Contract Requirements of CMS, TJC, and DNV 2015

What hospitals need to know.
Speaker

- Sue Dill Calloway RN, Esq. CPHRM, CCMSCP
- AD, BA, BSN, MSN, JD
- President of Patient Safety and Education Consulting
- 5447 Fawnbrook Lane
- Dublin, Ohio 43017
- 614 791-1468 (Call with Questions, No Emails)
- sdill1@columbus.rr.com
CMS Contract Regulations
The Conditions of Participation (CoPs)

- Regulations first published in 1986
  - Many revisions since
  - Manual is updated more frequently now
- First regulations are published in the Federal Register then CMS publishes the Interpretive Guidelines and some have survey procedures
  - Hospitals should check this website once a month for changes

1www.gpoaccess.gov/fr/index.html  
2www.cms.hhs.gov/SurveyCertificationGenInfo/PMSR/list.asp
Policy & Memos to States and Regions

CMS Survey and Certification memoranda, guidance, clarifications and instructions to State Survey Agencies and CMS Regional Offices.

Select From The Following Options:

- Show all items
- Show only [select one or more options]:
  - Show only items whose [ ] is within the past [ ]
  - Show only items whose Fiscal Year is [ ]
  - Show only items containing the following word [ ]

Show Items

There are 455 items in this list.
Policy & Memos to States and Regions

CMS Survey and Certification memoranda, guidance, clarifications and instructions to State Survey Agencies and CMS Regional Offices.

<table>
<thead>
<tr>
<th>Title</th>
<th>Memo #</th>
<th>Posting Date</th>
<th>Fiscal Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Release of Three Hospital Surveyor Worksheets</td>
<td>15-12-Hospital</td>
<td>2014-11-26</td>
<td>2015</td>
</tr>
<tr>
<td>Rural Health Clinic (RHC) Location Determination Guidance Updated</td>
<td>15-09-RHC</td>
<td>2014-11-14</td>
<td>2015</td>
</tr>
<tr>
<td>Information for Clinical Laboratories Concerning Possible Ebola Virus Disease</td>
<td>15-08-CLIA</td>
<td>2014-11-07</td>
<td>2015</td>
</tr>
<tr>
<td>Nationwide Expansion of Minimum Data Set (MDS) Focused Survey Background</td>
<td>15-06-NH</td>
<td>2014-10-31</td>
<td>2015</td>
</tr>
<tr>
<td>Effect on Microbiology Laboratories Due to the Removal of References to the Clinical Laboratory Standards Institute (CLSI) and to CLSI Documents</td>
<td>15-07-CLIA</td>
<td>2014-10-31</td>
<td>2015</td>
</tr>
<tr>
<td>National Background Check Program (NRCP) Grant Award Updates</td>
<td>15-04-All</td>
<td>2014-10-24</td>
<td>2015</td>
</tr>
</tbody>
</table>
Questions

- CMS now has an email address that questions can be addressed
- Email address is hospitalscg@cms.hhs.gov
- CAH should address their questions to cahscg@cms.hhs.gov
- The Joint Commission (TJC) has the standards interpretive group (SIG) and can call with questions or email
  - Phone number is 630 792-5900
  - Has standards online question form at www.jointcommission.org
Standards Online Question Form

In order to answer your question appropriately, review the options below.

> **Standards Interpretation**
Complete the [online form](https://www.jointcommission.org) or call the Standards Interpretation or Engineering Department, 630-792-5900, 8:30 am - 5:00 pm CT.

> **Statement of Conditions**
Plan for Improvement Extension or Modification Request (The submission process changed effective 7/18/2014).
Login to [The Joint Commission Connect](https://www.jointcommission.org) to submit your request via your Statement of Conditions.

> **FSES Equivalency Request** (The submission process changed effective 7/18/2014)
Download and complete the [FSES Equivalency Request Form](https://www.jointcommission.org).

> **Traditional Equivalency Request** (The submission process changed effective 7/18/2014)
Download and complete the [Traditional Equivalency Request Form](https://www.jointcommission.org).

> **Accreditation/Certification Process - New Customer**
Complete the [Achieve the Gold Seal Request Form](https://www.jointcommission.org).

> **Agenda/Change in Organization/Complement/Eligibility/Survey Process - Accredited Customer**
Call your account executive. For help finding your account executive call 630-792-3007 option 4.

> **Clarification/Evidence of Standards Compliance/Measure of Success**
Contact your account executive. For help finding your account executive call 630-792-3007 option 4.

> **Patient Safety Event**
TJC Form to Ask a Question

Standards Online Submission Form

(* Required fields)
For Joint Commission accredited and certified organizations: If you have access to The Joint Commission Connect, login and select the "Contact Us" in the upper right hand corner to submit your question. If you use the form below, be sure to follow the three steps to identify your organization. This will allow us to track and prioritize customers' questions.

Joint Commission accredited? ☐ No ☑ Yes

Health Care Organization Information
Complete the three steps below. In step 3, only health care organizations accredited/certified by The Joint Commission are included in the list. Step 3 is required if you selected Yes, you are accredited.

Step 1. Select the state/country: 
Select...

Step 2. Select the city: 

Step 3. Select the health care organization: *

If you DID NOT find the name of the health care organization from the list in step 3 above or the address below is incorrect, press Reset and please complete the information below. If you are in the process applying for accreditation, please select "Current Accreditation Applicant" from the "Describe yourself as" picklist.

Prefix ▼ First Name * Last Name * Title Professional Credentials

Phone * Phone Extension
(###) ###-#### ####

E-Mail Address *

City * State *

Please respond to my Question via
☑ Email ☐ Phone

Questions
Select Accreditation/Certification Manual or Health Care Setting *
Access to Hospital Complaint Data

- CMS issued Survey and Certification memo on March 22, 2013 regarding access to hospital complaint data

- Includes acute care and CAH hospitals
  - Does not include the plan of correction but can request
  - Questions to bettercare@cms.hhs.com

- This is the CMS 2567 deficiency data and lists the tag numbers

- Updating quarterly
  - Available under downloads on the hospital website at www.cms.gov
Access to Hospital Complaint Data

- There is a list that includes the hospital’s name and the different tag numbers that were found to be out of compliance
  - Many on restraints and seclusion, EMTALA, infection control, patient rights including consent, advance directives and grievances

- Two websites by private entities also publish the CMS nursing home survey data
  - The ProPublica website for LTC
  - The Association for Health Care Journalist (AHCJ) websites for hospitals
Access to Hospital Complaint Data

Date: March 22, 2013
TO: State Survey Agency Directors
FROM: Director, Survey and Certification Group

Memorandum Summary

- **Survey Findings Posted on [http://www.cms.gov](http://www.cms.gov):** In July 2012, the Centers for Medicare & Medicaid Services (CMS) began posting redacted Statements of Deficiencies (CMS-2567s) for skilled nursing facilities and nursing facilities on Nursing Home Compare. In March 2013, CMS began posting CMS-2567s for short-term acute care hospitals and critical access hospitals (CAHs) for surveys based on complaint investigations. This memorandum describes the contents and location of those files.

- **Other Web-based Tools Based on These Data:** At least two additional websites, provided by private parties (ProPublica and the Association for Health Care Journalists), publish information based on the CMS-2567 data. These websites are independent of CMS. CMS does not endorse or sponsor any particular private party application.

- **Plans of Correction (POC):** The posted CMS data do not contain any POC information. State Survey Agencies (SAs) and CMS Regional Offices (RO) may see an increase in requests for both the CMS-2567 and any associated POCS.

- **Questions & Answers:** We plan to issue an update to this memorandum that will include an attachment of frequently asked questions in order to provide answers to other queries that may arise.

Background – Nursing Home Survey Findings

In July 2012, CMS began posting nursing home statements of deficiencies, derived from the Form
Hospitals

This page provides basic information about being certified as a Medicare and/or Medicaid hospital provider and includes links to applicable laws, regulations, and compliance information.

A hospital is an institution primarily engaged in providing, by or under the supervision of physicians, inpatient diagnostic and therapeutic services or rehabilitation services. Critical access hospitals are certified under separate standards. Psychiatric hospitals are subject to additional regulations beyond basic hospital conditions of participation. The State Survey Agency evaluates and certifies each participating hospital as a whole for compliance with the Medicare requirements and certifies it as a single provider institution.

Under the Medicare provider-based rules it is possible for ‘one’ hospital to have multiple inpatient campuses and outpatient locations. It is not permissible to certify only part of a participating hospital. Psychiatric hospitals that participate in Medicare as a Distinct Part Psychiatric hospital are not required to participate in their entirety.

