



THE HOSPITAL & HEALTHSYSTEM ASSOCIATION OF PENNSYLVANIA

April 1, 2010

The Federal Communications Commission
WP Docket No. 10-54

**Re: Request for Blanket Waiver to Permit Hospitals to Use Amateur Radio in
Emergency Preparedness Drills**

Dear Federal Communications Commission:

In response to the Public Notice in the captioned proceeding,¹ The Hospital & Healthsystem Association of Pennsylvania (HAP) 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 rules² 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 serves the public interest.

HAP appreciates the opportunity to provide comments on behalf of Pennsylvania's 225 acute care and specialty hospital and health systems regarding the use of amateur radio operations as part of emergency preparedness drills. In order to effectively provide health care services during disasters and other emergency situations, hospitals must develop and test emergency preparedness plans to ensure that they can continue to operate in such situations. One of the critical components of these plans is ensuring that hospitals can effectively communicate with emergency service providers, various state and federal agencies, and other community partners during disasters. Accreditation and certification organizations require hospitals to have such plans in place and to regularly test the effectiveness of the plans, including the communication aspects of those emergency preparedness plans. As AHA noted in its waiver request, The Joint Commission identified that amateur radio may be used as a potential backup communications system should primary communications systems fail.³ The Federal Communications Commission also recognized that the amateur radio community played an

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).

³ See AHA Blanket Waiver Request at 1-2.





important role in the wake of Hurricane Katrina⁴ 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 current regulatory scheme, 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 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 health care to the American public—in order to prepare ministerial filings with little or no corresponding public benefit.⁹

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*”).

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”).



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 for compliance with Medicare Hospital Conditions of Participation through state surveyors contracted with the Centers for Medicare & Medicaid Services, rather than accreditation from an accreditation body. All these accreditation and certification bodies have similar requirements with regard to emergency preparedness, and all must address the comprehensive requirements contained in the Medicare Hospital Conditions of Participation. Incorporating the Medicare Hospitals Conditions of Participation into accreditation standards allows private 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 Condition of Participation,¹⁰ "The patient has the right to receive care in a safe setting," has been 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 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 "to use amateur radio operators who are hospital employees to transmit communications on behalf of the hospital as part of emergency preparedness

¹⁰ 42 C.F.R. § 482.13(c)(2)

¹¹ CMS State Operations Manual

¹² *Id.*



drills.”¹³ HAP appreciates the opportunity to provide comments on this important matter. Should you have questions about HAP’s comments, please feel free to contact Kirsten Saweikis Sullivan, director of outpatient and community health, HAP, at ksullivan@haponline.org or (717) 561-5356, or myself at lgleighton@haponline.org or (717) 561-5308.

Respectfully submitted,

A handwritten signature in black ink, which reads "Lynn G. Leighton". The signature is written in a cursive style.

Lynn G. Leighton
Vice President, Health Services
The Hospital & Healthsystem
Association of Pennsylvania

¹³ *Public Notice* at 1