Hospital Medical Staff Task Force Recommendations

I. BACKGROUND

The NCMS formed the Hospital Medical Staff Task Force (Task Force) to consider a formal policy position regarding the appropriate composition and voting privileges of both the hospital medical staff and the medical executive committee due to its understanding that these issues are subject to variance depending on local circumstances and the specific needs of different medical staffs. After a review of legal and regulatory issues impacting hospital bylaws, current hospital bylaws from facilities across the state, and position statements from the AMA and other state medical societies, the Task Force elected to propose a new policy statement emphasizing the need for each medical staff to have flexibility when determining the appropriate composition, voting rights, and structure necessary to promote the highest quality patient care based upon the facility's unique needs and local circumstances.

Legal/Regulatory Considerations:

Medical staff bylaws require compliance with several federal and state regulations and accreditation requirements. However, the current regulatory structure still provides flexibility for hospitals when drafting bylaw provisions to reflect their specific needs, practices, and demographics.

Qualifications for medical staff membership must be specified in the medical staff bylaws consistent with Element of Performance 13 of Joint Commission Standard MS.01.01.01 and North Carolina Administrative Code. Although some states have statutes limiting medical staff membership to certain professions, North Carolina does not. Instead, North Carolina Administrative Code requires hospitals to have an "active medical staff as defined by the medical staff bylaws, rules, and regulations, to deliver medical services within the facility and to administer medical staff functions."[1] Joint Commission Standard MS 06.01.01 provides that qualification criteria for membership should require evidence of current licensure, education, and relevant training as well as experience, current competence, and ability to perform the privileges requested. CMS Conditions of Participation for hospitals require medical staffs to include doctors of medicine or osteopathy and also permit medical staffs to include "other categories of non-physician practitioners determined as eligible for appointment by the governing body" when consistent with State law, "including scope-of-practice laws."[2]

Administrative Code also states that members of the active medical staff must be eligible to vote at medical staff meetings and to hold medical staff office positions as determined by the medical staff bylaws. If desired, the active medical staff may also establish other categories for membership provided those categories are identified and defined in the bylaws.[3] Membership categories may include: (1) active medical staff; (2) associate medical staff; (3) courtesy medical staff; (4) temporary medical staff; (5) consulting medical staff; (6) honorary medical staff; and, (7) other staff classifications.[4] The Code

[1] 10A NCAC 13B .3704
[2] 42 C.F.R. §482.22
[3] 10A NCAC 13B .3704
[4] 10A NCAC 13B .3704

further requires hospital bylaws to describe the authority, duties, privileges, and voting rights for each membership category.[5]

With regard to the medical executive committee, Administrative Code requires the medical staff to have an "executive committee" which represents the medical staff, has the responsibility for the effectiveness of all medical activities of the staff, and is authorized to act for the medical staff. [6] Element of Performance 3 of Joint Commission Standard MS.02.01.01 provides that any member of the organized medical staff is eligible to be on the medical executive committee if consistent with the bylaws. However, Element of Performance 4 also states that the majority of voting medical staff executive committee members should be fully licensed physicians actively practicing in the hospital.

NCMS Model Bylaws/Example Bylaws:

The Task Force reviewed NCMS Model Medical Staff Bylaws and portions of other publicly available hospital bylaws including: UNC Hospitals Bylaws of the Medical Staff, WakeMed Cary Medical Staff Bylaws, and Carolinas Medical Center NorthEast Medical Staff Bylaws. The NCMS Model Medical Staff Bylaws note that the Bylaws were designed to provide flexible options for each medical staff to use as needed to best fit its respective needs, and the Task Force noted variance between the example bylaws reviewed. Excerpts from the referenced example bylaws are available below for consideration.

Organization Policy Positions:

In 2019, the AMA House of Delegates passed Resolution 810 rescinding a previous policy stating that "only fully licensed physicians on the medical staff should establish overall medical staff standards and policy for quality medical care…"and adopting the following two new policy statements:

RESOLVED, That our American Medical Association support and advocate that hospital medical staff leadership should be fully licensed physicians and that if others are included, they should be non-voting or advisory to the hospital medical staff members…

RESOLVED, That our AMA support and advocate that the decisions made by hospital medical staffs focused on quality patient care, medical staff standards and the operation of the hospital, and that those decisions not engage the medical staff in external political matters (e.g., advanced practice clinician scope of practice expansion, etc.)…

The Task Force also reviewed policy statements from other state Medical Societies including the Medical Society of Virginia, Texas Medical Association, and the Massachusetts Medical Society. Excerpts from the referenced policy statements are available below for consideration.

