August 31, 2018

Scott Vivona, Acting Deputy Director
California Department of Public Health
Center for Health Care Quality
Attn: Regulations Unit, MS 3201
P.O. Box 99737
Sacramento, CA 95899-3201

Subject: AFL 18-30, General Acute Care Hospital Administration Regulations

Dear Mr. Vivona:

On behalf of our more than 400 member hospitals and health systems, the California Hospital Association (CHA) respectfully offers the following comments on revising certain Title 22 regulations. CHA provided detailed recommendations for each section of Title 22 in 2011; the following recommendations update the sections for which the California Department of Public Health (CDPH) has solicited comments. CHA commends the CDPH Center for Healthcare Quality for beginning the significant and complex process of revising the cardiovascular surgery, cardiac catheterization laboratory, anesthesia services and surgical services sections of Title 22. To assist in that effort, CHA offers the following general recommendations that we believe must be considered to achieve a successful outcome.

As CDPH is aware, the majority of Title 22 regulations are outdated and no longer relevant to current hospital delivery of care. Consequently, Title 22 precludes CDPH’s ability to provide effective oversight. Equally problematic, the current regulations are among the many obstacles California hospitals face in providing high-quality health care under tight financial restrictions, while utilizing the most current technological advancements. CHA applauds CDPH for undertaking the monumental task of rewriting Title 22, and underscores the need to ensure a proper foundation and infrastructure are created to support this endeavor.

It is important that updated regulations: 1) are consistent with existing laws and regulations, as well as national standards; 2) can be readily implemented at the facility and unit levels; 3) allow for innovation in a constantly changing environment, to ensure their requirements remain relevant for decades; and 4) are organized in a manner that facilitates clear understanding of the requirements and compliance. We also encourage CDPH to review existing program flexibility to identify current practice standards.

CHA recommends that CDPH:

Require Hospitals to Adopt and Follow National Standards
CHA strongly urges CDPH to consider aligning Title 22 requirements with the Centers for Medicare & Medicaid Services’ (CMS) Conditions of Participation (CoPs). If the department were to codify the existing CoPs in Title 22, those regulations would become outdated when CMS next updates the COPs. Instead, CDPH could adopt the standards by reference, to allow Title 22 regulations to remain relevant as CoPs change in the future. In addition, CHA believes that, to keep pace with existing standards of care, hospitals should be required to choose relevant national standards to use as a foundation for their policies and procedures. Facilities would base this decision on their patient population and the services they provide in each clinical service line. This will ensure that, as practice changes, Title 22 requirements remain relevant and hospitals continue to be held to the current community standard. Conformity with the CMS CoPs and the adoption of national standards in hospitals’ policies and procedures will eliminate inconsistencies, inefficiencies and confusion.

**Streamline Common Requirements for Basic and Supplemental Services**
For each basic and supplemental service, hospitals must establish written policies and procedures, have specified equipment and meet other common requirements. CHA recommends that regulations pertaining to administrative policies and procedures be streamlined for basic and supplemental service areas. For example, one section of Title 22 should require each clinical service line to develop and implement policies and procedures, based on national standards identified by the hospital; provide sufficient trained and qualified staff; and provide sufficient equipment to serve the needs of the patient population. This will reduce redundancy and improve consistency on the key provisions that are unique to a particular service.

**Eliminate Title 24 Building Standards from Title 22**
CHA wishes to emphasize that Title 22 should be rewritten to allow California hospitals to provide care and design buildings that meet the needs of modern health care delivery. The Office of Statewide Health Planning and Development has jurisdiction over hospital building standards, including square footage, electrical and ventilation, and other non-operational standards. CHA strongly encourages CDPH to immediately remove those requirements from Title 22, unless the department has identified an operational concern.

CHA has drafted the attached specific regulatory language for the general acute care hospital administration requirements on which CDPH requested feedback in AFL 18-30. We recommend that CDPH:

- Add a requirement that medical staff membership be restricted to those who meet objective standards for training, experience, professional conduct and expertise, and who have the ability to work within the facility without adversely impacting facility operations or patient care.
- Clarify the governing body’s final authority and responsibility for the conduct of the hospital, with respect to certain activities.
- Permit telehealth provider credentialing based on information provided by the distant-site hospital or telehealth entity, consistent with Business and Professions Code §2290.5 and 42 CFR 482.12, 482.22 and 485.616.,
- Restructure and clarify the provisions related to the organized medical staff (§70703). Separate provisions dealing with medical staff organization from those related to the content of medical staff bylaws, rules and regulations, and policies and procedures. Include the required elements of medical staff self-governance specified in Business and Professions Code §2282.5.
• Expand §70706.1 (Granting of Nonphysician Privilege) to specifically address credentialing of advanced practice registered nurses and registered nurse first assistants.