However, the following are not considered parts of the hospital and are not to be included in the evaluation of the hospital’s compliance:

- Components appropriately certified as other kinds of providers or suppliers, i.e., a distinct part Skilled Nursing Facility and/or distinct part Nursing Facility, Home Health Agency, Rural Health Clinic, or Hospice; Excluded residential, custodial, and non-service units not meeting certain definitions in the Social Security Act; and,
- Physician offices located in space owned by the hospital but not functioning as hospital outpatient services departments

Accredited Hospitals - A hospital accredited by a CMS-approved accreditation program may substitute accreditation under that program for survey by the State Survey Agency. Surveyors assess the hospital’s compliance with the Medicare Conditions of Participation (CoP) for all services, areas and locations covered by the hospital’s provider agreement under its CMS Certification Number (CCN).

Although the survey generally occurs during daytime working hours (Monday through Friday), surveyors may conduct
## Contract Deficiencies - Hospitals

<table>
<thead>
<tr>
<th>Section Name</th>
<th>Tag Number</th>
<th>Number of Deficiencies April 15, 2015</th>
<th>Jan 15 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contracted Services</td>
<td>83</td>
<td>65</td>
<td>63</td>
</tr>
<tr>
<td>Contracted Services</td>
<td>84</td>
<td>51</td>
<td>49</td>
</tr>
<tr>
<td>Contracted Services</td>
<td>85</td>
<td>9</td>
<td>9</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Total</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total 125</strong></td>
<td></td>
<td></td>
<td><strong>Total 121</strong></td>
</tr>
</tbody>
</table>
Reasons for Deficiencies

- Failure to monitor contracted services
- Contract had no description of the service provided
- Contracted services not monitored by QAPI
- Contracted dietician did not follow hospital CoPs
- Findings of the following contracted services:
  - Laundry services, security officers, police officers, dietary, interpreters, housekeeping (environmental services) many related to dialysis contracts, eICU vendor (to ensure quality of care), RNFA contracts and didn’t ensure ED physicians had ACLS as required in the contract
Reasons for Deficiencies

- Hospital did not provide scope and nature of the services provided
- Hospital failed to maintain a list of contracts
- No signed transfer agreement
- Board did not review contracts
- Board did not make sure all contracts performed in a safe and effective manner
- No orientation to personnel providing contracted services such as an agency nurse
Interpretative guidelines under state operations manual (SOM) ¹

- Appendix A, Tag A-0001 to A-1164

Manuals found at ²

- Manuals are now being updated more frequently
- Still need to check survey and certification website monthly

¹www.cms.hhs.gov
Each Appendix is a separate file that can be accessed directly from the SOM Appendices Table of Contents, as applicable.

The appendices are in PDF format, which is the format generally used in the IOM to display files. Click on the red button in the 'Download' column to see any available file in PDF.

To return to this page after opening a PDF file on your desktop, use the browser "back" button. This is because closing the file usually will also close most browsers.

**New website at**


<table>
<thead>
<tr>
<th>App. No.</th>
<th>Description</th>
<th>PDF File</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Hospitals</td>
<td>2,185 KB</td>
</tr>
<tr>
<td>AA</td>
<td>Psychiatric Hospitals</td>
<td>606 KB</td>
</tr>
</tbody>
</table>
CoP Manual Also Called SOM

State Operations Manual
Appendix A - Survey Protocol,
Regulations and Interpretive Guidelines for Hospitals

Table of Contents
(Rev. 137, 04-01-15)

Transmittals for Appendix A

Survey Protocol

Introduction

Task 1 - Off-Site Survey Preparation
Task 2 - Entrance Activities
Task 3 - Information Gathering/Investigation
Task 4 - Preliminary Decision Making and Analysis of Findings
Task 5 - Exit Conference
Task 6 - Post-Survey Activities

Psychiatric Hospital Survey Module
Psychiatric Unit Survey Module
Rehabilitation Hospital Survey Module
Inpatient Rehabilitation Unit Survey Module
Hospital Swing-Bed Survey Module

Regulations and Interpretive Guidelines

§482.2 Provision of Emergency Services by Nonparticipating Hospitals
§482.11 Condition of Participation: Compliance with Federal, State and Local Laws
§482.12 Condition of Participation: Governing Body
§482.12 Condition of Participation: Governing Body

CMS Hospital Worksheets History

- Memo discusses final surveyor worksheets for hospitals by CMS during a hospital survey
  - Will use whenever a validation survey or certification survey is done at a hospital by CMS
  - CMS says worksheets are used by State and federal surveyors on all survey activity in assessing compliance with any of the three CoPs

- Addresses discharge planning, infection control, and QAPI (performance improvement)
  - Final ones issued November 26, 2014
  - Asks about contracts in QAPI worksheet
Final 3 Worksheets

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C2-21-16
Baltimore, Maryland  21244-1850

Center for Clinical Standards and Quality/Survey & Certification Group

DATE:  November 26, 2014
TO:    State Survey Agency Directors
FROM:  Director
        Survey and Certification Group
SUBJECT: Public Release of Three Hospital Surveyor Worksheets

www.cms.gov/SurveyCertificationGenInfo/PMSR/list.asp#TopOfPage

Memorandum Summary

- **Three Hospital Surveyor Worksheets Finalized**: The Centers for Medicare & Medicaid Services (CMS) has finalized surveyor worksheets for assessing compliance with three Medicare hospital Conditions of Participation (CoPs): Quality Assessment and Performance Improvement (QAPI), Infection Control, and Discharge Planning. The worksheets are used by State and Federal surveyors on all survey activity in hospitals when assessing compliance with any of these three CoPs.

- **Final Worksheets Made Public**: Via this memorandum we are making the worksheets publicly available. The hospital industry is encouraged, but not required, to use the worksheets as part of their self-assessment tools to promote quality and patient safety.
<table>
<thead>
<tr>
<th>Elements to be Assessed</th>
<th>Manner of Assessment Code (Enter all that apply) &amp; Surveyor Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.2.b Using information from the hospital identifying services provided under arrangement (contract), can the QAPI manager provide evidence of QAPI assessment for each service related to clinical care provided under contract or arrangement? (Exclusively administrative contractual services, e.g., payroll preparation, are not required to be included in the QAPI program.)</td>
<td>☐ YES ○ 1 ☐ NO ○ 2 ☐ N/A ○ 3 ○ 4 ○ 5</td>
</tr>
</tbody>
</table>

If no to 6.2.b, cite at 42 CFR 482.12(e) and 482.21 (for pilot - Standard level tag) (Tags A-083 and A-308)

<table>
<thead>
<tr>
<th></th>
<th>Manner of Assessment Code (Enter all that apply) &amp; Surveyor Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.3 Is there evidence that the governing body, hospital CEO, Medical Staff leadership, and other senior administrative officials, e.g., Director of Nursing, each play a role in QAPI program planning and implementation?</td>
<td>☐ YES ○ 1 ☐ NO ○ 2</td>
</tr>
</tbody>
</table>

If no to 6.3, cite at 42 CFR 482.21(e)[2] (Tag A-309)

<table>
<thead>
<tr>
<th></th>
<th>Manner of Assessment Code (Enter all that apply) &amp; Surveyor Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.4 Is there evidence, e.g. in minutes, that the hospital’s governing body:</td>
<td></td>
</tr>
<tr>
<td>6.4.a Approves QAPI program indicators selected and frequency of data collection?</td>
<td>☐ YES ○ 1 ☐ NO ○ 2</td>
</tr>
</tbody>
</table>
Entrance Activities of Surveyor

- Provide information to surveyor
  - Infection control plan
  - List of employees
  - Medical staff bylaws, rules and regulations
- Surveyor to clarify any contracted patient care services or activities
- List of contracted services
### Have a List of Contracted Services