[5] 10A NCAC 13B .3704
[6] 10A NCAC 13B .3706

II. POLICY RECOMMENDATIONS

Recommendation 1 (new policy):

The following draft policy statement has been recommended for adoption:

Medical Staff Executive Committee Voting Privileges

The North Carolina Medical Society supports the ability of each medical staff to self-determine the composition of the medical executive committee, voting rights and structure to promote the highest quality patient care and wellbeing based on the unique needs of the facility and specific local circumstances.

The NCMS supports that a majority of voting power on medical staff executive committees should reside with licensed physicians on the active medical staff.

Recommendation 2:

The following NCMS policy statement has been recommended for reaffirmation:

Full Medical Staff Membership

RESOLVED, That the North Carolina Medical Society supports appropriate medical training and clinical experience as a prerequisite for full hospital medical staff membership.

III. REFERENCED MATERIALS

Example Bylaws:

UNC Hospitals Bylaws of the Medical Staff

Section 1. Membership

Membership on the Medical Staff of the University of North Carolina Hospitals is a privilege extended only to physicians and dentists who continuously meet the qualifications, standards and requirements set forth in the Bylaws. Membership on the Medical Staff confers only those clinical privileges and prerogatives granted to the member by the Board of Directors in accordance with these Bylaws. Appointments to the Medical Staff are made without regard to race, religion, color, age, sex, national origin, disability, or sexual orientation, provided the individual is competent to render care consistent with the professional level of quality and competence established by the Medical Executive Committee and the Board of Directors. All appointments to the Medical Staff are made by the Board of Directors and are to one of the following categories of the staff. All appointees are assigned to a specific clinical department.

Section 3. Dependent Allied Health Professionals

a. The term “Dependent Allied Health Professional” includes: certified registered nurse anesthetists; certified nurse midwives; clinical pharmacist practitioners; nurse practitioners; physician assistants; radiologist assistants; anesthesia assistants; registered nurse first assistants; certified surgical first assistants; and others as designated by the Board.

b. A Dependent Allied Health Professional must meet those specific qualifications and may request only those specific practice privileges within the scope of the licensing or certification requirements applicable to his/her profession, and as further specified by the policies and procedures of the Credentials Committee and these Bylaws. A Dependent Allied Health Professional must have a collaborative practice agreement or supervising physician agreement with one or more of the Active Staff who will supervise and assume responsibility for his/her patient care activities. However, for Dependent Allied Health Professionals at distant sites providing telemedicine services, the Dependent Allied Health Professional must have a collaborative practice agreement or supervising physician agreement with an attending physician located at the distant site who has a valid North Carolina license to practice medicine and who will supervise and assume responsibility for the Dependent Allied Health Professional's patient care activities.

c. An application for practice privileges will be processed in accordance with the procedures specified in these bylaws for initial application for privileges. After initial privileges for two years, a Dependent Allied Health Professional must apply for renewal of practice privileges every two years. Notwithstanding the foregoing, if a Dependent Allied Health Professional has practice privileges in connection with a contract to provide services, the term of appointment shall automatically expire at the time the contract is terminated. In addition, a Dependent Allied Health Professional's privileges may be terminated prior to the end of a contractual term in accordance with Section 4 of this Article VI.

d. A Dependent Allied Health Professional may not independently admit patients to or discharge patients from the Hospital. A Dependent Allied Health Professional may, within the scope of his/her professional licensure or certification, his/her practice privileges, and the rules, regulations, policies and procedures of the Medical Staff and the Hospital: (1) provide specified patient care services in collaboration with or under the supervision of his/her sponsoring Active Staff member or members; (2) enter reports and progress notes into the medical record and write certain treatment orders for specific patients; (3) serve with voting rights on committees of the Medical Staff and attend Medical Staff or department meetings, if invited; and (4) exercise other prerogatives, as specified by the Board.

WakeMed Cary Medical Staff Bylaws

2.1 Nature of Medical Staff Membership

Membership on the medical staff of the hospital is a privilege that shall be extended only to professionally competent physicians (M.D. or D.O.), dentists, oral and maxillofacial surgeons, clinical psychologists, and podiatrists who continuously meet the qualifications, standards, and requirements set forth in these bylaws and associated rules, regulations, policies and procedures of the medical staff and the hospital.

3.1 Membership Categories of the Medical Staff

Medical Staff membership does not in itself convey the privilege of practicing medicine. One can be a member of the medical staff (such as an Active staff member) with or without having been granted the privilege to diagnose or treat patients. Likewise, privileges may be granted to qualified practitioners who are not members of the medical staff (such as physician assistants, nurse practitioners, telemedicine

physicians, and others). Medical staff members who are Senior Active category as of November 1, 2011 will be moved to Active and remain exempt from call responsibilities.

