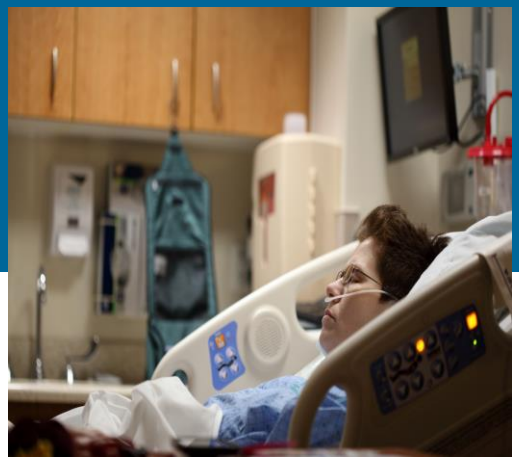
CMS HOSPITAL CONDITIONS OF PARTICIPATION (COPS) 2022

Part 2 of 5



Patient Rights: Advance Directives, Consent, Interpreters, Grievances, Exercise of Rights, Disclosures, Privacy, Safety, Ligature Risks, Abuse and Neglect, Confidentiality, Restraints and Visitation

Speaker

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- LBrowning@Nashhc.com

- Email questions to CMS:
  Critical Access Hospitals: qsog_CAH@cms.hhs.gov.
  Acute hospitals: **qsog_hospital@cms.hhs.gov.**

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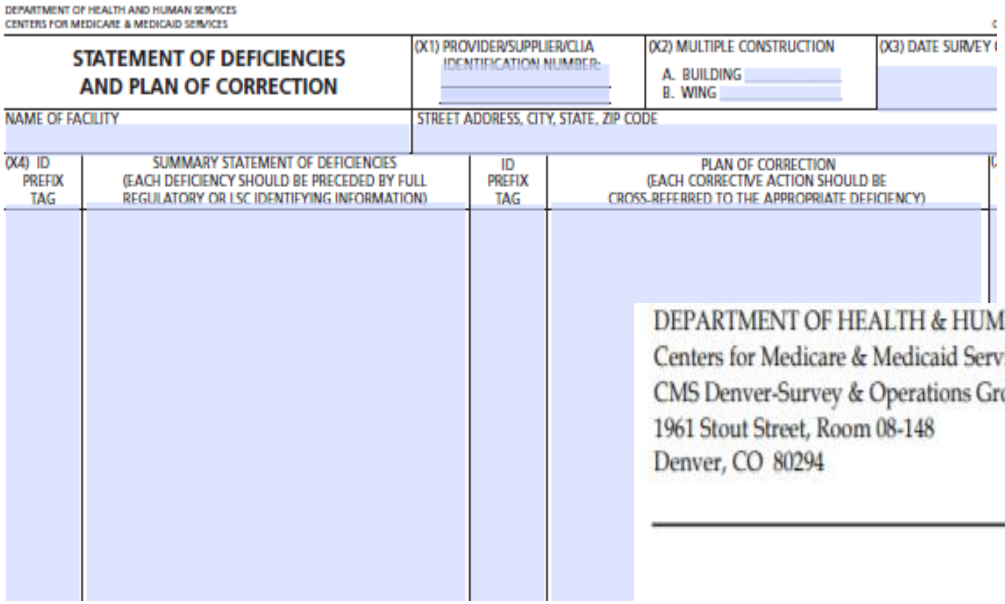
Why We are Here Today



DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION

(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:

(X2) MULTIPLE CONSTRUCTION

A. BUILDING _____

B. WING _____

(X3) DATE SURVEY

NAME OF FACILITY

STREET ADDRESS, CITY, STATE, ZIP CODE

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY SHOULD BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERRED TO THE APPROPRIATE DEFICIENCY)

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
CMS Denver-Survey & Operations Group
1961 Stout Street, Room 08-148
Denver, CO 80294

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

PUBLIC NOTICE FOR INVOLUNTARY TERMINATION OF MEDICARE/MEDICAID PROVIDER AGREEMENT

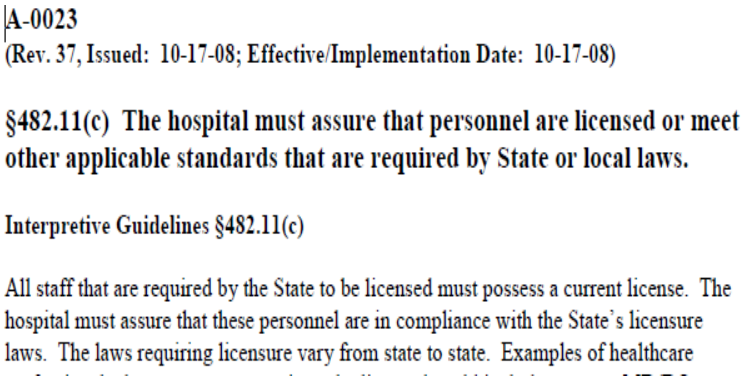
Notice is hereby given that the agreement between Clear View Behavioral Health, 4770 Larimer Parkway, Johnstown, Colorado 80534, and the Secretary of Health and Human Services, as a provider o services in the Health Insurance for the Aged and Disable Program (Medicare) is to be terminated at the close of October 28, 2020.

The Medicare program will not make payment for inpatient hospital services furnished to patients who are admitted after the close of October 28, 2020. For patients admitted on October 28, 2020, or earlier, payment may continue for up to 30 calendar days of inpatient hospital services furnished after October 28, 2020.

Introduction to CMS Patient Rights

The Conditions of Participation (CoPs)

- Manual first out 1986
  - Multiple updates
- Section numbers – "Tag" numbers
- Start in the Federal Register
  - Interpretive Guidelines
  - Survey procedures
  - Hospitals should check this website once a month for changes



A-0023
(Rev. 37, Issued: 10-17-08; Effective/Implementation Date: 10-17-08)

§482.11(c) The hospital must assure that personnel are licensed or meet other applicable standards that are required by State or local laws.

Interpretive Guidelines §482.11(c)

All staff that are required by the State to be licensed must possess a current license. The hospital must assure that these personnel are in compliance with the State's licensure laws. The laws requiring licensure vary from state to state. Examples of healthcare

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How to Keep Up with Changes

- Confirm current CoP [1].
- Check the survey and certification website monthly [2].
- If new manual – check CMS transmittal page [3].
- Have one person in your facility who has this responsibility

- [1] http://www.cms.hhs.gov/manuals/downloads/som107_Appendicestoc.pdf
- 2 http://www.cms.gov/SurveyCertificationGenInfo/PMSR/list.asp#TopOfPage
- 3 http://www.cms.gov/Transmittals

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Subscribe to the Federal Register

FEDERAL REGISTER
The Daily Journal of the United States Government

https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new

Email Updates

To sign up for updates or to access your subscriber preferences, please enter your contact information below.

Email Address *

SUBMIT CANCEL

Your contact information is used to deliver requested updates or to access your subscriber preferences.

CMS Survey Memos

Policy & Memos to States and Regions

CMS Quality Safety & Oversight memoranda, guidance, clarifications and instructions to State Survey Agencies and CMS Regional Offices. www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Policy-and-Memos-to-States-and-Regions

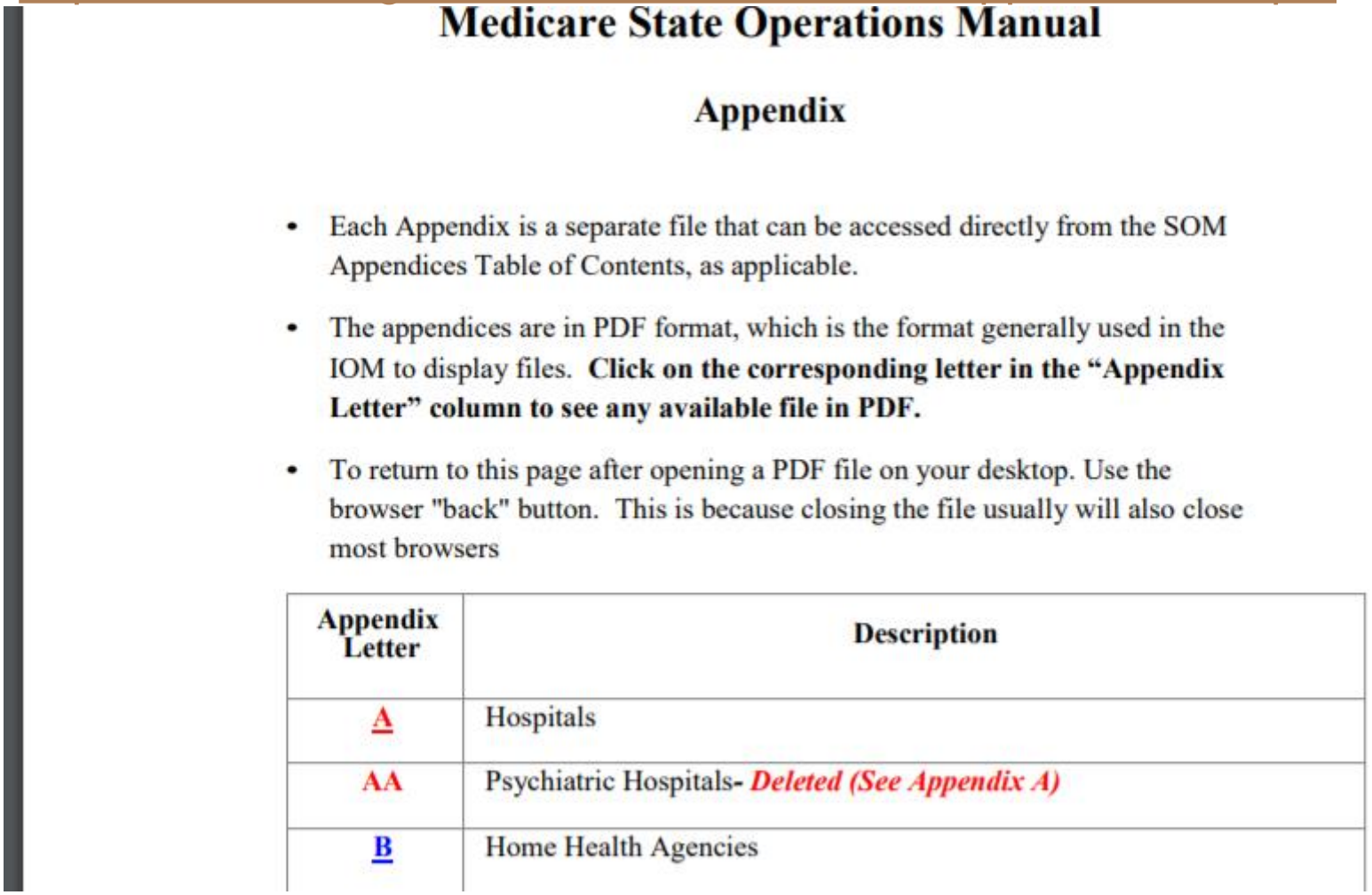
Show entries: 5 per page | Filter On | Apply

Showing 1-10 of 521 entries

Title	Memo #	Posting Date	Fiscal Year
Guidance for Infection Control and Prevention of Coronavirus Disease 2019 (COVID-19) in nursing homes	QSO-20-14-NH	2020-03-04	2020
Suspension of Survey Activities	QSO-20-12-All	2020-03-04	2020
Guidance for Infection Control and Prevention Concerning Coronavirus Disease (COVID-19): FAQs and Considerations for Patient Triage, Placement and Hospital Discharge	QSO-20-13-Hospitals	2020-03-04	2020
Release of Additional Toolkits to Ensure Safety and Quality in Nursing Homes	20-11-NH	2020-02-14	2020
Information for Healthcare Facilities Concerning 2019 Novel Coronavirus Illness (2019-nCoV)	20-09-ALL	2020-02-06	2020
Notification to Surveyors of the Authorization for Emergency Use of the CDC		2020-02-	

CMS Hospital CoP Manual

- https://www.cms.gov/files/document/som107appendicestoc.pdf.



Medicare State Operations Manual

Appendix

- 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 corresponding letter in the "Appendix Letter" 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

Appendix Letter	Description
A	Hospitals
AA	Psychiatric Hospitals- *Deleted (See Appendix A)*
B	Home Health Agencies

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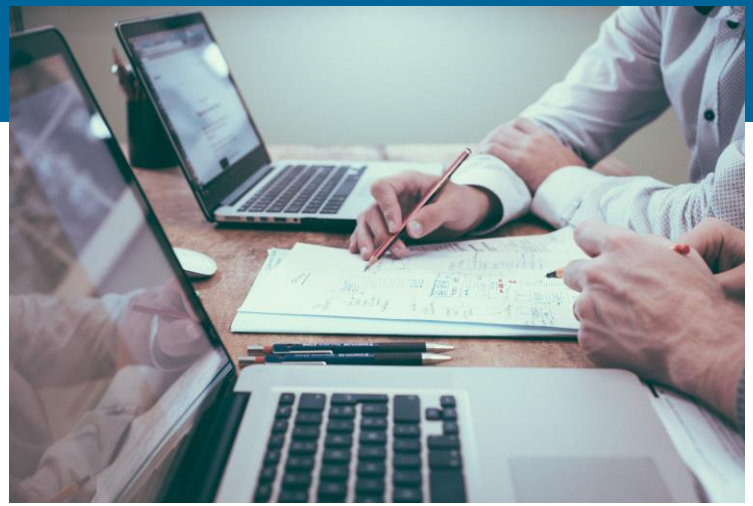
CMS CoP Manual

Appendix Letter	Description
	Guidance
P	Survey Protocol for Long-Term Care Facilities
PP	Interpretive Guidelines for Long-Term Care Facilities
Q	Determining Immediate Jeopardy
R	Resident Assessment Instrument for Long-Term Care Facilities
S	Mammography Suppliers - **Deleted**
T	Swing-Beds – **Deleted (See Appendix A and Appendix W)**
U	Responsibilities of Medicare Participating Religious Nonmedical Healthcare Institutions
V	Responsibilities of Medicare Participating Hospitals In Emergency Cases
W	Critical Access Hospitals (CAHs)
Y	Organ Procurement Organization (OPO)
Z	Emergency Preparedness for All Provider and Certified Supplier Types

CMS Deficiency Reports



Can Access to Hospital Deficiency Data

- Includes acute care and CAH hospitals
  - List tag numbers
  - Does not include the plan of correction but can request
  - Questions to bettercare@cms.hhs.com
- Updated quarterly
- Patient rights are the most problematic of all the CoPs

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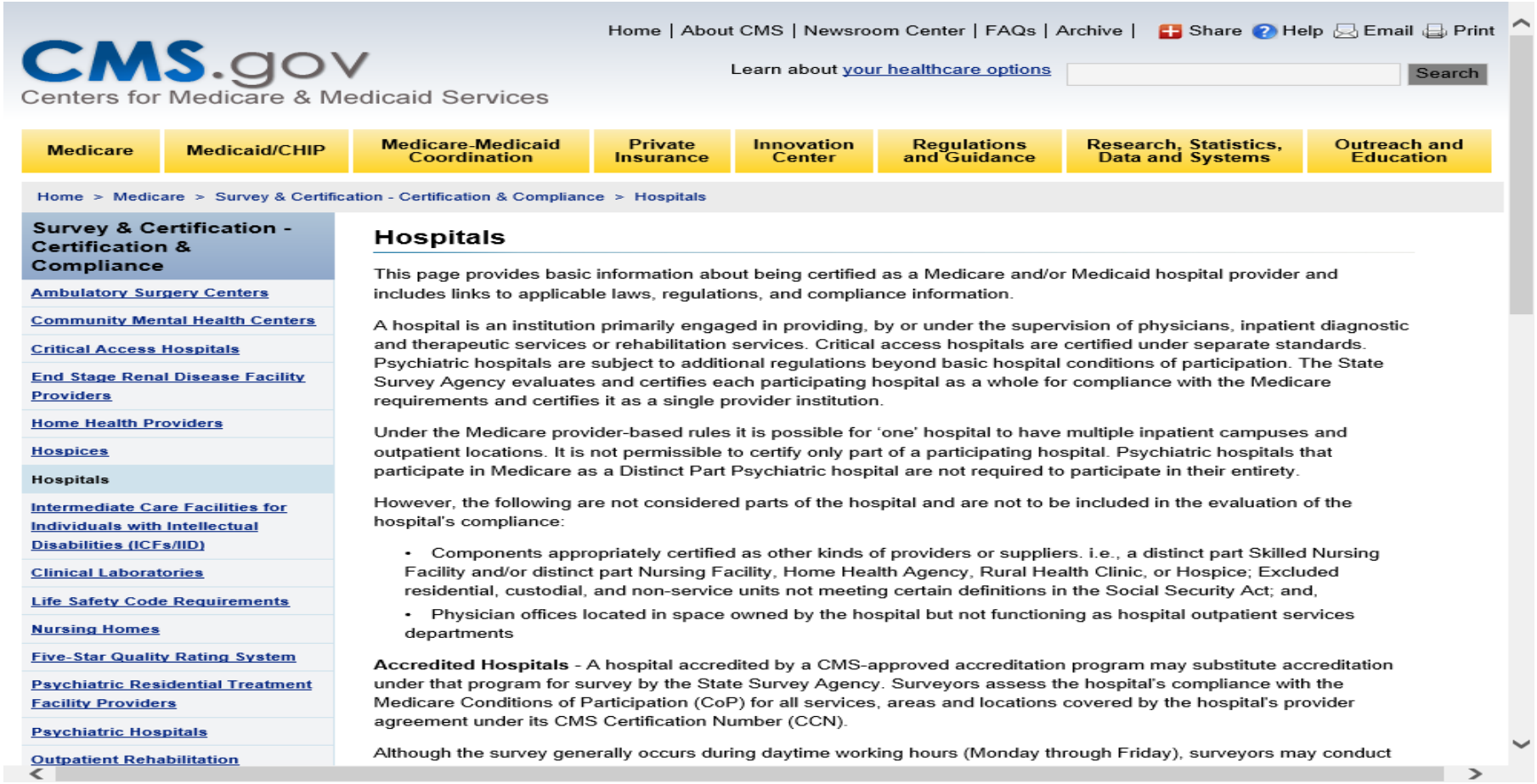
Deficiency Data Reports



Deficiency reports available at www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandComplianc/Hospitals.html

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Top Six Deficiencies January 2022

Section	**Number Of Deficiencies**	**Tag Number**
Restraint and Seclusion	3,704	Tag 154-214
Care in a Safe Setting	2,292	Tag 144
Grievances	1,564	Tag 118-123
Consent & Decision Making	880	Tag 131-132
Freedom from Abuse & Neglect	854	Tag 145
Notice of Patient Rights	49/547	Tag 116 and 117

Number of Deficiencies – Specific Tags

Section	Tag Number	Number of Deficiencies
Patient Rights	115	1,712
Notice of Patient Rights	116/117	49/547
Grievances	118-123	1,564
Exercise of Patient Rights	129	90
Participation in Care Planning	130	248
Informed Consent	131	710

Number of Deficiencies

Section	Tag Number	Number of Deficiencies
Informed Decision	132	170
Admission Status Notification	133	81
Privacy and Safety	142	85
Personal Privacy	143	304
Care in Safe Setting	144	2,292
Free from abuse/harassment	145	854

Number of Deficiencies

Section	Tag Number	Number of Deficiencies
Confidentiality	146	25
Confidentiality of Records	147	111
Access to Medical Records	148	32
Restraint and Seclusion*	154-214	3,704
Patient Visitation Rights	215-217	59
TOTAL 12,558		

Changes to Patient Rights

Discharge Planning Changes

- Revised the standards – included a section on patient rights
  - Effective November 2019
  - Interpretive Guidelines/Survey Procedures pending
- Includes access to records
  - Right to timely access and request discharge planning evaluation
  - OCR fining hospitals – not providing timely access

Patient Rights

- CoPs amended to ensure patient has a right of access to their medical records
  - OCR requirements – difference between request for records and an authorization
  - Federal HIPAA already has this requirement
    - Hospitals should have a policy on timely access to medical records

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Recent Memo: Spouse Includes Same Sex

- CMS recent Memo recognized the rights of a spouse in legally valid same sex marriages
- Equal rights to the spouse
  - Treated the same as opposite-sex marriages
- Must honor regardless of where the couple resides
  - Note: US Supreme Court ruling where same sex marriages are allowed now in all states so hospital would recognize marriage whether in their state or another state

Regulations and Interpretive Guidelines
(Rev. 149, Issued: 10-09-15, Effective: 10-09-15, Implementation: 10-09-15)

NOTE: in the regulations or guidance which follow, in every instance where the following terms appear:

- **"spouse" means an individual who is married to another individual as a result of marriage lawful where it was entered into, including a lawful same-sex marriage, regardless of whether the jurisdiction where the hospital is located, or in which the spouse lives, permits such marriages to occur or recognizes such marriages.**

- **"marriage" means a marriage lawful where entered into, including a lawful same-sex marriage, regardless of whether the jurisdiction where the hospital is located, or in which the spouse lives, permits such marriages to occur or recognizes such marriages;**

- **"family" includes, but is not limited to, an individual's "spouse" (see above); and**

- **"relative" when used as a noun, includes, but is not limited to, an individual's "spouse" (see above).**

Furthermore, except where CMS regulations explicitly require an interpretation in accordance with State law, wherever the text of a regulation or associated guidance uses the above terms or includes a reference to a patient's "representative," "surrogate," "support person," "next-of-kin," or similar term in such a manner as would normally implicitly or explicitly include a spouse, the terms are to be interpreted consistent with the guidance above.