<table>
<thead>
<tr>
<th>Name of Provider</th>
<th>Service Provided</th>
<th>Quality/Performance Measure</th>
<th>Person Responsible</th>
<th>Administrator</th>
<th>Date of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kidney Stones R Us</td>
<td>Provide mobile extracorporeal shock wave lithotripsy services</td>
<td>Number of cancellations after patient arrived in pre-op, total number of procedures, cancellation rate</td>
<td>Minnie Mouse</td>
<td>Walt Disney</td>
<td>9/10/2013</td>
</tr>
<tr>
<td>Suicide Prevention Inc</td>
<td>Provide patient care for mental health, substance abuse and crisis intervention services 24 hours/day.</td>
<td>Number of responses for suicidal consults, number of consult requests, consultation rate. Coding for suicide only on present. Proposed measures (1) Crisis intervention within 60 minutes (2) call back from Bridgeway within 10 minutes.</td>
<td>Miles Standish</td>
<td>John Alton</td>
<td>5/12/2013</td>
</tr>
<tr>
<td>Radiology Services Inc</td>
<td>Provide radiology service coverage</td>
<td>(1) Average monthly report turnaround time (RTAT) - target: twenty-four (24) hours from completion of study (2) Percent of reprints completed in twenty-four (24 hours - target: eighty percent (80%) (3) Percent of critical results reported in thirty (30) minutes - Target: one hundred percent (100%) contracts wrt rad for after hour services discrepancy evaluation is provided and reviewed quarterly at radiology quarterly medical staff meeting.</td>
<td>Dafey Duck</td>
<td>Donald Duck</td>
<td>5/12/2012</td>
</tr>
<tr>
<td>eICU</td>
<td>Provide diagnostic and therapeutic services remotely, via electronic communications</td>
<td>ICU Risk Adjusted LOS, ICU Risk Adjusted Mortality, Compliance with Evidenced Based best practice</td>
<td>Sue Dill Calloway</td>
<td>Ralph E. Dill</td>
<td>7/12/2012</td>
</tr>
<tr>
<td>Provider</td>
<td>Service Provided</td>
<td>Criteria</td>
<td>Vendor</td>
<td>Model</td>
<td>Date</td>
</tr>
<tr>
<td>------------------------------</td>
<td>-------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
<td>-----------------</td>
<td>----------------</td>
<td>------------</td>
</tr>
<tr>
<td>Best Laundry Services</td>
<td>Provide laundry services</td>
<td>rewash each month, total number of pounds laundry sent out, rewash rate. Conditions measured in quarterly laundry performance evaluation meet standards. (Tensile Strength loss, whiteness degree, yellowness, blood stain removal, soil removal, chlorine bleach)</td>
<td>Beary Clean</td>
<td>Linen Shhets Jr</td>
<td>9/9/2013</td>
</tr>
<tr>
<td>Ohio Center for Independent Living</td>
<td>Provide qualified sign language interpreter</td>
<td>process when in-person sign language interpreter is not provided upon notice of 3 working days.</td>
<td>Mercedes Carr</td>
<td>Mercedes Carr</td>
<td>3/4/2012</td>
</tr>
</tbody>
</table>
| Video Taper R Us             | Provide video interpreting services                  | • ≥ 97% of overall call volume = Quality  
• < 3% of overall call volume = Poor Quality  | Lisa Recording | Sounds McAffy          | 5/5/2011   |
| Red Crosses Plus             | Provide Blood and blood product                      | products available, number of blood products requested, rate (2) Stat request turn around time from order received until products leave center. | Platelet McCell | Cryo Whitecell | 14/2013    |
| Phone                        | Provide language interpreting services over the phone | interpreting services twenty-four (24) hours a day. Average speed of answer: Target is 5-9 seconds. Connect time: target is 20-75 |                 |                |            |
Document Review Session

- Provide any **contracted patient care services** such as dietary, treatment or diagnostic services

- During document review session provide the following documents

  - “**Contracts**, if applicable, to determine if patient care, governing body, QAPI, and other CoP requirements are included”
A-0083
(Rev. 37, Issued: 10-17-08; Effective/Implementation Date: 10-17-08)
§482.12(e) Standard: **Contracted Services**

The governing body must be responsible for services furnished in the hospital whether or not they are furnished under contracts. The governing body must ensure that a contractor of services (including one for shared services and joint ventures) furnishes services that permit the hospital to comply with all applicable conditions of participation and standards for the contracted services.

**Interpretive Guidelines §482.12(e)**

The governing body has the responsibility for assuring that hospital services are provided in compliance with the Medicare Conditions of participation and according to acceptable standards of practice, irrespective of whether the services are provided directly by hospital employees or indirectly by contract. The governing body must take actions through the hospital’s QAPI program to: assess the services furnished directly by hospital staff and those services provided under contract, identify quality and performance problems, implement appropriate corrective or improvement activities, and to ensure the monitoring and sustainability of those corrective or improvement activities. See §482.21 QAPI.
Contracted Services  83

- Board is responsible for services provided in the hospital
- Whether provided by hospital employees or under contract
- Board must make sure the contractors furnish services that meet the hospital CoPs and standards for contracted services
  - This includes ones for shared services and joint ventures
  - Includes services related to patient care such as environmental cleaning, sterilization, laundry, lab, pharmacy
  - Different from the TJC standards that only affect patient care contracts
Contracted Services  83

- Board must take action under hospital’s QAPI program to assess services provided both by employees and under direct contract

- Board must take action to identify quality problems and ensure monitoring and correction of any problems

- Board must make sure corrections sustained
  - TJC has more detailed contract management standards in LD chapter
Contracted Services  A-0084

- Board must ensure services performed under contract are performed in a safe and efficient manner
- Indirect arrangements may take into consideration services provided through formal contracts, joint ventures, informal agreements, shared services, or lease arrangements
- Patient care services provided under contract are subject to the same QAPI evaluations as services provided directly by the hospital
List of Contracted Services 85

- Review QAPI plan to ensure that every contracted service is evaluated
- CMS asks about contracts and PI activity under the revised and final QAPI CMS worksheet
- Hospital must maintain a list of all contracted services (85)
- Contractor services must be in compliance with CoPs
  - Consider adding a section to all contracts to address CoP requirements that contractors agree to follow all hospital CoPs and TJC requirements
All hospital contracts need to include the following essential components to meet corporate standards: Blacked-out areas indicate the component does not apply to that type of contract.

<table>
<thead>
<tr>
<th>Essential Components</th>
<th>Physician Contracts</th>
<th>Clinical Contracts</th>
<th>Non-Clinical Contracts</th>
<th>Hospital Service Agreements</th>
</tr>
</thead>
<tbody>
<tr>
<td>30-90 day out clause without termination</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Double indemnity</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stated amounts</td>
<td></td>
<td></td>
<td>¥</td>
<td></td>
</tr>
<tr>
<td>Clear cut definition of responsibilities</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Liability Insurance Coverage</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Independent Contractor</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PI Program/Quality Improvement</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Community Hospital
Monitoring Tool for Operations Contracts

Name of Provider: ___________________________ Contract Date: ____________

Type of Services: ____________________________

Last Review Date: ___________________________ Review for Period FYE: __________

<table>
<thead>
<tr>
<th>STANDARD</th>
<th>Almost Always (5)</th>
<th>Sometimes (3)</th>
<th>Almost Never (1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Contract service provider performs consistently according to policies, procedures, and practices established by the Health Center and in accordance with the plan of care established for client.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Contract service provider is consistently available to support the Health Center with problems related to service.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Contract service provider consistently makes effort to respond to the Center in the time frame requested after accepting an assignment. The designated Health Center staff is notified in the event time limits cannot be met.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Contract service provider consistently submits necessary materials within the time frames specified in the contract.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Contract service provider consistently submits necessary documents that are complete and adequate with regard to the Health Center’s standards and regulations.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
6. A verbal report is provided to the Health Center following any unscheduled service, information and services.

7. Contract service provider does not alter requested service in type, scope, or duration.

8. Contract service provider reports significant information and/or problems in servicing the Health Center at the time of the discovery.

9. Contract service provider attends meetings concerning the Hospital contract or services if problems occur.

10. Contract service provider informs designated Hospital staff of available work hours and when unable to complete assignment.

11. Contract service provider consistently informs the Hospital of any pertinent information that should become available to them that relates to the operations of the Hospital.

12. If applicable, the Contract service provider has obtained, and is obtaining, accreditation with a national accrediting body (i.e., TJC, COLA).
Any problems?