• Update certain outmoded language.

• Update certain outmoded requirements, such as for a medical library with hardcopy textbooks, in light of the ready availability of more current and easily accessible electronic resources.

• Move §70761 (Exercise Stress Testing) into the section dealing with cardiology.

CHA's recommendations are not an exhaustive list, but an initial submission during this pre-notice period. Moving forward, CHA is ready to assist CDPH in updating the Title 22 regulations to provide a structure for hospitals that supports the safe provision of patient care.

Thank you for the opportunity to comment as the department begins its work on these important regulations. We look forward to working with you. If you have any questions, please do not hesitate to contact me at drogers@calhospital.org or (916) 552-7575.

Sincerely,

[Signature]

Debby Rogers, RN, MS, FAEN
Vice President, Clinical Performance and Transformation

Attachments: Draft Regulatory Language in response to AFL 18-30
§ 70701. Governing Body.

(a) The governing body shall:

(1) Adopt written bylaws in accordance with legal requirements and its community responsibility which shall include but not be limited to provision for:

(A) Identification of the purposes of the hospital and the means of fulfilling them.

(B) Appointment and reappointment of members of the medical staff, which include the.

(C) Appointment and reappointment of one or more dentists, podiatrists, and/or clinical psychologists to the medical staff respectively, when dental, podiatric, and/or clinical psychological services are provided.

(D) Formal organization of the medical staff with appropriate officers and bylaws.

(E) Membership on the medical staff which shall be restricted to physicians, dentists, podiatrists, and clinical psychologists competent in their respective fields, worthy in character and in professional ethics, who are able to meet objective standards for training, experience, professional conduct, and expertise, and who have the ability to work within the facility without adversely impacting facility operations or patient care. No hospital shall discriminate with respect to employment, staff privileges or the provision of professional services against a licensed clinical psychologist within the scope of his/her licensure, or against a licensed physician and surgeon or podiatrist on the basis of whether the physician and surgeon or podiatrist holds an M.D., D.O. or D.P.M. degree. Wherever staffing requirements for a service mandate that the physician responsible for the service be certified or eligible for certification by an appropriate American medical board, such position may be filled by an osteopathic physician who is certified or eligible for certification by the equivalent appropriate American Osteopathic Board.

(F) Self-government by the medical staff with respect to the professional work performed in the hospital, periodic meetings of the medical staff to review and analyze at regular intervals their clinical experience, and a requirement that the medical records of the patients shall be the basis for such review and analysis. The medical staff’s self-governance shall be subject to the governing body’s final authority and responsibility for the conduct of the hospital.

(G) Preparation and maintenance of a complete and accurate medical record for each patient.

(2) Appoint an administrator whose qualifications, authority and duties shall be defined in a written statement adopted by the governing body.

There is no reason to separate (B) and (C) in (a)(1), so we propose combining them for ease of reference.

REQUEST FOR CLARIFICATION: The current version of subparagraph (a)(1) mandates that clinical psychologists be appointed to the medical staff when clinical psychological services are provided [ . . . bylaws . . . shall include . . . provision for . . . [a]ppointment and reappointment of . . . clinical psychologists to the medical staff . . . [when] clinical psychological services are provided” (emphasis added). However, §70703 (a)(2)(B), which specifically references §1316.5 of the Health and Safety Code, makes such appointment for clinical psychologists discretionary, not mandatory, in those facilities not owned or operated by the state, providing that such facilities “may enable the appointment of clinical psychologists to the medical staff” (emphasis added). CHA requests that the Department clarify whether the appointment of clinical psychologists to the medical staff is mandatory or discretionary in those facilities not owned or operated by the state and in which clinical psychological services are provided.

The proposed addition in revised (D) adds objective standards that are fundamental to achieving a hospital’s purposes; these standards are consistent with hospital and medical staff practice and long-settled California case law. See, e.g., Miller v. Eisenhower Medical Center (1980) 27 Cal.3d 614, 628-629; Pick v. Santa Ana-Tustin Community Hospital (1982) 130 Cal.App.3d 970, 976-978; Gaenslen v. Board of Directors (1985) 185 Cal.App.3d 563, 568-569.

