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December 20, 2023

Dr. Dora Hughes, Chief Medical Officer
Director, Center for Clinical Standards and Quality

Lisa Parker
Director, Division of Institutional Quality Standards, Clinical Standards Group

U.S. Department of Health and Human Services
7500 Security Boulevard, M/S S2-12-25
Baltimore, MD 21133

Dear Dr. Hughes and Ms. Parker:

As you may know, the National Fire Protection Association recently updated NFPA 99: *Health Care Facilities Code* and NFPA 101: *Life Safety Code*. On behalf of the Association of periOperative Registered Nurses (AORN) and our nearly 45,000 operating room nurse members, we write to urge the Centers for Medicare & Medicaid Services (CMS) to require compliance with the 2024 editions of NFPA 99 and NFPA 101 to both reduce regulatory burdens on hospitals and improve staff and patient safety.

As hospitals are built or remodeled, they are required by their state and local jurisdictions to comply with current building codes, which will now include the 2024 editions of the NFPA 101: *Life Safety Code* and NFPA 99: *Health Care Facilities Code*. When CMS requires compliance earlier code editions, and other jurisdictions require adherence to 2024 codes, health care facilities face significant challenge and expense in meeting the conflicting requirements.

CMS can alleviate this burden by updating its Conditions of Participation and Conditions for Coverage to reference the 2024 editions of the *Life Safety Code* and the *Health Care Facilities Code* going forward.

Of significant importance to the health and well-being of AORN's surgical nurse members is the new 2024 *Health Care Facilities Code* requirement that health care facilities evacuate surgical smoke at its source (Section 9.3.8).

Surgical smoke is the result of human tissue contact with lasers and electrosurgical pencils commonly used for dissection and hemostasis during surgery. This smoke contains over 150 hazardous chemicals and carcinogenic and mutagenic cells. It contains toxic gases and vapors such as benzene, hydrogen cyanide, formaldehyde, bioaerosols, dead and live cellular material, blood fragments, and viruses.

Many surgical facilities do evacuate surgical smoke during some procedures, but few facilities evacuate consistently during all procedures which generate surgical smoke. Absent an

enforceable requirement to evacuate surgical smoke, operating room nurses are not guaranteed a safe and healthy workplace. Only fifteen states have smoke evacuation requirements in their hospital licensing or occupational safety laws and regulations, which is not enough to protect all workers from the dangerous health effects of breathing surgical smoke in our nation's operating rooms.

Adopting the 2024 editions of the *Life Safety Code* and the *Health Care Facilities Code* will not only reduce regulatory burden and building costs for our nation's hospitals and health care facilities, it will improve operating room personnel safety by ensuring smoke-free operating rooms nationwide.

Thank you for consideration. We truly appreciate your ongoing attention to clinical quality and successful patient outcomes.

Sincerely,

A handwritten signature in cursive script, appearing to read "Linda Groah".

Linda Groah, MSN, RN, CNOR, NEA-BC, FAAN
Executive Director/CEO