Action taken:


Resolved:


<table>
<thead>
<tr>
<th>Frequency</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Almost always</td>
<td>X 5 points =</td>
</tr>
<tr>
<td>Sometimes</td>
<td>X 3 points =</td>
</tr>
<tr>
<td>Almost never</td>
<td>X 1 points =</td>
</tr>
</tbody>
</table>
A Checklist for Contract Review

- Does the facility’s risk manager review all contracts?
- Does the facility have a policy requiring that all contracts and agreements be submitted in writing for risk management review?
- Does the facility have a policy designating signatory authority?
- Are proper corporate names used in the contract? (The contract should not use the name “ABC Hospital” if the contracting party is actually the legal entity “ABC Healthcare Systems.”)
- Is there a mechanism to ensure that any changes in the contract (e.g., scope of services, fees) be memorialized in writing and signed by the parties?
- Does the facility seek to specify that the contract will be governed by the laws of the state in which the facility is located?
- Are all insurance provisions of a contract carefully reviewed to ensure that loss exposures are adequately covered with appropriate policy limits?
- Will the facility require the contracting party to carry insurance to protect against
  - Workers’ Compensation or disability claims that may arise if the contracting party’s personnel are injured on facility property;
  - general liability claims if the contracting party’s personnel damage facility property or injure patients, visitors, or employees in the course of performing their contractual duties; and
  - professional liability claims arising from the contracting party’s rendering of or failure to render a service?
- Is it advisable for the facility to be added as a named insured on the contractor’s policy, and if so, is the amount of insurance adequate and has proof of valid insurance been provided?
- Does the facility require that certificates of insurance clearly indicate a 30-day advance written notice of cancellation or nonrenewal?
- Does the facility seek the inclusion of hold harmless or indemnification clauses when appropriate? Is the precise wording drafted or reviewed by an attorney to ensure that such clauses are appropriate and, if agreed to, will be legally enforceable?
- Does the facility require proof of insurance that will cover a specific loss shifting clause?
- If insurance requirements are imposed, is there a general clause that stipulates that carrying the prescribed insurance will in no way be construed as either a limitation or satisfaction of the indemnification agreement?
- Are provisions that require the facility to indemnify the other party negotiated out of contracts or narrowly and specifically worded?
- If the healthcare facility agrees to be the indemnitor or agrees to waive subrogation in favor of the vendor, has an appropriate modification of the facility’s insurance been obtained before the contract is signed?
- Has a waiver of subrogation clause been included to preclude the vendor’s Workers’ Compensation and property insurers from pursuing a subrogation action against the facility?
- Does the facility have a systematic method of centralizing all contracts?
- Is a system in place to ensure periodic review of all contracts?
- Is a system in place to flag termination and renewal dates?
Sample Policy and Procedure

Contract Review

(All sample procedures are intended for educational purposes only, are not authoritative nor do they set standards – State specific law must always be considered and utilized in hospital specific guidelines/procedures. Consult an attorney for specific legal guidance.)

Subject: Contract Review
Number: ____________________________
Effective Date: ____________________________
Supersedes SPP# ____________________________ Dated: ____________________________
Approved by: ____________________________ (signature)
Distribution: ____________________________

I. STATEMENT OF PURPOSE

To establish a procedure for reviewing all contracts prior to their final endorsement by administration.

II. STATEMENT OF POLICY

Prior to signing final contracts with business associates, firms providing physician services, physicians, building contractors, medical equipment sales or leasing companies, drug companies, colleges/universities, medical waste handling contractors, third party reviews, consultants, research agreements, recycling services or any other type of contracted service, the document will be assessed for risk exposure.

III. PROCEDURE

A. It is the responsibility of the individual negotiating the proposed contract on behalf of the health care organization to make certain that the Risk Manager has the opportunity to conduct a comprehensive risk management review.

B. The Risk Manager shall complete a risk assessment using review...
2. Contractual conditions that may have the effect of putting either party in violation of the law (finding them may require extrapolating the possibilities of what might happen under the contract over time.

3. Contractual conditions that require the health care organization to assume liability of another party over whom it has no control.

4. Contractual conditions that require the health care organization to agree to modifications in an existing contract without prior approval.

C. The decision to include outside legal counsel in the review of proposed contractual agreements shall be at the discretion of organization administration. However, the following types of contracts will generally be reviewed by outside counsel:

1. Physician contracts
2. Joint venture agreements
3. Managed care contracts
4. Environmental management and disposal contracts
5. Construction contracts
6. Professional education contracts
7. Any contract where there is a concern about liability exposure

D. Copies of completed contracts shall be submitted to the organization’s liability insurance underwriter as needed to determine questions of coverage and underwriting exposure.

E. All completed contracts shall be secured and centrally filed in the administrative offices and access will be limited to administration, risk management and legal counsel. With administrative permission, a copy may be provided to the personnel responsible for carrying out the contract duties. Contract will be retained for 7 years after last effective date.

F. All contracts will be reviewed annually and renegotiated appropriately.
Critical Access Hospitals
Contract Sections

[Image of a road through green fields]
Contract Provisions for CAH

- CMS issues 93 pages long, advance copy on January 16, 2015 and effective April 7, 2015

- Changes to pharmacy, infection control, dietary, nursing, and rehab services and many sections
  - Also to include interpretive guidelines for changes in the Federal Regulations that went into effect July 11, 2014 including responsibilities of physicians
  - Added contracts section to tag 286 to 289

- CAH many have contracts for outsourcing lab tests, radiology, diagnostic or other services
  - Surveyor to ask what contracts hospital has in document review
Contracted Services  2015

- Surveyor to ask for a list of contracted services
  - To verify licensure for any contracted personnel
  - Surveyor to verify there are procedures in place to guarantee licensure of employees working under contract or agreement
- Same telemedicine contract standards as discussed previously
- Discuss contracts also in maintenance section regarding equipment testing and inspection for hospitals that contract this out (222)
State Operations Manual
Appendix W - Survey Protocol, Regulations and Interpretive Guidelines for Critical Access Hospitals (CAHs) and Swing-Beds in CAHs

(Rev. 138, 04-07-15)

Transmittals for Appendix W

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Survey Protocol
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Tasks in the Survey Protocol
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Task 2 - Entrance Activities
Task 3 - Information Gathering/Investigation
Task 4 - Preliminary Decision Making and Analysis of Findings
Task 5 - Exit Conference
Task 6 - Post-Survey Activities

Regulations and Interpretive Guidelines for CAHs

§485.608 Condition of Participation: Compliance With Federal, State, and Local Laws and Regulations
§485.610 Condition of Participation: Status and Location
§485.612 Condition of Participation: Compliance With CAH Requirements at the Time of Application
§485.616 Condition of Participation: Agreements
§485.618 Condition of Participation: Emergency Services
Contract Provisions for CAH 287 2015

- Must have agreement or arrangement with one or more providers or supplies participating under Medicare to provide services to patients
  - Arrangement or agreement with 1 or more doctors to provide care
- If referral agreement is not in writing then can show that doctors are accepting patients when referred
  - Given appointments and seen
- Need P&P for referring patients it discharges who need additional care
Lab or diagnostic services that are not available at the CAH

- Surveyor to look at any contracted patient care activity or patient services (dietary, treatment area, diagnostic services such as MRI) on campus and at provider based locations
- Want to have an agreement with 1 or more other providers to provide additional services to the CAH
- Want to be sure referred patients are accepted and treated

Need to make sure basic lab services are available to ensure an immediate diagnosis and treatment

- Staff can provide or can contracted services for services provided at the hospital
Need to have agreement with a lab that can provide additional or specialized lab tests

- CAH draws and sends tests out
- Required to have P&P on this
- If labs that provide additional diagnosis and clinical lab services must be in compliance with CLIA and lab will be surveyed separately for compliance

CAH needs evidence that the outside lab has a CLIA certificate or waiver

- CAH contracts with company to provide toxicology studies for patients in the ED who took an overdose

Same is true of radiology services and if done outside make sure CAH gets copy of report
CAH can provide food and other services to meet inpatient’s nutritional needs

Or CAH can contract out this service

Must still make sure patient nutritional needs are met

Dietary services must be provided as per the P&P

Exception is grandfathered co-located CAH but surveyor will assess it
Need to keep list of all services provided under contract or agreement

- Must include service offered, individual or entity that is providing it, and whether on or off-site
- Must include if any limit on the volume of frequency of the services provided
- Must include when the services are available
- Update list each time services added or removed
CEO is responsible for operation of all patient services furnished in the CAH

- This includes those performed directly or by contract
- Must take action to ensure this

- It includes not only care provided directly to patient but also services related to patient care
  - Housekeeping, instrument cleaning and sterilization, laundry, pharmacy services, lab
The Joint Commission
Contract Management Standards
Joint Commission Contract Standard

- The Joint Commission (TJC) has a contract standard

- It is located in the leadership standard which was rewritten in 2009 and amended frequently since then
  - Hospital leadership must monitor patient care that is provided by contracted services

- Standard LD.04.03.09 and has 11 elements of performance (EPs) and a rationale

- Hospitals enter into a number of contracts from provider groups, diagnostic centers, vendors, employment agencies and other business partners
Contracts

- Hospitals need to have a system for management of contracts

- It is necessary to manage contracts to save time and money, guard against liability exposure and reduce the likelihood of conflict and litigation

- Does your hospital have a centralized contract development and review process?