The proposed addition in revised (E) is derived from the definition of “governing body” in Section 70035: “Governing body means the person, persons, board of trustees, directors or other body in whom the final authority and responsibility is vested for conduct of the hospital.”

Grammatical change to harmonize with (a): “The governing body shall . . . Notify the Department . . . .”
The Department shall be notified in writing whenever a change of administrator occurs.

(b) Provide appropriate physical resources and personnel required to meet the needs of the patients.

(c) Participate in planning to meet the health needs of the community.

(d) Take all reasonable steps to conform to all applicable federal, state and local laws and regulations, including those relating to licensure, fire inspection and other safety measures.

(e) Provide for the control and use of the physical and financial resources of the hospital.

(f) Require that the medical staff establish controls that are designed to ensure the achievement and maintenance of high standards of professional ethical practices including provision that all members of the medical staff be required to demonstrate, at the time of original application for appointment to the staff and at least every two years thereafter, their ability to perform surgical and/or other procedures the clinical privileges they have requested or been granted competently and to the satisfaction of an appropriate committee or committees of the medical staff and the governing body, through the processes outlined in the medical staff's bylaws, rules, policies, and other documents adopted for this purpose, at the time of original application for appointment to the staff and at least every two years thereafter. Notwithstanding the preceding, if a hospital's patients are receiving telehealth services, the governing body of the hospital may grant privileges to, and verify and approve credentials for, providers of telehealth services based on recommendations by its medical staff that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(g) Ensure that medical staff by-laws, rules and regulations are subject to governing body approval, which approval shall not be withheld unreasonably.

(h) These by-laws shall include an effective formal means for the medical staff, as a liaison, to participate in the development of all hospital policy that is directed toward patient care (including nursing, dietary, and pharmacy policies), clinical equipment, and clinical space usage.

Note: Authority cited: Sections 208(a) and 1275, HSC. Reference: Sections 1276, 1315, 1316 and 1316.5, HSC.

CHA proposes that the activities currently combined in (4) be separated into two subsections, as these activities are distinct and not necessarily related.

The first set of revisions provide updated language (clinical privileges vs. surgical and/or other procedures) clarify the applicable process, and confirm that both the medical staff and the governing body have roles in this approval process, consistent with §70705 and Business and Professions Code §2282.5(a)(6).

Business and Professions Code Section 2290.5 was amended in 2011 to provide for the telehealth language proposed here. CHA recommends including this language here because it clarifies the relationship between Section 2290.5 and medical staff credentialing.

The current language is so broad as to include, for example, medical staff participation in the development of accounting and Human Resources policies, policies regarding the gift shop and cafeteria operations, etc. This proposed revision clarifies the logical limits of the medical staff's participation to those areas within its scope of expertise.

This clarifies the scope the medical staff's responsibility and its relationship to the authority of the hospital's governing board consistent with §70035 of Title 22 and Business and Professions Code Section 2282.5(a)(1), (2), and (6). The final sentence in (a) mirrors the language proposed in §70701 with respect to the governing body's obligations. Adding that

22 CCR § 70703

§ 70703. Organized Medical Staff.
(a) Each hospital shall have an organized medical staff. The organized medical staff shall be responsible to the governing body for the adequacy and quality of the care rendered to patients by practitioners privileged through the medical staff process. The medical staff's responsibility is subject to the governing body's final authority and responsibility for the conduct of the hospital.

(1) The medical staff shall be composed of physicians and, where dental or podiatric services are provided, dentists or podiatrists.

(2) Without limiting the generality of the foregoing, as required by section 1316.5 of the Health and Safety Code:

(A) Where clinical psychological services are provided by clinical psychologists, in a health facility owned and operated by the state, the facility shall establish rules and medical staff bylaws that include provisions for medical staff membership and clinical privileges for clinical psychologists within the scope of their licensure as psychologists.

(B) Where clinical psychological services are provided by clinical psychologists, in a health facility not owned or operated by this state, the facility may enable the appointment of clinical psychologists to the medical staff.

(3) Membership on the medical staff shall be restricted to physicians, dentists, podiatrists, and clinical psychologists competent in their respective fields, worthy in character and in professional ethics, who are able to meet objective standards for training, experience, professional conduct, and expertise, and who have the ability to work within the facility without adversely impacting facility operations or patient care.

