

Department of Veterans Affairs (VA)
Email Update for the Office of Special Counsel (OSC)
G.V. (Sonny) Montgomery VA Medical Center
Jackson, Mississippi
OSC File Number DI-21-000725
June 2022

TRIM 2021-C-39

On April 6, 2022, OSC requested that VA provide an email update for OSC File Number DI-21-000725 pertaining to specific additional information discussed and cited in the original report.

OSC Concern

OSC requests additional information regarding OSC File No. DI-21-000275 Jackson. In the report OMI references and discusses several documents that are not publicly accessible including the VA Bylaws Template and The Joint Commission Accreditation Manual. OSC requests copies of the relevant portions of these documents for review.

VA Response:

Bylaws Template

The Bylaws Template is an internal guidance document posted on the internal Medical Staff Affairs intranet site. The document was reviewed by the Joint Commission Resources Consultant prior to publication on the internal VA website to ensure that it aligns with related Joint Commission Medical Staff standards.

The relevant portions of the Bylaws Template referenced in the original report and provided include the following sections: Notes to Bylaws Template Users - Numbers 1, 6 and 7; Definitions - Numbers 6, 9, 10, 11 and 12; and Article IV: Organization of the Medical Staff - Section 4.01 Leaders. Of note, the green, yellow and blue highlights are directly from the template. They have not been added by OMI (Attachment A).

NOTES TO BYLAWS TEMPLATE USERS

1. The Office of Quality, Safety and Value, Office of Safety and Risk Awareness (OQSV/OSRA) is pleased to present an update to the Bylaws Template for use by VA medical facilities previously posted. The original Bylaws were posted April 15, 2010, with updates at least once a year since then or more frequently if needed due to changes in regulations or accreditation standards. **The most recent updates for March 2017 are highlighted in green. Updates made in July 2015 and November 2015 are made in Yellow and December 2014 are highlighted in Blue.** This template was developed and updated in good faith with input from not only representatives of VA medical facilities and consultants but in consultation with legal and human resource management staff. It is a guide for VA medical facility staff to use in the development of local facility Bylaws, Rules and Regulations. Nothing in the VA medical facility Bylaws, Rules and Regulations can have any effect

inconsistent with, or otherwise be inconsistent with, law or Department of Veterans Affairs (VA) regulations. Because much of the Bylaws and Rules follow VA regulations and VA policy manuals, when these regulations and policies are changed, the Bylaws and Rules also must be revised accordingly. The staff in OQSV/OSRA chose to not implement this template through Veterans Health Administration (VHA) policy so that it can be a “living” document. If discrepancies are found with VA/VHA regulations or policy or changes in accreditation standards occur, this template will be updated.

6. This template was prepared using VA regulations and policies and The Joint Commission Accreditation Manual for Hospitals as guidance. Facilities surveyed under accreditation manuals must assure that all relevant standards from those references in place at the time are addressed. As the Medical Staff develops or revises the facility Medical Staff Bylaws, Rules and Regulations, consultation with Regional Counsel and Human Resource Management staff is strongly recommended.
7. This template was reviewed by a Joint Commission Resources Consultant in **September 2016** and December 2011 who found no significant deficiencies; however, did make recommendations as noted in the template relative to The Joint Commission standards.

DEFINITIONS

For the purpose of these Bylaws, the following definitions shall be used:

6. Chief of Staff: The Chief of Staff is the President of the medical staff and Chairperson of the *<Insert name of committee that serves as executive committee of the medical staff>* and acts as full assistant to the Director in the efficient management of clinical and medical services to eligible patients, the active maintenance of a medical credentialing and privileging and/or scope of practice system for Licensed Independent Practitioners, **Mid-level Advanced Practice Professionals Practitioners**, and Associated Health Practitioners. The Chief of Staff ensures the ongoing medical education of medical staff.

9. Director (or Facility Director): The Director (sometimes called Chief Executive Officer) is appointed by the Governing Body to act as its agent in the overall management of the Facility. The Director is assisted by the Chief of Staff (COS), the Associate Director (AD), the Associate Director for Patient Care Services (AD-PCS), and the *<Insert name of committee that serves as executive committee of the medical staff>*.