- Hospitals must also keep CMS and Joint Commission contract standards in mind in drafting contracts

  - These require closer monitoring of hospital contractors
LD Standard Organized into 4 Sections

- There are 4 key sections which support effective performance
  - Leadership Structure
  - Leadership Relations
  - Hospital culture and system performance expectations
- Operations
  - Contract standard is located here, need to meet the patient needs
Speaker is Author of TJC Leadership Book

- Published December 2014 by HCPro
- The Compliance Guide to the Joint Commission Leadership Standards
- Chapter where contract management standards are located
IV. Operations

A. Administration (revised LD.04.01.01, LD.04.01.03, LD.04.01.05, LD.04.01.07, LD.04.01.11)
   *(revised LD.04.01.09 is not Applicable to Hospital)*

B. Ethical Issues (revised LD.04.02.01, LD.04.02.03, LD.04.02.05)

C. Meeting Patient Needs (revised LD.04.03.01, LD.04.03.07, LD.04.03.09, LD.04.03.11)
   *(revised LD.04.03.03 and LD.04.03.05 are not Applicable to Hospital)*

D. Managing Safety and Quality (revised LD.04.04.01, LD.04.04.03, LD.04.04.05, LD.04.04.07)
   *(revised LD.04.04.09 is not Applicable to Hospital)*

E. Not Applicable to Hospital (revised LD.04.05.01 through LD.04.05.15)
Introduction Contracts

- The same level of care must be provided to patients whether you provide the service directly or through contract services.

- The hospital leaders must oversee the contracted services to make sure they are provided safely and efficiently and have P&P to ensure this.

- This means leaders must be actively involved not only in negotiating and approving initial contracts but also in monitoring the on-going performance (PI).

  - Must take appropriate action to correct any deficiency and terminate the contract if necessary.
Introduction Contracts

- This standard outlines the requirements of leadership to manage and provide oversight of contracted services.
- TJC does not prescribe specific parameters for monitoring contracted services.
- Hospital leaders are free to develop an oversight system that is appropriate for their hospital.
- There has been an increased focus on contracts during the survey by both CMS and TJC.
Contracted Services

- This standard apply to contracted agreement for providing care, treatment, and services to patients
  
  - Hospital hires pharmacy company to run the pharmacy and director of pharmacy is employee of contracted company
  
  - Hospital hires part time physical therapist who specialized in pediatrics and hand injuries as contracted employee
Contracted Services  Introduction

- This standard does **not** apply to contracted services not directly related to patient care
  - Hospital signs contract with company for snow removal
    - Linen service is often asked about
  - Hospital contracts with company to put a new roof on the hospital
- Contracts for consultation or referral are not subject to these requirements
Contracted Services or Agreements

- However, regardless of whether or not a contract is subject to this standard, the actual performance of the standard is evaluated at other standards in the manual.

- Performance of the contract should reflect:
  - Basic principles of risk reduction
  - Safety
  - Staff competence and
  - Performance improvement (PI)
Methods to Evaluate Contracted Services

- The standard and EPs do not prescribe the methods for evaluating contracts
- TJC allows the hospital leaders to select the best method to evaluate that quality and safety is provided through the contract
- Hospitals may want to consider a number of sources of information that could be used to evaluate contracts
Contract Review Ideas

- Direct observe care provided
- Audit documentation requirements
- Audit the medical records
- Review incident reports
- Obtain input from staff and patients
- Review of patient satisfaction surveys (patient experience)
- Review the results of risk management activities
Contract Review Ideas

- Review information to see if contractor is also accredited by TJC
- See if certified or certification status
- Has contracted employee been involved in any sentinel events
- Review performance improvement (QAPI) data
- Review indicators required in the contract
- Review of periodic reports submitted by the individual
Credentialing and Privileging

- In most cases, each LIP that provided services through a contract must be credentialed and privileged
- This should be done by the hospital using their services
- There are three exceptions to this rule
- First, off-site services provided by a Joint Commission accredited contractor
Telemedicine Requirements
Hospital Accreditation Program

Standard LD.04.03.09
Care, treatment, and services provided through contractual agreement are provided safely and effectively.

Element of Performance for LD.04.03.09

1. Clinical leaders and medical staff have an opportunity to provide advice about the sources of clinical services to be provided through contractual agreement.

2. The hospital describes, in writing, the nature and scope of services provided through contractual agreements.

3. Designated leaders approve contractual agreements.

4. Leaders monitor contracted services by establishing expectations for the performance of the contracted services.
   Note 1: In most cases, each licensed independent practitioner providing services through a contractual agreement must be credentialed and privileged by the hospital using their services following the process described in the “Medical Staff” (MS) chapter.
   Note 2: For hospitals that do not use Joint Commission accreditation for deemed status purposes: When the hospital contracts with another accredited organization for patient care, treatment, and services to be provided off site, it can do the following:
     - Verify that all licensed independent practitioners who will be providing patient care, treatment, and services have appropriate privileges by obtaining, for example, a copy of the list of privileges.
     - Specify in the written agreement that the contracted organization will ensure that all contracted services provided by licensed independent practitioners will be within the scope of their privileges.
   Note 3: For hospitals that use Joint Commission accreditation for deemed status purposes: The leaders who monitor the contracted services are the governing body.

5. Leaders monitor contracted services by communicating the expectations in writing to the provider of the contracted services.
   Note: A written description of the expectations can be provided either as part of the written agreement or in addition to it.

6. Leaders monitor contracted services by evaluating these services in relation to the hospital's expectations.

7. Leaders take steps to improve contracted services that do not meet expectations.
   Note: Examples of improvement efforts to consider include the following:
     - Increase monitoring of the contracted services.
     - Provide consultation or training to the contractor.
     - Renegotiate the contract terms.
     - Apply defined penalties.
     - Terminate the contract.

8. When contractual agreements are renegotiated or terminated, the hospital maintains the continuity of patient care.

9. For hospitals that do not use Joint Commission accreditation for deemed status purposes: When using the services of licensed independent practitioners from a Joint Commission–accredited ambulatory care organization through a telemedical link for interpretive services, the hospital accepts the credentialing and privileging decisions of a Joint Commission–accredited ambulatory provider only after confirming that those decisions are made using the process described in Standards MS.06.01.03 through MS.06.01.07, excluding MS.06.01.03, EP 2. (See also MS.13.01.01, EP 1)
The new regulation was published in the May 5, 2011 Federal Register
- 16 pages long

The new regulation became effective on July 5, 2011

These have been placed in the hospitals Conditions of Participations (CoPs) Manual
- CMS published the interpretive guidelines to the regulations became effective August 15, 2011 with transmittal issued 12-22-2011 and 27 pages
apply to the navigable waters in the San Pablo Bay, and will encompass an area beginning at position 38°01'44" N, 122°27'06" W; 38°04'36" N, 122°22'06" W; 38°00'35" N, 122°26'07" W; 38°03'00" N, 122°20'20" W (NAD 83) and back to the starting point.

(b) Enforcement. The Coast Guard will notify the public via a Broadcast Notice to Mariners prior to the activation of this safety zone. The safety zone will be activated on average two times per month, but could be activated up to six times per month. It will be in effect for approximately three hours from 9 a.m. to 11:59 p.m. If the exercises conclude prior to the scheduled termination time, the Coast Guard will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners. Persons and vessels may also contact the Coast Guard to determine the status of the safety zone on VHF-16 or the 24-hour Command Center via telephone at (415) 399-3547.

(c) Definitions. As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a

Centers for Medicare & Medicaid Services

42 CFR Part 482 and 485

[CMS-3227-F]

RIN 0938-AQ05

Medicare and Medicaid Programs: Changes Affecting Hospital and Critical Access Hospital Conditions of Participation: Telemedicine Credentialing and Privileging

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule will revise the conditions of participation (CoPs) for both hospitals and critical access hospitals (CAHs). The final rule will implement a new credentialing and privileging process for physicians and practitioners providing telemedicine services. Currently, a hospital or CAH receiving telemedicine services must go through a burdensome credentialing and privileging process for each physician and practitioner who will be providing telemedicine services to its patients.

make its recommendations. CMS requirements do not take into account those practitioners providing only telemedicine services to patients. Consequently, hospitals apply the credentialing and privileging requirements as if all practitioners were onsite. This traditional and limited approach fails to embrace new methods and technologies for service delivery that may improve patient access to high quality care.

