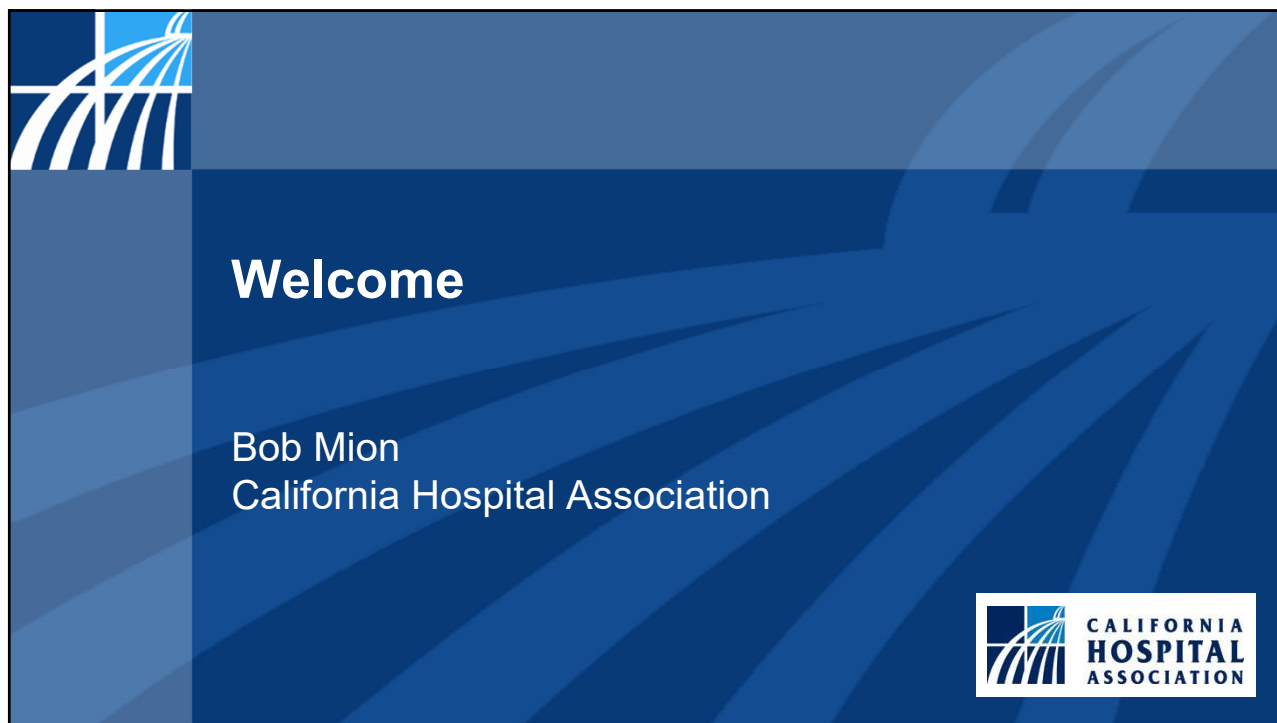




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Faculty

Jackie Garman is the vice president and legal counsel at the California Hospital Association. She oversees the association's legal representation on litigation critical to the hospital industry and assists with evaluating the legal impact of legislation and regulations on hospitals. She also assists in developing legislative and regulatory language, coordinates external counsel on litigation involving CHA and interacts with member hospitals on a variety of issues.

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Faculty

Sarah Benator is the counsel of Arent Fox LLP's Health Care Group.

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California Hospital Association 2019 Model Medical Staff Bylaws

Presented by

Sarah G. Benator, *Counsel*, Arent Fox

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Purpose-Driven Bylaws

2019 CHA Model Medical Staff Bylaws and Rules:

- Focus on patient care and protection
- Focus on the Medical Staff as an organization
- Focus on real-world operation
- Focus on improving efficiency and minimizing risk

6

6

The Basics

What are Bylaws?

- The rules that direct an organization's operations

Why have them?

- State law
- Federal regulation
- Accreditation standards

What determines content?

- Law (statute, regulation, court decisions)
- Accreditation standards
- Best practices
- Organizational needs

7

7

Why Update the Model?

Changes in law

New case law

Evolution in
"best practices"

8

8

More Than An Update

Restructured

Relocated
Provisions

Changed
Approaches

9

9

Remember: ***Models are tools***

- Not every provision applies to every organization
- Your processes may differ – and that is ok
- Discuss with your Medical Staff committees/leaders
- Discuss with your Medical Staff counsel
- Discuss with your hospital's counsel
- **Your Medical Staff Bylaws should be tailored to your own organization's needs**

10

10

How Do We Use This Tool?



Annotated
Version

- Includes commentary

Templates
Version

- No commentary

11

11

Annotated Version



Identifies
rationale

Cites relevant
law/standard

Identifies risk
(if any)

Suggests legal
input where
appropriate

12

12



The New Structure

13



One Set of Bylaws; Three Divisions

Medical Staff Structure

- The Medical Staff as an organization
- Purpose, rights, governance, committees, documents, etc.