(b) The medical staff, by vote of the its members who have been granted voting privileges and with the approval of the governing body, shall adopt, and may amend, written by-laws, which provide formal procedures for the evaluation of staff applications and credentials, appointments, reappointments, assignment of clinical privileges, appeals mechanisms and such other subjects or conditions which the medical staff and governing body deem appropriate.

(c) The medical staff and each individual member shall abide by the medical staff by-laws. The medical staff shall establish a means of enforcing its by-laws. Medical staff by-laws, rules and regulations shall not deny or restrict within the scope of their licensure, the voting right of staff members or assign staff members to any special class or category of staff membership, based upon whether such staff members hold an M.D., D.O., D.P.M., or D.D.S. degree or clinical psychology license.

(dc) The medical staff shall meet regularly. Minutes of each meeting shall be retained and filed at the hospital.

language here makes clear that the medical staff is subject to a corresponding legal standard and obligation. Including it in both §70701 and this section aligns the responsibilities of the medical staff and the governing body with respect to insuring the adequacy and quality of care rendered to the hospital's patients and assists in enforcing these criteria.

Clarifies that subsection (a)(2) does not override subsection (a)(1) of this section.

Subsection (a)(2)(A) and (B) are based on Health and Safety Code Section 1316.5(a), which applies only to a health facility owned and operated by the state. Here, encasing the phrase "in a health facility owned and operated by the state" within commas makes that phrase (from a grammatical standpoint) nonessential: able to be removed without changing the meaning of the sentence. Because the phrase is, in fact, essential, the first comma should be removed. (The comma after the subject phrase should remain because it marks the end of the long introductory clause beginning with "Where clinical . . . . "

Subparagraph (a)(3) mirrors language in Section 70701 with respect to membership standards for the medical staff, including the proposed addition of objective standards that are fundamental to achieving the purposes of the hospital and the role of the medical staff. See, e.g., Miller v. Eisenhower Medical Center (1980) 27 Cal.3d 614, 628-629; Pick v. Santa Ana-Tustin Community Hospital (1982) 130 Cal.App.3d 970, 976-978; Gaenslen v. Board of Directors (1985) 185 Cal.App.3d 563, 568-569. As explained above, including this language in this section, as well as in §70701, helps insure that the responsibilities of the medical staff and the governing body are aligned and assists in enforcing these criteria.

In its current form, Section 70703 is awkwardly dense, alternating between the medical staff's structure and operations and the content of its bylaws, rules, and regulations. CHA recommends separating those provisions dealing with the content of the medical staff bylaws and rules and regulations into a new Section 70704, leaving Section 70703 to focus on the structure and operations of the medical staff.

While the obligation of individual medical staff members to abide by the medical staff bylaws is implied, CHA recommends explicitly stating this requirement.

This provides clarity and conforms to contemporary practice.
(d) The medical staff by-laws, rules, and regulations shall include, but shall not be limited to, provision for the performance of the following functions: executive review, credentialing, medical records, tissue review, utilization review, infection control, pharmacy and therapeutics, and assisting the medical staff members impaired by chemical dependency and/or mental illness to obtain necessary rehabilitation services. These functions may be performed by individual committees, or when appropriate, all functions or more than one function may be performed by a single committee. Reports of activities and recommendations relating to these functions shall be made to the executive committee and the governing body as frequently as necessary and at least quarterly.

(e) The medical staff shall provide in its by-laws, rules and regulations for appropriate practices and procedures to be observed in the various departments of the hospital. In this connection the practice of division of fees, under any guise whatsoever, shall be prohibited and any such division of fees shall be cause for exclusion from the staff.

(f) The medical staff shall provide for availability of staff physicians or, if applicable, psychologists for emergencies among the in-hospital population in the event that the attending physician or psychologist or his or her alternate is not available. Nothing in the foregoing shall preclude a provision in the medical staff bylaws permitting emergency response by appropriately trained allied health professionals or residents, where appropriate, so long as a staff physician or, if applicable, psychologist is also available as needed.

(g) The medical staff shall participate in a continuing program of professional education. The results of retrospective medical care evaluation shall be used to determine the continuing education needs. Evidence of participation in such programs shall be available.

(h) The medical staff shall develop criteria under which consultation will be required. These criteria shall not preclude the requirement for consultations on any patient when the director of the service, chairman of a department or the chief of staff determines a patient will benefit from such consultation.

Note: Authority cited: Sections 1275, 100275 and 131200, HSC. Reference: Sections 1276, 1315, 1316, 1316.5, 131050, 131051 and 131052, HSC.