This final rule will permit hospitals and CAHs to implement a new credentialing and privileging process for physicians and practitioners providing telemedicine services. The removal of unnecessary barriers to the use of telemedicine may enable patients to receive medically necessary interventions in a more timely manner. It may enhance patient follow-up in the management of chronic disease conditions. These revisions will provide more flexibility to small hospitals and CAHs in rural areas and regions with a limited supply of primary care and specialized providers. In certain instances, telemedicine may be a cost-effective alternative to traditional service delivery approaches and, most

http://www.access.gpo.gov/su_docs/fedreg/a110505c.html
CMS Interpretive Guidelines on Telemedicine

- CMS final transmittal on telemedicine 12-22-2011

CMS hospital CoP now includes all the telemedicine standards

- Hospitals can still choose to do full C&P of practitioners with telemedicine privileges

- Hospitals can still choose to use a third party credentials verification organization or CVO
  - Board is still legally responsible for privileging decisions
DATE: July 15, 2011
TO: State Survey Agency Directors
FROM: Director
Survey and Certification Group
SUBJECT: Telemedicine Services in Hospitals and Critical Access Hospitals (CAHs)

Memorandum Summary

* **Telemedicine Rules Adopted for Hospitals/CAHs:** New and amended rules effective July 5, 2011 permit hospitals and CAHs to provide telemedicine services to their patients through written agreements with a distant-site hospital or a distant-site telemedicine entity.

* **Streamlined Credentialing & Privileging for Telemedicine Physicians & Practitioners:** Hospitals and CAHs may rely, when granting telemedicine privileges, upon the privileging decisions of a distant-site hospital or telemedicine entity with which they have a written agreement that meets Medicare requirements.

On May 5, 2011, the Centers for Medicare & Medicaid Services (CMS) published a final rule (76 FR 25550), effective July 5, 2011, governing the agreements under which a hospital or CAH may provide telemedicine services to its patients. “Telemedicine,” as the term is used in this rule, means the provision of clinical services to patients by physicians and practitioners from a distance via electronic communications. The distant-site telemedicine physician or practitioner provides clinical services to the hospital or CAH patient either simultaneously, for example, as in teleICU services, or non-simultaneously, as is the case with many teleradiology services.
**Definition** of contractual agreement: An agreement with any organization, group, agency, or individual for services or personnel to be provided by, to, or on behalf of the organization.

- Such agreements are defined in a contract or in some other form of **written** agreement;
- Such as a letter of agreement, memorandum of understanding, contract, contracted services, contractual services, or written agreement.
LD Standard: Care and treatment provided through contractual agreement are provided safely and effectively,

- EP1. Clinical leaders and MS have an opportunity to provide advice about the sources of clinical services that are to be provided through contracts,
Contract Approval and Monitoring

- EP2. The nature and scope of services provided through contracts are described in writing
- EP3. Contracts are approved by designated leaders
- EP4. Leaders monitor contracts by establishing expectations for the performance of the contracted services
Contracts with Another Organization

- Most LIPs through a contractual agreement must be C&P through the MS process.

- When the organization contracts with another accredited organization, verify that all LIPs who will be providing patient care and treatment, have appropriate privileges by obtaining, for example, a copy of the list of privileges.
  - Hospitals that do not use TJC for deemed services like VA Hospitals.

- Board monitors contracted services and ensure all LIPs via a telemedicine link are C&P at the originating site.
  - See MS.13.01.01 EP1.
Contract Expectations

- EP5. Leaders monitor contracted services by communicating the expectations in writing to the provider of the contracted services
  - The expectation can be set forth in the contract
  - The facility can include a written description of the expectations as an addition
  - If use as an addition to the contract include language that it is incorporated by reference into the contract
Monitoring the Contract Expectations

- EP6. Leaders monitor contracted services by evaluating the contracted services in relation to the expectations
  - Expectations for pharmacy services company that all policies and procedures will reflect the CMS CoP pharmacy requirements and the TJC MM standard requirements
  - Expectation that pharmacy director (a contracted employee) will manage pharmacy and medication management committee
  - Pharmacy company will carry agreed upon limits, licensed, privacy and confidentiality, follow all state and federal laws, attend meetings, etc.
Improving the Contracted Services

- EP7. The leaders take steps to improve contracted services that do not meet expectations
  - Increased monitoring
  - Consultation or training to contractor
  - Renegotiate the terms of the contract
  - Terminate contract
  - Or apply defined penalties
Renegotiating or Terminating a Contract

- EP8. When contracts are renegotiated or terminated, the continuity of patient care is maintained
  - Hospital terminates contracts of anesthesiologist
  - Need to ensure that new group coming in starts at the time the old contract is terminated so patients have access to needed anesthesia services
EP9. When using the services of LIP from a TJC accredited ambulatory care organization through a tele-medicine link for interpretive services, all LIPS are C&P through the origination site (DS)

- Note that TJC amended their standards to ensure compliance with the CMS telemedicine standards so need to use the CMS law and interpretive guidelines
- Published in January 2012 Perspective the final changes and language
- For hospitals that do NOT use TJC for DS
The Centers for Medicare & Medicaid Services (CMS) recently approved The Joint Commission's final revisions to requirements related to the credentialing and privileging of telemedicine practitioners in hospitals and critical access hospitals. The Joint Commission's initial revisions, approved by CMS in response to its May 5, 2011, Medicare Conditions of Participation (CoP) final rule, were published in the October 2011 issue of Perspectives on pages 6–9. The revisions appear in the elements of performance (EPs) of the Leadership (LD) and Medical Staff (MS) standards related to the Medicare CoP requirements. In all, the new Medicare CoP requirements remove barriers to the use of telemedicine for medically necessary interventions and uphold The Joint Commission's existing practice of allowing an originating site (where the patient is located) to use the credentialing and privileging information from a distant site when making final privileging decisions for telemedicine practitioners.

The Joint Commission's Board of Commissioners has accepted the final changes, which are effective immediately. The revisions are shown in the accompanying box below, with new text underlined and deletions noted in strikethrough. These revisions will appear in the 2012 Update 1 to the Comprehensive Accreditation Manual for Hospitals and the Comprehensive Accreditation Manual for Critical Access Hospitals, which are scheduled for publication in late March, and in the E-dition®, which is scheduled for release in April.
4. Operations  LD Contracts

- EP10. Reference and contract lab services meet the applicable federal regulations for clinical laboratories and maintain evidence of the same (CLIA).

- EP23 For hospitals that use the Joint Commission for deemed status (DS)

- This change was one announced in January 2012 Perspective and it went into effect at that time
EP 23 The originating site has a written agreement with the distant site that specifies the following:

- The distant site is a contractor of services to the hospital
- The distant site furnishes services in a manner that permits the originating site to be in compliance with the Medicare CoPs
- The originating site makes certain through the written agreement that all distant-site telemedicine providers’ credentialing and privileging processes meet, at a minimum, The COPs
CFR 482.12(a)(1) through (a)(9) and 482.22(a)(1) through (a)(4).

See also MS.13.01.01, EP 1

The governing body of the distant site is responsible for having a process that is consistent with the credentialing and privileging requirements in the “MS chapter (MS.06.01.01-.13)

The board of the originating site grants privileges to a distant-site licensed independent practitioner based on the originating site’s medical staff recommendations, which rely on information provided by the distant site
The distant site furnishes services in a manner that permits the originating site to be in compliance with the CMS CoPs.

The board of the originating site grants privileges to the distant site LIP based on the originating site’s MS recommendations.

The distant site can rely on their information.

For hospitals that use the Joint Commission for deemed status which are most hospitals.

To comply with the CMS Telemedicine standards.
Examples of Compliance

- Have a contract review policy,
- Determine who has authority to sign contracts,
- File contracts in one central location,
- Have a contract management log,
- Ensure that a list of all the contracts that affect patient care go to the Med Executive Committee (MEC),
- Make sure you have a CLIA license as well as contracted services,
- Evaluate person providing contracted services in writing,
Examples of Compliance

- Monitor patient satisfaction surveys for problems with contracted services (waited 6 weeks to get an appointment for a mammogram when patient had a suspicious lump),

- Develop an evaluation tool to do this,

- Contracts should include language about contractor expectations such as will comply with all TJC standards, federal and state and local regulations, etc.,

- Consider having a contract committee,
Ethical principles guide the hospital’s business practices.

- EP1. The hospital establishes and uses mechanisms that allow staff, patients, and families to address ethical issues or issues prone to conflict.

- EP2. The hospital follows ethical practices for marketing and billing.