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CMS Patient Rights

Patient Rights Standards Tag 115-217

- Right to notification of rights and exercise of rights
  - Privacy and safety
  - Confidentiality of medical records
  - Restraint issues (50 pgs. of standards)
  - Grievances
  - Advance directives
  - Visitation rights

Rights and Grievance Process

- Must ensure the notice of patient rights met
- In a manner the patient will understand
  - Limited English proficiency (LEP)
  - Low health literacy
    - 20% of patients read at a fifth-grade level
- Must have P&P to ensure patients have information to exercise their rights

Notice of Patient Rights 117

- Must inform each patient
  - Of patient's rights
  - In advance of furnishing/discontinuing care
  - Protect and promote each patient's rights
- Ensure patients have information on their rights
  - Includes inpatients and outpatients

"IM" Notice

- Must give Medicare patient "Important Message from Medicare" Notice
  - Within two days of admission
  - In advance of discharge if more than two days
  - Notice to certain observation patients

Designation of Representative 117

- Take reasonable steps to determine patient's wishes on designation of a representative
- If not incapacitated and has a representative
  - Must provide representative with the notice of patient rights in addition to the patient
  - Patient can do orally or in writing which author suggests

Designation – Incapacitated Patient 117

- If incapacitated – notice of rights given to the person who presents with an advance directive
  - I.e., DPOA
- If no advance directive
  - Spouse
  - Domestic partner
  - Parent of minor child
  - Other family member

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Designation of Representative 117

- Cannot ask for supporting documentation unless
  - More than one person claims to be representative
- If hospital refuses the request
  - Must document such in the medical record
- States can specify a state law for doing this
- Hospital must adopt P&P

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Notice of Patient Rights

- Confidentiality and privacy
- Pain relief
- Refuse treatment and informed consent
- Advance directives
- Right to get copy of IM Notice or detailed notice
- Right to be free from unnecessary restraints
- Right to determine who visitors will be

Notify Patient of Their Rights

- Information given to the patient's representative when appropriate
  - Document reason – patient unconscious – support person – guardian – DPOA – parent of minor, et. al.
- Consider
  - Copy on the back of the general admission consent form and acknowledgment of Notice of Privacy Practice
  - Include sentence that patient acknowledges receipt of their patient rights
  - Right to contact the BFCC QIO or state agency of problems (Family and Beneficiary Centered Care)

OCR Section 1557 and Interpreters

OCR Section 1557

- OCR 1557 changes effective August 2020
  - If CMS identifies a violation can notify the OCR to investigate – discrimination
- Cannot:
  - Segregate, delay or deny services based on patient's color, race, or national origin
  - Cannot force a hospital to do procedure if against religion
    - Abortion – sex change surgery
  - Treat individuals consistent with their gender identity – i.e., respect to access to facilities rooms

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OCR Section 1557 & Interpreters

- Must offer a timely qualified interpreter when oral interpretation is a reasonable step to provide a patient with meaningful access
- Language services are provided free of charge
  - May not require a patient to have their own interpreter
  - Cannot rely on child to interpret with exception
  - Cannot use low quality video remote interpreting services
  - May not delay or deny effective language assistance services to patients with LEP

- Resources at https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html

Interpreters

- Must ensure interpreters available
  - Ensure communication needs of patients are met
- Need qualified interpreters
- Document interpreter was used
  - See TJC Patient Centered Communications Standards

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Interpreters

- Post a sign in several languages
  - 15 languages under OCR 1557
    - 17: CO, MD, RI, VA and DC
  - Include in yearly skills lab and make sure staff knows and understand P&P
  - Review your policy and procedure
- Taglines – notify patient of the availability of language assistance services
  - Publish and place in prominent locations
- If own physician practices – ensure interpreters present in prescheduled appointments

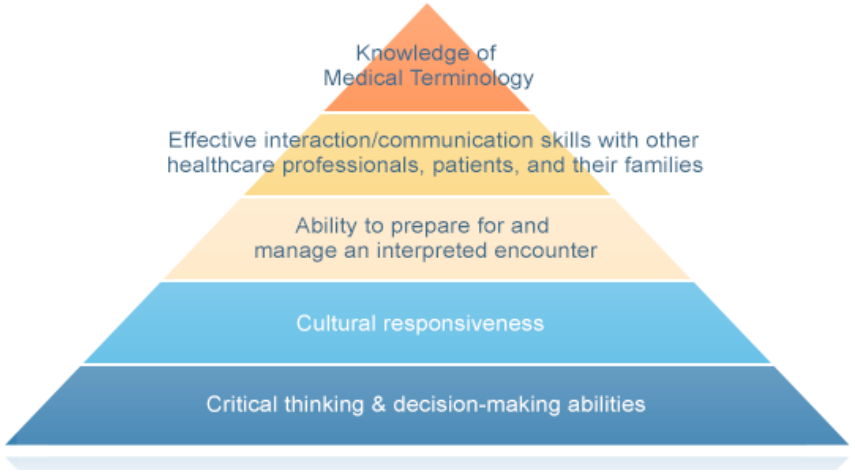
Certification Optional

- National Board of Certification for Medical Interpreters and CCHI or the Certification Commission for Healthcare Interpreters - two credentials
  - **CHI stands for Certified Healthcare Interpreter** -best (Spanish, Mandarin & Arabic)
  - And entry level **Core Certification Healthcare Interpreter** (CoreCHI)

CoreCHI Is Entry Point for Interpreters

1. The Core Certification Healthcare Interpreter™ (CoreCHI™) is the entry point into professional certification for healthcare interpreters regardless of the language(s) in which they interpret. ***CoreCHI™ is THE one certification every interpreter of every language needs to have and can have today.*** This certification tests medical interpreters of any language on the core professional knowledge as well as critical thinking, ethical decision-making, and cultural responsiveness skills needed to perform the interpreter's duties in any healthcare setting.**It focuses on the role of the healthcare interpreter** and measures the interpreter's knowledge, abilities and skills related to:

- universal protocols and safety precautions,
- being a partner in a patient's care team,
- culturally-determined patient's behavior which may negatively impact the outcome of the healthcare encounter,
- ethical decision-making,
- U.S. health care system and medical terminology, etc.



CCHI certification of interpreters helps facilitate HR tasks to ensure that individuals who provide language services have specific qualifications and competencies required to perform their job functions in a safe and efficient manner

www.cchicertification.org /healthcare-providers/ensure

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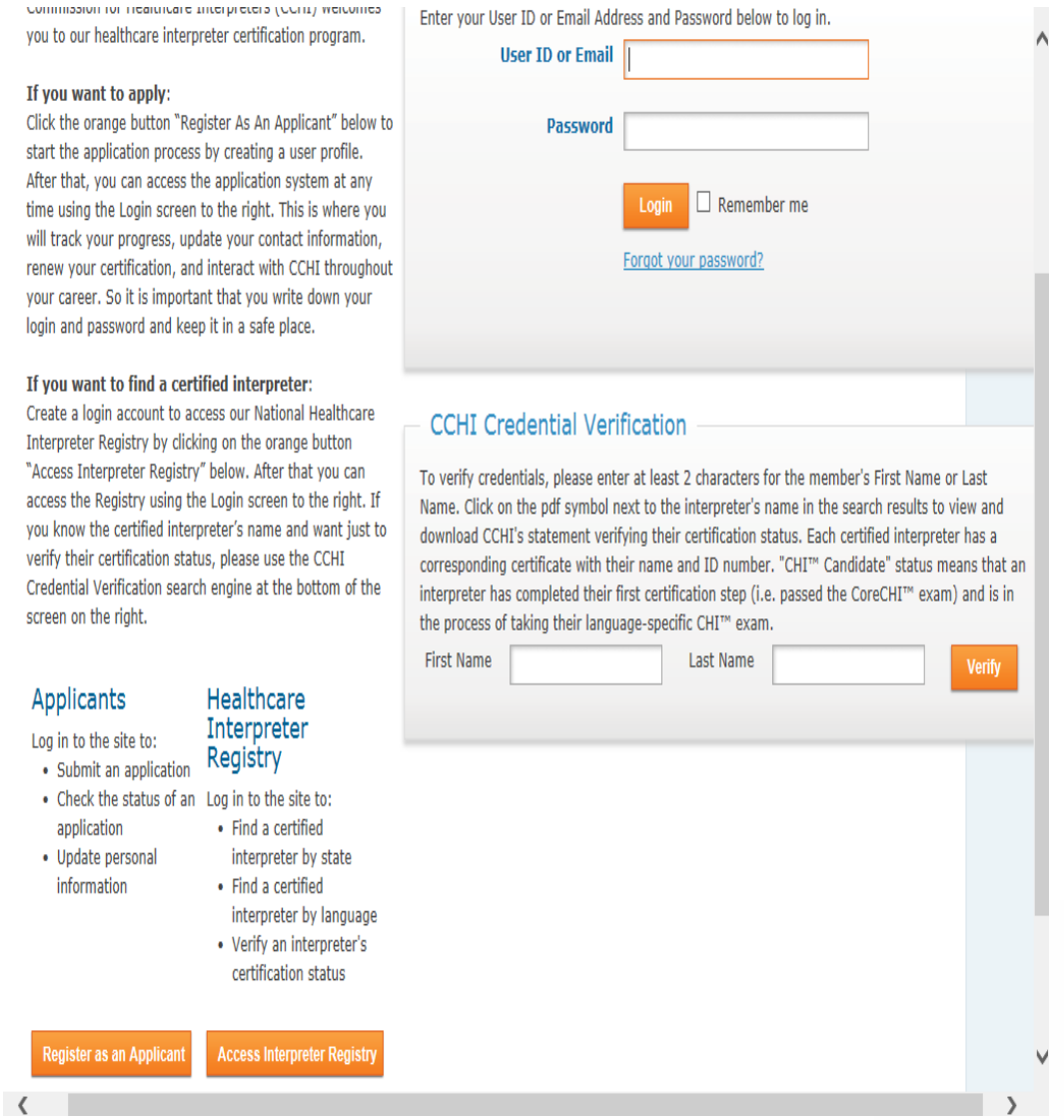
CCHI Website

- Hospital can log on to their website and find a certified interpreter
- HR can verify interpreter's certification status
- Click on access interpreter registry



Grievances

Question 1

- Our grievance process includes: (check all that apply)
  - Name and method to reach the person in charge of our process
  - Telephone number for the State agency
  - A written policy that includes follow up with the patient/family/representative
  - We only take the complaint and nothing more.

Grievance Process 118

- Must have a process for prompt resolution
  - Inform each patient to whom to file a grievance
  - Provides definition – include in your policy
- If TJC accredited – combine P&P with complaint section
  - Complaint standard: RI.01.07.01
    - Similar to CMS
- Use the CMS definition of grievance

Definition – Grievance 118

- **Definition:** A formal or informal written or verbal complaint
  - When the verbal complaint about patient care is not resolved at the time by staff present
  - By a patient, or a patient's representative
  - Regarding the patient's care, abuse, or neglect, issues
  - Related to the hospital's compliance with the CMS CoP
  - A Medicare beneficiary billing complaint related to rights

Grievances – cont'd 118

- Should have process in place to deal with minor request in more timely manner than a written request
  - Examples: change in bedding, housekeeping of room, and serving preferred foods
  - Does not require written response
- If complaint cannot be resolved at the time of the complaint or requires further action for resolution – then it is a grievance
- All requirements for grievances must be met

Patient or Their Representative

- Someone other than patient complains
  - Contact the patient – confirm person is their authorized representative
  - Get the patient's permission to discuss protected health information with designed person – HIPAA
  - Document patient's permission was obtained
    - Some facilities get a HIPAA compliant form signed

Grievance or Not 118

- Grievance
  - Written complaint
  - Complaint telephoned in after discharge
  - Any/all complaints abuse, neglect, patient harm
    - Unless would have been routinely handled by staff
  - If patient asks to have it considered a grievance
- Not a grievance
  - Patient satisfied but family not
  - Billing – unless quality of care
  - Comments in patient satisfaction unless – ask for resolution or treat as grievance

Examples

- Grievance
  - Patient to nurse – “I am missing some money my purse. I think one of the staff took it”
  - Email from patient to Risk Manager – “My doctor failed to diagnose my condition”
  - Reason – needs investigation
- Not a grievance
  - Patient to nurse – “My food is cold. I can’t swallow it”
  - Satisfaction survey – Anonymous – “Your rooms are cold”
  - Reason – can/could have resolve it now

Grievance Process - Survey Procedure

- Review the hospital policy to
  - Assure grievance process encourages all personnel to alert appropriate staff concerning grievances
- Ensure grievances involving situations that place patients in immediate danger are resolved in a timely manner
- Conduct audits and PI – ensure facility is following its grievance P&P

Grievance Process - Survey Procedure

- Surveyor: will interview patients
  - Confirm they know how to file a complaint or grievance
    - Including right to notify state agency (State department of health and BFCC QIO with phone numbers)
    - Add email address and address of both
- Hospital - document the information was given to the patient

Prompt Resolution 119

- Must establish a process for prompt resolution
- Inform each patient whom to contact to file a grievance by name or title
- Operator must know where to route calls
- Make form accessible to all

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Grievance Process – Governing Board 119

- Governing board must approve and is responsible for the effective operation of the grievance process
  - Elevates issue to higher administrative level
- Have a process to address complaints timely
- Coordinate data for PI
  - Look for opportunities for improvement
- Most boards will delegate this to hospital staff

Board Responsibility 119-120

- Board must review and resolve grievances
  - Unless it delegates the responsibility in writing to the grievance committee
- Board is responsible for effective operation of grievance process
  - Grievance process reviewed and analyzed thru hospital's PI program
  - Grievance committee must be more than one person and committee needs adequate number of qualified members to review and resolve

Grievance Process 120

- Process must include a mechanism for timely referral of patient concerns regarding the quality of care or premature discharge to the appropriate QIO
  - Each state has a state QIO under contract from CMS and list of QIOs[1]
- QIO are CMS contractors – review appropriateness and quality of care to Medicare beneficiaries

[1]http://www.qualitynet.org/dcs/ContentServer?pagename=Medqic/MQGeneralPage/GeneralPageTemplate&name=QIO%20Listings

IM and Detailed Notice Forms

- Hospital to provide a Medicare patient with an Important Message from Medicare within 48 hours of admission
  - Must deliver copy of signed form to the patient
  - If more than two days and within 48 hours of discharge
  - Patients must be given a more detailed notice and request the QIO to review their case

- Website for beneficiary notices www.cms.hhs.gov/bni

Revised IM Notice and Detailed Notice

- CMS updated the important message (IM) from Medicare form and the instructions
  - Must be given to all Medicare patients – know discharge appeal rights
- Updated the Detailed Notice of Discharge (DND) Form and instructions and MOON form
  - To those who choose to appeal discharge decision
  - Revised April 2020 and new form number *
  - Questions can be addressed to https://appeals.lmi.org
  - *See appendix

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Check Website Periodically for Changes

Telephone, Fax Numbers and Mailing Addresses				www.keproqio.com/bene/qualityofcarecomp.aspx
Region 1 Connecticut Massachusetts Maine New Hampshire Rhode Island Vermont	**Region 4** Alabama Florida Georgia Kentucky Mississippi North Carolina South Carolina Tennessee	**Region 6** Arkansas Louisiana New Mexico Oklahoma Texas	**Region 8** Colorado Montana North Dakota South Dakota Utah Wyoming	**Region 10** Alaska Idaho Oregon Washington
Toll-free Phone 888-319-8452 **Local Phone** 216-447-9604 **TTY** 855-843-4776 Toll-free Fax** **Mailing Address** 5700 Lombardo Center Dr. Suite 100 Seven Hills, OH 44131	**Toll-free Phone** 888-317-0751 **Local Phone** 813-280-8256 **TTY** 855-843-4776 Toll-free Fax** **Mailing Address** 5201 West Kennedy Blvd. Suite 900 Tampa, FL 33609	**Toll-free Phone** 888-315-0636 **Local Phone** 216-447-9604 **TTY** 855-843-4776 Toll-free Fax** **Mailing Address** 5201 West Kennedy Blvd. Suite 900 Tampa, FL 33609	**Toll-free Phone** 888-317-0891 **Local Phone** 813-280-8256 **TTY** 855-843-4776 Toll-free Fax** **Mailing Address** 5700 Lombardo Center Dr. Suite 100 Seven Hills, OH 44131	**Toll-free Phone** 888-305-6759 **Local Phone** 813-280-8256 **TTY** 855-843-4776 Toll-free Fax** **Mailing Address** 5700 Lombardo Center Dr. Suite 100 Seven Hills, OH 44131

Beneficiary & Family Centered Care QIOs

- Beneficiary and Family Centered Care (BFCC)-QIOs will manage:
  - All beneficiary complaints
  - Quality of care reviews
  - EMTALA
  - And other types of case reviews
  - Ensures consistency in the review process while taking into consideration local factors important to beneficiaries and their families

Grievance Procedure 121

- Hospital must have a clear procedure for the submission of a patient's written or verbal grievances
- Surveyor will
  - Review your information to make sure it clearly tells patients how to submit a verbal or written grievance
  - Interview patient to make sure information provided tells them how to submit a grievance

Hospital Grievance Procedure 122

- Hospital must have a P&P on grievance
  - Specific time frame for reviewing and responding to the grievance
  - Grievance resolution that includes the patient with a written notice of its decision, IN MOST CASES
- Written notice to the patient must include
  - Steps taken to investigate the grievance
  - Results
  - Date of completion

7 Day Rule

- 7 days considered appropriate and
  - If not resolved or investigation not completed within 7 days
  - Must notify patient still working on it and hospital will follow up

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Investigation Time

- Most complaints not complicated and do not require extensive investigation
  - Will look at time frames established
- Document if grievance so complicated it requires an extensive investigation
  - Facility must respond to the substance of every grievance

Response 123

- Explanation to the patient
  - In a manner the patient/legal representative would understand
    - Remember the issue of low health literacy
- Written response must contain
  - Elements required in this section
    - Not statements that could be used in legal action against the hospital
  - Steps taken to investigate the complaint
- Surveyors will review the written notices to make sure they comply with this section

Grievances 123

- If patient emailed a complaint – may email back response
  - Check hospital policy on security – may not allow since email is not encrypted
- Maintain evidence of compliance with the grievance requirements
- Grievance considered resolved when patient is satisfied with action or if hospital has taken appropriate and reasonable action

OCR Section 1557 Grievance Procedure

- Must adopt a grievance procedure (P&P)*
  - Whoever the hospital designates must investigate any grievances alleging noncompliance with Section 1557
  - The P&P must provide for prompt and equitable resolution of the grievance
  - Let the patient know what they did and when they did it
  - Changes August 2020 - have a process

* See appendix

Grievance Policy and Procedures

- Must maintain records and files of the investigation
  - Hospital
  - Physician office
  - Other covered entity
- Complaint coordinator or patient advocate must investigate the complaint
- All interested persons must be afforded an opportunity to submit evidence relevant to the grievance

Policy and Procedures – continued

- The patient or person always has the option of filing a complaint with the OCR at anytime
- OCR has a section on how patients can file a civil rights complaint
  - It can be sent via email, fax, regular mail or via the OCR Complaint Portal at https://ocrportal.hhs.gov/ocr/smartscreen/main.jsf

Exercise of Patient Rights, Consent, Advance Directives

Exercise of Rights 130

- Patients have the right to participate in the development and implementation of their plan of care
  - Includes inpatients and outpatients
  - Includes discharge planning and pain management (revised in 2020)
- Requires hospital to actively include the patient in developing their plan of care including changes

Patient Representative

- Hospital expected to take reasonable step to determine patient's wishes on designation of a representative with same requirements
  - Same as if patient competent and has a representative
    - Must involve **both** in development and implementation of a plan of care
- If incapacitated and AD that person is involved
- If incapacitated and no AD
  - Who claims to be patient representative
  - Cannot ask for supporting documentation unless two claims to be the representative

Patient Representative

- Document refusals to let someone be the representative in the medical record
  - Same requirement to follow any specific state law
- Need P&P and should teach staff this section
- Policy must facilitate expeditious and non-discriminatory resolution of disputes about whether the person is the patient's representative

Patient Participate in Plan of Care

- If patient refuses – document
  - Includes refusal of patient's legal representative if a minor patient or patient is incompetent
- Plan of care is frequently cited
  - Participation in interdisciplinary plan does not eliminate the need for a nursing plan of care (Tag 396)
  - Patients needing post-hospital care are given choices: home health, IPR (inpatient rehab), LTC or LTCH in writing
  - Includes choice to pain management, patient care issues, and discharge planning
    - Section 1802 of SSA guarantees free choice by Medicare patients for LTC or home health

Patients Right

- Make informed decision regarding care
- Be informed of diagnosis
- Request or refuse treatment
  - Right to sign out AMA
  - Remember EMTALA requirements if patient is transferred
  - Have patient sign the transfer agreement

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Informed Consent 131

- 3 sections in the manual on informed consent
  - Patient rights – informed decisions
  - Medical records
  - Surgical services
- Patient has the right to make informed decisions
- Same provisions for patient representative
  - If competent patient has a patient representative – give information to both regarding information to make an informed decision about the care

Patient Representative and Consent

- Hospital must obtain the written consent of the patient representative of a patient who is not incapacitated
  - Continues throughout the inpatient hospitalization or the outpatient encounter
- Same for patient who is incapacitated
  - Whether they have a DPOA
  - If not – then to patient representative
- If no advance directives – hospital cannot ask representative for supporting documentation unless two people claim to be the representative

Patient Rights – Informed Consent 131

- Right to:
  - Delegate the right to make informed decisions to another (DPOA, guardian)
  - To an informed consent for surgery or a treatment
  - To be informed of health status and to be involved in care planning and treatment
  - Informed decision on discharge planning to post acute care
  - To request or refuse treatment and P&P to assure patient's right to request or refuse treatment

Disclosures to Patients 131

- Two disclosures that must be in writing
  - 1. If physician owned hospital
  - 2. If a doctor or an ED physician is not available 24 hours a day to assist in emergencies
    - Include in notice to patients and post sign in the ED
    - Must be signed acknowledgement from the patient
  - Provide information at beginning of inpatient stay or visit
    - Physicians who refer patients to the hospital they have an ownership interest must disclose
    - Plus – that hospital requires this as a condition for the physician being credentialed or privileged
  - Give to patients at first opportunity and have P&Ps

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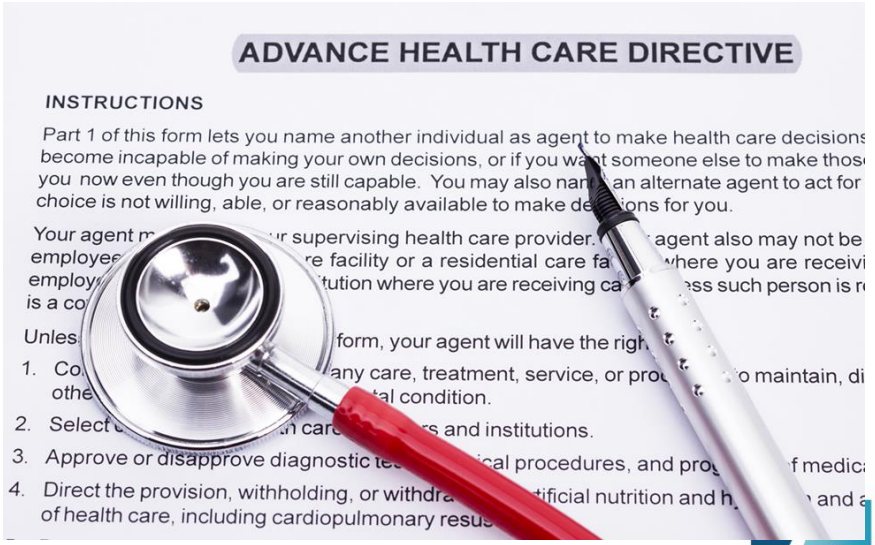
Advanced Directives – Patient 132