Membership and Privileges

- Qualifications and responsibilities; categories; credentialing and privileging; etc.

Quality and Peer Review

- Performance evaluations, OPPE/FPPE
- Investigations, corrective action, hearings

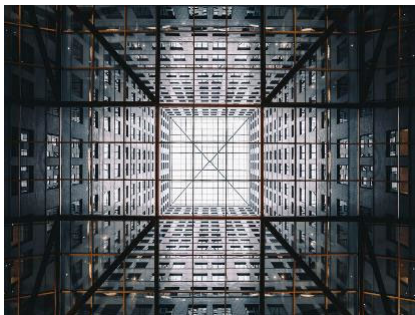
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Delving Deeper: Medical Staff Structure

15

Medical Staff Structure Articles



- Introduction
- Officers, Members at Large, and Chief Medical Officer
- Departments/Services
- Committees
- Meeting and Voting
- Governing Documents
- Dues and Additional Provisions

16

16

Medical Staff Structure Highlights

Committees

- General provisions in Bylaws
- MEC in Bylaws
- Other details in Rules

Meetings and Voting

- Electronic/telephonic meetings authorized
- Electronic voting authorized

17

17

Medical Staff Structure Highlights (cont.)

Governing Documents

- Shorthand for “Bylaws, Rules, and policies and procedures”
- Not contracts ... unless they are

Confidentiality, Immunities, Indemnities

- Referenced in the Bylaws; detailed in the Rules

18

18



Delving Deeper: Membership and Privileges

19



Membership and Privileges Articles



- Membership Qualifications and Responsibilities
- Membership Status
- Procedures for Appointment and Reappointment
- Privilege Delineation
- Leaves of Absence and Resignation

20

20

Membership and Privileges Highlights

Board Certification

- Default to require board certification
- Exceptions in Rules

Waivers

- Waivers limited to patient need
- Applicant need is not considered

21

21

Membership and Privileges Highlights (cont.)

Membership Status

- Community Affiliate Staff
- Telemedicine Staff
- Graduate Staff

Telemedicine Credentialing

- “Streamlined” approach; not every hospital uses
- Compliant with CMS, TJC

22

22

Membership and Privileges Highlights (cont.)

Waiting Periods

- Following two incomplete applications, must wait 12 months
- After certain adverse actions, must wait 36 months before can reapply
- Some exceptions

23

23

Membership and Privileges Highlights (cont.)

Systems Credentialing

- Can coordinate process and share information
- Authorizes single application form
- Authorizes joint meetings
- MECs/governing bodies remain individually responsible

24

24



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Delving Deeper: Quality and Peer Review

25



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Quality and Peer Review Articles



- Practitioner Performance Evaluations
- Investigations
- Corrective Action
- Hearings and Appeal

26

26

Quality and Peer Review Highlights

Advanced Practice
Practitioner

- APPs included in these articles (to a degree)

OPPE/ FPPE

- Less detail
- Referral to policies

27

27

Quality and Peer Review Highlights (cont.)

Informal/
Progressive
Measures

- Expanded discussion of informal and progressive measures to resolve concerns
- Optional, but useful in reminding medical staffs that intervening alternatives available

28

28

Quality and Peer Review Highlights (cont.)

Investigations

- Separated from corrective action article
- More guidance in performing investigations
- System notification/cooperation

29

29

Quality and Peer Review Highlights (cont.)

Corrective Action

- Separate from investigations
- Clear authorities

Automatic Actions

- Clarification regarding steps and processes
- Expanded list
- No hearing, unless required by law

30

30

Quality and Peer Review Highlights (cont.)

Hearings

- Takes into account recent case law
- Promotes efficiency

Mediation

- Option provided

31

31

Quality and Peer Review Highlights (cont.)

Trier of Fact

- Provides options
- Dedicated Hearing Panel
- Payment provisions

32

32

Quality and Peer Review Highlights (cont.)

Hearing Termination

- Trier of fact-led process

Joint Hearing

- Optional joint hearings for system members
- Ultimate decisions by each entity

33

33

Medical Staff Rules



34

What's New With the Rules?

Standards of Conduct

- Updates examples of inappropriate conduct
- Additional guidance regarding investigation

Conflicts of Interest

- Guidance on what should be in policy

35

35

What's New With the Rules? (cont.)

Authorizations, Releases, Immunity, Confidentiality, Indemnity

- Details in Rules, not Bylaws
- Permits information sharing with peer review bodies

36

36

What's New With the Rules? (cont.)

Administrative Hearing

- Optional, streamlined hearings for non-reportable actions

Mediation

- Mediation process to resolve peer review dispute

37

37


What's New With the Rules? (cont.)

Allied Health Practitioners

- Differentiation between AHPs and “Advanced Practice Professionals”
- Expanded provisions on oversight and grievances

38


38




Questions

Online questions:
Type your question in the Q & A box,
press enter

Phone questions:
To ask a question, press *1



39



Thank You and Evaluation

Thank you for participating in today's webinar.
An online evaluation will be sent to you shortly.
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