staff Bylaws and Rules* is intended to set the framework for the medical staff, hospital administration and governing body to work together cooperatively to achieve their mutual goals. The model stresses the quality-of-care responsibilities of the medical staff, and gives the medical staff latitude to develop standards and procedures for credentialing and privileging medical staff members, as well as applicable standards of care and procedures for monitoring the performance of medical staff members.

Other organizations, including CMA, have developed model medical staff bylaws. The bias that distinguishes the CHA model from the CMA model is that the CHA model is based upon the belief that the legal rights of individual physicians are well safeguarded by the extensive legal protections established by California law. CHA's model recognizes and accommodates these legal rights, but does not further expand them in a way that creates unnecessary burden for medical staffs trying to fulfill their responsibilities for monitoring and improving the quality of care.

The CHA model also recognizes that many hospitals are part of a multi-hospital system and integrated network. The CHA model includes optional provisions that enable the medical staff to eliminate duplication of effort within the system and concentrate on effective peer review for the integrated entity.

Everyone involved in the bylaws and rules development and approval process should understand that the adopted documents could impact how effectively the medical staff performs. Arcane provisions can cost the medical staff leadership and the hospital greatly in both time and money

without necessarily providing any real benefits. Medical staff leaders should assure the bylaws give them the tools they need to perform their responsibilities and minimize their burdens; administrative staff should assure the bylaws provide for appropriate medical staff involvement in administrative decisions; and the governing board should assure the bylaws allow the governing body to fulfill its ultimate responsibility.

The CHA *Model Medical Staff Bylaws and Rules* strives to balance these considerations so the medical staff can fulfill its role as the primary guardians of quality care and patient safety. At the same time, it assures individuals (applicants and members) are afforded all legal protections consistent with California law.

Key Changes to the Model Medical Staff Bylaws

The following is a synopsis of the key changes that were made to the bylaws:

- History and Physical (H&P) Requirements — Reconciled the California (Title 22) and the Centers for Medicare and Medicaid Services (CMS) Conditions of Participation relating to timing of H&P (*See 2.6-5*).
- Informed Consent Requirements — Specified those procedures requiring informed consent, as required by CMS (*See 2.6-6 and 15.1-5*).
- The Joint Commission Credentialing and Privileging Requirements — Revised to further accommodate the requirements, including:
 - Addressed The Joint Commission’s new “general competencies” requirements (*See 4.1, 4.3-3, 5.2 and 5.3-2*).
 - Clarified the appraisal process for appointments and reappointments (*See 4.3-2 and 4.3-3*).
 - Accommodated implementation of The Joint Commission’s requirements for Ongoing Professional Practice Evaluations (OPPE) and Focused Professional Practice Evaluations (FPPE), including:
 - Assured FPPE applies to members granted temporary privileges (*See 5.5-3*).
 - Created a new Article 7, Performance Evaluation and Monitoring, that encompasses OPPE and FPPE (*See Article 7*).
 - Identified OPPEs as routine activities to monitor and evaluate performance (*See 7.3*).
 - Identified FPPEs as time-limited, practitioner-specific activities (*See 7.4*).
 - Moved proctoring provisions to the new Article 7 and specified three levels of proctoring: (*See 7.4-4*)
 - Level I – for new appointees, new privileges, and infrequently-used privileges.
 - Level II – where competency or performance issues may be involved, but where the methodology used to proctor is not a practice restriction.
 - Level III – for “medical disciplinary” proctoring that is also a practice restriction.
- Clarified the responsibilities of the Chief of Staff (*See 8.5-1*).
- Clarified the point at which a “formal investigation” is deemed to have been initiated (*See 13.1-6*).
- Added a preliminary hearing option (*See 13.2-1 and 14.5*).
- Added a mediation option (*See 14.4*).

- Revised the methodology for selecting a Hearing Officer (*See 14.6-5*).
- Clarified the authority of the Hearing Officer (*See 14.6-5*).
- Added a provision regarding the conduct of the Medical Screening Exam (*See 15.1-6*).
- Added a non-retaliation provision, in response to AB 632 (*See 15.7*).

Key Changes to the Model Medical Staff Rules

Key changes to the rules include:

- Revised to carry through The Joint Commission Credentialing and Privileging Requirements (*See especially, Rule 2.2-2, 2.3-1 and 2.5*).
- Revised to assure oversight of OPPE and FPPE (*See Appendix 4J*).
- Extended OPPE and FPPE to the Allied Health Professional (AHP) staff (*See Appendix 6*).
- Updated the scope of practice provisions relating to AHPs, especially:
 - Acupuncturists (*See Appendix 6A*).
 - Licensed Marriage and Family Therapists (*See Appendix 6E*).
 - Nurse Anesthetists (*See Appendix 6F*).
 - Nurse Midwives (*See Appendix 6G*).
 - Nurse Practitioners (*See Appendix 6H*).
 - Physician Assistants (*See Appendix 6L*).
 - Speech Pathologists (*See Appendix 6P*).

Comparison of the CHA Bylaws to the CMA Bylaws

Hospital and medical staff executives have asked CHA to identify the distinctions between the CHA *Model Medical Staff Bylaws and Rules* to the model bylaws developed by CMA. A detailed side-by-side comparison of the two different documents, along with relevant comments regarding key distinctions of importance, is included on the CD.

Files on the CD

The CD contains electronic files that readers will find useful. Each file serves a unique purpose. The files on the CD include:

- Annotated versions of the bylaws and rules. These versions allow you to see exactly where revisions were made (comparing CHA's 2004 edition with this new 2008 edition).
- Non-annotated versions of the bylaws and rules. These versions include all of the revisions in a clean format and allow you to customize each section to meet your facility's needs.
- Executive summary and 279–page comparison document showing the differences between CHA's *Model Medical Staff Bylaws and Rules* and the CMA *Model Medical Staff Bylaws*.

CHA members with questions regarding this memorandum or the content of the CHA *Model Medical Staff Bylaws and Rules* may contact Dorel Harms at (916) 552-7574 or dharms@calhospital.org, or Lois Richardson at (916) 552-7611 or lrichardson@calhospital.org.

DH/mjb

Enclosures