- EP3. Marketing materials accurately represent the hospital, and address the care and treatment that the hospital provides either directly or by contractual arrangement.
**LD**: The hospital provides services that meet patient population needs.

- Leaders have to decide which services are essential to the population they serve,

- Services can be provided directly or

- Can be provided through referral, consultation, **contractual arrangements**, or other agreements.
Operations  Needed Services

- EP1. The needs of the population served guide decisions about which services will be provided directly or through referral, consultation, contractual arrangements, or other agreements.

- EP2. Essential services include at least the following: diagnostic radiology; dietetic, ED, nuclear medicine, nursing care; pathology and clinical laboratory; pharmaceutical; physical rehabilitation; respiratory care*; and social work.

- * Not required for hospitals that provide only psychiatric and substance use services.
Examples of Compliance

- Community health needs assessment can assist in determining what the needs of the population are (teen pregnancy program, outpatient anticoagulant clinic, more OB beds, telemetry beds, inpatient behavioral health beds etc.),
- Scope of Services document should reflect essential services that are required,
- Include optional services that hospital has,
- Hospital must decide if required services will be provided directly or under contract,
Contracts TJC Has Asked About

- How do you make a decision about where to purchase the drugs on your formulary?
- How do you decide on what company to pick who makes the floor cleaner that is used in patient rooms?
- What decision making process to select the company that supplies canned goods to the dietary department?
- How did you choose the company to do pest control?
TJC FAQS on Contract Management
TJC FAQ on Contracted Services

- TJC has a section on standards FAQ.
- Scroll down to leadership section and one FAQ on contracted services.
- New and posted April 8, 2010
  - Does the contract standards apply if the organization you are contracting with is also TJC accredited?
  - What are hospital responsibilities related to services by our contracted organizations?
  - Does surveyor manually verify with HR files for contracted services?

1 www.jointcommission.org/AccreditationPrograms/Hospitals/Standards/09_FAQs/default.htm
Contracted Services

Q: Do the standards for contracted services apply if the contracted organization is Joint Commission accredited or certified?

A: Yes. Organizations are expected to demonstrate compliance with all accreditation or certification requirements for their respective program.
Q: What are our responsibilities related to services provided by our contracted organization?

A. Leaders must oversee contracted services to make sure that they are provided safely and effectively. The only contractual agreements subject to the requirements at Standard LD.04.03.09 are those for the provision of care, treatment, and services provided to the hospital’s (organization’s) patients. This standard does not apply to contracted services that are not directly related to patient care. The EPs do not prescribe the methods for evaluating contracted services; leaders are expected to select the best methods for their hospital (organization) to oversee the quality and safety of services provided through contractual agreement.

Examples of sources of information that may be used for evaluating contracted services include the following:

- Review of information about the contractor’s Joint Commission accreditation or certification status
- Direct observation of the provision of care
- Audit of documentation, including medical records
- Review of incident reports
- Review of periodic reports submitted by the individual or hospital providing services under contractual agreement
- Collection of data that address the efficacy of the contracted service
- Review of performance reports based on indicators required in the contractual agreement
- Input from staff and patients
- Review of patient satisfaction studies
- Review of results of risk management activities

In the event that contracted services do not meet expectations, leaders take steps to improve care, treatment, and services. In some cases, it may be best to work with the contractor to make improvements, whereas in other cases it may be best to renegotiate or terminate the contractual relationship. When the leaders anticipate the renegotiation or termination of a contractual agreement, planning needs to occur so that the continuity of care, treatment, and services is not disrupted.
Q: During a Joint Commission survey of a hospital (organization), is the surveyor required to manually verify human resource files/documents for employees, or independent contractors, of a Joint Commission accredited or certified contracted service?

A: The Joint Commission does not require hospitals (organizations) to request the entire set of personnel files from its accredited or certified contracted organizations so that surveyors can manually verify compliance with Joint Commission requirements. It should be noted that the contracted organization will undergo its own accreditation or certification survey or review by The Joint Commission and they will have to demonstrate compliance with all requirements their personnel records.

There may be instances, e.g., during tracer activities, where the surveyor requests to review the personnel file of a contracted staff or an independent contractor. Under these circumstances, the surveyor should review the hospital’s process for monitoring the contracted services. If a concern is not sufficiently addressed, then the surveyor may request the personnel record of the contracted staff or independent contractor. The requested personnel record, from the contracted service or staffing firm, must be provided to the hospital in a timeframe sufficient for surveyor review during the survey.

Please note: This FAQ applies only to staff and independent contractors of accredited or certified organizations and not to licensed independent practitioners.
TJC Contract Management
Tracer
TJC Contract Services Tracer

- Tracers are a great way to prepare staff
- Be sure to should know scope and nature of contract services
- Surveyor will interview leaders on their oversight for contracted services
- LD.04.03.09 has the 11 elements of performance which hospitals should make sure they are in compliance with (already discussed)
- Leaders need to monitor contract services and evaluate these contracts
Surveyor Arrival & Preliminary Planning

- During this time the survey team may ask for a list of all contracted services to include the nature and scope of services provided.

- Instructed to ask if or when the survey team identifies an issue of concern.

- During orientation to the hospital session surveyor may discuss contracted services and monitoring performance.

- This may include telemedicine services.
Contract Services Tracer Individual Tracer

- May include patient who received care from contracted providers including telemedicine

- Surveyors are to interview staff about the scope and nature of the contracted services

- May ask how contractors were oriented to the hospital’s processes

- Instructed to interview the hospital leaders to find out their oversight process
Contract Services Tracer Individual Tracer

- Be sure to know the QAPI you are doing on contracted services and individuals

- Make sure you have place on review form to cover any specific performance based expectations, goals, or benchmarks contained in the contract

- So know how you monitor contracted services and contracted individuals
Contract Services Tracer

- Consider having all contracts in one place and have log of all contracts

- Will talk to a patient who received care from a contracted provider

- Be sure to know the scope and nature of contract services and how they were oriented to the hospital’s processes especially interpreters

- Surveyor will interview leaders on their oversight for contracted services
Contract Services Tracer

- Know how you monitor contracted services and contracted individuals

- Surveyor may review contracts

- Will validate that the reference contracted lab service meets CLIA regulations

- Don’t forget about interpreters or security if you outsource this
DNV Healthcare Contract Management Standards
Contract Services

- QM7 Measurement, Monitoring, and Analysis requires the hospital to evaluate services provided by contract
  - Should be reviewed on a yearly basis

- GB.1 Regarding legal responsibility of the board states that the board is responsible for all contracted services

- GB.3 Contracted services is located under the board section
Contract Services

- **SR.1** The board needs to make sure all contracted services are provided in a safe and effective manner
  - Includes joint ventures and shared services
  - Requires annual review by management

- **SR.2** The board is responsible for all services performed in the hospital including those by contracted services
  - Must evaluate contracted services to be safe and effective
  - Must meet the hospital’s requirements
Contract Services

- SR.3 Need a list of contracts including the nature of the contract
- SR.4 Telemedicine contracts must require the DSTE is a contractor of services for the hospital
  - Must state that services will be provided to allow hospital to comply with the contracted services section
  - Board can grant privileges accordingly based on MS recommendations
Contract Services

- SR.5 Telemedicine contract is in writing and states DSH will provide services and grant privileges that the hospital can rely on
  - DSH participates in Medicare
  - Distant site physician is privileged at DSH and provides current list of privilege practitioners
  - DS practitioner holds a license in state patient is in
Summary

- Review the contract process and P&P
- Make sure the P&P describes the methods that leaders take to monitor patient care and treatment provided through contractual arrangements
- Update the written contract policy as needed
- Verify that all the contracts in the organization to make sure meet CMS CoP and TJC requirements
- Make sure contract services have language about performance expectations
- Have a contract log that lists all contracts with expiration dates
Summary

- Managers should know if they can sign a contract and what is the threshold amount.
- Consider requiring all vendors of contracted services to issue regular reports to help the hospital track whether vendor is meeting expectations of the contract.
- Make sure all contract owners are aware of the requirements of both CMS and TJC or your accreditation organization.
- Consider having a contract committee and standardize the process.
  - Implementing standard P&P for contract creation and approval.
- Have a written form to use in the evaluation process.
Summary

- Some contracts should be reviewed by senior management in consult with legal counsel or risk management.
- Some contracts (depending on the amount set out or purpose) may need to be approved by the Board.
- A checklist may helpful in reviewing whether the contractor is meeting expectations.
  - Remember to have a place on form to document specific performance criteria set out in contract.
- Communicate in writing any concerns the hospital has with the contractor.
Summary

- Document the contract review process to show oversight
  - The policy is specific about how leadership monitors the care provided through contracted services
- File contracts in one central location
- Have a contract management log
  - Consider contract management software
- Have someone in charge of contracts
- Ensure that a list of all the contracts that affect patient care go the Med Executive Committee (MEC)
Summary

- Make sure all contractors are properly licensed, credentialed and privileged
  - Including that all services be within the scope of practices
- A requirement in the contract that all services will be provided in a safe and effective manner
- A requirement that all local, state, federal laws and accreditation standards (such as TJC, DNV, AOA, CIHQ) and CMS regulations are met
- A requirement to comply with all applicable hospital policies and procedures
Summary

- Some hospitals require monthly or quarterly reports regarding services provided.
- A requirement to fully cooperate upon termination of the agreement in order to effectuate a smooth transition.
- The right of the hospital to terminate the agreement without cause and without liability upon the provision of reasonable notice,
  - At a minimum, the right to immediately terminate the agreement in the event that the contractor’s actions adversely impact patient care and safety.
Summary

- Written agreements should include a comprehensive list of all services to be provided by the contractor along with a list of performance-based expectations, goals, objectives and benchmarks.