- Patient has the right to make and have advance directives followed if they become incapacitated
  - Staff must provide care consistent with the directives
  - P&P must include delegation of patient rights to the representative if the patient incompetent
  - In addition, patient may designate in the AD a support person to make decision on visitation



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Advance Directives

- Policy should have clear statement of any limitations such as conscience objections
  - Minimum: clarify any difference between facility wide and those raised by individual doctors
  - Cannot refuse to honor designation of a DPOA, support person or patient representative
- Must provide written information to the patient on their rights under state law, at time of admission as an inpatient
  - *Should* provide same notice to **3 types of outpatients:** ED, observation or same day surgery
  - Document whether or not they have an AD

Advance Directives

- Cannot condition treatment on whether a patient has one
- Not construed as a mechanism for patient to demand inappropriate or medically unnecessary care
- Ensure compliance with state laws on AD
  - Inform patients they may file with state survey and certification agency
- Provide and document advance directives education and try and get a copy and place on chart
- Must train staff on P&P and community education

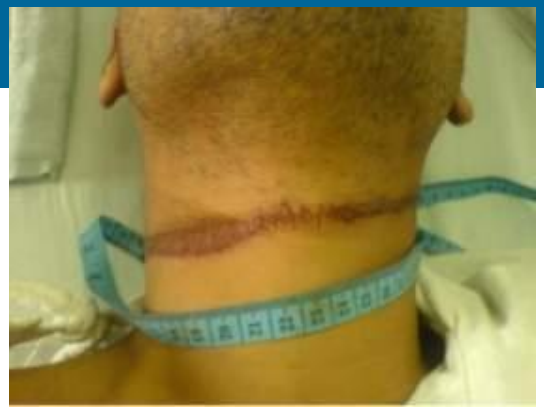
Patient Rights

- Right for DPOA to make medical decisions when patient incapacitated
  - I.e. – informed consent or pain management
- Disseminate policy on advance directive
  - Identify state authority permitting an objection
  - Includes Psychiatric or behavioral health AD
- The visitation regulations are one of the newest patient rights

Family Member & Doctor Notified 133

- Right to have a family member or representative notified and their physician notified on admission if not aware
  - Must now ask every patient on admission and document
  - Must do so promptly when patient responds affirmatively
- If incapacitated – identify family member or representative to promptly notify
- If someone comes with patient/arrives after and asserts they are the patient's representative – hospital accepts
  - Same if two people claim to be their representative & follow state law

Privacy, Safety, and Ligature Risks



Personal Privacy 143

- Standard: The patient has a right to personal privacy while within the hospital
  - To receive care in a safe setting
  - Be free from all forms of abuse or harassment
- Right to personal privacy
  - To respect, dignity, and comfort
  - Privacy during personal hygiene activities
    - Toileting – bathing – dressing
    - Examinations – pelvic exam

Video/Electronic Monitoring 143

- Need consent for video/electronic monitoring
  - Must be clinical need
  - Make sure patient aware and can see camera
    - Cameras in patient rooms (sleep lab, ED safe room)
    - Not applicable to cameras in hallways or lobbies
  - Include in general admission consent form that all patients sign on admission or make sure patients are aware
  - May use to monitor patients
    - Violent and or self destructive
    - In both restraint and seclusion

Joint Commission July 1, 2022

- Deleting RI.01.03.01 EP3 (DS) – re: obtaining consent
  - When make and use recordings, films or other images
  - Other than identification, diagnosis, or treatment
- Will have new EP at RI.01.01.01 – more broadly addresses issues related to protecting patient's rights

Personal Privacy & Confidentiality 143

- Person not involved with care may not be present during exam without consent
- Information in directory may not be disclosed without informing patient in advance
  - Visitor must ask for the patient by name
- Can use information for payment and healthcare operation
- Must have P&P – restrict access to MR to those who need to know

Uses & Disclosures 143

- Incidental uses and disclosures
  - Names on spine of chart
  - Names on outside of rooms
  - Whiteboards that list patient present in OR or PACU
- Take reasonable safeguards
  - Ask waiting patients to stand back a few feet from a counter used for patient registration
  - Speak quietly if patient in semi-private room
  - Passwords on computers
  - Limit access to areas with light boards or white boards

Survey Procedure

- Surveyor will
  - Conduct observations to determine if privacy provided during exams, treatments, surgery, personal hygiene activities, etc.
  - Look to see if names with patient information is posted in plain view
  - Ask if patient names are posted in public view
    - No white boards with patient names and other PHI

Safety 144

- The right to receive care in a safe setting including
  - Environmental safety
  - Infection control
  - Security – i.e., preventing infant abductions
  - Preventing patient falls
  - Medication errors
  - Very broad authority for patient safety issue
- Right to respect for dignity and comfort

Examples of Care in a Safe Setting

- Hand washing between patients
- P&P to manage unwanted visitors or contraband materials
- P&P on background checks on staff

Question #2

- Regarding ligature risks, we assess
  - Every patient for self harm
  - Only behavioral health patients on those non-behavioral health units
  - Any patient who has indicated ideation for self-harm

Ligature Risk

- Updated tag **144** in patient rights section
- Proposed guidelines *
- Want a safe environment to prevent patients from hanging themselves or strangulation
  - Focuses on the care and safety of behavioral health patient and staff
- No waivers for ligature risk deficiencies and hospitals cited will be required to provide monthly progress reports

* * See appendix

Ligature – General Information

- Definition: Anything that can be used to attach a cord, rope, or other material for the purpose of hanging or strangulation
  - Includes shower rails, shoelaces, belts, sheets, towels, coat hooks, pipes, radiators, window and door frames, ceiling fixtures, etc.
  - Observe housekeeping carts or utility carts for mops, cleaning agents, brooms, disinfectants

Ligature – General Information

- Want a ligature free environment especially in behavioral health units
- Safety risks include furniture that can be thrown, sharp objects, plastic bags for suffocation, oxygen tubing, breakable windows, etc.

Ligature Risks - Generally

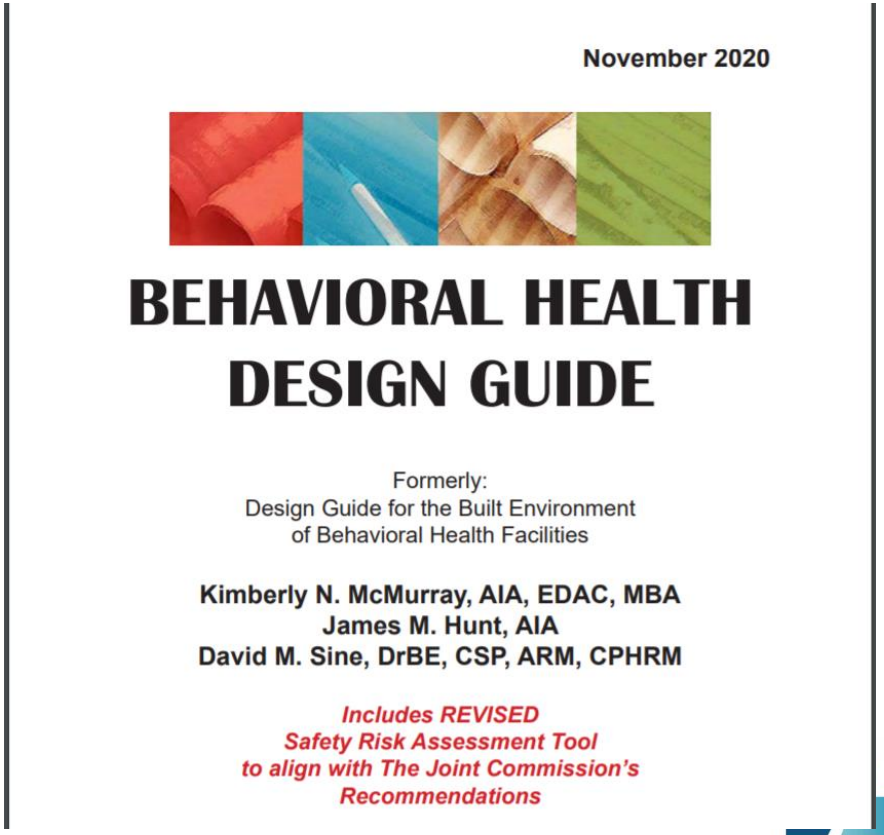
- Psych patients in non-psych setting must also be protected such as the ED, ICU, med-surg. etc.
- Identify patients at risk for self harm
  - Protection measures such as 1:1 monitoring with continuous observation
  - Removal of sharp objects from the room or equipment that can be used as weapons
- Any deficiencies must be corrected within 60 days from receipt of the report
- Follow up surveys will be done

Ligature Risks - Requirements

- Provide education and training for staff and volunteers, including contractors and agency staff
  - Upon orientation and when changes are made and recommend every two years
- Identify environmental safety risks for patients
  - All sections of the hospital
  - Ligature free/resistant environment for psych units and psych hospitals
- Patient risk assessment and strategies

Behavioral Health Design Guide

- https://fgiguidelines.org/resource/design-guide-built-environment-behavioral-health-facilities/
- Includes self-assessment tools



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Freedom from Abuse or Harassment 145

- The patient has the right to be free from all forms of abuse or harassment and neglect
  - Must have process in place to prevent this
  - Criminal background checks as required by state law
  - Must provide ongoing (yearly) training: abuse, harassment, and neglect
  - Have a proactive approach to identify events that could be abuse
  - Must have P&P
  - Adequate staffing section

Abuse – Definition

- Abuse: the willful infliction of injury, unreasonable confinement, intimidation, or punishment, with resulting physical harm, pain, or mental anguish
  - Includes staff neglect or indifference to infliction of injury or intimidation of one patient by another
  - Include state laws in your P&P on abuse and neglect
- TJC has standard and definitions, RI.01.06.03

Neglect – Definition

- Neglect: The failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness
  - Investigate all allegations of abuse or neglect
  - Do not hire persons with record of abuse or neglect
  - Report all incidents to proper authority, board of nursing, etc.

Other Considerations

- Includes freedom abuse from other patients and visitors
  - Hospital must have a mechanism in place to prevent this
- Effective abuse program includes prevention
  - Adequate number of staff who have been screened
  - Identify events that could lead to or contribute to abuse
  - Protect during investigation
  - Investigate and report and respond

Other Considerations – cont'd

- Have a policy in place for investigating allegations
- Make sure staffing sufficient across all shifts
- Ensure appropriate action taken if substantiated
- Make sure staff know what to do if they witness abuse and neglect
- Include in policy and training any state or accreditation requirements
- TJC standards on abuse and neglect under RI.01.06.03

Confidentiality 147

- Patients have a right to confidentiality of their medical records
  - Sufficient safeguards to ensure access to all information
  - HIPAA compliant authorization or MR release form
  - Minimal necessary standard
    - Abstract out information on child abuse record
- MR kept secure and only viewed when necessary by staff involved in care
  - Do not post patient information where it can be viewed by visitors

TJC on Confidentiality 147

- TJC IM.02.01.01: hospital protects the privacy of health information, maintain security of same
  - If white board visible to public hospital may use first name and first initial of last name
- Must protect patient's medical record information from unauthorized person
  - Must have a policy and procedure on this
- Obtain patient or patient representative written authorization to disclose medical record information

Patient Records – Access 148 2020

- Patients have the right to access the information contained within their medical records
- Right to inspect their record or to get a copy
- Upon oral or written request
- In the form or format requested by the patient
  - Electronic copy
  - If not - paper copy or other form agreed by the hospital and patient
  - You cannot frustrate the efforts of the patient to get their medical records

Access to Records

- Patient has a right of access to their **current** medical records within a reasonable time
  - Update medical records policy
  - Educate nurses, doctors, and other staff
  - Have a process for patients who want to review their current medical records

Timely Receipt and Content

- Right to get records timely
  - HIPAA: 30 days unless stored off site then 60 days at the latest
  - CMS says “timely”
  - State law may be more stringent
- Right to entire medical record
  - Can request a specific portion
- Record must include the discharge planning documents

Patient Rights & OCR

- CMS: with technology expect request completed fewer than 30 days
- Cannot frustrate efforts of patients to get their medical records
- Section overlaps with requirements from OCR
- OCR's lengthy memo on access to records

OCR Rights of Individual Patients & HIPAA

- Rights
  - Access to their information
  - Right to inspect medical records
    - Can allow email to make requests or fax
    - Verify the identity of the patient
  - Cannot require person to request records in person
  - Cannot require patient to mail the authorization

OCR Rights – cont'd

- Rights – cont'd
  - Request a paper or electronic copy
  - Request copies of x-rays
  - Must send to patient within 30 days of request
    - 30- day extension available if archived offsite and not readily accessible
- Hospital
  - Can charge for records – but no retrieval fee
  - When hospital may deny the request
  - Cannot refuse to give copies because hospital bill not paid

Timely Access & OCR Complaints

- Patients who do not get records timely can file a complaint with OCR
  - One in every 10 complaints related to not getting records or not getting records timely
- OCR fining hospitals who fail to get patients their records timely

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OCR Issues

Individuals' Right under HIPAA to Access their Health Information 45 CFR § 164.524

Newly Released FAQs on Access Guidance

New Clarification – $6.50 Flat Rate Option is Not a Cap on Fees for Copies of PHI

www.hhs.gov/hipaa/for-professionals/privacy/guidance/access/index.html#newlyreleasedfaqs

Introduction

Providing individuals with easy access to their health information empowers them to be more in control of decisions regarding their health and well-being. For example, individuals with access to their health information are better able to monitor chronic conditions, adhere to treatment plans, find and fix errors in their health records, track progress in wellness or disease management programs, and directly contribute their information to research. With the increasing use of and continued advances in health information technology, individuals have ever expanding and innovative opportunities to access their health information electronically, more quickly and easily, in real time and on demand. Putting individuals "in the driver's seat" with respect to their health also is a key component of health reform and the movement to a more patient-centered health care system.

The regulations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), which protect the privacy and security of individuals' identifiable health information and establish an array of individual rights with respect to health information, have always recognized the importance of providing individuals with the ability to access and obtain a copy of their health information. With limited exceptions, the HIPAA Privacy Rule (the Privacy Rule) provides individuals with a legal, enforceable right to see and receive copies upon request of the information in their medical and other health records maintained by their health care providers and health plans.

2nd OCR Fine Re: Access to Medical Records

FOR IMMEDIATE RELEASE
December 12, 2019

Contact: HHS Press Office
202-690-6343
media@hhs.gov

OCR Settles Second Case in HIPAA Right of Access Initiative

The Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services is announcing its second enforcement action and settlement under its HIPAA [1] Right of Access Initiative. OCR announced this initiative earlier this year promising to vigorously enforce the rights of patients to get access to their medical records promptly, without being overcharged, and in the readily producible format of their choice. Korunda Medical, LLC (Korunda) has agreed to take corrective actions and pay $85,000 to settle a potential violation of HIPAA's right of access provision. Korunda is a Florida-based company that provides comprehensive primary care and interventional pain management to approximately 2,000 patients annually.

In March of 2019, OCR received a complaint concerning a Korunda patient alleging that, despite repeatedly asking, Korunda failed to forward a patient's medical records in electronic format to a third party. Not only did Korunda fail to timely provide the records to the third party, but Korunda also failed to provide them in the requested electronic format, and charged more than the reasonably cost-based fees allowed under HIPAA. OCR provided Korunda with technical assistance on how to correct these matters and closed the complaint. Despite OCR's assistance, Korunda continued to fail to provide the requested records, resulting in another complaint to OCR. As a result of OCR's second intervention, the requested records were provided for free in May 2019, and in the format requested.

"For too long, healthcare providers have slow-walked their duty to provide patients their medical records out of a sleepy bureaucratic inertia. We hope our shift to the imposition of corrective actions

9th Settlement 100,000 – Failure to give films

HHS Office for Civil Rights in Action

October 9, 2020
OCR Settles Ninth Investigation in HIPAA Right of Access Initiative

The Office for Civil Rights (OCR) at the U.S. Department of Health and Human Services (HHS) announces that it has settled its ninth enforcement action in its HIPAA Right of Access Initiative. OCR announced this initiative as an enforcement priority in 2019 to support individuals' right to timely access to their health records at a reasonable cost under the HIPAA Privacy Rule.

NY Spine Medicine (NY Spine) has agreed to take corrective actions and pay $100,000 to settle a potential violation of the HIPAA Privacy Rule's right of access standard. NY Spine is a private medical practice specializing in neurology and pain management with offices in New York, NY, and Miami Beach, FL.

In July 2019, OCR received a complaint from an individual alleging that beginning in June 2019, she made multiple requests to NY Spine for a copy of her medical records. NY Spine provided some of the records, but did not provide the diagnostic films that the individual specifically requested. OCR initiated an investigation and determined that NY Spine's failure to provide timely access to all of the requested medical records was a potential violation of the right of access standard. As a result of OCR's investigation, the complainant received all of the requested medical records in October 2020.

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Other Rules re: Access to Medical Records

- If patient incompetent – then to the personal representative
  - Should sign as the personal representative – DPOA, guardian, parent
- Reasonable cost for copying, postage or summary
  - No retrieval fee allowed under federal law

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"Open Records" Access

- New law effective April 5, 2021
- With limited exceptions – gives patients immediate access to health information in record at no charge
- Includes:
  - Notes
  - H&P
  - Diagnostic
  - Progress notes plus more
- In the medical records CoPs

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Changes With Hospital Improvement Rule

PA Ordering Restraints 2020

- Final provision in the Hospital Improvement Rule
  - Previously: physicians and **licensed independent practitioners (LIPs)** can order restraints
  - PAs are not LIPs in some states but **licensed practitioners (LPs)** *
- Now PAs can order restraint and or seclusion
  - If allowed by state law and hospital policy

* More information in Appendix

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Restraint and Seclusion

Restraints 154-214

- Do not need to report death if patient had on only 2 **soft** wrist restraints and death not due to the restraints
- Revised reporting to electronically
  - No longer accepting paper forms
  - Information in Appendix on form and completion

Electronic Restraint Reporting Form

- Form CMS-10455 has more required information than the paper form
- Asks for information such as:
  - Primary diagnosis, cause of death, reason for the use of restraint/seclusion, events or circumstances leading up to death, circumstances surrounding the death, how R&S was associated with the death, type of R/S used, and length of time in R/S, etc.
  - To determine whether an onsite survey is indicated to investigate the circumstances surrounding the patient deaths associated with the use of restraints and/or seclusion

Restraint Changes

- Will need to include information in internal log
- Log must be done asap – no later than 7 days
  - Must include patient's name, date of birth, date of death, attending physician, primary diagnosis, and medical record number
  - Name of practitioner responsible for patient could be used in lieu of attending if under care on non-physician practitioner
    - CMS could request to review the log at anytime
- Still required to report death within seven days
- Rewrite policies and procedures and train all staff

Restraints

- Manual changes only affect regular – Acute – hospitals
- CAH do not have a patient rights section and not required to follow new R&S section unless distinct unit
- CAH must have P&P so they can either use TJC standards or select some or all of hospital ones
  - Some CAH have adopted all if in system with regular hospitals
  - Suggest use same ones except for reporting requirements

Number of R&S Deficiencies

Tag Number	January 2022
154 Use of Restraint or Seclusion	227
159 Patient Rights: R&S	37
160 Patient Rights: R&S	77
161 Patient Rights: R&S	17
162 Patient Rights: R&S	38
164 Patient Rights: R&S	116
165 Patient Rights: R&S	89
166 Patient Rights: R&S	236
167 Patient Rights: R&S	196
168 Patient Rights: R&S	676

Number of R&S Deficiencies

Tag Number	January 2022
169 Patient Rights: R&S	90
170 Patient Rights: R&S	26
171 Patient Rights: R&S	139
172 Patient Rights: R&S	15
173 Patient Rights: R&S	76
174 Patient Rights: R&S	169
175 Patient Rights: R&S	317
176 Patient Rights: R&S	52
178 Patient Rights: R&S	171
179 Patient Rights: R&S	162

Number of R&S Deficiencies

Tag Number	January 2022
180 Patient Rights: R&S	3
182 Patient Rights: R&S	14
183 Patient Rights: R&S	4
184 Patient Rights: R&S	38
185 Patient Rights: R&S	53
186 Patient Rights: R&S	46
187 Patient Rights: R&S	36
188 Patient Rights: R&S	51
194 Patient Rights: R&S	70
196/199 Patient Rights: R&S	111

Number of R&S Deficiencies

Tag Number	January 2022
200 Patient Rights: R&S	35
201 Patient Rights: R&S	7
202 Patient Rights: R&S	34
204 Patient Rights: R&S	3
205 Patient Rights: R&S	21
206 Patient Rights: R&S	93
207 Patient Rights: R&S	6
208 Patient Rights: R&S	36
213 Death Reports	24
214 Death Reports	48 **Total 3,704**

Restraints

- Patients have a right to be free from physical or mental abuse, and corporal punishment
- Includes restraint and seclusion (RS)
  - Only be used when necessary
  - Not as coercion, discipline, convenience or retaliation
  - Only used for patient safety and discontinued at earliest possible time
- R&S guidelines from CMS apply to all hospital patients even those in behavioral health

Right to be Free From Restraint

- Consider adding it to your patient rights statement if not already there
- Must give patients a copy of their rights
  - Staff should document or have patient sign that they received their rights
  - Could include information in admission packet
- Do not consider using R&S as routine part of fall prevention (154)

Hospital Leadership's Role

- Like TJC, leadership is responsible for creating a culture that supports right to be free from R&S
- Leadership must
  - Make sure systems and processes in place to eliminate inappropriate R&S and monitors use thru PI process
  - Make sure only used for physical safety of patient or staff
  - Ensure hospital complies with all R&S requirements (154)

Restraints Protocols

- CMS previously did not recognize or allow the use of protocols like Joint Commission does
- Protocols are now not banned by the new regulations (168) but still need separate order for R&S so didn't really help
- Must contain information for staff on how to monitor and apply like intubation protocol
  - Must document individualized assessment, symptoms and diagnosis that triggered protocol
  - Need MS involvement in developing and review and quality monitoring of their use

Restraint Standards

- If a patient becomes violent or has self destructive behavior (V/SD) in the ICU or ED, CMS has one set of standards that apply
- Decision to use R&S is not driven from diagnosis
  - Rather – from assessment of the patient
- The Joint Commission has restraint standards
- TJC and other 3 accreditation organization standards must meet or exceed those of CMS

TJC R&S Standards

PC.03.05.01	The hospital uses restraint or seclusion only when it can be clinically justified or when warranted by patient behavior that threatens the physical safety of the patient, staff, or others.
PC.03.05.03	The hospital uses restraint or seclusion safely.
PC.03.05.05	The hospital initiates restraint or seclusion based on an individual order.
PC.03.05.07	The hospital monitors patients who are restrained or secluded.
PC.03.05.09	The hospital has written policies and procedures that guide the use of restraint or seclusion.
PC.03.05.11	The hospital evaluates and reevaluates the patient who is restrained or secluded.
PC.03.05.13	The hospital continually monitors patients who are simultaneously restrained and secluded.
PC.03.05.15	The hospital documents the use of restraint or seclusion.
PC.03.05.17	The hospital trains staff to safely implement the use of restraint or seclusion.
PC.03.05.19	For hospitals that use Joint Commission accreditation for deemed status purposes: The hospital reports deaths associated with the use of restraint and seclusion.