22 CCR § 70704

§ 70704. Medical Staff By-laws, Rules and Regulations, Policies and Procedures.

(a) The medical staff bylaws shall, at a minimum:

(1) Provide formal procedures for the evaluation of staff applications and credentials, appointments, reappointments, assignment of clinical privileges, hearings and appeals.
mechanisms and such other subjects or conditions which the medical staff and governing
body deem appropriate.
(2) Set forth procedures for selecting and removing medical staff officers.
(3) Set forth procedures for assessing medical staff dues and utilizing the medical staff dues
as appropriate for the purposes of the medical staff.
(4) Provide for the ability of the medical staff to retain and be represented by independent
legal counsel at the expense of the medical staff, provided that medical staff at the University
of California have the right to retain and be represented by independent legal counsel at the
expense of the medical staff upon approval by the Regents of the University of California or
their designee in accordance with the bylaws of the Regents, which approval shall not be
unreasonably denied.
(5) Set forth procedures for initiating, developing, and adopting medical staff bylaws, rules,
and regulations, and amendments thereto, subject to the approval of the hospital governing
board, which approval shall not be unreasonably withheld.
(b) The medical staff bylaws, rules, or regulations shall, at a minimum:
(1) Establish criteria and standards for medical staff membership and privileges, and
enforcing those criteria and standards.
(2) Provide for the performance of the following functions:
(A) Executive review.
(B) Credentialing and privileging.
(C) Medical records.
(D) Tissue review.
(E) Utilization review.
(F) Infection control.
(G) Pharmacy and therapeutics.
(H) Assisting the medical staff members impaired by chemical dependency and/or mental
illness to obtain necessary rehabilitation services.
These functions may be performed by individual committees, or when appropriate, all
functions or more than one function may be performed by a single committee. Reports of
activities and recommendations relating to these functions shall be made to the executive
committee and the governing body as frequently as necessary and at least quarterly.
(c) The medical staff shall provide in its by-laws, rules and regulations, or policies and
procedures developed by the medical staff and approved by the governing body, for
appropriate practices and procedures to be observed in the various departments or services
of the hospital. In this connection the practice of division of fees, under any guise whatsoever.
which specifies topics falling within the medical staff’s right of self-governance that are
required to be included in medical staff bylaws, rules, or regulations.
shall be prohibited and any such division of fees shall be cause for exclusion or expulsion from the staff.
(d) The medical staff bylaws shall require medical staff members to participate in continuing professional education. The results of retrospective medical care evaluation shall be used to determine the continuing education needs. The medical staff will also ensure that the medical staff is educated on any areas of facility-wide quality improvement measures. Evidence of participation in such programs shall be available.
(e) Medical staff by-laws, rules and regulations shall not deny or restrict within the scope of their licensure, the voting right of staff members or assign staff members to any special class or category of staff membership, based upon whether such staff members hold an M.D., D.O., D.P.M., or D.D.S. degree or clinical psychology license.

Note: Authority cited: Sections 1275, 100275 and 131200, HSC. Reference: Sections 1276, 1315, 1316, 1316.5, 131050, 131051 and 131052, HSC; 2282.5 BP.

Increasingly, hospitals undertake facility-wide quality improvement measures that may be spearheaded or overseen by hospital administration. The added language acknowledges this and allows the medical staff to rely on those resources to provide the necessary education.

22 CCR § 70705

§ 70705. Medical Staff, Residents, Interns and Students.

(a) The hospital shall not permit any physician, dentist, podiatrist, or clinical psychologist or any medical, dental, podiatric or clinical psychology resident, intern or student to perform any service for which a license, certificate of registration or other form of approval is required unless such person is licensed, registered, approved or is exempted therefrom under the provisions of the State Medical Practice Act, the State Dental Practice Act, the State Podiatric Practice Act, or the State Psychology Licensing Law, or other applicable provisions of the Business and Professions Code as it relates to license, registration or approval, and, further, unless such services are performed under the direct supervision of an appropriately licensed practitioner whenever so required by law.

(b) If patient care is provided by residents, interns and medical students, such care shall be in accordance with the provisions of a program approved by and in conformity with: the Council on Medical Education of the American Medical Association; the American Osteopathic Association Board of Trustees through its Council on Postdoctoral Training and Bureau of Osteopathic Education Committee on postdoctoral training and the Bureau of Professional Education; the Commission on Dental Accreditation of the American Dental Association; the Council on Podiatric Medical Education of the American Podiatric Medical Association, or the Education and Training Board of the American Psychological Association and/or the residency training programs of the respective specialty boards.

