PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

§482.13 Condition of participation: Patient’s rights.

(d) * * *

(2) The patient has the right to access their medical records, upon an oral or written request, in the form and format requested by the individual, if it is readily producible in such form and format (including in an electronic form or format when such medical records are maintained electronically); or, if not, in a readable hard copy form or such other form and format as agreed to by the facility and the individual, including current medical records, within a reasonable time frame. The hospital must not frustrate the legitimate efforts of individuals to gain access to their own medical records and must actively seek to meet these requests as quickly as its record keeping system permits.

(e) * * *

(5) The use of restraint or seclusion must be in accordance with the order of a physician or other licensed practitioner who is responsible for the care of the patient and authorized to order restraint or seclusion by hospital policy in accordance with State law.

(8) * * *

(ii) After 24 hours, before writing a new order for the use of restraint or seclusion for the management of violent or self-destructive behavior, a physician or other licensed practitioner who is responsible for the care of the patient and authorized to order restraint or seclusion by hospital policy in accordance with State law must meet and assess the patient.

(10) The condition of the patient who is restrained or secluded must be monitored by a physician, other licensed practitioner, or trained staff that have completed the training criteria specified in paragraph (f) of this section at an interval determined by hospital policy.

(11) Physician and other licensed practitioner training requirements must be specified in hospital policy.

On June 16, 2016 the US Centers for Medicare & Medicaid Services (CMS) announced extensive proposed amendments to the conditions of participation for hospitals and critical access hospitals.

The requirements contained in these proposed amendments are not mandatory at this time.

CMS is accepting public comments for the mandatory sixty-day period until August 15, 2016. That is the procedure CMS must follow as a Federal agency before announcing new regulatory requirements in final mandatory form.

We have placed CMS’s thirty-four page announcement on our website at http://www.nursinglaw.com/CMS061616.pdf

The new regulations begin on page 29 of the PDF document, Federal Register page 39475.

We have also reproduced here verbatim what we believe are the most important amendments affecting nurses in hospitals, dealing with patients’ rights vis a vis use of restraints and freedom from discrimination, nursing services and physicians’ verbal orders in the context of hospital care.

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At a minimum, physicians and other licensed practitioners authorized to order restraint or seclusion by hospital policy in accordance with State law must have a working knowledge of hospital policy regarding the use of restraint or seclusion.

(12) * * *

(i) By a—(A) Physician or other licensed practitioner.

(B) Registered nurse who has been trained in accordance with the requirements specified in paragraph (f) of this section.

(14) If the face-to-face evaluation specified in paragraph (e)(12) of this section is conducted by a trained registered nurse, the trained registered nurse must consult the attending physician or other licensed practitioner who is responsible for the care of the patient as soon as possible after the completion of the 1-hour face-to-face evaluation.

(g) * * *

(ii) Each entry must document the patient’s name, date of birth, date of death, name of attending physician or other licensed practitioner who is responsible for the care of the patient, medical record number, and primary diagnosis(es).

(i) Standard: Non-discrimination. A hospital must meet the following requirements:

(1) Not discriminate on the basis of race, color, religion, national origin, sex (including gender identity), sexual orientation, age, or disability.

(2) Establish and implement a written policy prohibiting discrimination on the basis of race, color, religion, national origin, sex (including gender identity), sexual orientation, age, or disability.

(3) Inform each patient (and/or support person, where appropriate), in a language he or she can understand, of his or her right to be free from discrimination against them and how to file a complaint if they encounter discrimination when he or she is informed of his or her other rights under this section.
§ 482.21 Condition of participation: Quality assessment and performance improvement program.

(b) * * *

(1) The program must incorporate quality indicator data including patient care data, and other relevant data such as data submitted to or received from Medicare quality reporting and quality performance programs, including but not limited to data related to hospital readmissions and hospital-acquired conditions.

§ 482.23 Condition of participation: Nursing services.

(b) Standard: Staffing and delivery of care. The nursing service must have adequate numbers of licensed registered nurses, licensed practical (vocational) nurses, and other personnel to provide nursing care to all patients as needed. There must be supervisory and staff personnel for each department or nursing unit to ensure, when needed, the immediate availability of a registered nurse for the care of any patient.

(4) The hospital must ensure that the nursing staff develops, and keeps current for each patient, a nursing care plan that reflects the patient’s goals and the nursing staff develops, and keeps current for each patient, a nursing care plan that reflects the patient’s goals and the nursing care plan must only be accepted by persons who are authorized to do so by hospital policy, and who is responsible for the care of the patient.

(i) Establish the criteria such outpatient departments must meet, taking into account the types of services delivered, the general level of acuity of patients served by the department, and the established standards of practice for the services delivered;

(ii) Establish alternative staffing plans;

(iii) Be approved by the medical staff;

(iv) Be reviewed at least once every three years.

(c) * * *

(1) Drugs and biologicals must be prepared and administered in accordance with Federal and State laws, the orders of the practitioner or practitioners responsible for the patient’s care, and accepted standards of practice.

(3) With the exception of influenza and pneumococcal vaccines, which may be administered per physician-approved hospital policy after an assessment of contraindications, orders for drugs and biologicals must be documented and signed by a practitioner who is authorized to write orders in accordance with State law and hospital policy, and who is responsible for the care of the patient.

(i) If verbal orders are used, they are to be used infrequently.

(ii) When verbal orders are used, they must only be accepted by persons who are authorized to do so by hospital policy and procedures consistent with Federal and State law.

(iii) Orders for drugs and biologicals may be documented and signed by other practitioners only if such practitioners are acting in accordance with State law, including scope-of-practice laws, hospital policies, and medical staff bylaws, rules, and regulations.

§ 482.42 Condition of participation: Infection prevention and control and antibiotic stewardship programs.

The hospital must have active hospital-wide programs for the surveillance, prevention, and control of hospital acquired infections (HAIs) and other infectious diseases, and for the optimization of antibiotic use through stewardship. The programs must demonstrate adherence to nationally recognized infection prevention and control guidelines, as well as best practices for improving antibiotic use, where applicable, for reducing the development and transmission of HAIs and antibiotic resistant organisms. Infection prevention and control problems and antibiotic use issues identified in the programs must be addressed in collaboration with the hospital-wide quality assessment and performance improvement (QAPI) program.