Restraint Standards Medical Patients

- Joint Commission calls it behavioral health and non-behavioral health
- CMS calls it violent and or self destructive (V/SD) and non-violent and non-self destructive
- CMS: “It is not the department in which the patient is located but the behavior of the patient”

Know New Definition 159

- New definition: Physical restraint is any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body, or head freely *
  - Mechanical restraints include belts, restraint jackets, cuffs, or ties
  - Manual method of holding the patient is a restraint
  - See Appendix

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Drug or Medication

- Drug or medication used as a restraint
  - Manage the patient's behavior
  - Restrict the patient's freedom of movement
  - Not a standard treatment or standard dosage for the patient's condition (160)
- Use of PRN drug is only prohibited if medication meets definition of drug
  - Ativan for ETOH withdrawal symptoms is okay
  - Phenergan for agitation not → restraint

When a Drug is Not a Restraint

- Medication is within pharmacy parameters set by the FDA and manufacturer for use
  - Use follows national practice standards
- Used to treat a specific condition based on patient's symptoms
- Standard treatment would enable patient to be effective or increase functioning

Definition of Seclusion

- The involuntary confinement of a patient alone in a room or area from which the patient is physically prevented from leaving (162)
- May only be used for the management of violent or self-destructive behavior (V/SD behavior) that jeopardizes the immediate physical safety of the patient, a staff member, or others
- Is not being on a locked unit with others or for time out if patient can leave area (162)

Seclusion

- When they are alone in a room and physically prevented from leaving
- May only use seclusion for management of V/SD behavior that is danger to patient or others
- Time limits on length of order apply such as four hours for an adult
- One hour face to face evaluation must be done (183)
- Therapeutic holds to manage V/SD patients are a form of restraint

Restraints Do Not Include

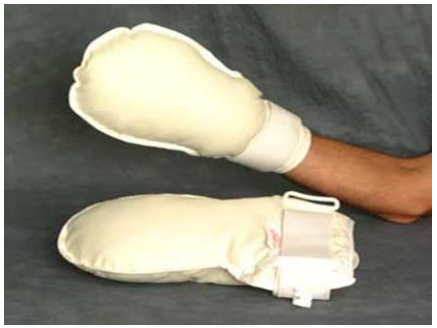
- Forensic restraints
  - Handcuffs, shackles, or other restrictive devices
  - Applied by law enforcement or police (154)
  - Closely monitor and observe for safety reasons
- Orthopedically prescribed devices, surgical dressings or bandages, protective helmets (161)
- Methods that involve the physical holding of a patient for the purpose of conducting routine physical examinations or tests (161)

Restraints Do Not Include

- Protecting the patient from falling out of bed
  - Cannot use side rails to prevent patient from getting out of bed if patient cannot lower
  - Then it becomes a restraint
- Striker beds or the narrow carts and their use of side rails are not a restraint
- IV board - unless tied down or attached to bed
- Postural support devices for positioning or securing (161)
- Device used to position a patient during surgery or while taking an x-ray

Restraints Do Not Include – cont'd

- Recovery from anesthesia is part of the surgical procedure and is medically necessary (161)
- Mitts – ***unless*** tied down or pinned down or so bulky or applied so tightly patient cannot use or bend their hand (161)
  - "Boxing gloves"



- Padded side rails can be put on when as a seizure precaution
- Giving child a shot to protect them from injury (161)

Restraints Include

- Physically holding a patient for forced medications
- Tucking in a sheet so tight patient could not move (159)
- Use of enclosed bed or net bed
  - Unless patient can freely exit the bed such as the zipper inside the bed
- Freedom splint that immobilizes limb
- Remember that is it not “the thing” – rather “what the thing does” to the patient in restricting movement

Is This a Restraint?

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Restraints

- Devices with multiple purposes –
  - Side rails or Geri chairs – when cannot be easily removed by the patient
  - Restrict the patient's movement constitute a restraint
- Seat belt in a wheelchair is an exception and allowed (159)
- If patient can lower side rails when they want – not a restraint but document
- If a patient can remove a device - is not a restraint

Restraints

- Stroller safety belts, swing safety belts, highchair lap belts, raised crib rails, and crib covers (161)
  - Okay if age or developmentally appropriate
- Use of these safety interventions must be addressed in your policy
- Holding an infant or toddler is not a restraint

Weapons 154

- CMS does not consider the use of weapons in the application of restraint or seclusion as a safe, appropriate health care intervention (154)
  - Security staff can carry – per hospital policy and state/federal law
  - Use of weapons security is law enforcement action
    - Not healthcare intervention
  - Okay if patient is arrested and use by law enforcement
- Weapons include pepper spray, mace, nightsticks, tazers, stun guns, pistols, etc.

Assessment

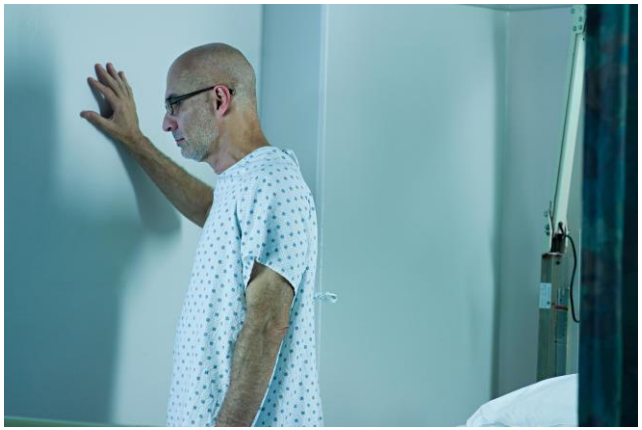
- Should do comprehensive assessment
  - Assess to reduce risk of slipping, tripping or falling
  - To identify medical problems that could be causing behavioral changes (0154)
    - Increased temp – hypoxia – low blood sugar – electrolyte imbalance – drug reactions, etc.
  - Use of restraint is not considered routine part of a fall prevention program (154)

Question #3

- We have a robust restraint and seclusion policy that requires (check all that apply)
  - Patient assessment
  - Patient re-evaluation for every shift
  - Applies throughout our facility
  - Review and approval by our Board, Medical Staff and Nursing leadership
  - Nothing specific – can be applied when needed

Determine Reason for R&S

- Surveyor will look for evidence that staff determined the reason for the R&S (154)
  - Should be documented and be specific
  - Consider a field on the order sheet to include this
- Usually – to prevent danger to the patient or others



Possible Suggested Reasons to Restrain

- Danger to self
- Maintain therapeutic environment
- Prevent patient from removing vital equipment
- Physically attempting to harm others or property
- Demonstrated lack of understanding to comply with safety directions

Less Restrictive

- Restraints only used when less restrictive interventions have been determined to be ineffective to protect the patient or others from harm (154, 164, 165)
- Type or technique used must be least restrictive
  - Is what the patient doing a hazard?
  - Allowing sundowners to walk or wander at night (154)
- Request from patient or family member is not sufficient basis for using if not indicated by condition of patient

Less Restrictive Requirements

- Must assess patient
- Must document
  - Restraint is least restrictive intervention to protect patient safety
  - Based on assessment
  - Effect of least restrictive intervention
- Train staff on what is least restrictive interventions

Least Restrictive Restraint to More

▪ Side-rails……..	▪ Net bed
▪ Hand mittens…….	▪ Soft extremity restraint
▪ Lap board……..	▪ Geri chair
▪ Roll belt/lap belt……	▪ Vest restraint
▪ 2-point soft restraint..	▪ 3- or 4-point soft
▪ Wrap IV site …….	▪ Arm board
▪ Hand mitten…….	▪ Soft wrist restraint
▪ Freedom splint is a restraint!	

Alternatives

- Should be considered along with less restrictive interventions (186)
  - What are other things you could do to prevent using R&S
    - A sitter or family member stay with patient
- Distractions – watching video games, working on a laptop computer
- Try nonphysical intervention skills (200)
- Consider having a list of alternatives in the toolkit

Possible Alternatives

Bed sensor	Lower chairs
Close to nurse's station	Allow wandering, if possible
Activity apron	Food/hydration
E-Z release hugger (if can release)	Low beds or mattress on floor
Reality orientation/familiarize patients to room	Encourage family visits
Verbal instructions/support	Pain/discomfort relief
Frequent visits with patient (hourly except night shift)	Diversion activities such as TV, CDs, DVDs, music therapy, picture books, games
Skin sleeves	Provide structured, quiet environment
Sensor alarm	Exercise/ambulate
Posey lateral wedges	Toileting routine
Access to call cord	

Restraints and Licensed Practitioners

- LPs can write orders for restraints
- Any practitioner permitted by State law and hospital policy having the authority to order restraints or seclusion for patients
  - Within the scope of their licensure
  - Consistent with granted privileges may
  - NP, PA, licensed resident, but not a medical student
- Must specify who in your P&P (168)

Notify Doctor ASAP 170

- Any established time frames must be consistent with ASAP (not in 1 or 3 hours)
- Hospital MS policy determine who is the attending physician
- Hospital P&P should address the definition of asap (182,170)
- RN or PA who does 1 hour face-to-face must notify attending physician and discuss findings (182)
- Be sure to document if licensed practitioner or nurse notifies physician

Restraints Order Needed

- Order must be received for the restraint from the physician or other licensed practitioner responsible for the care of the patient (168)
- Policy & procedure – include:
  - If an emergency
  - Category of who can order - PA, NP, resident
    - Cannot be medical student
- PRN order prohibited if medication used as a restraint

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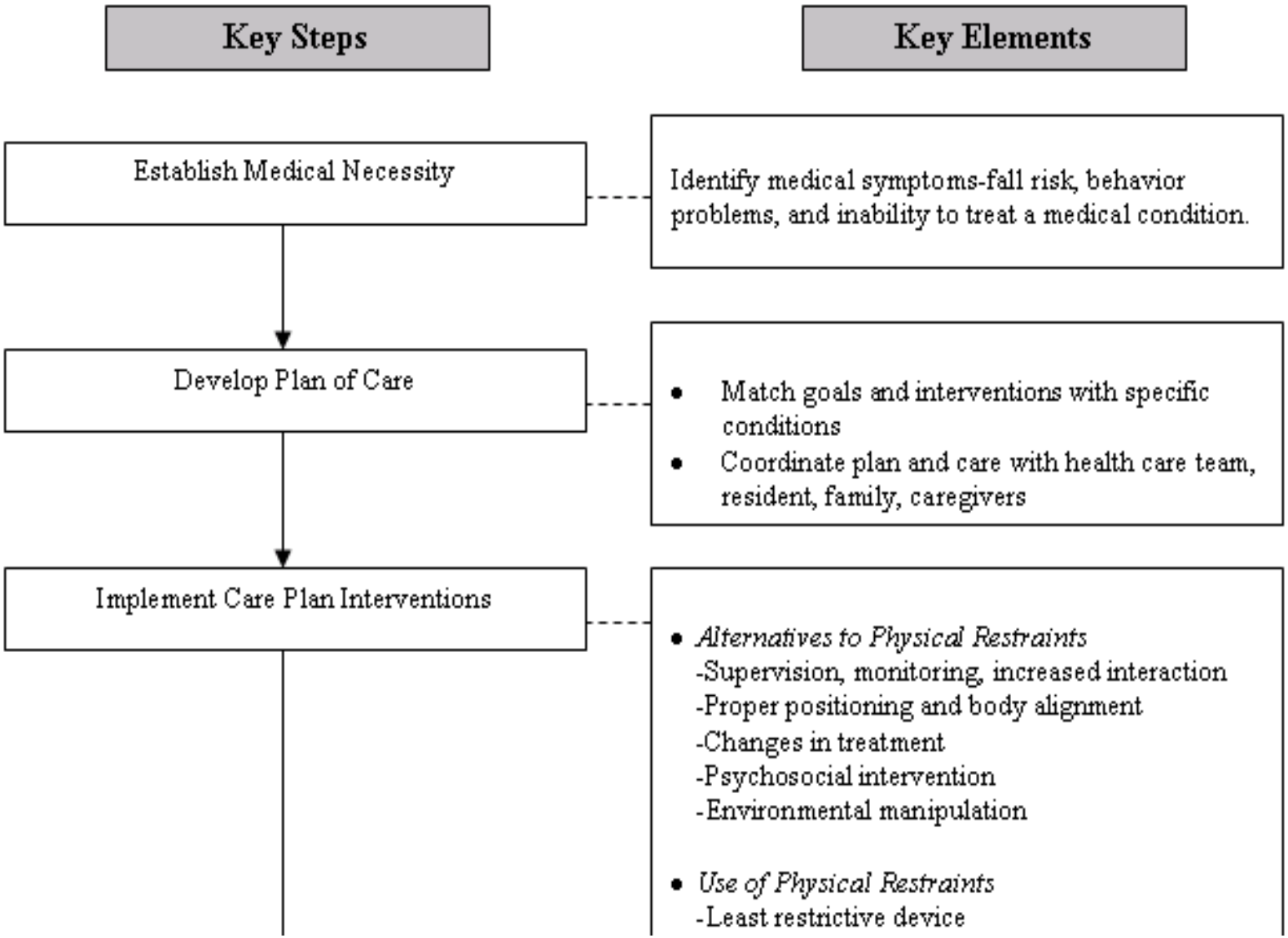
PRN Order Exceptions (3)

- Repetitive self-mutilating behavior (169)
  - Such as Lesch-Nyham Syndrome
- Geri chair – if patients require tray to be locked in place when out of bed
- Raised side rails – if requires all 4 side rails to be up when the patient is in bed
- Do not need new order every time but still a restraint

Plan of Care

- Restraints must be used in accordance with a written modification to the patient's plan of care (166)
  - What was the goal of the plan of care?
  - Use of restraint should be in modified plan of care
- Care plan should be reviewed and updated in writing
  - Within time frame specified in P&P (166)
  - Plan reflects a loop of assessment → intervention → evaluation → reevaluation

Physical Restraints: Development of Plan of Care



Plan of Care

- Orders are time limited – include in the plan of care
- For patient who is V/SD – consider debrief as part of plan of care
  - Not mandated by CMS
- Debriefing no longer mandated by TJC for behavioral patients (deemed status)
  - TJC requires de-escalation under PC.01.01.01
- Can add information on debrief to R&S toolkit

End at Earliest Time

- Must be discontinued at the earliest possible time (154, 174)
  - Regardless of the time identified in the order
- If discontinue and still time left on clock and behavior reoccurs – will need to get a new order
- **Temporary release** for caring for patient is okay (feeding, ROM, toileting)
  - **Trial release** is seen as a PRN order and not permitted (169)

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Policy – End at the Earliest Time

- Restraints only used while unsafe condition exists
- Hospital policy should include
  - Who has authority to discontinue restraints (154, 174)
  - Circumstances under which restraints to be discontinued
  - Who allowed to take them off
  - Based on determination that patient's behavior no longer a threat to self, staff, or others (put this in your P&P)
  - Procedures to follow when staff need to apply in an emergency
- Surveyors will look at hospital policy

Patient Assessment

- Staff must assess and monitor patient's condition on ongoing basis (154, 174, 175)
- Physician or LP must provide ongoing monitoring and assessment also (175)
  - Determine is if R&S can be removed
- Took out word continually monitored except for V/SD patients
  - Says at an interval determined by hospital policy

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Intervals of Patient Assessment

- Based on patient's need, condition and type of restraint used (V/SD or not)
- CMS does not specify time frame for assessment
  - TJC: every 2 hours for medical patients and every 15 minutes for behavioral health patients
  - CMS says this may be sufficient
  - BUT – waking patient up every 2 hours in night might be excessive
- Frequency of evaluations and assessment must be in your hospital P&P (175) and
  - Document to show compliance

Documentation

- Most hospitals use special documentation sheet for assessment parameters
  - Including frequency of assessment
  - Hospital policy should address each of these (175, 184)
- If doctor writes a new order or renews order need documentation that describes patient's clinical needs and supports continued use (174)
  - Fluids offered, vital signs
  - Toileting offered, mental status, circulation
  - Removal of restraint and ROM and repositioning

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Documentation

- Should include:
  - Attempts to reduce restraints
  - Skin integrity
  - Level of distress or agitation, et. al.
  - Patient's behavior and interventions used
  - Clinical response to the intervention (188)
  - Symptoms and condition that warranted the restraint (187)

Documentation – Behavior

- Behavior should be documented in descriptive terms to evaluate the appropriateness of the intervention (185)
  - “Martians have landed” and attempts to strike the nurses
  - Patient attempting to bite the nurse on her arm
  - Patient picked up chair and threw it against the window

Restraint Toolkit

- Have with documentation sheet
  - With the requirements
  - Order sheet
    - Some facilities have separate order sheets for V/SD (behavioral health) and nonV/SD (non behavioral health)
  - Manufacturer instructions for the restraints
  - Articles, etc.

Document Type of Restraint

TYPE OF RESTRAINT OR SECLUSON: (CHECK ALL THAT APPLY)

☐ 4 Side Rails ☐ Elbow Immobilizers ☐Soft Wrist Restraint(s) ☐Hand Mitt(s)

☐ Soft Wrist Restraint(s) ☐Vest ☐Soft Ankle Restraint(s) ☐ Papoose Board

☐Other_____

CATEGORY OF ORDER: (CHECK ALL THAT APPLY)

☐ Initial order ☐ Continuation order ☐Verbal order

I have assessed the patient, attempted or considered alternative(s), determined the need for restraints, and have notifie

_____ and have obtained an order for the application of restraints.

Print Name of L.I.P.

RN Signature _____Date:_____ Time: _____

Print Name_____

LICENSED INDEPENDENT PRACTITIONER (LIP) to COMPLETE
(Physician, Resident, Advanced Practice Nurse, or Physician Assistant)

In accordance with Centers for Medicare and Medicaid (CMS) Conditions of Participation, Standard 482.13(e)(3) (ii) I have personally evaluated this patient (within one hour of application if this is an initial order) and have determined the need to use/continue the use of restraints/seclusion as specified by this order.

I have notified _____on Date _____Time_____

Print Name of Attending Staff Physician

L.I.P. Signature_____ Date_____ Time _____

Print Name _____

Log and QAPI

- Hospital takes actions thru QAPI activities
- Hospital leadership should assess and monitor use to make sure medically necessary
- Consider log to record use of restraints/seclusion
  - Shift – date – time – staff who initiated
  - Date and time each episode initiated – type of restraint used
  - Whether any injuries of patient or staff
  - Age and gender of patient

Restraint Review Form

Medical Record Number: _____ Restraint Date: _____ Review Date: _____

Complex/Unit: _____ Review By: _____

Restraint Time In: _____ Restraint Time Out: _____

Criteria #	Criteria	Answer
117	All episodes of restraints are ordered/ countersigned by the physician Responsible Person:	Yes / No / NA
118	When emergency use of restraint is ordered, the physician visits within one (1) hour to authorize continued use. Responsible Person:	Yes / No / NA
119	Each episode of restraint has a specific time limit documented in the order by the physician. Responsible Person:	Yes / No / NA
120	Each episode of restraint has a written order limited to one (1) hour by the physician. Responsible Person:	Yes / No / NA
121 (A)	Each episode and re-evaluation of restraint is documented in the patient's medical record by the physician. Responsible Person:	Yes / No / NA
121 (B)	Each episode and re-evaluation of restraint is documented in the patient's medical record by the nurse. Responsible person:	Yes / No / NA

Use as Directed

- Restraints and seclusion must be implemented in accordance with safe, appropriate restraining techniques (167)
  - As per hospital policy in accordance with state law
- Use according to manufacturer's instructions and include in your policy as attachment
  - Maintain copies of these
- Follow any state law provision or standards of care and practice
- Complete incident report if any injury to patient

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Use As Directed By the Manufacturer






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One Hour Rule

- The “lighting rod” for public comment
  - AHA sued CMS over this provision
- Standard for behavioral health patients or V/SD
- Time limits for R&S used to manage V/SD behavioral and drugs used as restraint to manage them(178)
- Must see (face-to-face)
  - Evaluate the need for R&S
  - Within one hour after the initiation of this intervention

One Hour Rule 178

- Face-to-face evaluation can be done by physician, LP or a RN trained under 482.13 (f)
- Physician does not have to come to the hospital to see patient
  - Telephone conference may be appropriate
  - (Training requirements are detailed and discussed later)
- Evaluation done to rule out possible underlying causes of contributing factors to the patient's behavior

One Hour Rule Assessment

- Must see the patient face-to-face within 1-hour after the initiation of the intervention, unless state law more restrictive (179)
- Practitioner must evaluate
  - Patient's immediate situation
  - The patient's reaction to the intervention
  - The patient's medical and behavioral condition
  - And the need to continue or terminate the restraint or seclusion
- Must document this (184) and change documentation form to capture this information

One Hour Rule Assessment

- Includes physical and behavioral assessment (179)
  - Review of systems,
  - Behavioral assessment, as well as
  - Patient's history, drugs and medications and most recent lab tests
- Consider and look for other causes such as drug interactions, electrolyte imbalance, hypoxia, sepsis etc. that are contributing to the V/SD behavior
- Document change in the plan of care
- Staff must be trained in all the above (196)

Time Limited Orders

- Time limits apply- written order is limited to (171)
  - 4 hours for adults
  - 2 hours for children (9-17)
  - 1 hour for under age 9
- Related to R&S for violent or self-destructive behavior
  - And safety of patient or staff
- Standard same now for Joint Commission time frame for how long the order is good for and closely aligned now

PHYSICIAN ORDERS

RESTRAINTS FOR VIOLENT/SELF-DESTRUCTIVE PATIENT

Date of Restraint Order – Single Episode: _____

An evaluation of patient's condition and necessity for restraints must be completed within 1 hour of application of any type of restraint.

