Subject: Continuity of Medical Staff Leadership Following Termination of an Employment Agreement
(OMSS Resolution 1, A-23)

Presented by: John Spurlock, MD, Chair

OMSS Resolution 1-A-23 asked:

That our American Medical Association will make clear and inform medical staffs everywhere
that their bylaws need to be updated to reflect that elected medical staff leaders must be
allowed to serve out their term as leaders of the medical staff, whether their contract(s) with the
facility get renewed (Directive to Take Action).

This report outlines the recommendations and protections in place in the AMA model bylaws and
considers how medical staff leadership might be protected and maintained when employment
contracts are terminated.

INTRODUCTION

At its 2023 Annual Meeting, the Organized Medical Staff Section (OMSS) Assembly referred
Resolution 1-A-23, Ensuring Medical Staff Leaders Can Continue in Elected Leadership Positions
Whether or Not They Continue to Have Contact with the Medical Facility, for report back by the
OMSS Governing Council. Resolution 1-A-23 asked:

Resolution 1-A-23 seeks to have the AMA promote and advocate for an update to medical staff
bylaws that would fully allow for employed/contracted members of the medical staff to continue in
their leadership positions for their elected terms even if their contracts are terminated or altered. It
posit that doing so would preserve medical staff stability and autonomy and remove incentives for
targeting or silencing medical staff leadership.

The resolution states that many hospitals or healthcare facilities are lacking protections in their
bylaws for allowing medical staff leaders to continue in their leadership positions irrespective of
their contract with the hospital. It argues that without these protections, medical staff leaders can be
more easily targeted for speaking out on issues of medical staff self-governance, with
administrative forces willing to cancel contracts to limit staff action. Although not explicitly
considered, the resolution also alludes to the underlying complication that termination or non-
renewal of an employment agreement often coincides with termination of privileges and medical
staff membership, in which case it would be nonsensical for a physician to retain a medical staff
leadership position. It is therefore reasonable to conclude that the resolution is primarily concerned
with the integrity of membership in medical staffs for employed/contracted physicians, including
and extending to medical staff leadership positions.

The *AMA Physician’s Guide to Medical Staff Organization Bylaws* is the industry standard for
understanding and applying medical staff bylaws. It contains numerous provisions for how bylaws
should be adopted, how they should be interpreted, and for establishing protections for medical
staffs under a wide variety of conditions. The Guide does not specifically address the issue of
leadership with respect to employment contracts, however it does contain guidelines for ensuring
medical staff compliance with hospital policies. In such cases, the Guide is clear that it supports
that hospital policy is not binding on the medical staff unless affirmatively adopted by the medical
staff as medical staff policy. Thus, the Guide would tend to support medical staffs that proactively
chose to define their leaders’ term lengths to include time beyond any contracted with the hospital.
It should be stated, however, that the Guide is less clear about medical staff obligations in areas
where hospital corporate bylaws or employment agreements conflict with medical staff bylaws,
creating some potential legal tension.

Existing AMA policy does support protections for medical staff membership in the face of
administrative opposition. In one example from the Principles of Physician Employment, it states
“physician employment agreements should specify whether or not termination of employment is
grounds for automatic termination of hospital medical staff membership or clinical privileges.”
This suggests that the issue of continued membership in the face of a terminated or altered
employment contract is one that is thus far insufficiently settled.

CONCLUSION

After consideration, your Governing Council believes that while the question of medical staff
leadership responsibilities is the presenting problem in Resolution 1, the larger question is about
medical staff membership and fully articulating the conditions under which medical staff
membership is met. Because of its established preeminence on the subject, the *AMA Physician’s
Guide to Medical Staff Organization Bylaws* seems an appropriate avenue for addressing the issue.

The Bylaws Guide already contains significant guidance for establishing bylaws that enumerate
specific protections for employed physicians. Those protections, however, could be read to not
specifically address the tension between the duties and responsibilities of medical staff leadership
once employment has been terminated or in some way altered. Providing better clarity for these
conditions via an addition to the Medical Staff Bylaws Guide could address the concerns raised by
Resolution 1.

RECOMMENDATION

The OMSS Governing Council recommends that the following be adopted in lieu of Resolution 1-
A-23, and that the remainder of this report be filed:

1. That the Organized Medical Staff Section seek to update the *AMA Physician’s Guide to
   Medical Staff Organization Bylaws* to further enumerate and describe the protections
   afforded to employed physicians as medical staff members.

2. That the Organized Medical Staff Section seek to update the *AMA Physician’s Guide to
   Medical Staff Organization Bylaws* to provide additional guidance and protections for the
   medical staff in situations in which a medical staff leader’s employment contract is
   terminated, not renewed, or altered.