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To Whom It May Concern:

On January 10th, 2008 the HHS Office of Inspector General (OIG) issued a report regarding the emergency care policies at physician-owned specialty hospitals. This report was requested in 2006 by Senators Charles Grassley and Max Baucus. While Physician Hospitals of America (PHA) initially endorsed the OIG's recommendations to CMS and supported CMS action where appropriate, we were not able to address any of the specific "facts" in the report because a list of hospitals was not immediately available. We have now obtained that list and contacted the hospitals that were interviewed for the report. PHA now knows that virtually all of the "facts" and conclusions in the report that relate to hospital compliance with federal staffing requirements and emergency policies are wrong.

The OIG interviewed and obtained documents from 109 hospitals in preparing the report. The OIG suggests that certain policies regarding emergency response and patient transfers might violate Medicare's conditions of participation. This suggestion is without merit. All of the hospitals have been surveyed and inspected as part of the process of obtaining Medicare certification. Review of policies is part of the survey process. If these policies were acceptable to CMS and other independent accrediting bodies, on what basis does the OIG now challenge their legitimacy?

The OIG further concluded that 37 of these hospitals allegedly use 911 as a substitute for the hospital's ability to stabilize its patients. So far, 29 of these hospitals have challenged this conclusion and provided documentation to PHA that supports this reaction. (One hospital has closed since the OIG began work on the report and six of the nonresponding hospitals are not PHA members, so we do not have contact with them.) According to the 29 hospitals, OIG staff did not contact them following the interview and document submission to discuss their concerns and to seek clarification or additional data. The OIG made no effort to allow these facilities to answer these allegations prior to the publication of the report.

Similarly, the OIG listed 8 hospitals which had supposedly violated Medicare conditions of participation due to improper staffing. Again, all 8 of the named hospitals have come forward with documentation showing that they were, in fact, properly staffed according to CMS guidelines during the times in question. The OIG's conclusions were wrong and

the agency erred in forwarding these hospitals to CMS for further investigative review. Again these issues could easily have been rectified by a simple follow-up call.

The OIG also reported the number of hospitals with emergency rooms and the size of those emergency rooms. However, the report made no mention of the fact that these issues are controlled by state law. The OIG failed to include a statement that each of these hospitals met their state law requirements, thus inferring impropriety where none exists.

Many of the hospitals named are five-star ranked and/or listed by independent quality authorities as the #1 hospital in their specialty and state. The OIG Report does a disservice both to the medical professionals of these hospitals and, more critically, to the patients who are served by them.

In the opinion of PHA, the OIG report is either an example of lazy reporting, failure to understand standard hospital policies and procedure, or blatant and purposeful misrepresentation. PHA and physician-owned specialty hospitals are outraged by the OIG's willingness to release such an erroneous report and by the failure of many in the media to seek independent confirmation of the report's allegations.

Sincerely,

Molly Sandvig, JD
Executive Director