Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Wireless Telecommunications Bureau and	)	WP Docket No. 10-54
Public Safety and Homeland Security Bureau	)	
Seek Comment on Request by American	)	
Hospital Association for Blanket Waiver to	)	
Permit Hospitals to Use Amateur Radio as Part	)	
of Emergency Preparedness Drills	)	

To: The Commission

COMMENTS

In response to the *Public Notice* in the captioned proceeding,[1] Saint Mary's Regional Medical Center hereby submits comments in support of the American Hospital Association's ("AHA") request for a blanket waiver of Section 97.113(a)(3) of the Commission's rules[2] to permit hospitals to utilize Amateur Radio operations as part of emergency preparedness drills. Grant of the requested waiver is consistent with the underlying purpose of the Amateur Radio Service and would otherwise serve the public interest.

Saint Mary's Regional Medical Center provides healthcare-related services to the northern Nevada and north-eastern California area. In order to effectively provide healthcare services during disasters and other emergency situations, hospitals must develop and test plans for operating during such scenarios. One of the critical components of these plans is ensuring that hospitals can communicate during disasters.

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[1] *Wireless Telecommunications Bureau and Public Safety and Homeland Security Bureau Seek Comment on Request by American Hospital Association for Blanket Waiver to Permit Hospitals to Use Amateur Radio as Part of Emergency Preparedness Drills*, WP Docket No. 10-54, *Public Notice*, DA 10-365 (rel. Mar. 3, 2010) ("*Public Notice*").

[2] 47 C.F.R. § 97.113(a)(3).

Accreditation and certification organizations require hospitals to have such plans in place and to regularly test the effectiveness of the plans. As AHA noted in its waiver request, amateur radio has been identified by an accreditation organization as a potential backup communications process to be identified in emergency preparedness plans for use if primary communications systems fail.[3] The Commission also recognized that the amateur radio community played an important role in the wake of Hurricane Katrina[4] and could do so in similar disaster situations.

The Amateur Radio Service was created, in part, in response to the recognition that amateur radio operations provide important public benefits, "*particularly with respect to providing emergency communications*."[5] The rules expressly permit an amateur radio station "to use any means of radiocommunications at its disposal" to provide essential communications during emergencies without first obtaining prior Commission approval.[6] Despite this regulatory regime, the Wireless Telecommunications Bureau, Public Safety and Homeland Security Bureau, and the Enforcement Bureau issued a Public Notice in October informing hospitals for the first time that employees with amateur radio licenses could not utilize their amateur stations in support of emergency preparedness drills absent grant of a waiver.[7] The *Waiver Public*

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[3] *See* AHA Blanket Waiver Request at 1-2.

[4] *See Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, WC Docket No. 06-63, *Order*, 22 FCC Rcd 10541, 10576 (2007).

[5] 47 C.F.R. § 97.1(a).

[6] 47 C.F.R. § 97.403.

[7] *See Amateur Service Communications during Government Disaster Drills*, DA 09-2259, *Public Notice*, 24 FCC Rcd 12872, 12872 (WTB/PSHSB/EB 2009) ("*Waiver Public Notice*").

Notice then established a process for obtaining drill-specific waivers to permit hospital employees with amateur radio licenses to participate in emergency preparedness drills.[8] This process is time consuming and burdensome, particularly given the fact that hospitals are not by their nature in the business of operating communications networks. Hospitals would need to divert already scarce resources from their primary focus – providing healthcare to the American public – in order to prepare ministerial filings with little or no corresponding public benefit.[9]

Grant of AHA's blanket waiver request would permit amateur radio operators to participate in drills designed to ensure continued communications during emergency situations. Amateur operators already are permitted to conduct emergency communications without prior Commission approval. There appears to be little benefit associated with requiring prior approval before amateur operators can participate in drills designed to prepare them for actual emergency situations.

The grant of the blanket waiver, however, should not be limited to hospitals seeking accreditation from the Joint Commission. The Joint Commission is an important and widely used accreditation organization. However, there are additional accreditation bodies that are utilized by hospitals, primarily the American Osteopathic Association's Healthcare Facilities Accreditation Program and DNV Healthcare. Further many small hospitals seek certification from their State rather than accreditation from an accreditation

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[8] *Id.*

[9] Absent a compelling public interest rationale, hospitals should not be required to prepare and file notices with the Commission regarding each emergency drill they perform. *See Public Notice* at 2 ("Commenters may also address whether, if blanket relief were to be granted, there would be some benefit from requiring hospitals to provide notice to the Commission concerning emergency drills they perform, and what such notices should entail").

body. However, all these accreditation and certification bodies have similar requirements with regard to emergency preparedness and all incorporate within their programs the comprehensive requirements contained in the Medicare Hospital Conditions of Participation (CoPs). Incorporating the CoPs allows these accreditation and certification bodies to deem hospitals compliant with the Medicare program participation requirements, which, in turn, allows the hospitals to be paid for services furnished to Medicare beneficiaries. One important Medicare CoP,[10] "The patient has the right to receive care in a safe setting" is interpreted by the Medicare program, to mean the hospital must develop and implement appropriate emergency preparedness plans and capabilities. In doing so, hospitals must consider (among other things) "[c]ommunication to external entities if telephones and computers are not operating or become overloaded (e.g., *ham radio operators*, community officials, other healthcare facilities if transfer of patients is necessary, etc.)"[11] and "[q]ualifications *and training* needed by personnel, including healthcare staff, security staff, and maintenance staff, to implement and carry out emergency procedures."[12] Accordingly, any hospitals seeking accreditation or certification should be covered by the blanket waiver regardless of the entity providing the accreditation/certification.

Based on the foregoing, a blanket waiver of Section 97.113(a)(3) should be granted expeditiously to permit hospitals seeking accreditation or certification "to use

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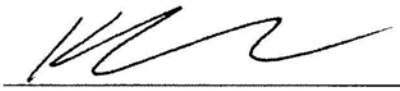
[10] 42 C.F.R. § 482.13(c)(2)
[11] CMS State Operations Manual
[12] *Id.*

amateur radio operators who are hospital employees to transmit communications on behalf of the hospital as part of emergency preparedness drills."[13]

Respectfully submitted,



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March 18, 2010

[13] *Public Notice* at 1.