Alternatives to restraints attempted:

- ☐ Family involvement
- ☐ Relaxation techniques
- ☐ Verbal de-escalation
- ☐ Redirection/Reorientation
- ☐ Decreased stimulation

- ☐ **NO ALTERNATIVES / IMMINENT RISK**
- ☐ Anticipation of toileting/hydration needs
- ☐ Discomfort assessed/relieved
- ☐ Sitter / 1:1 Observation
- ☐ Other _____

Date/Time of Face-to-Face (must be within 1 hour of restraints initiation) _____

Pre-existing Conditions that would present greater risk:

- ☐ Pre-existing medical conditions
- ☐ Physical disability
- ☐ History of sexual abuse
- ☐ History of physical abuse
- ☐ Other

1. **The patient's immediate situation:**
2. **The patient's reaction to intervention:**
3. **The patient's medical and behavioral condition:**
4. **Do restraints need to be continued?** ____ **Yes – order will be obtained**
   ____ **No – RN will remove restraint & document discontinuance on flowsheet**

Authorized RN/MD/LIP: _____ _____
(Signature) **(Date/Time)**

- ☐ **Restraint Plan discussed with multidisciplinary team and care plan is modified.**
- ☐ **Family notified of restraint policy and intent to apply restraints.**

Restraint Initiation (use least restrictive possible):

Renew Order

- The original order for both violent or destructive may be renewed up to 24 hours
  - Then physician reevaluates
  - Nurse evaluates patient and shares assessment with practitioner when need order to renew (171, 172)
  - Unless state law if more restrictive
- After the original order expires – MD or LP must see the patient and assess before issuing a new order

Renew Order

- Each order for non-violent or non-destructive patients may be renewed as authorized by hospital policy (173)
- TJC requires an order to renew restraints on medical patients (non-behavioral health patients) every 24 hours
  - Not daily – but every 24 hours
  - CMS and TJC the same

Need Policy on R&S*

- Will interview staff to make sure they know the policy (154)
- Consider training on policy in orientation and during the annual in-service and when changes made
- Surveyor to look at use of R&S and make sure it is consistent with the policy
  - Major area in the survey process

Staff Education – New Staff Requirements

- All staff having direct patient contact must have
  - Ongoing education and training
  - Proper and safe use of restraints
  - Able to demonstrate competency (176)
- Yearly education of staff as when skills lab is done
  - Document competency and training
- Hospital P&P should identify what categories of staff are responsible for assessing and monitoring the patient (RN, LPN, Nursing assistant)

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Staff Education

- Patients have a right to safe implementation of restraint/seclusion by trained staff (194)
  - Training plays critical role in reducing use (194)
- Staff, including agency nurses, must be trained AND demonstrate competency in the following:
  - The application of restraints (how to put them on)
  - Monitoring
  - How to provide care to patients in restraints

Staff Education

- Training must be done before performing any of these functions (196)
- It must occur in orientation before new staff can use them on a patient
- Must occur on periodic basis consistent with hospital policy
- Have a form to document that each of the education requirements have been met

Staff Education

- Consider yearly during skills lab
- Remember - Joint Commission PC.03.03.03 and 03.02.03 requires staff training and competency
- The hospital must require appropriate staff to have education, training, and demonstrated knowledge based on the specific needs of the patient population in at least the following
- Techniques to identify staff and patient behaviors, events, and environmental factors that may trigger circumstances that require R/S

De-escalation & Training

- Teach staff what is de-escalation
  - Not just staff on the behavioral health unit
  - Avoid confrontation and approach in a calm manner
  - Active listening
  - Validate feelings - “you sound like you are angry”
- Some facilities have personal de-escalation plan that lists triggers:
  - Not being listening to, feeling pressured, being touched, loud noises, being stared at, arguments, people yelling, darkness, being teased, etc.
- Consider a document in your tool kit – not required by CMS or TJC (deemed status)

Personal De-escalation Plan

Patient Name:_____
Date:_____

PROBLEM BEHAVIORS: What type of behaviors are problems for you?

- ❑ Losing control
- ❑ Feeling unsafe
- ❑ Injuring yourself
- ❑ Assualtive behavior
- ❑ Running away
- ❑ Suicide attempts
- ❑ Restraints/Seclusion
- ❑ Feeling suicidal
- ❑ Drug or alcohol abuse
- ❑ Other:_____

TRIGGERS: What type of things (triggers) make you feel unsafe or upset?

- ❑ Not being listened to
- ❑ Lack of privacy
- ❑ Feeling lonely
- ❑ Darkness
- ❑ Being teased or picked on
- ❑ Feeling pressured
- ❑ People yelling
- ❑ Arguments
- ❑ Being isolated
- ❑ Contact with family_____
- ❑ Being touched
- ❑ Loud noises
- ❑ Not having control
- ❑ Being stared at
- ❑ Particular time of day/ night:_____
- ❑ Particular time of year:_____
- ❑ Other:_____

WARNING SIGNS: Please describe your warning signs, for example what other people may notice when you begin to lose control?

- ❑ Sweating
- ❑ Clenching teeth
- ❑ Wringing hands
- ❑ Bouncing legs
- ❑ Squatting
- ❑ Crying
- ❑ Not taking care of self
- ❑ Singing inappropriately
- ❑ Eating more
- ❑ Breathing hard
- ❑ Clenching fists
- ❑ Loud voice
- ❑ Rocking
- ❑ Cant sit still
- ❑ Isolating/ avoiding people
- ❑ Hurting myself
- ❑ Sleeping less
- ❑ Being rude
- ❑ Racing heart
- ❑ Red faced
- ❑ Sleeping a lot
- ❑ Pacing
- ❑ Swearing
- ❑ Hyper
- ❑ Hurting others or things
- ❑ Eating less
- ❑ Laughing loudly/ giddy
- ❑ Other:_____

_____

Staff Education – Non-Physical 200

- Choose the least restrictive intervention
  - Based on an individualized assessment of the patient's medical, or behavioral status or condition (201)
- The safe application and use of all types of R&S used in the hospital
  - Including training in how to recognize and respond to signs of physical and psychological distress
  - For example, positional asphyxia, 202

Staff Education 204 & 205

- Clinical identification of specific behavioral changes that indicate that restraint or seclusion is no longer necessary (204)
- Monitoring the physical and psychological well-being of the patient who is restrained or secluded including
  - Respiratory and circulatory status
  - Skin integrity
  - Vital signs
  - Special requirements specified by hospital policy associated with the 1-hour face-to-face evaluation (205)

Staff Education – First Aid 206

- The use of first aid techniques and
  - Certification in the use of cardiopulmonary resuscitation
    - Including required periodic recertification (206)
- Patients in R&S are at higher risk for death or injury
- All staff who apply, monitor, access, or provide care to patient in restraint must have education and training in first aid technique and certified in CPR
  - To render first aid if patient in distress or injured
  - Develop scenarios and first aid class to address these

Staff Education – Training Documentation

- Hospital must document in personnel records that the training and competency were successfully completed (208)
- Security guards respond to V/SD patients so would need to train
  - Many give an 8-hour CPR course
  - Do not want someone going into the room of a V/SD patient without training to prevent injury to staff and patient

Training Cost

- Individuals doing training program must be qualified (207)
- Trainers must have high level of knowledge
  - Document their qualifications
- Train-the-trainer programs are done by many facilities

Educating Physicians and LPs

- Physician and other LP training requirements must be specified in hospital policy (176)
- At a minimum:
  - Physicians and other licensed practitioners
  - Authorized to order R or S by hospital policy in accordance with State law
  - Must have a working knowledge of hospital policy regarding the use of restraint or seclusion
- Hospitals have flexibility to determine what other training physicians and LPs need

Stricter State Laws

- The following requirements will be superseded by existing state laws that are more restrictive (180)
- State laws can be stricter but not weaker or they are preempted
- States are always free to be more restrictive
  - Many states have a state department of mental health which has standards for patients that are in a behavioral health unit

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Question #4

- We assign staff members as “sitters” when we have a patient on 1:1 monitoring. Steps include: (check all that apply)
- They sit outside the patient’s room
- Another staff member covers for them when they need a break
- They are free to leave the area if needed – restroom break
- Sit at the end of the hallway.

1:1 Monitoring R&S 183

- For behavioral health patients – which CMS now calls violent or self destructive behavioral that are a danger to self or others
- Cannot use R&S together unless
  - Patient is visually monitored in person face to face or
  - By an audio and video equipment
- Person to monitor patient must be assigned and a trained staff member
  - Must be in close proximity to the patient (183)
  - Must be documentation in the medical record

1:1 Monitoring RS

- Documentation to include
  - Least restrictive interventions
  - Conditions or symptoms that warranted RS
  - Patient's response to intervention
  - Rationale for continued use
- This needs to be in hospitals P&P
- Modify assessment sheets to include this information
- Consider sitter policy – ensure they do not leave patient unsupervised

Deaths

- Report any death associated with the use of restraint or seclusion
  - Must use the CMS electronic reporting system
- SMDA also requires reporting
- Sentinel event reporting to Joint Commission is voluntary but need to do RCA within 45 days
- See Hospital Reporting of Deaths Related to RS, OIG Report, September 2006, OEI-09-04-00350[1]

[1]www.oig.hhs.gov

Deaths – Reporting 214

- Hospital must report to CMS each death that occurs while a patient is in restraint or in seclusion at the hospital
  - Every death that occurs within 24 hours after the patient has been removed from R&S
  - Except – if patient dies in two soft wrist restraints
    - Complete internal log
  - Be sure to document this in the medical record also

Deaths – Additional Reporting 214

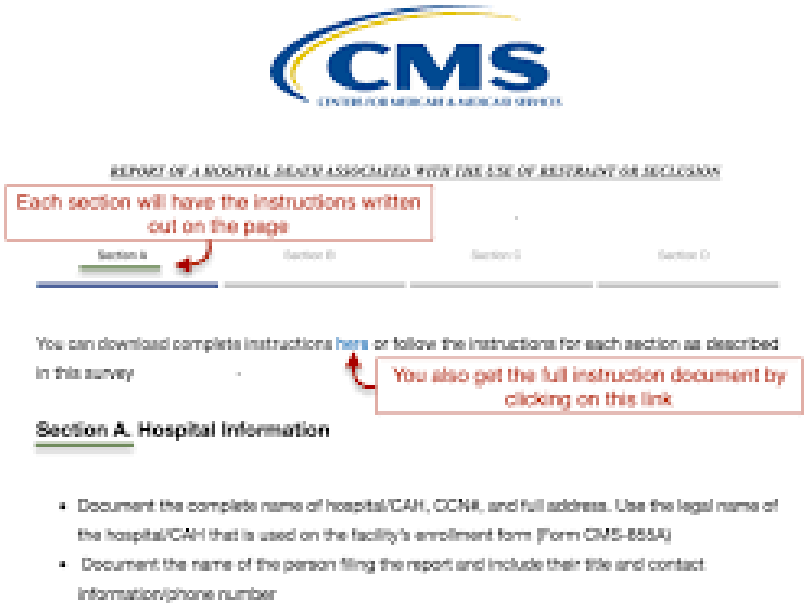
- Each death known to the hospital
- Occurs within 1 week after R&S
- Where it is reasonable to assume
- Use of restraint or placement in seclusion
- Contributed directly or indirectly to a patient's death

Reasonable to Assume Deaths 214

- "Reasonable to assume" includes, but is not limited to:
  - Deaths related to restrictions of movement for prolonged periods of time, or
  - Death related to chest compression, restriction of breathing or asphyxiation

Deaths – Reporting 214

- Must be reported to CMS regional office by telephone
  - No later than the close of business the next business day following knowledge of the patient's death
  - Must use the electronic form
  - https://www.cms.gov/files/doc cah-dpu.pdf.



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Other Responsibilities – Deaths

- Staff must document in the patient's medical record the date and time the death was reported to CMS
  - This includes patients in soft wrist restraints
- Hospitals should revise post-mortem records to list reporting requirement
- Rewrite policies and procedures to include these requirements

Visitation 215

- A hospital must have written P&P regarding the visitation rights of patient
  - Must include any reasonable or clinically necessary restrictions
  - Does not recommend restricting visitation in ICU
- Same day surgery patients may wish to have a support person present during pre-op and post-op recovery
- An outpatient may wish to have a support person present during examination by the physician

Visitation

- Need written P&P to address patient's right to have visitors
- Any restrictions must be clinically necessary or reasonable
  - If interferes with the care of the patient or others
  - Restrictions for child visitors

Visitation - Restrictions

- Infection control issue
- Court order
- Disruptive visitor
- Patient or roommate needs rest
- Inpatient substance abuse program
- Patient is having a procedure, etc.

Visitation Rights Notice – P&P 216

- Must have written P&P on visitation rights
  - Include the restrictions
- Must inform each patient of any restrictions to visitation and document it was given
- Inform patient of the right to receive visitors their choose and they can change their mind
  - This includes spouse, same sex partner, friend, or family
- Support person may be the same or different from the patient representative
  - Any refusal to honor must be documented in the chart

Patient Visitation Rights P&P cont'd 217

- Policy must ensure that all visitors enjoy full and equal visitation rights no matter who they are
- Cannot discriminate based on sex, gender, sexual orientation, race, or disability
- Surveyor will ask patients if visitors restricted against their wishes and
  - If so – was it in the P&P
- Educate the staff
  - Consider in orientation and periodically
  - Should have a culturally competent training program

Final Discussion

- Bayside Hospital is a 300-bed urban hospital. Over the past 5 years there has been an increase in gang-related activity. Pt. R is brought in by EMS with non-life threatening GSW to the abdomen. He is awake but combative – striking out at staff, hitting one nurse. He is accompanied by law enforcement and handcuffed to the gurney. Pt is non-cooperative with care so physician orders sedation. Once sedated, Pt R is examined and scheduled for surgery. Visitors are prohibited given the circumstances.
- Discuss

Speaker

- Lena Browning
- MHA, BSN, RNC-NIC, CSHA
- Consultant, Nash Healthcare Consulting
- 270-499-0843
- LBrowning@Nashhc.com
- Email questions to CMS:
  Critical Access Hospitals: qsog_CAH@cms.hhs.gov.
  Acute hospitals: **qsog_hospital@cms.hhs.gov.**

NASH HEALTHCARE CONSULTING

APPENDIX

Resources and Internet Links

NASH HEALTHCARE CONSULTING

Spouse Includes Same Sex Marriages

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

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

Center for Clinical Standards and Quality/Survey & Certification Group

Ref: S&C: 15-13-ALL

DATE: **December 12, 2014**

TO: State Survey Agency Directors

www.cms.gov/files/document/appendices-table-content.pdf

FROM: Director
Survey and Certification Group

SUBJECT: Clarification of Terms Implicating the Spousal Relationship in Regulations and Guidance for Medicare- and Medicaid-certified Providers and Suppliers.

Memorandum Summary

- ***Clarification of "Spouse" & Related Terms*:** The Centers for Medicare and Medicaid Services (CMS) is clarifying that the terms "spouse", "marriage," "relative," and "family," as well as other terms that implicitly or explicitly implicate the spousal relationship, such as (but not limited to) "representative," "support person," "surrogate," and "next-of-kin," include all marriages lawful where entered into, including lawful same-sex marriages, regardless of the certified provider's or supplier's location or the jurisdiction in which the spouse lives.

FR Rights Spouse of Same Sex Marriages

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 416, 418, 482, 483, and 485

[CMS–3302–P]

RIN 0938–AS29

Medicare and Medicaid Program; Revisions to Certain Patient's Rights Conditions of Participation and Conditions for Coverage

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the applicable conditions of participation (CoPs) for providers, conditions for coverage (CfCs) for suppliers, and requirements for long-term care facilities, to ensure that certain requirements are consistent with the Supreme Court decision in *United States* v. *Windsor*, 570 U.S.12, 133 S.Ct. 2675 (2013), and HHS policy. Specifically, we propose to revise certain definitions and patient's rights provisions, in order to ensure that same-sex spouses in legally-valid marriages are recognized and afforded equal rights

Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments only to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call

Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

Table of Contents

This proposed rule is organized as follows:

I. Background
A. United States v. Windsor Decision
B. Statutory and Regulatory Authority
II. Provisions of the Proposed Regulation
A. Ambulatory Surgical Centers Condition for Coverage—Patient Rights (§ 416.50)
B. Hospice Care (Part 418)
C. Conditions of Participation for Hospitals (Part 482)
D. Requirements for States and Long-Term Care (LTC) Facilities (Part 483)
E. Conditions of Participation: Community Mental Health Centers (CMHCs) (Part 485, Subpart J)
III. Collection of Information Requirements
IV. Response to Comments
V. Regulatory Impact Statement
Regulations Text

I. Background

A. United States v. Windsor Decision

In *United States* v. *Windsor*, 570 U.S. 12, 133 S. Ct. 2675 (2013), the Supreme Court held that section 3 of the Defense of Marriage Act (DOMA) is unconstitutional because it violates the Fifth Amendment (*See Windsor*, 133 S.

State Operation Manual – Acute/PPS

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

Table of Contents
(Rev. 200, 02-21-20)

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

Copy of DP Law 201 Pages

This document is scheduled to be published in the Federal Register on 09/30/2019 and available online at https://federalregister.gov/d/2019-20732, and on govinfo.gov

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 482, 484, and 485

[CMS-3317-F and CMS-3295-F]

RIN 0938-AS59

www.federalregister.gov/documents/2019/09/30/2019-20732/medicare-and-medicaid-programs-revisions-to-requirements-for-discharge-planning-for-hospitals

Medicare and Medicaid Programs; Revisions to Requirements for Discharge Planning for Hospitals, Critical Access Hospitals, and Home Health Agencies, and Hospital and Critical Access Hospital Changes to Promote Innovation, Flexibility, and Improvement in Patient Care

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

ACTION: Final rule.

SUMMARY: This final rule empowers patients to be active participants in the discharge planning process and complements efforts around interoperability that focus on the seamless exchange of patient information between health care settings by revising the discharge planning requirements that Hospitals (including Short-Term Acute-Care Hospitals, Long-Term Care Hospitals (LTCHs), Rehabilitation Hospitals, Psychiatric Hospitals, Children's Hospitals, and Cancer Hospitals), Critical Access Hospitals

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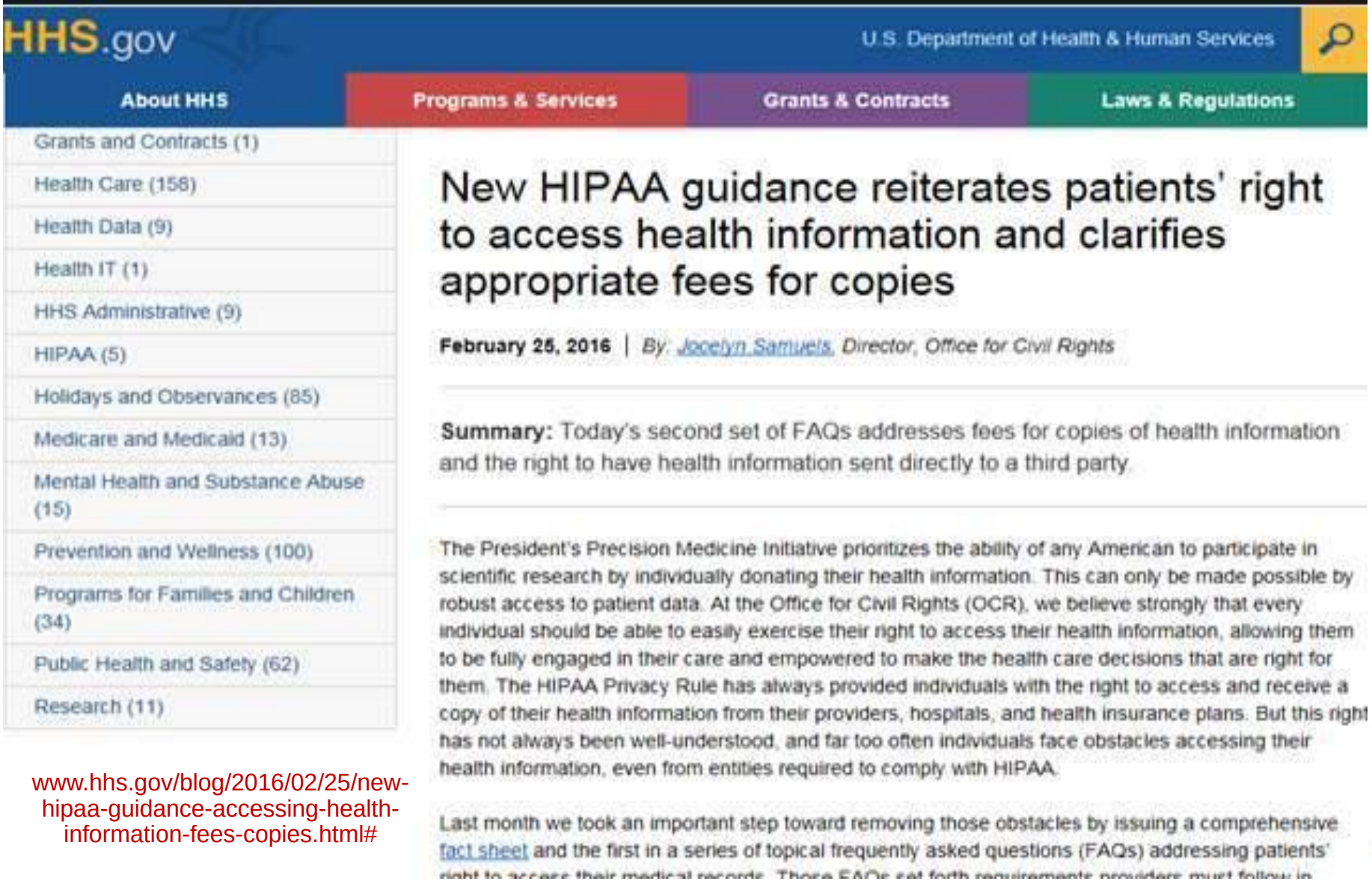
Second FAQ Feb 2016 and Updated 2017



HHS.gov

U.S. Department of Health & Human Services

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New HIPAA guidance reiterates patients' right to access health information and clarifies appropriate fees for copies

February 25, 2016 | *By: Jocelyn Samuels, Director, Office for Civil Rights*

Summary: Today's second set of FAQs addresses fees for copies of health information and the right to have health information sent directly to a third party.