10. Governing Body: The term Governing Body refers to the Under Secretary for Health, the individual to whom the Secretary for Veteran Affairs has delegated authority for administration of VHA; and, for purposes of local facility management and planning, it refers to the Facility Director. The Director is responsible for the oversight and delivery of health care by all employees and specifically including the medical staff credentialed and privileged by the relevant administrative offices and facility approved processes.

11. Licensed Independent Practitioner: The term Licensed Independent Practitioner (LIP) refers to any individual permitted by law and by the <Insert name of facility> to provide care and services, without direction or supervision, within the scope of the individual's license and consistent with individually granted privileges. In this organization, this includes physicians and dentists. It may also include individuals who can practice independently, who meet this criterion for independent practice. **Note. The Full Practice Authority (FPA) which was passed on January 14, 2017, permits VA appointed Advance Practice Registered Nurses to practice as Licensed Independent Practitioners regardless of state licensure held and can practice/be privileged as such if approved by both the facility's Organized Medical Staff and Governance and documented in Medical Staff Bylaws.**

12. Medical Staff: The body of all Licensed Independent Practitioners and other Practitioners credentialed through the medical staff process who are subject to the medical staff bylaws. This body may include others, such as retired Practitioners who no longer practice in the organization but wish to continue their membership in the body. The medical staff includes both members of the organized medical staff and non-members of the organized medical staff who provide health care services.

ARTICLE IV: ORGANIZATION OF THE MEDICAL STAFF

Section 4.01 Leaders

3. Selection: ~~<Describe selection process>~~. The Organized Medical Staff does not elect medical staff officers. The Medical Staff Bylaws are approved by the organized medical staff, which constitutes the agreement of the leadership organization. The Network Director approves recommendations to the position of Chief of Staff. The selecting organization is responsible to complete and submit information on the selectee to the Leadership Management and Succession Sub-Committee (LMSS). The LMSS support staff (Executive Recruitment Team) in the Workforce Management and Consulting Office will submit templates to the Leadership Management and Succession Sub-Committee and Workforce Committee for information only.

The Joint Commission Accreditation Standards

VA referenced The Joint Commission Accreditation standards and associated Elements of Performance for Medical Staff and Leadership in the initial report dated March 14, 2022. For your convenience, listed below are the relevant portions of the Joint Commission accreditation manual, specifically Medical Staff (MS) and Leadership (LD) standards and Elements of Performance (EP). (Attachment B)

MS 01.01.01: The medical staff bylaws address self-governance and accountability to the governing body.

EP4: The medical staff bylaws, rules and regulations, and policies, the governing body bylaws, and the hospital policies are compatible with each other and are compliant with law and regulation. (See also MS.01.01.03, EP 1)

MS. 01.01.03: Neither the organized medical staff nor the governing body may unilaterally amend the medical staff bylaws or rules and regulations.

EP 1: The medical staff bylaws, rules, and regulations are not unilaterally amended. (See also MS.01.01.01, EP 4)

LD.01.02.01: The hospital identifies the responsibilities of its leaders

EP1: Senior managers and leaders of the organized medical staff work with the governing body to define their shared and unique responsibilities and accountabilities. (See also NR.01.01.01, EP3).

OSC Concern

OSC requests any memos, white papers, decision letters, memoranda or other documents from the VA Office of External Accreditation related to the interpretation of The Joint Commission (TJC) standard MS.01.01.03 EP1, the meaning of “unilaterally amended”, and the analysis of TJC survey findings since October 1, 2019, related to the whistleblower concerns. Did OMI receive any decision letters, memoranda, or other documents from the VA Office of External Accreditation in response to the above requests? If so, please provide these documents.

VA Response: The VA Office of External Accreditation reviewed past findings from all TJC surveys at all VA medical facilities since October 1, 2019, and interpreted “unilateral amendment” as it relates to TJC standards. There were no findings relevant to the whistleblower allegations. This analysis did not result in any memos, white papers, decision letters, memoranda or other documents received from the VA Office of External Accreditation.

Attachment A

Medical Staff Bylaws Relevant Portions

Revision March 2017

Revision November 2015- Reduction of Privileges

Revision July 2015 – Critical revision of Articles IX and X

Revision December 2014

Original Posting April 2010

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The Joint Commission Accreditation Standards Relevant Portions

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