Carolinas Medical Center NorthEast Medical Staff Bylaws

"Medical Staff" or "Staff" means the formal organization of all practitioners who have clinical privileges in the Hospital and who have been granted Medical Staff Membership by assignment to the Active, Courtesy, Coverage, Honorary, Emeritus, Silver, Affiliate or Telemedicine Medical Staff category. Only Active and Silver Staff members are voting members.
"Voting Medical Staff" shall mean all Active and Silver Status members of the Medical Staff.

1.1 Purpose
The purpose of the Medical Staff is to bring qualified allopathic and osteopathic physicians and oral surgeons together into a cohesive body to promote good care and to offer advice, recommendations, and input to the Chief Executive Officer and the Board.

3.1 General Qualifications
Staff membership is a privilege extended only to professionally competent Physicians and Oral Surgeons who continuously meet the qualifications and requirements for membership set forth in these Bylaws. The Physician or Oral Surgeon who is currently a Staff member or who seeks Staff membership must continuously demonstrate to the satisfaction of the Medical Staff and the Board that he meets the following qualifications: A. The individual currently maintains a valid license issued by the N.C. Medical Board. B. The individual possesses the requisite professional education, training, experience, and demonstrated ability to provide patient services. C. The individual demonstrates a willingness and capability to: 1. Work with and relate to other Staff members, members of other health disciplines, Hospital management and employees, visitors, and the community in a cooperative, professional manner so as not to disrupt patient care or affect the Hospital's operations adversely; 2. Discharge Medical Staff obligations appropriate to his particular Staff membership category; and 3. Adhere to ethical standards generally recognized in his profession. D. The individual must provide evidence of professional liability insurance coverage in such amounts and of such types as may be required as by the Hospital, such coverage to be maintained continuously throughout his appointment to the Staff. E. The individual is free from any significant physical or behavioral impairment that would materially impair his ability to provide patient care consistent with the privileges requested of and approved by the Board. F. The individual agrees to advise either the Chief Executive Officer or the Medical Staff Office of all medical malpractice lawsuits immediately when filed.

Example State Medical Society Policy Statements:

The Medical Society of Virginia

30.2.03- Encouragement of Open Hospital Medical Staffs Date: 9/16/2000
In accordance with AMA Policy 230.976, the Medical Society of Virginia affirms its support for the principle of open staff privileges for physicians, based on training, experience, and demonstrated competence. Reaffirmed 10/24/2010

Texas Medical Association

TMA policy is for Hospital Accrediting Organizations to include in its standards a provision which would require that medical staff bylaws, when formally approved by a hospital governing board, be mutually and equally binding on both the governing board and the medical staff.

TMA endorses the following principles for inclusion in future drafts of the Medical Staff Chapter of the Accreditation Manual for Healthcare Organizations:

(1) Continue the use of the term "medical staff" in the title of the chapter and throughout the manual;

(2) Provide consideration of qualified limited licensed practitioners when authorized by state laws and approved by the executive committee of the medical staff and the governing board;

(3) Require that 100 percent of the voting members of the executive committee be fully licensed physicians actively practicing; and

(4) Ensure that all hospitalized patients receive the same standard of care through appropriate language relating to admissions and the responsibility for the medical care of patients (Hospital Medical Staff Section, p 151-152, A-93; reaffirmed CHSO Rep. 1-A-03; amended CHSO Rep. 1-A-13).

Massachusetts Medical Society

All medical staff bylaws should include multiple methods (such as online voting, and other secure methods) for insuring that all the medical staff members are made fully aware of the timing and importance of elections and agenda items that require a vote. (HP)

All medical staff bylaws recommend that each medical staff create a methodology based on a representative quorum of each of the designated groups in order to provide voice and vote to those who are eligible, and that such votes be tallied separately to insure proportionate representation from each group. (HP)

All medical staff bylaws should specify that there must be participation in elections of an agreed-upon percentage of each category of eligible voting physicians, and other categories such as employed and contracted physicians, and those who are hospital based and non-hospital based, to be determined by the medical staff. (HP)

At least one non-hospital-based physician should be represented on the medical executive committee, and stipulated in the medical staff bylaws. (HP)

The composition of the medical executive committee should reflect the percentages of the various voting categories. (HP) MMS House of Delegates, 12/5/15

The MMS will advocate for all properly licensed and hospital credentialed physicians involved in patient care to be eligible for voice and vote in organized medical staff self-governance.

The MMS supports policy that affirms that the medical staff, as a principle of self-governance, should be a representative democracy where the members personally participate with voice and vote in the

decision-making and election of their representatives. (HP) MMS House of Delegates, 5/14/10 Amended and Reaffirmed MMS House of Delegates, 4/29/17