CLARIFICATION REQUESTED: It is not clear what (c) is intended to address. Does it mean that in order for the listed trainees to provide any patient care outside of the program, the
(c) Except in an emergency, all other patient care by interns, house officers, residents or persons with equivalent titles, not provided as specified in subdivision (b) of this section, must be provided by a practitioner with a current license to practice in California.  
Note: Authority cited: Sections 208(a) and 1275, HSC. Reference: Sections 1276, 1315, 1316 and 1316.5, HSC.

22 CCR § 70706

§ 70706. Interdisciplinary Practice and Responsibility for Patient Care.
(a) In any facility where registered nurses will perform functions requiring standardized procedures pursuant to Section 2725 of the Business and Professions Code, or in which licensed or certified healing arts professionals who are not members of the medical staff will be granted privileges pursuant to Section 70706.1, there shall be a Committee on Interdisciplinary Practice established by and accountable to the Governing Body, for establishing policies and procedures for interdisciplinary medical practice.
(b) The Committee on Interdisciplinary Practice shall include, as a minimum, the Chief Nurse Executive or designee/director of nursing, the administrator or designee, and an equal number of physicians appointed by the Executive Committee of the medical staff, and registered nurses appointed by the Chief Nurse Executive/director of nursing. When the hospital has a psychiatric unit and one or more clinical psychologists on its medical staff, one or more clinical psychologists shall be appointed to the Committee on Interdisciplinary Practice by the Executive Committee of the medical staff. Licensed or certified health professionals other than registered nurses who are performing or will perform functions as in (a) above shall be included in the Committee.
(c) The Committee on Interdisciplinary Practice shall establish written policies and procedures for the conduct of its business. Policies and procedures shall include but not be limited to:
(1) Provision for securing recommendations from members of the medical staff in the medical specialty, or clinical field of practice under review, and from persons in the appropriate nonmedical category who practice in the clinical field or specialty under review. Processes for obtaining appropriate information regarding any clinical matter under review, including obtaining input from members of the medical staff whose practice area relates to the matter being reviewed and from other health care professionals at the facility whose practice relates to the matter being reviewed.
(2) Method for the approval of standardized procedures in accordance with Sections 2725 of the Business and Professions Code in which affirmative approval of the administrator or designee and a majority of the physician members and a majority of the registered nurse provider must have a license? Or that trainees may still use the title “resident” even if they are not in a program that falls within the list in Subsection (b) as long as they have a license? Or what?

Punctuation correction.
Updated terminology.

As clinical psychologists can practice in a hospital without a psychiatric unit, this language seems unnecessary.

The original language in (c)(1) is vague. Recommendations about what? What is under review? What is meant by “persons in the appropriate nonmedical category”? The proposed language is intended to clarify this.
members would be required and that prior to such approval, consultation shall be obtained from facility staff in the medical and nursing specialties under review.

(3) Providing for maintaining clear lines of responsibility of the nursing service for nursing care of patients and of the medical staff for medical services in the facility.

(4) Intended line of approval for each recommendation of the Committee.

Note: Authority cited: Sections 1275, 100275 and 131200, HSC. Reference: Sections 1276, 1316.5, 131050, 131051 and 131052, HSC.

**CLARIFICATION REQUESTED:** What is meant by “facility staff” in the final sentence of (b)(2)? Does it refer to the medical staff? Hospital employee staff?

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### 22 CCR § 70706.1

#### § 70706.1. Granting of Nonphysician Privileges.

(a) Registered Nurses. The Committee on Interdisciplinary Practice shall be responsible for recommending policies and procedures for granting those registered nurses who are not also advanced practice registered nurses the authority to practice under standardized procedures, regardless of the granting of expanded role privileges to registered nurses, whether or not they are employed by the facility, to provide for the assessment, planning, and direction of the diagnostic and therapeutic care of a patient in a licensed health facility. These policies and procedures will be administered by the Committee on Interdisciplinary Practice which shall be responsible for reviewing credentials and making recommendations for the granting and/or rescinding of such privileges.

