

mHealth Alert: FCC Seeks Comments on AHA Proposal To Use Amateur Radio Stations in Emergency Preparedness Drills

3/9/2010

By [Russell Fox](#)

The Federal Communications Commission (FCC) has invited interested parties to submit comments on a request by the American Hospital Association (AHA) that the FCC waive its rules so that hospitals may use amateur radio service stations in emergency preparedness drills. The deadlines for submitting comments and reply comments are April 2 and April 19, 2010, respectively.

The AHA request was prompted by a Public Notice issued in October 2009, in which the FCC reminded licensees that transmissions by amateur stations participating in disaster drills must comply with its rules, which otherwise prohibit amateur stations from transmitting communications on behalf of an employer. Because of the public interest in facilitating emergency preparedness drills, the FCC's October 2009 Public Notice provided a process by which *individual hospitals* could apply for a waiver to use amateur stations in an emergency. (In a real emergency, no waiver is required for amateur stations to use any means at their disposal to provide essential communications needs in connection with the protection of life and property.)

In order to eliminate the need for individual hospitals to seek the type of waiver outlined by the FCC in its October 2009 Public Notice, the AHA request asks that the FCC issue a *blanket* waiver to permit hospitals seeking accreditation from the Joint Commission (formerly the Joint Commission on Accreditation of Healthcare Organizations) to utilize amateur radio stations as part of emergency preparedness drills. AHA notes that pursuant to the Joint Commission's Accreditation Standards for Emergency Operations Plans, hospitals must establish backup communications processes and technologies to communicate essential information if primary communications systems fail, and hospitals must test their Emergency Operations Plan semi-annually. AHA argues that if a hospital plans on using amateur radio stations as a backup, it must conduct two drills annually using those stations, and must now, pursuant to the FCC's directive, secure a waiver of the FCC's rules each time. According to the AHA, "a blanket authorization would be far more effective and efficient at advancing the public interest than individualized waiver requests from numerous hospitals." It is expected that the FCC will issue a Notice of Proposed Rule Making soon that could permanently change its regulations to permit the type of operations contemplated by the AHA waiver request. In the interim, the FCC seeks comments on the blanket waiver proposed by AHA.

For assistance in this area please contact one of the attorneys listed below or any member of your Mintz Levin client service team.

Howard J. Symons

Chair, Communications Practice

(202) 434-7305

HJSymons@mintz.com

Russell H. Fox

(202) 434-7483

RFox@mintz.com

Karen S. Lovitch

Manager, Health Law Practice

(202) 661-8715

KSLovitch@mintz.com