The President's Precision Medicine Initiative prioritizes the ability of any American to participate in scientific research by individually donating their health information. This can only be made possible by robust access to patient data. At the Office for Civil Rights (OCR), we believe strongly that every individual should be able to easily exercise their right to access their health information, allowing them to be fully engaged in their care and empowered to make the health care decisions that are right for them. The HIPAA Privacy Rule has always provided individuals with the right to access and receive a copy of their health information from their providers, hospitals, and health insurance plans. But this right has not always been well-understood, and far too often individuals face obstacles accessing their health information, even from entities required to comply with HIPAA.

Last month we took an important step toward removing those obstacles by issuing a comprehensive fact sheet and the first in a series of topical frequently asked questions (FAQs) addressing patients'

www.hhs.gov/blog/2016/02/25/new-hipaa-guidance-accessing-health-information-fees-copies.html#

Office of Civil Rights

Civil Rights

www.hhs.gov/civil-rights/index.html

I would like info on. . .

- Final Rule on Section 1557
- Limited English Proficiency (LEP)
- Civil Rights Clearance for Medicare Providers

We Translate

Get help in other languages including Español, 繁體中文, Tiếng Việt, 한국어, Tagalog, Русский, Kreyòl Ayisyen, Français, Português, Polski, 日本語 , Italiano, Deutsch, فارسی.

Civil Rights Information for Individuals and Advocates

We enforce laws against discrimination based on race, color, national origin, disability, age, sex, and religion by certain health care and human services providers and health insurance plans.

Filing a Civil Rights Complaint

You may file a civil rights complaint with OCR if you feel a health care provider or government agency discriminated against you (or someone else) unlawfully.

Civil Rights for Providers of Health Care and Human Services

Understand which entities must comply with civil right laws and how to comply.

Newsroom

Read the latest news releases and bulletins and an archive of past releases.

Special Topics

Read about special topics in civil rights: Child welfare services, HIV/AIDS, limited English proficiency, community living and more.

HIPAA - Health Information Privacy

Find guidance and more information about the HIPAA Privacy Rule, including what information is protected and how

OCR Section for Providers

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Limited English Proficiency Resources

Limited English Proficiency (LEP)

If English is not your primary language and you have difficulty communicating effectively in English, you may need an interpreter or document translation in order to have meaningful access to programs funded by the Department of Health and Human Services (HHS). Title VI of the Civil Rights Act of 1964 requires recipients of Federal financial assistance to take reasonable steps to make their programs, services, and activities by eligible persons with limited English proficiency.

LEP Resources

www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/index.html

- Revised HHS LEP Guidance
  - FAQs
  - Summary
  - Fact Sheet
- Understand Discrimination on the Basis of Race, Color or National Origin
  - Fact Sheet about Title VI Discrimination - PDF - 2013
- Read about OCR's LEP Enforcement Success Stories
- Federal, State, and Non-Governmental Resources
- HHS Language Plan (2013) - PDF – The plan established a strategy for ensuring meaningful access by individuals with LEP to HHS administered programs and activities in accordance with Executive Order 13166.
  - OCR Blog Post: HHS Continues to Improve Access for LEP Individuals - 12/1/2015

Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

AGENCY: Health and Human Services, HHS.

www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/guidance-federal-financial-assistance-recipients-title-vi/index.html

ACTION: Policy guidance document.

SUMMARY: The Department of Health and Human Services (HHS) publishes revised Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons ("Revised HHS LEP Guidance"). This revised HHS LEP Guidance is issued pursuant to Executive Order 13166. HHS is seeking comment on the revised HHS LEP Guidance for a 120-day period ending on January 6, 2004.

DATES: This Guidance is effective immediately. Comments must be submitted on or before January 6, 2004. HHS will review all comments and will determine if modifications to the Guidance are necessary. This Guidance supplants existing guidance on the same subject originally published at 65 FR 52762 (August 30, 2000).

ADDRESSES: Comments should be addressed to Deeana Jang with "Attention: LEP Comments," and should be sent to 200 Independence Avenue, SW, Room 506F, Washington, DC 20201. Comments may also be submitted by e-mail at LEP.comments@hhs.gov.

FOR FURTHER INFORMATION CONTACT: Onelio Lopez at the Office for Civil Rights, U.S. Department of Health and Human Services, 200 Independence Avenue, SW, Room 506F, Washington, DC 20201, addressed with "Attention: LEP Comments;" telephone 202-205-0192; TDD: toll-free 1- 800-537-7697. Arrangements to receive the policy in an alternative format may be made by contacting the named individual.

Copy of Final Changes Effective Aug 2020

This document is scheduled to be published in the Federal Register on 06/19/2020 and available online at **federalregister.gov/d/2020-11758**, and on **govinfo.gov**

4153-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

42 CFR Parts 438, 440, and 460

Office of the Secretary

45 CFR Parts 86, 92, 147, 155, and 156

RIN 0945-AA11

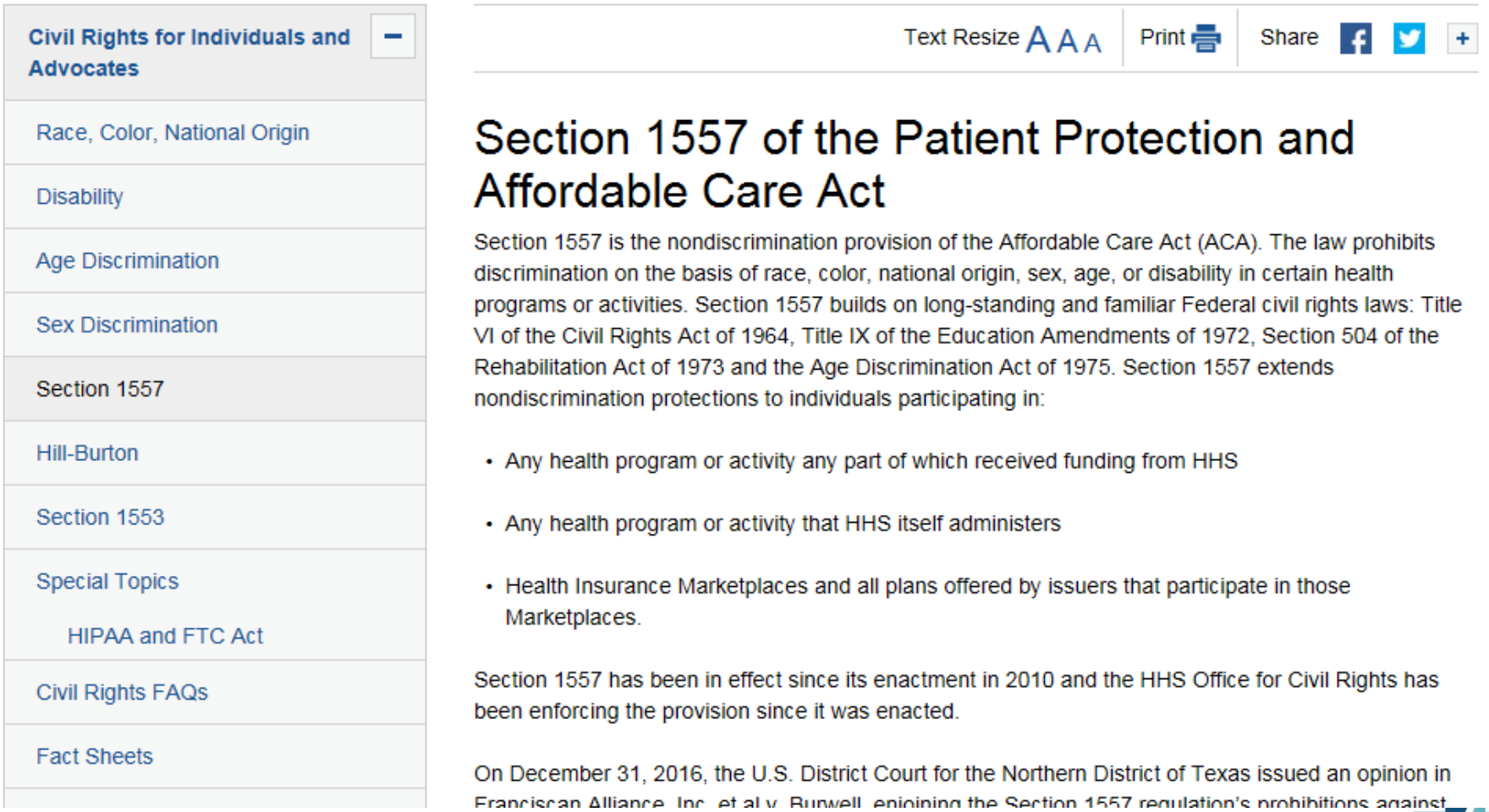
Nondiscrimination in Health and Health Education Programs or Activities, Delegation of Authority

AGENCY: Centers for Medicare & Medicaid Services (CMS); Office for Civil Rights (OCR), Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services ("the Department" or "HHS") is committed to ensuring the civil rights of all individuals who access or seek to access health programs or activities of covered entities under Section 1557 of the Patient Protection and Affordable Care Act ("ACA"). After considering public comments, in this

Resources on OCR Website on 1557



Civil Rights for Individuals and Advocates

- Race, Color, National Origin
- Disability
- Age Discrimination
- Sex Discrimination
- Section 1557
- Hill-Burton
- Section 1553
- Special Topics
  - HIPAA and FTC Act
- Civil Rights FAQs
- Fact Sheets

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Section 1557 of the Patient Protection and Affordable Care Act

Section 1557 is the nondiscrimination provision of the Affordable Care Act (ACA). The law prohibits discrimination on the basis of race, color, national origin, sex, age, or disability in certain health programs or activities. Section 1557 builds on long-standing and familiar Federal civil rights laws: Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975. Section 1557 extends nondiscrimination protections to individuals participating in:

- Any health program or activity any part of which received funding from HHS
- Any health program or activity that HHS itself administers
- Health Insurance Marketplaces and all plans offered by issuers that participate in those Marketplaces.

Section 1557 has been in effect since its enactment in 2010 and the HHS Office for Civil Rights has been enforcing the provision since it was enacted.

On December 31, 2016, the U.S. District Court for the Northern District of Texas issued an opinion in Franciscan Alliance, Inc. et al v. Burwell, enjoining the Section 1557 regulation's prohibitions against

www.hhs.gov/civil-rights/for-individuals/section-1557/index.html

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Top Taglines in Your State

- The Office of Civil Rights has a document to identify which are the top 15 in your state and in DC and Puerto Rico
  - Available at www.hhs.gov/sites/default/files/resources-for-covered-entities-top-15-languages-list.pdf
  - Don’t have to use their list if you have other sources and reasonable basis to rely on these
- Can use taglines in additional languages
  - For more information go to www.hhs.gov/civil-rights/for-individuals/section-1557/1557faqs/top15-languages/index.html

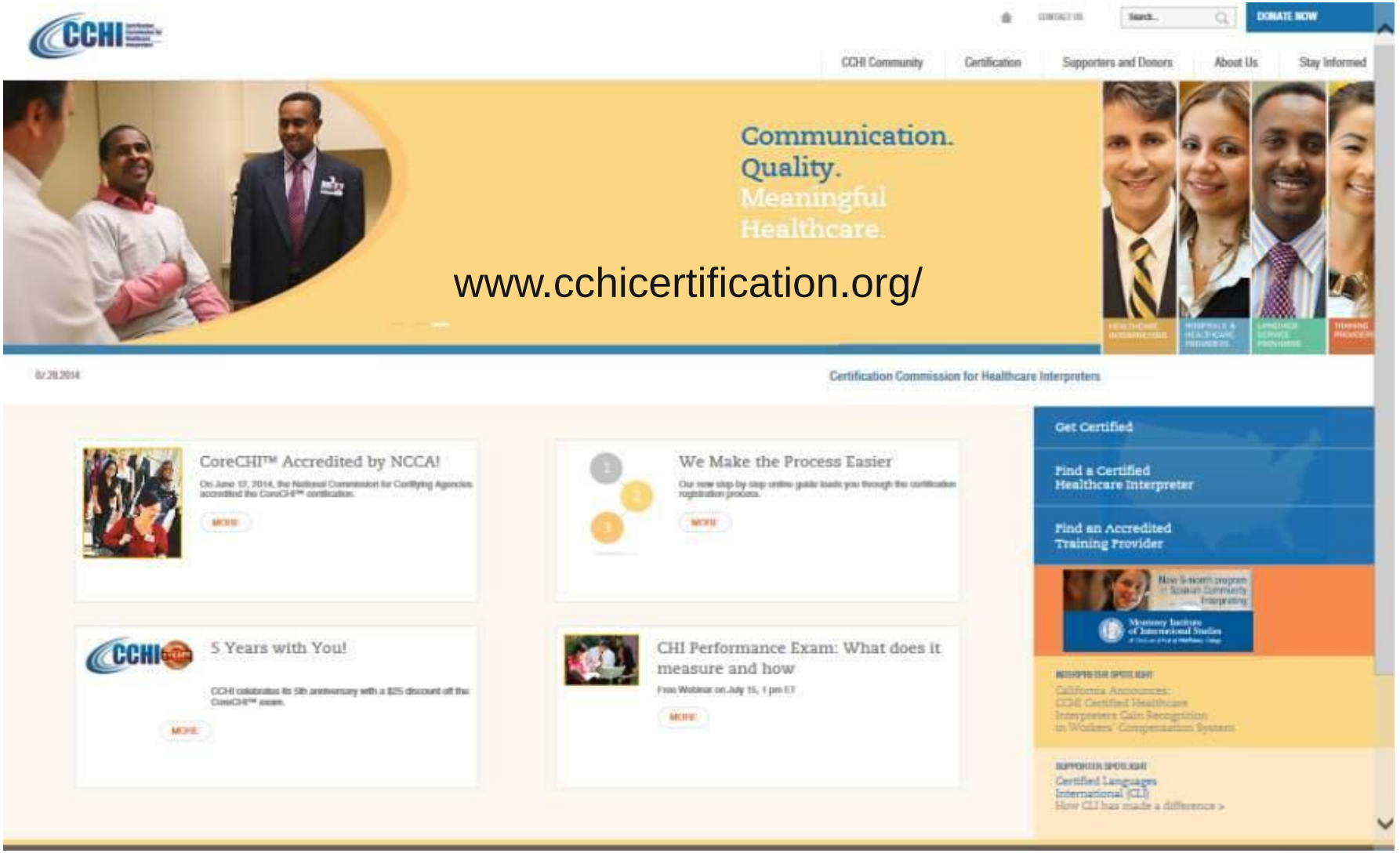
List 15 Top Language Spoken in Every State

Resource for Entities Covered by Section 1557 of the Affordable Care Act
Estimates of at Least the Top 15 Languages Spoken by Individuals with Limited English Proficiency for the 50 States, the District of Columbia, and the U.S. Territories.

Covered entities may use this information to implement the tagline requirement at § 92.8(d)(1)-(2) of the Section 1557 rule (45 C.F.R. pt. 92), although nothing in the rule requires a covered entity to use this particular resource. For more information about this resource and the data used, refer to the Frequently Asked Questions on these topics.

Rank	State	Language	Estimate
1	AL	Spanish	75,000
2	AL	Chinese	5,405
3	AL	Korean	4,554
4	AL	Vietnamese	3,708
5	AL	Arabic	1,440
6	AL	German	1,411
7	AL	French	1,278
8	AL	Gujarati	888
9	AL	Tagalog	856
10	AL	Hindi	818
11	AL	Laotian	681
12	AL	Russian	586
13	AL	Portuguese	516
14	AL	Turkish*	505
15	AL	Japanese	484
1	AK	Tagalog	7,021
2	AK	Spanish	5,975

CCHI Certification Commission



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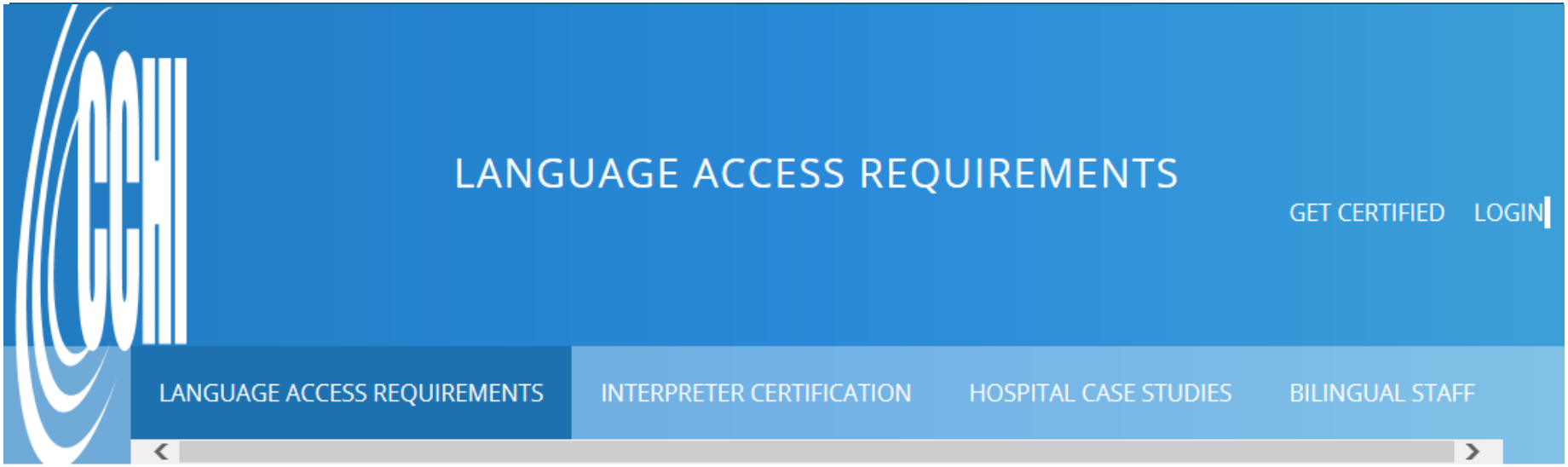

http://cchicertification.org/healthcare-administrators/language-access/

Accurate and effective communication is the most fundamental component of the healthcare encounter between patient and provider. Hospitals and healthcare providers are mandated to meet the communication needs of an increasingly diverse population.

When you don't have CCHI certified healthcare interpreters, you risk:

- Loss of federal funding due to unqualified interpreters (The High Costs of Language Barriers in Medical Malpractice),
- The Joint Commission accreditation,
- Non-compliance with Section 1557 of the Affordable Care Act (read more here),
- Office for Civil Rights investigation,
- Patient compliance, safety and higher readmission rate.

National Board of Certification

- **The National Board of Certification for Medical Interpreters**
  - **CMI or Certified Medical Interpreter** (best)
  - **Qualified Medical Interpreter (QMI)**
    - For minority languages where National Board does not have an exam and an oral exam is done in partnership with another national testing provider
  - Or **Screened Medical Interpreter (SMI)**
    - For newly emerging and indigenous languages and complete written exam
  - Question contact info@certifiedmedicalinterpreters.org

National Board of Certification for Medical

THE NATIONAL BOARD OF CERTIFICATION FOR MEDICAL INTERPRETERS

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https://nbcmi.memberclicks.net/

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Welcome Interpreters!

Medical interpreters are a key component of the care team when assisting persons with limited English proficiency. Since 2010, the National Board of Certification for Medical Interpreters (National Board) has helped thousands of interpreters further their careers through its excellent credentialing program, by which professional medical interpreters demonstrate they have met nationally set standards to ensure patient safety and compliance with federal guidelines and requirements. Once a candidate passes the certification exams from the National Board, they are bestowed the **CMI Credential** (Certified Medical Interpreter).

The careful vetting process and high standards held by the National Board are just some of the reasons employers and care providers prefer working with CMIs--knowing they will be compliant with regulatory guidelines, provide complete and accurate interpretation, and promote patient safety.

Quick Links

- Search the CMI Registry
- View the CMI Registry
- Candidate Handbook
- Order Your Badge
- Newsletter
- Upcoming Events

Announcements

- Going Green!
- Change in NBCMI Leadership Effective 4/6/2018
- Test from Home with Online Proctoring!
- Change in accreditation- Bringing all CMI exams under the same standards

HR Can Check Registry

THE NATIONAL BOARD OF CERTIFICATION FOR MEDICAL INTERPRETERS

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- Getting Prepared
- STEP 1 - REGISTRATION
- STEP 2 - WRITTEN EXAM
- STEP 3 - ORAL EXAM

2241 Results

Claudia Arriaga

CMI No.: 100993
Language: Spanish
Expires: 12/20/2018
Email: carriaga777@sbcglobal.net

State: California
City: Hayward
Country: United States

Leticia Abajo

CMI No.: 100114
Language: Spanish
Expires: 01/10/2021
Email: leticia.abajo@gmail.com

State: Colorado
City: Lafayette
Country: United States

Anna Abel

Quick Links

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- Change in accreditation-

www.cms.hhs.gov/bni

Beneficiary Notices Initiative (BNI)

- FFS Revised ABN
- FFS HHABN
- FFS SNFABN and SNF Denial Letters
- FFS HINNs
- FFS ED Notices
- MA Denial Notices
- MA ED Notices
- Hospital Discharge Appeal Notices
- FFS NEMB SNF
- Statutory Guidance

Beneficiary Notices Initiative (BNI)

Please Note: For Medicare Prescription Drug Coverage Notices – see below under "Related Links Inside CMS."

Beneficiary Notices Initiative

Both Medicare beneficiaries and providers have certain rights and protections related to financial liability under the Fee-for-Service (FFS) Medicare and the Medicare Advantage (MA) Programs. These financial liability and appeal rights and protections are communicated to beneficiaries through notices given by providers.

Use the navigation tool on the left side of this page to link to the following financial liability notices and their instructions:

- FFS Revised Advance Beneficiary Notices (FFS Revised ABN)
- FFS Home Health Advance Beneficiary Notice (FFS HHABN)
- FFS Skilled Nursing Facility Advance Beneficiary Notice (FFS SNFABN) and SNF Denial Letters
- FFS Hospital-Issued Notice of Noncoverage (FFS HINNs)
- FFS Expedited Determination Notices for Home Health Agencies, Skilled Nursing Facility, Hospice and Comprehensive Outpatient Rehabilitation Facility (FFS ED Notices)
- MA Denial Notices (MA Denial Notices)
- MA Notice of Discharge and Medicare Appeal Rights (MA NODMAR)

Hospital Discharge Appeal Notices

Regulations

Hospitals are required to deliver the Important Message from Medicare (IM), CMS-R-193 to all Medicare beneficiaries (Original Medicare beneficiaries and Medicare Advantage plan enrollees) who are hospital inpatients. The IM informs hospitalized inpatient beneficiaries of their hospital discharge appeal rights. Beneficiaries who choose to appeal a discharge decision must receive the Detailed Notice of Discharge (DND) from the hospital or their Medicare Advantage plan, if applicable.

www.cms.gov/Medicare/Medicare-General-Information/BNI/HospitalDischargeAppealNotices.html

What's New

The effective date for use of the updated IM and DND is 60 days from June 29, 2017.