(b) Advanced Practice Registered Nurses, registered nurse acting as first assistant. Whenever a Certified Nurse Midwife, Nurse Practitioner, Clinical Nurse Specialist, or Certified Registered Nurse Anesthetist practices at the facility pursuant to standardized procedures, or a registered nurse acts as a first assistant in surgery pursuant to standardized procedures, whether or not they are employed by the facility, they must first apply for privileges through a process recommended by the medical staff and approved by the governing body. This process shall, at a minimum, include review by the Committee on Interdisciplinary Practice and the Executive Committee of the medical staff and approval by the governing body before such privileges are granted.

(c) Physician’s Assistant. A physician’s assistant who practices in a licensed facility, whether or not employed by the facility, shall be supervised by a physician approved by the Division of Allied Health Professions of the Medical Board of California who is a member of the active medical staff of that facility, and holds privileges to perform the functions to be performed by the physician assistant. Physician’s assistants shall apply to the facility, and the application shall be reviewed approved by the Executive Committee of the medical staff. The Executive Committee shall make a recommendation regarding the granting of privileges to the physician assistant. 

RNs and Advanced Practice Registered Nurses (APRNs) perform different functions; therefore, we recommend differentiating between how RNs and APRNs are granted permission to perform under standardized procedures.

The statement regarding “assessment, planning, and direction of the diagnostic and therapeutic care” is unnecessary, as the scopes of practice for RNs and APRNs are defined by statute. This clarifies the specialized role of APRNs and registered nurse first assistants (RNFAs) and the appropriate level of review. This requirement is intended to grant flexibility so that the medical staff can choose, and the governing body approve, a process in addition to the IDPC to review these practitioners. It also is consistent with Title 42, CFR Sec. 482.22(a), which CMS interprets as requiring that “For non-physician practitioners [including PAs, NPs, CNS, CRNAs, and CNMs, among others] granted privileges only, the hospital’s governing body and its medical staff must exercise oversight, such as through credentialing and competency review, of those non-physician practitioners to whom it grants privileges, just as it would for those practitioners appointed to its medical staff.” (See, State Operations Manual, Appendix A, Interpretive Guidelines).

(b): Updated terminology. Additionally, the original language fails to recognize that only the governing body has the authority to grant the privileges; there no longer is a requirement that a physician obtain approval from the MBC before supervising PAs; and, finally, some PAs work with physicians who are not members of the active staff but who nonetheless hold the required privileges (such as consulting staff members).

To provide proper oversight of practitioners who are practicing at a medical level of care,
assistant, which shall be submitted to the governing body for final determination of the facility in which the physician's assistant wishes to practice.

(d) Governing Body Approval. No Certified Nurse Midwife, Nurse Practitioner, Certified Registered Nurse Anesthetist, registered nurse acting as a first assistant, or Physician Assistant shall be granted or exercise privileges without approval by the governing body.

(e) Notwithstanding any other language in Section 70717, the governing body may grant privileges to a Certified Nurse Midwife, Nurse Practitioner, Clinical Nurse Specialist, or Physician Assistant to admit a patient to the hospital, as long as the care for the patient admitted by the Certified Nurse Midwife, Nurse Practitioner, Clinical Nurse Specialist, or Physician’s Assistant remains under the responsibility of a member of the medical staff. Such admissions must otherwise comply with the requirements of Section 70717.

Note: Authority cited: Section 1275 and 131200, HSC. Reference: Sections 1276, 131050, 131051 and 131052, HSC.

CHA proposes that only the governing body should decide whether or not to grant privileges to these practitioners.

Currently, subsection (b) of §70717 (Admission, Transfer, and Discharge Policies) provides in part that “Patients shall be admitted only upon the order and under the care of a member of the medical staff of the hospital who is a licensed health care practitioner acting within the scope of his or her professional licensure.” Because only physicians, podiatrists, dentists and clinical psychologists are permitted under California law to be medical staff members, currently only they are permitted to admit under that regulation. However, in practice, hospitals and physicians are using NPs, CNMs, and PAs in roles where they should be permitted to admit patients as long as they are operating within their scopes of practice and under standardized procedures or delegation agreements, and as long as a medical staff member remains responsible for the patient. CHA recommends that to the extent possible, Section 70706.1 should be amended to permit such admissions, regardless of Section 70717. Notably, this is permissible under both TJC and CMS.

22 CCR § 70706.2

§ 70706.2. Standardized Procedures.

(a) The Committee on Interdisciplinary Practice shall be responsible for:

(1) Identifying functions and/or procedures which require the formulation and adoption of standardized procedures under Section 2725 of the Business and Professions Code in order for them to be performed by registered nurses in the facility, and initiating the preparation of such standardized procedures in accordance with this section.