- Decide who is going to be the contract owner and who will do the contract review evaluation and make sure contractor is competent also.

- Determine the contract owner when entering into the contract.

- Review written reports from contractors.
Summary

- One hospital’s process:
  - Infection control committee takes dialysis contract
  - Environment of Care Committee takes food service and housekeeping (Environmental Services)
  - Transfusion committee takes apheresis contract (blood donor receiving their blood back such as for leukapheresis or plateletpheresis)
  - Radiology evaluates telemedicine service used at night
  - In-house legal counsel or COO does organ procurement, interpreters, security, interpreters, linen services etc.
  - MEC makes its recommendation to continue or not
## Clinical Contract Review Checklist

| Title of Contract: | | |
|--------------------|------------------|

| Brief description of scope of contract: | | |
|----------------------------------------|----------------|

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<tr>
<th>Signature of Reviewer:</th>
<th>Date of review:</th>
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<tr>
<th>Signature of Administrator:</th>
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<th>Signature of Contract Service Provider:</th>
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<thead>
<tr>
<th>1. Is the entity accredited by The Joint Commission?</th>
<th>□ Yes</th>
<th>□ No</th>
<th>□ NA</th>
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| a. If YES – what is the date the accreditation was achieved? | | |
|-------------------------------------------------------------|---|

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<th>b. If YES – what is the accreditation status:</th>
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<tr>
<th>□ Accredited</th>
<th>□ Preliminary Denial of Accreditation</th>
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<tr>
<th>□ Accreditation with Follow Up</th>
<th>□ Denial of Accreditation</th>
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<th>□ Contingent Accreditation</th>
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<tr>
<th>2. Contract includes Quality/Performance Measures:</th>
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<tr>
<th>□ Acceptable</th>
<th>List the quality/performance measures for the contracted service related directly to this service/patient care.</th>
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<th>□ Unacceptable</th>
<th>Include recommended Action Plan for improvement:</th>
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| □ NA | |

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<th>3. Provides timely services</th>
<th>□ Acceptable</th>
<th>□ Unacceptable</th>
<th>□ NA</th>
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<table>
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<tr>
<th>If unacceptable, include Action Plan for improvement:</th>
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<td>Provides <strong>timely services</strong></td>
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<td>If unacceptable, include Action Plan for improvement:</td>
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<td>Provides <strong>efficient and accurate services</strong></td>
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<td>If unacceptable, include Action Plan for improvement:</td>
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<td></td>
<td>Provides <strong>appropriate/competent staffing</strong></td>
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<td>If unacceptable, include Action Plan for improvement:</td>
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<td></td>
<td>Knows and adheres to <strong>policies and customer service efforts</strong></td>
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<td>If unacceptable, include Action Plan for improvement:</td>
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<td>Complies with <strong>Human Resources policies for licensing and evaluation</strong></td>
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<td>If unacceptable, include Action Plan for improvement:</td>
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<td>Maintains/respects <strong>rights and confidentiality</strong> of all people.</td>
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<td>If unacceptable, include Action Plan for improvement:</td>
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<td></td>
<td>Participates in all <strong>meetings as requested</strong></td>
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<td>If unacceptable, include Action Plan for improvement:</td>
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Hospitals can improve quality and performance while cutting costs if they pursue performance based contracts

Suggests including performance metrics in the contract

Hospital may face some pushback with some vendors but don’t give up

Want measures that are measurable and fair

Contracted with a food vendor and to keep contract patients had to rate it at least an 8 out of 10
American healthcare is rapidly moving from fee-for-service to pay-for-performance, a concept often tied to accountable care organizations, CMS' value-based purchasing program and outcomes-based contracts with payers. Hospitals are usually on the receiving side of these arrangements — they net rewards or face punishments depending on whether they meet an established set of metrics. But hospitals can also take pay-for-performance concepts into their own hands by enforcing value-based mechanisms elsewhere in their organizations.

First, though, they're going to have to change the way they operate — and that includes addressing a reluctance (compared to other industries) to systemically adopt performance-based contracts.

"One of the biggest issues in health systems is that their evaluation tools aren't performance-based, and many other agreements aren't performance-based, either," says Quint Studer, founder of Studer Group.

Mr. Studer says hospitals can improve quality and performance while cutting costs if they reexamine contracts with an eye toward incorporating performance-based metrics. After all, no one benefits when hospitals pay employees or vendors that are hurting rather than improving quality and patient satisfaction.

Here, Mr. Studer discussed five tips hospital leaders should keep in mind as they pursue performance-based contracts with hospital employees and vendors.

1. If you don't push for a performance-based contract, don't assume the vendor will. Performance-based contracts between hospitals and vendors are not widely accepted, and hospitals shouldn't expect a vendor to proactively suggest this payment model. When a hospital leader suggests including performance metrics in the contract, he or she may face some pushback. Don't give up if a vendor shows resistance, says Mr. Studer. Introducing the idea is often the most difficult part.

"Once the measures are in place, most people like them," he says.

Healthy competition can make vendors more willing to agree to performance-based contracts. Mr. Studer, a former hospital CEO, recalls the time he interviewed four bidding hospital vendors. He asked one company if it would include performance measures in its contract, to which the vendor initially said no.

"I said, ‘Okay, but I just talked to another vendor and they said they would,’" says Mr. Studer. "Soon afterward, all four vendors said they would agree to performance-based contracts."

Stop Paying for Paltry Performance: 5 Tips For Hospital Leaders
Written by Molly Gamble (Twitter | Google+) | August 01, 2013

The End Questions?

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CPHRM. CCMSCP
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Dublin, Ohio 43017
614 791-1468
sdill1@columbus.rr.com
Phone questions only, No emails
Basic Contract Tips

- Identify the parties to the contract
- Make sure the correct corporate entity is listed
- Make sure the person who signs (called the signatory) has authority to sign the contract
- Make sure all of the Business Associate agreements are updated and include the requirements under the Sept 23, 2013 HIPAA law
- Make sure the contract includes when the payment is due and the terms
Basic Contract Tips

- Is there a non-compete clause?
- Insurance requirements and does the hospital need to be a named insured or indemnification?
- Confidentiality of patient information clause
- Need to protect any proprietary information
- Be sure to include performance standards
- Assignment only with the consent of the parties
- Choice of venue as far as which state would be selected if needed to litigate
DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C2-21-16
Baltimore, Maryland 21244-1850

CENTER FOR CLINICAL STANDARDS AND QUALITY/SURVEY & CERTIFICATION GROUP

DATE: January 16, 2015
TO: State Survey Agency Directors
FROM: Director Survey and Certification Group
SUBJECT: Revised State Operations Manual (SOM) Appendix W, Critical Access Hospitals (CAHs)

Memorandum Summary

The Centers for Medicare & Medicaid Services (CMS) CAH Conditions of Participation (CoPs) Changed in Two Final Rules:

- CMS-3267-F was published on May 12, 2014 and portions related to CAHs became effective July 11, 2014. Among other provisions, this final rule revised the CAH Conditions of Participation (CoP) requirements related to the responsibilities of doctors of medicine (MDs) and doctors of osteopathy (DOs).

- CMS-1599-F was published August 19, 2013 and became effective October 1, 2013. This final rule revised the CAH CoP requirements related to provision of inpatient acute care services.

SOM Appendix W Updated:

- We are updating the pertinent portions of the CAH interpretive guidelines, found in SOM Appendix W, to reflect these rule changes.