06/07/2017 – Updated Important Message from Medicare Form and Form Instructions available under "Downloads" below.

06/07/2017 – Updated Detailed Notice of Discharge Form and Form Instructions available under "Downloads" below.

Notices

The latest versions of the Important Message from Medicare (IM), Form CMS-R-193, and the Detailed Notice of Discharge (DND), Form CMS-10066, are posted below under '**Downloads**'. Issuance guidelines can be found in the Manual Instructions download below.

Questions?

Questions regarding the IM and DND can be emailed to BNImailbox@cms.hhs.gov.

Downloads

Important Message from Medicare - English and Spanish [ZIP, 148KB]

Detailed Notice of Discharge - English and Spanish [ZIP, 94KB]

Chapter 30 - Financial Liability Protections [PDF, 1MB]

IM Notice Revised April 1, 2020

Important Message from Medicare

Patient name: **Patient number:**

Your Rights as a Hospital Inpatient:

- You can receive Medicare covered services. This includes medically necessary hospital services and services you may need after you are discharged, if ordered by your doctor. You have a right to know about these services, who will pay for them, and where you can get them.
- You can be involved in any decisions about your hospital stay.
- You can report any concerns you have about the quality of care you receive to your QIO at: {insert QIO name and toll-free number of QIO} The QIO is the independent reviewer authorized by Medicare to review the decision to discharge you.
- You can work with the hospital to prepare for your safe discharge and arrange for services you may need after you leave the hospital. When you no longer need inpatient hospital care, your doctor or the hospital staff will inform you of your planned discharge date.
- You can speak with your doctor or other hospital staff if you have concerns about being discharged.

Your Right to Appeal Your Hospital Discharge:

- You have the right to an immediate, independent medical review (appeal) of the decision to discharge you from the hospital. If you do this, you will not have to pay for the services you receive during the appeal (except for charges like copays and deductibles).
- If you choose to appeal, the independent reviewer will ask for your opinion. The reviewer also will look at your medical records and/or other relevant information. You do not have to prepare anything in writing, but you have the right to do so if you wish.
- If you choose to appeal, you and the reviewer will each receive a copy of a detailed explanation about why your covered hospital stay should not continue. You will receive this detailed notice only after you request an appeal.
- If the QIO finds that you are not ready to be discharged from the hospital, Medicare will continue to cover your hospital services.
- If the QIO agrees services should no longer be covered after the discharge date, neither Medicare nor your Medicare health plan will pay for your hospital stay after noon of the day after the QIO notifies you of its decision. If you stop services no later than that time, you will avoid financial liability.
- If you do not appeal, you may have to pay for any services you receive after your discharge date.

See page 2 of this notice for more information.

Form CMS 10065-IM (Exp. 12/31/2022) OMB approval 0938-1019

Detailed Notice Revised April 1, 2020

Detailed Notice of Discharge

Date:

Patient name: **Patient number:**

This notice gives a detailed explanation of why your hospital or Medicare health plan has determined Medicare coverage for your hospital stay should end. This notice is not the decision on your appeal. The decision on your appeal will come from your Quality Improvement Organization (QIO).

We have reviewed your case and decided that Medicare coverage of your hospital stay should end.

- The facts used to make this decision:

- Detailed explanation of why your hospital stay is no longer covered, and the specific Medicare coverage rules and policy used to make this decision:

- Plan policy, provision, or rationale used in making the decision (health plans only):

If you would like a copy of the policy or coverage guidelines used to make this decision, or a copy of the documents sent to the QIO, please call us at:

{insert hospital/Medicare health plan name and toll-free telephone number}

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938- 0692. The time required to complete this information collection is estimated to average 15 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Mail Stop C4-26-05, Baltimore, Maryland 21244-1850.

Form CMS 10066-DND (Exp. 12/31/2022) OMB approval 0938-1019

NASH HEALTHCARE CONSULTING

New MOON Form Use after April 1, 2020

Medicare Outpatient Observation Notice

Patient name: **Patient number:**

You're a hospital outpatient receiving observation services. You are not an inpatient because:

Being an outpatient may affect what you pay in a hospital:

- When you're a hospital outpatient, your observation stay is covered under Medicare Part B.
- For Part B services, you generally pay:
  - A copayment for each outpatient hospital service you get. Part B copayments may vary by type of service.
  - 20% of the Medicare-approved amount for most doctor services, after the Part B deductible.

Observation services may affect coverage and payment of your care after you leave the hospital:

- If you need skilled nursing facility (SNF) care after you leave the hospital, Medicare Part A will only cover SNF care if you've had a 3-day minimum, medically necessary, inpatient hospital stay for a related illness or injury. An inpatient hospital stay begins the day the hospital admits you as an inpatient based on a doctor's order and doesn't include the day you're discharged.
- If you have Medicaid, a Medicare Advantage plan or other health plan, Medicaid or the plan may have different rules for SNF coverage after you leave the hospital. Check with Medicaid or your plan.

NOTE: Medicare Part A generally doesn't cover outpatient hospital services, like an observation stay. However, Part A will generally cover medically necessary inpatient services if the hospital admits you as an inpatient based on a doctor's order. In most cases, you'll pay a one-time deductible for all of your inpatient hospital services for the first 60 days you're in a hospital.

If you have any questions about your observation services, ask the hospital staff member giving you this notice or the doctor providing your hospital care. You can also ask to speak with someone from the hospital's utilization or discharge planning department.

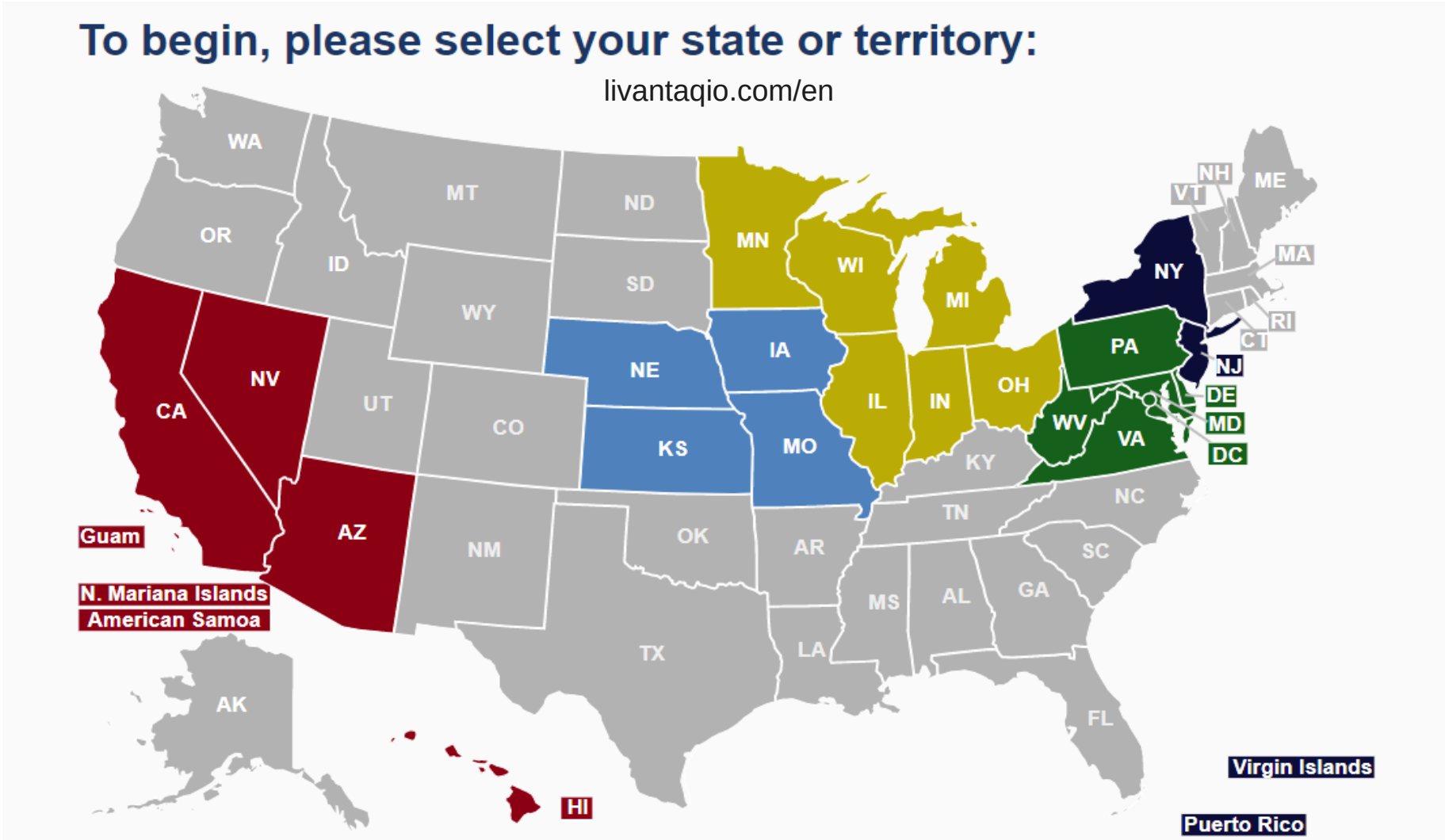
You can also call 1-800-MEDICARE (1-800-633-4227). TTY users should call 1-877-486-2048.

Form CMS 10611-MOON Expiration 12/31/2022 OMB approval 0938-1308

Options on the Moon Form

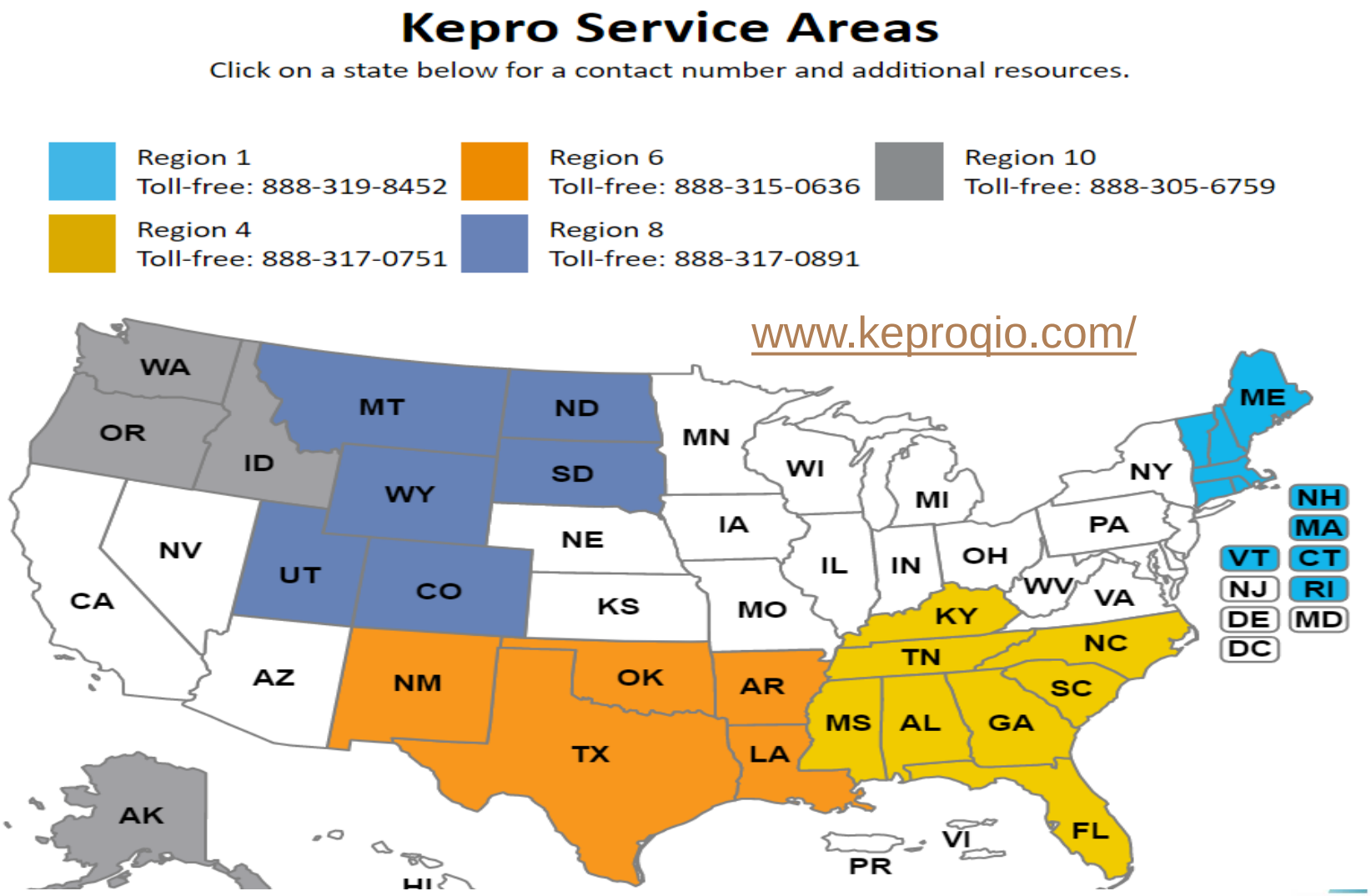
- Your diagnostic testing is not yet complete;
- Further treatments of your condition are needed;
- Consultation needs to be completed;
- Ongoing evaluation and management of your condition is needed;
- You require more care after your surgery but should be able to be discharged within 48 hours;
- Your Medicare Advantage plan has told your doctor to place you in observation;
- Other.

KEPRO and Livanta QIOs



NASH HEALTHCARE CONSULTING

Kepro Service Areas



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Quality of Care Complaints Kepro

Home | Beneficiary Helpline | Careers | About Us | Contact Us

Quality Improvement Organizations — Sharing Knowledge. Improving Health Care. CENTERS FOR MEDICARE & MEDICAID SERVICES

Kepro

Search

A A A Select Language

Sign Up For Kepro's Email List

Complaints may also be emailed to beneficiary.complaints@kepro.com

Quality of Care Complaints

We are the Medicare Quality Improvement Organization, working to improve the quality of care for Medicare beneficiaries. Our site offers beneficiary and family-centered care information for providers, patients, and families. Welcome!

QUALITY OF CARE COMPLAINTS

Do you or someone you know have Medicare? If you said "yes," there are actions you can take if you are not happy with the quality of medical care you received from a healthcare provider (e.g., hospital, skilled nursing facility) or practitioner (e.g., doctor). Call Kepro's Helpline, and one of our staff will talk with you about your option to file a quality of care complaint.

You can also get the quality of care complaint form, English or Spanish, to complete and fax or mail to Kepro.

Here are some of the reasons why you may choose to call our Helpline:

- You received the wrong medicine
- You received too much of a medicine dose (i.e., overdose)

RELATED LINKS

- Overview of Services
- How to File an Appeal
- Immediate Advocacy
- Appoint a Representative
- Resources
- En Español
- Publications

Beneficiary & Family Centered Care QIOs

- You click on your state and it will tell you which BFFC QIO is covering your state
- Medicare beneficiaries can complain about the quality of care of a hospital
  - Changes and to which QIOs has which state
  - Click on state and will give you their help line numbers so you can provide it to patients along with the mailing address
  - Has a Medicare Quality of Care Complaint Form
- For example, click on Ohio and it says the help line number is 888 524-9900 and the contractor is Livanta

MEDICARE QUALITY OF CARE COMPLAINT FORM

1. BENEFICIARY NAME:

2. MEDICARE NUMBER (HICN):

3. SEX: ☐ **MALE** ☐ **FEMALE** | **DATE OF BIRTH:**

4. RACE/ETHNICITY *(Completion of this section is voluntary) How would you describe your race? Please mark one or more boxes.*
How would you describe your race? Please mark one or more boxes.

☐ American Indian or Alaska Native ☐ White ☐ Black or African American
☐ Native Hawaiian or Other Pacific Islander ☐ Asian ☐ Hispanic or Latino

5. BENEFICIARY'S AUTHORIZED REPRESENTATIVE'S NAME *(IF APPLICABLE)*:

6. CONTACT INFORMATION FOR PRIMARY CONTACT:

STREET/APT.

https://ivantaqio.com/assets/files/cms10287english.pdf

CITY	**STATE**	**ZIP**
PHONE	**ALTERNATE PHONE**	

7. Briefly describe the incident or your concerns: Include dates and times, persons involved, and description of what happened. Include attachments, if appropriate.

8. May we reveal your identity during the review of your complaint? ☐ YES ☐ NO
If you check "no" we cannot review your complaint as a written beneficiary complaint. However, based on the circumstances of your complaint, we may choose to review your complaint as a general quality of care review.

9. Check "yes" here if you authorize the QIO to forward your address or other contact information to the entity that conducts beneficiary satisfaction surveys. If you check "yes", you will be contacted by telephone or postal mail to

Have a Policy to Hit All the Elements

POLICY

All internal and external customer (patient, physician, staff or visitors) complaints and problems will be addressed at the time of the occurrence in an effort to resolve the customer complaint or grievance and or review and improve the process. All patient and or family complaints received must be responded to promptly. Patients have a right to complain without any fear of reprisal. Any patient or patient's representative who expresses an issue or grievance is assured that this process is welcome and not fear that there would be any retaliation for initiating this action

Patients are informed to contact the Nursing Service Supervisor while in the hospital. Patients are also informed of their ability to contact the New York State Department of Health and the telephone number is provided to them at their request.

Any individual who believes his or her rights granted by the Health Insurance Portability and Accountability Act (HIPAA) Privacy regulations or any other state or federal laws dealing with privacy and confidentiality of health information have been violated may file a compliant regarding the alleged privacy violation to the Hospital's Privacy Officer (716)298-2047. The Privacy Officer will investigate alleged privacy violations and complaints made by patients or other individuals regarding alleged breaches of privacy

DEFINITION

Patient Grievance – (as defined by Centers for Medicare & Medicaid Services, ref. 482.13(a)(2)) – is a written or verbal complaint (when the verbal complaint about patient care is not resolved at the time of the complaint by staff present) by a patient, or the patient's representative, regarding the patient's care, abuse or neglect, issues related to the hospital's compliance with the CMS Hospital Conditions of Participation (COP)

- **Staff Present** – includes any hospital staff present at the time of the complaint or who can quickly be at the patient's location (i.e. nursing supervisor, nursing administration, etc.)
- If a verbal patient care complaint cannot be resolved at the time of the complaint by staff present, is postponed for later resolution, is referred to other staff for later resolution, requires investigation, and/or requires further actions for resolution, then the complaint is a grievance for the purposes of these requirements. A complaint is considered resolved when the patient is satisfied with the actions taken on their behalf.
- Billing issues are not usually considered grievances for the purposes of these requirements. However, a Medicare beneficiary billing complaint related to rights and limitations provided by 42 CFR 489 are considered a grievance.
- A written complaint is considered a grievance, whether from an inpatient, outpatient, released/discharged patient or their representative regarding the patient care provided, abuse or neglect, or the hospital's compliance with the COP.
- Information obtained with patient satisfaction surveys does not usually meet the definition of a grievance. If an identified patient writes or attaches a written complaint on the survey and requests resolution, then the complaint meets the definition of a grievance.

Sample Grievance Policy

Appendix C to Part 92—Sample Section 1557 of the Affordable Care Act Grievance Procedure

It is the policy of [Name of Covered Entity] not to discriminate on the basis of race, color, national origin, sex, age or disability. [Name of Covered Entity] has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 1557 of the Affordable Care Act (42 U.S.C. § 18116) and its implementing regulations at 45 C.F.R. pt. 92, issued by the U.S. Department of Health and Human Services. Section 1557 prohibits discrimination on the basis of race, color, national origin, sex, age or disability in certain health programs and activities. Section 1557 and its implementing regulations may be examined in the office of [Name and Title of Section 1557 Coordinator], [Mailing Address], [Telephone number], [TTY number—if covered entity has one], [Fax], [Email], who has been designated to coordinate the efforts of [Name of Covered Entity] to comply with Section 1557.

Any person who believes someone has been subjected to discrimination on the basis of race, color, national origin, sex, age or disability may file a grievance under this procedure. It is

www.hhs.gov/sites/default/files/section-1557-sample-grievance-procedure.pd

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

CENTERS FOR MEDICARE & MEDICAID SERVICES

Center for Clinical Standards and Quality/Survey & Certification Group

S&C Memo: 18-06- Hospitals

DATE: December 08, 2017

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Clarification of Ligature Risk Policy

www.cms.gov/files/document/appendices-table-content.pdf

Memorandum Summary

- **Ligature Risks Compromise Psychiatric Patients' Right to Receive Care in a Safe Setting:** The care and safety of psychiatric patients and the staff that provide that care are our primary concerns. The Centers for Medicare & Medicaid Services (CMS) is in the process of drafting comprehensive ligature risk interpretive guidance to provide direction and clarity for Regional offices (RO), State Survey Agencies (SAs), and accrediting organizations (AOs).
- **Definition of a Ligature Risk:** A ligature risk (point) is defined as anything which could be used to attach a cord, rope, or other material for the purpose of hanging or strangulation. Ligature points include shower rails, coat hooks, pipes, and radiators, bedsteads, window and door frames, ceiling fittings, handles, hinges and closures.
- **Focus of Ligature Risks:** The focus for a ligature "resistant" or ligature "free" environment is primarily aimed at Psychiatric units/hospitals.
- **Interim Guidance:** Until CMS' comprehensive ligature risk interpretive guidance is released, the ROs, SAs and AOs may use their judgment as to the identification of

Proposed Ligature Risk Guidelines

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

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

Center for Clinical Standards and Quality/Quality, Safety & Oversight Group

Ref: DRAFT-QSO-19-12-Hospitals

DATE: **April 19, 2019**

TO: State Survey Agency Directors

FROM: Director
Quality, Safety & Oversight Group

SUBJECT: DRAFT ONLY-Clarification of Ligature Risk Interpretive Guidelines – FOR ACTION

www.cms.gov/files/document/appendices-table-content.pdf

Memorandum Summary

- **This draft policy memorandum would update S&C: 18-06-Hospitals released by the Centers for Medicare & Medicaid Services (CMS) on December 8, 2017.**
- **This Memo is Being Released in Draft:** We seek comment on these draft revised policies by June 17, 2019 (60 days from the date of this release).
- **Ligature Risks Compromise Patients' Right to Receive Care in a Safe Setting:** The care and safety of psychiatric patients at risk of harm to themselves or others, and the staff providing care are our primary concerns. The comprehensive ligature risk interpretive guidance in the CMS State Operations Manual (SOM) Appendix A for Hospitals is being revised to provide direction and clarity for CMS Regional Offices, State Survey Agencies, accrediting organizations and hospitals.
- **Ligature Risk Extension Request Process Update:** The SOM Chapter 2, Section 2728G - Major Deficiencies Requiring Long-Term Correction in Psychiatric Hospitals and

Nat Psychiatric Nursing Association CSO

Continuous special observation (CSO) is defined as an intervention in which an inpatient staff member is assigned to observe one patient at all times, including while they toilet, bathe and sleep, to prevent violence directed towards self or others. Some patients who are at high risk of suicide and are unable to discuss their suicidal thoughts or impulses do require this level of care. However, most patients can be *treated* with interventions based on engagement.