(2) The review and approval of all such standardized procedures covering practice by registered nurses in the facility.

(3) Recommending policies and procedures for the authorization of employed staff registered nurses to perform the identified functions and/or procedures. These policies and procedures may be administered by the Committee on Interdisciplinary Practice or by delegation to the director of nursing.

(b) Each standardized procedure shall:

(1) Be in writing and show date or dates of approval including approval by the Committee on Interdisciplinary Practice.

(2) Specify the standardized procedure functions which registered nurses are authorized to perform and under what circumstances.

(3) State any specific requirements which are to be followed by registered nurses in performing all or part of the functions covered by the particular standardized procedure.

No changes.
(4) Specify any experience, training or special education requirements for performance of the functions.
(5) Establish a method for initial and continuing evaluation of the competence of those registered nurses authorized to perform the functions.
(6) Provide for a method of maintaining a written record of those persons authorized to perform the functions.
(7) Specify the nature and scope of review and/or supervision required for the performance of the standardized procedure functions; for example, if the function is to be performed only under the immediate supervision of a physician, that limitation must be clearly stated. If physician supervision is not required, that fact should be clearly stated.
(8) Set forth any specialized circumstances under which the registered nurse is to communicate immediately with a patient's physician concerning the patient's condition.
(9) State any limitations on settings or departments within the facility where the standardized procedure functions may be performed.
(10) Specify any special requirements for procedures relating to patient recordkeeping.
(11) Provide for periodic review of the standardized procedure.
(c) If nurses have been approved to perform procedures pursuant to a standardized procedure, the names of the nurses so approved shall be on file in the office of the director of nursing.

Note: Authority cited: Section 208(a) and 1275, HSC. Reference: Section 1276, HSC.

2 CCR § 70729
§ 70729. Advertising.
No hospital shall make or disseminate any false or misleading statement or advertise by any manner or means any false claims regarding services provided by the hospital.

22 CCR § 70754
§ 70754. Special Hospital Transfer Agreement.
A special hospital shall have an effective written agreement with a general acute care hospital in the same geographic area for the provision of surgical and anesthesia services and any other service which may be required and which the special hospital does not provide.

22 CCR § 70757
### § 70757. First Aid and Referrals.

(a) If a hospital does not maintain an emergency medical service, its employees shall:

1. exercise reasonable care to determine whether an emergency exists;
2. render necessary lifesaving first aid; and
3. direct the persons seeking emergency care to the nearest hospital which can render the needed services; and
4. assist the persons seeking emergency care in obtaining such services, including transportation services, in every way reasonable under the circumstances.

(b) Hospitals not providing emergency medical service shall not advertise or make any other representation to the public that may convey or connote the availability of such service. The posting of signs to designate entrances for use by outpatients and ambulances such as ambulance entrance, referred patients, outpatient service or other words of similar connotation is not prohibited. Such hospitals may represent to the public in any form or manner and only in its entirety, the phrase first aid and referral service.

### § 70759. Exercise Stress Testing.

Where exercise stress testing is performed, there shall be appropriate monitoring and resuscitative equipment and persons trained in cardiopulmonary resuscitative techniques physically present.

### § 70761. Clinical Information Resources.

(a) Each hospital shall maintain a medical library that providers have available to them clinical information resources consistent with the needs of the hospital. Such resources shall be:

- located in a convenient location,
- organized, easily accessible, and available through authorized personnel at all times,
- these resources may consist of or include online resources,
- contain modern textbooks in basic sciences and other current textbooks, journals and magazines pertinent to the clinical services maintained in the hospital.

(b) Historically a hospital's medical library were the best resource for practitioners. However, the current availability of on line journals, free websites such as WebMD, ePocrates, etc., provide the most current, updated information available via computer or smart phone. A library with physical books that may be outdated does not meet the needs of the clinical staff. This requirement is outdated and should be eliminated in light of electronic access to free, on-line, current literature and medical information.
<table>
<thead>
<tr>
<th>§ 70763. Medical Photography.</th>
<th>The hospital shall have a policy regarding the obtaining of consent for medical photography.</th>
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<tbody>
<tr>
<td>22 CCR § 70765</td>
<td>Suitable space for conferences shall be provided in the hospital.</td>
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<tr>
<td>§ 70765. Conference Room.</td>
<td>There is no need for this to be in regulations. Hospitals have a multitude of rooms that can be used for meetings. CHA recommends removing this.</td>
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