

## CLIENT ALERT

### New Hospital Conditions of Participation to Take Effect January 26, 2007

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The Centers for Medicare & Medicaid Services has published a final rule revising and updating the conditions of participation (“CoP”) requirements affecting medical staff, nursing services, medical record services, pharmaceutical services, and anesthesia services. (71 Fed. Reg. 68671). CMS initiated the revisions to the CoP requirements in response to feedback and criticism from the medical community that the current CoPs governing these areas are too burdensome, inflexible, and do not reflect current medical standards and practices.

The new medical staff and medical record services CoPs in the final rule expand the time frame for completion of the H&P examination to 30 days before or 24 hours after admission. If the H&P is completed before admission, the new CoPs require only that an “updated” examination be completed and documented in the patient’s medical record within 24 hours of admission. Also under the new standards, physicians and other practitioners are no longer required to be credentialed and privileged by the admitting hospital. Now, any practitioner qualified under state law and hospital policy may conduct H&P examinations.

CMS is retaining current requirements that verbal orders be dated, timed, and promptly authenticated by the ordering practitioner. The revised medical record services CoP sets forth an exception that will permit another practitioner to authenticate verbal orders, as long as the other practitioner is also responsible for the care of the patient and authorized to write orders in accordance with hospital policy and state law. CMS has stated that it believes the exception, which sunsets after 5 years, will increase flexibility for hospitals and practitioners until health information technology has developed to enable ordering practitioners to authenticate their own orders more quickly.

The final rule updates the pharmaceutical services CoP to provide that all drugs and biologicals be kept in a secure area and locked when appropriate. In the preamble to the final rule, CMS stated that the goal of this revision is to give hospitals flexibility in the storage of non-scheduled drugs and biologicals, and that any area that is staffed and actively providing patient care would generally be considered a “secure area.”

Finally, the anesthesia services CoP has been revised to allow any individual qualified to administer anesthesia to conduct a post-anesthesia evaluation. Post-anesthesia evaluations must be conducted within 48 hours after surgery, and before the patient is discharged.

CMS has stated that it hopes the new standards in the final rule will reduce regulatory burdens and allow hospitals more flexibility in setting policies that work best for each individual hospital. The final rule is effective January 26, 2007.

[CMS Final Rule \[PDF\]](#)

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