Why avoid CSO

www.apna.org/files/public/Councils/PsychiatricNursingAvailabilityTool_021216.pdf

CSO is based on control and coercion. CSO restricts a patient's privacy as well as the ability to make decisions independently of the observing staff. It is considered a containment procedure and is often studied alongside restraints, seclusion and forced injections (Bowers, 2006). CSO is intense and intrusive which often increases the observed patient's anxiety. Violent patients can become more agitated with increased risk to act on violent impulses. This places the staff observing these patients at high risk to be assaulted. It is for this reason that patients at risk of violence should not be placed on CSO. CSO is also a very time intensive intervention drawing nursing care from the rest of the unit to focus on one individual patient which might have

VA Mental Health Guide 74 pages

VA | U.S. Department of Veterans Affairs

www.patientsafety.va.gov/docs/joe/eps_mental_health_guide.pdf

Environmental Programs Service Mental Health Guide

So What's in Your Policy?

Policy Title: Abuse or Neglect of a Child or an Adult		Policy Number: 13.071
Responsible Department	**Effective Date**	**Review Date**
Nursing Administration/Assistant Administrator	7-10-2018	7-10-2021

Purpose The purpose of this policy is to provide comprehensive, safe and consistent care, information and referrals to patients with suspected or proven abuse or neglect.

Scope Hospital Wide
(with the exception of the Skilled Nursing Unit)

Definitions

Abuse Willful infliction of injury, unreasonable confinement, intimidation or punishment, with resulting physical harm, pain or mental anguish. This includes staff neglect or indifference to infliction of injury or intimidation of one patient by another. Any act or failure to act by an employee rendering care or treatment which was performed or which was failed to be performed knowingly, recklessly or intentionally and which caused or may have caused injury or death to an individual.

OCR Privacy Website

HHS.gov Health Information Privacy U.S. Department of Health & Human Services

I'm looking for...

HHS A-Z Index

HIPAA for Individuals | Filing a Complaint | HIPAA for Professionals | Newsroom

HHS Home > Health Information Privacy

Text Resize A A A Print Share

Health Information Privacy

I would like info on. . .

- Your Rights under HIPAA
- Covered Entities and Business Associates
- HIPAA Enforcement Highlights
- Frequently Asked Questions

HIPAA Access Guidance and FAQs

New guidance and FAQs clarify HIPAA's Right to Access requirements.

HIPAA for Individuals | Filing a HIPAA Complaint | HIPAA for Professionals

HIPAA for Professionals

Privacy +

Security +

Breach Notification +

Compliance & Enforcement +

Special Topics +

Patient Safety +

Covered Entities & Business Associates

Training & Resources

FAQs for Professionals

Other Administrative Simplification Rules

HIPAA for Professionals

To improve the efficiency and effectiveness of the health care system, the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, included Administrative Simplification provisions that required HHS to adopt national standards for electronic health care transactions and code sets, unique health identifiers, and security. At the same time, Congress recognized that advances in electronic technology could erode the privacy of health information. Consequently, Congress incorporated into HIPAA provisions that mandated the adoption of Federal privacy protections for individually identifiable health information.

- HHS published a final Privacy Rule in December 2000, which was later modified in August 2002. This Rule set national standards for the protection of individually identifiable health information by three types of covered entities: health plans, health care clearinghouses, and health care providers who conduct the standard health care transactions electronically. Compliance with the Privacy Rule was required as of April 14, 2003 (April 14, 2004, for small health plans).
- HHS published a final Security Rule in February 2003. This Rule sets national standards for protecting the confidentiality, integrity, and availability of electronic protected health information. Compliance with the Security Rule was required as of April 20, 2005 (April 20, 2006 for small health plans).
- The Enforcement Rule provides standards for the enforcement of all the Administrative Simplification Rules.
- HHS enacted a final Omnibus rule that implements a number of provisions of the HITECH Act to strengthen the privacy and security protections for health information established under HIPAA, finalizing the Breach Notification Rule.
- View the Combined Regulation Text (as of March 2013). This is an unofficial version that pr… all the HIPAA regulatory standards in one document. The official version of all federal regulations is …

top

Use of Abbreviation of LP

- Hospitals need to go through policies and Medical Staff By-Laws and Rules and Regulations and change LIP to LP
- This includes the restraint and seclusion policy
- Makes changes to Tag 168, 172, 175, 176, 178, 182, 214
- This is only change that was made to these tag numbers
- Many hospitals cite the tag numbers at the bottom of their P&Ps

Hospital Improvement New Law

This document is scheduled to be published in the Federal Register on 09/30/2019 and available online at **https://federalregister.gov/d/2019-20736**, and on **govinfo.gov**

[Billing Code: 4120-01-P]

https://federalregister.gov/d/2019-20736 and 393 Pages

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 403, 416, 418, 441, 460, 482, 483, 484, 485, 486, 488, 491, and 494

[CMS-3346-F; CMS-3334-F; CMS-3295-F]

RIN 0938-AT23

Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction; Fire Safety Requirements for Certain Dialysis Facilities; Hospital and Critical Access Hospital (CAH) Changes to Promote Innovation, Flexibility, and Improvement in Patient Care

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

ACTION: Final rule.

SUMMARY: This final rule reforms Medicare regulations that are identified as unnecessary, obsolete, or excessively burdensome on health care providers and suppliers. This final rule also

Electronic Form 10455

- Has a brief instructional video on how to complete the form and submit it
- Electronic form at https://restraintdeathreport.gov1.qualtrics.com/jfe/form/SV_5pXmjlw2WAzto8J
- Scroll down to the section on restraint and seclusion
- The list is alphabetical

Training on How to Fill Out the Restraint Form

QSEP DRIVING HEALTHCARE QUALITY

CMS

Report of Hospital Death Associated With the Use of Restraint or Seclusion Form CMS-10455

Training for Hospitals and Critical Access Hospital Rehabilitation and/or Psychiatric Distinct Part Units

Print Page

Training Menu

Report of Hospital Death Associated With the Use of Restraint or Seclusion: Form CMS-10455 - Training Menu

Training for Hospitals and Critical Access Hospital Rehabilitation and/or Psychiatric Distinct Part Units reporting deaths associated with the use of restraint and/or seclusion to the CMS Regional Offices.

In accordance with the requirements at 42 CFR 482.13(g), Death Reporting Requirements, all patient deaths associated with restraint and/or seclusion (except 2-point soft wrist restraints that must be recorded in an internal hospital log or other system) are required to be reported to the Centers for Medicare and Medicaid Services Regional Offices using the Form CMS-10455, Report of a Hospital Death Associated with the Use of Restraint or Seclusion by all types of hospitals (including Psychiatric Hospitals, Rehabilitation Hospitals, Long Term Care Hospitals, Short Term Acute Care Hospitals) and Critical Access Hospital (CAH) Rehabilitation and/or Psychiatric Distinct Part Units (DPUs). This training will instruct how to complete the electronic Form CMS–10455.

Click the link below to access Form CMS-10455

R		
Report of Hospital Death Associated With the Use of Restraint or Seclusion: Form CMS-10455	1 hr.	Launch

Form CMS-10455

Report of Hospital Death Associated With the Use of Restraint or Seclusion: Form CMS-10455 (INCOMPLETE)

Report of Hospital Death Associated with the Use of Restraint or Seclusion: Form CMS-10455 Slides

CONSULTING

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

CENTERS FOR MEDICARE & MEDICAID SERVICES

Center for Clinical Standards and Quality/Quality, Safety & Oversight Group

Ref: QSO-20-04-Hospital-CAH DPU

DATE: **December 2, 2019**

TO: State Survey Agency Directors

FROM: Director
Quality, Safety & Oversight Group

SUBJECT: Electronic Form CMS-10455, *Report of a Hospital Death Associated with Restraint or Seclusion*

www.cms.gov/files/document/appendices-table-content.pdf

Memorandum Summary

The electronic Form CMS-10455, *Report of a Hospital Death Associated with the Use of Restraint or Seclusion* is replacing the paper version of the Form starting December 2, 2019. Beginning January 1, 2020, the CMS RO resource mailboxes will no longer accept paper versions of Form CMS-10455.

Hospitals and/or Critical Access Hospital (CAH) Distinct Part Units (DPUs) will be able to insert the URL below into any browser and click to access the electronic Form CMS-10455.

https://restraintdeathreport.gov1.qualtrics.com/jfe/form/SV_5pXmjIw2WAzto8J

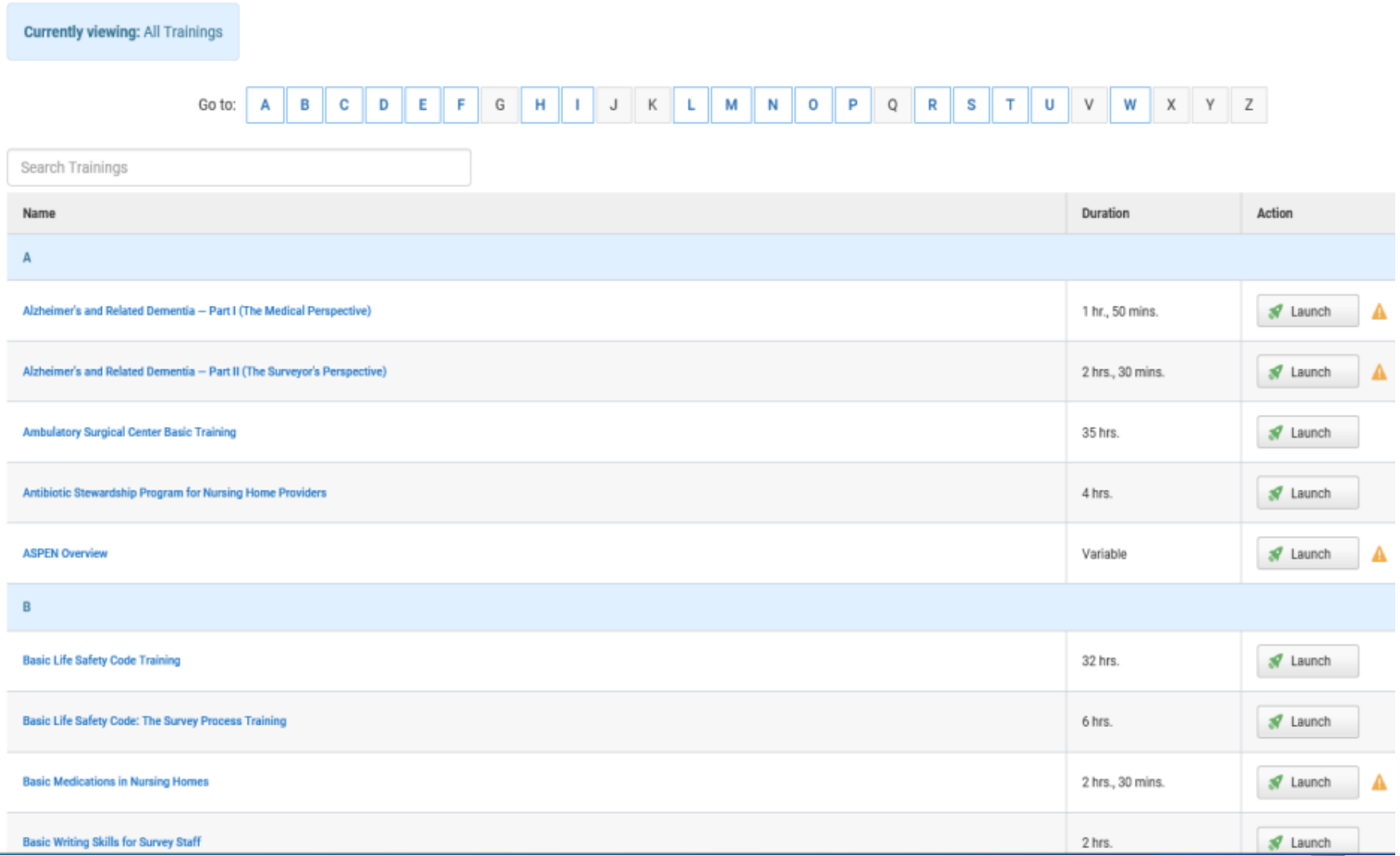
A brief Instructional Video on how to complete and submit the electronic Form CMS-10455 is available on the Surveyor Training Website at https://surveyortraining.cms.hhs.gov/pubs/ClassInformation.aspx?cid=0CMSRHDRS_ONL. The Instructional Slides are attached.

Surveyor Training Click on Catalog

https://qsep.cms.gov/welcome.aspx

The Quality, Safety & Education Portal (QSEP) provides the full curriculum of

Alphabetical Lists of Training



Section B. Patient Information

- List the patient's name and date of birth (DOB).
- List the medical diagnosis(es) and include psychiatric diagnosis(es), if applicable.
- List the date of the patient's admission or presentation for care.
- List the date and time of death.
- Condition of the patient leading to death -
  In the text box, document health condition(s) leading, causing, or contributing to death such as hypoxia, hypovolemia, hemorrhage, sepsis, kidney failure, dehydration, infection, temperature elevation, hypoglycemia, electrolyte imbalance, probable drug interaction, etc. as per 42 CFR 482.13(e)10.
- Condition(s) leading, causing, contributing to death - This should be the physician's best medical opinion to include any contributing factors leading to the death.
- A condition may be listed as "probable" even if it has not been definitively diagnosed. (Cardiac failure or respiratory arrest is not a sufficient answer to this question).
- Condition of a patient who is restrained must be monitored.
- Mortality Review to be completed if applicable per your state requirements – indicate Yes or No.
- Report Submission - The date and time that the Form CMS-10455 report was submitted to CMS must be documented in the patient's medical record. Indicate if this has been documented.

Section C. Restraint Information (Part I)

For restraint and seclusion definitions and death reporting requirements, refer to CMS State

Hospitals May NO LONGER Use This Form

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

Form Approved
OMB No. 0938-1210

REPORT OF A HOSPITAL DEATH ASSOCIATED WITH RESTRAINT OR SECLUSION

A. Hospital Information:

Hospital Name		CCN
Address		
City	State	Zip Code
Person Filing the Report		Filer's Phone Number

B. Patient Information:

Name		Date of Birth
Primary Diagnosis(es)		

www.cms.gov/Medicare/CMS-Forms/CMS-Forms/Downloads/CMS10455.pdf

Medical Record Number	Date of Admission	Date of Death
Cause of Death		

Cause of Death

C. Restraint Information ***(check only one)***:

- ☐ While in Restraint, Seclusion, or Both
- ☐ Within 24 Hours of Removal of Restraint, Seclusion, or Both
- ☐ Within 1 Week, Where Restraint, Seclusion or Both Contributed to the Patient's Death

Type *(check all that apply)*:

☐ Physical Restraint ☐ Seclusion ☐ Drug Used as a Restraint

If Physical Restraint(s), Type *(check all that apply)*:

- ☐ 01 Side Rails
- ☐ 02 Two Point, Soft Wrist
- ☐ 03 Two Point, Hard Wrist
- ☐ 04 Four Point, Soft Restraints
- ☐ 05 Four Point, Hard Restraints
- ☐ 06 Forced Medication Holds
- ☐ 07 Therapeutic Holds
- ☐ 08 Take-downs
- ☐ 09 Other Physical Holds (specify): _____
- ☐ 10 Enclosed Beds
- ☐ 11 Vest Restraints
- ☐ 12 Elbow Immobilizers
- ☐ 13 Law Enforcement Restraints

If Drug Used as Restraint:

Drug Name	Dosage

Restraint Patient Safety Brief www.empsf.org

EMERGENCY MEDICINE PATIENT SAFETY FOUNDATION

Restraint and Seclusion Patient Safety Briefing
Emergency Medicine Patient Safety Foundation

Written by: Sue Dill Calloway RN MSN JD CPHRM
Michael Gerardi, MD, FAAP, FACEP
John (Jack) Kelly DO, FACEP, FAAEM

March 2012
Revised July 16, 2012

Introduction

Restraint and seclusion is a very important patient safety issue. Appropriately applied restraints can protect patients from harming themselves or others. Paradoxically, improperly applied restraints can result in patient injury and death. It is also an important regulatory issue for accreditation organizations such as the Joint Commission. Likewise, any hospital accredited by DNV Healthcare or by the American Osteopathic Association (AOA) Healthcare Facility Accreditation Program must follow any specific standards they may have

Emergency Physicians Insurance eXchange

EPIX Patient Safety Briefs
(Previously known as EPIX Email Alerts)

Restraint and Seclusion

Written by Sue Dill Calloway RN MSN JD

Restraint and seclusion (R&S) are both a patient safety and risk management issue. Appropriately applied restraints can protect patients from harming themselves or others; however, unnecessary restraints and improper monitoring have resulted in injuries and deaths.

The Center for Medicare and Medicaid (CMS) rewrote the hospital regulations on restraint in 1998 (and have amended them many times since) after the Hartford Courant investigative report documented 142 deaths from restraints used between 1988 and 1998. And of course, medical malpractice or wrongful death actions have been filed due to injury or death from the use of restraints or seclusion. Hospitals can also be fined in many states by the state agency for restraint deaths. Restraints also increase the risk of delirium by four fold. (1)

Restraint and seclusion are the most common reasons why hospitals are cited by CMS. The January 28, 2016 deficiency report shows that 1,624 hospitals were cited by CMS. (2) CMS has

8.50 x 11.00 in

CMS Complaint Manual R&S Section

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

CENTERS FOR MEDICARE & MEDICAID SERVICES

Center for Clinical Standards and Quality /Survey & Certification Group

Ref: S&C: 13-27-Deemed Providers/Suppliers & Hospitals

DATE: **April 19, 2013**

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Update of State Operations Manual (SOM) Chapter 5, Complaint Investigation

Memorandum Summary

Post-Complaint Survey Procedure - Deemed Providers/Suppliers:

- A full survey of a deemed provider/supplier after a complaint survey with condition-level findings will be made on a selective rather than an automatic basis.
- All survey reports and related correspondence must be shared promptly with a deemed provider/supplier's accrediting organization (AO).

Hospital Restraint/Seclusion Death Reporting: This section is being moved, to reflect the fact that the procedures therein apply to all hospitals, not just deemed hospitals. We are also streamlining the procedure for making disclosures to State Protection and Advocacy (P&A) agencies, to reduce burden.

A. Full Survey After Complaint for Deemed Providers/Suppliers

Section 5170 Relates to Hospital Restraint/Seclusion Death Reporting and Investigation

5170 - Hospital Restraints/Seclusion Death Reporting and Investigation
- *5171.1 - Background*
- *5171.2 - Responsibilities*
- *5171.3 - Process*

Sections 5200 to 5240 relate to all non-deemed provider/supplier types, excluding nursing homes (SNFs/NFs).

5200 - Investigating Complaints for Non-Deemed Providers/Suppliers, Excluding Nursing Homes (SNFs/NFs)

- 5200.1 - General Procedures
- 5200.2 - Special Procedures for Psychiatric Hospitals

5210- Processing of Complaints Originating with or Investigated by the RO

5220- Investigation Conducted Directly by the RO

5230- Special RO Processing

5240 - Complaints - HHA Hotline

DEFINITIONS OF RESTRAINT and SECLUSION

A restraint is:

- Any manual method, physical or mechanical device, material, or equipment that restricts, immobilizes or reduces the ability of a patient to move his or her arms, legs, body, or head freely that cannot be removed easily by the patient;

- A drug or medication used as a restraint is a medication used to control behavior or restrict a patient's movement and is not a standard treatment or dosage for the patient's condition.

- If all four side rails are up, or if belts are being used to keep a **patient in bed or from getting up**, they are considered to be a restraint and all the policy/procedure and documentation guidelines apply.

A restraint **does not include:**

- Devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a patient for the purpose of conducting routine physical examinations or tests, or to protect the patient from falling out of bed (including stroller safety belts, swing safety belts, high chair lap belts, raised crib rails, crib covers, if age specific), or to permit the patient to participate in activities without the risk of physical harm (this does not include a physical escort).

Training Time and Time Spent

- National Association of Psychiatric Health Systems (NAPHS), initial training in de-escalation techniques, restraint and seclusion policies and procedures
- Recommended 7-16 hours of training but number of hours **not** mandated by CMS
- In fact, in Federal Register recommended sending one person to CPI training class as a train the trainer

- [1]http://www.crisisprevention.com

POLICY

In keeping with the philosophy of St. Mary's Hospital, the goal is to become a restraint free facility. Every patient has the right to be treated with dignity and respect and the right to be free from any physical restraint unless their safety or the safety of others is in jeopardy.

All patients have the right to be free from restraint or seclusion, of any form, imposed as a means of coercion, discipline, convenience, or retaliation by staff. Restraint use may only be imposed to ensure the immediate physical safety of the patient, a staff member, or others and must be discontinued at the earliest possible time.

APPROVED TYPES OF RESTRAINTS

Soft limb restraints
Hard restraints (4-point - may only be used in ICU or ED)
Four Side Rails (see description below)
Medication / chemical unless it is used as a therapy for a patient's medical condition

ALTERNATIVES TO RESTRAINTS

Restraint or seclusion may only be used when less restrictive interventions have been determined to be ineffective to protect the patient, staff members or others from harm. The type or technique of restraint or seclusion used must be the least restrictive intervention that will be effective to protect the patient, a staff member, or others from harm.

Examples of items that are not restraints include side rails, lap boards, mitts that are not tied down, lap or roll belts, etc. if a patient can remove them.

DEFINITIONS OF RESTRAINT and SECLUSION

A restraint is:

- Any manual method, physical or mechanical device, material, or equipment that restricts

Most Use the EHR Documentation

RESTRAINT/SECLUSION DOCUMENTATION--Nurses

Ideally the order is entered into the CIS system first and the form would be accessed via the task list. **If the order is not placed in CIS, but you have already started the seclusion/restraint you may access the Restraints form from Ad Hoc charting.**