AHC Media

CMS and TJC Contract Management Standards:

Ensuring Your Compliance

Wednesday, January 29th, 2014

Speaker

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Learning Objectives

1. Explain the Joint Commission contract standard in the leadership chapter

2. Discuss the CMS section in the hospital CoP's that sets forth requirements for contracted services

3. Describe the CMS requirement that contract services are reviewed as part of the QAPI process

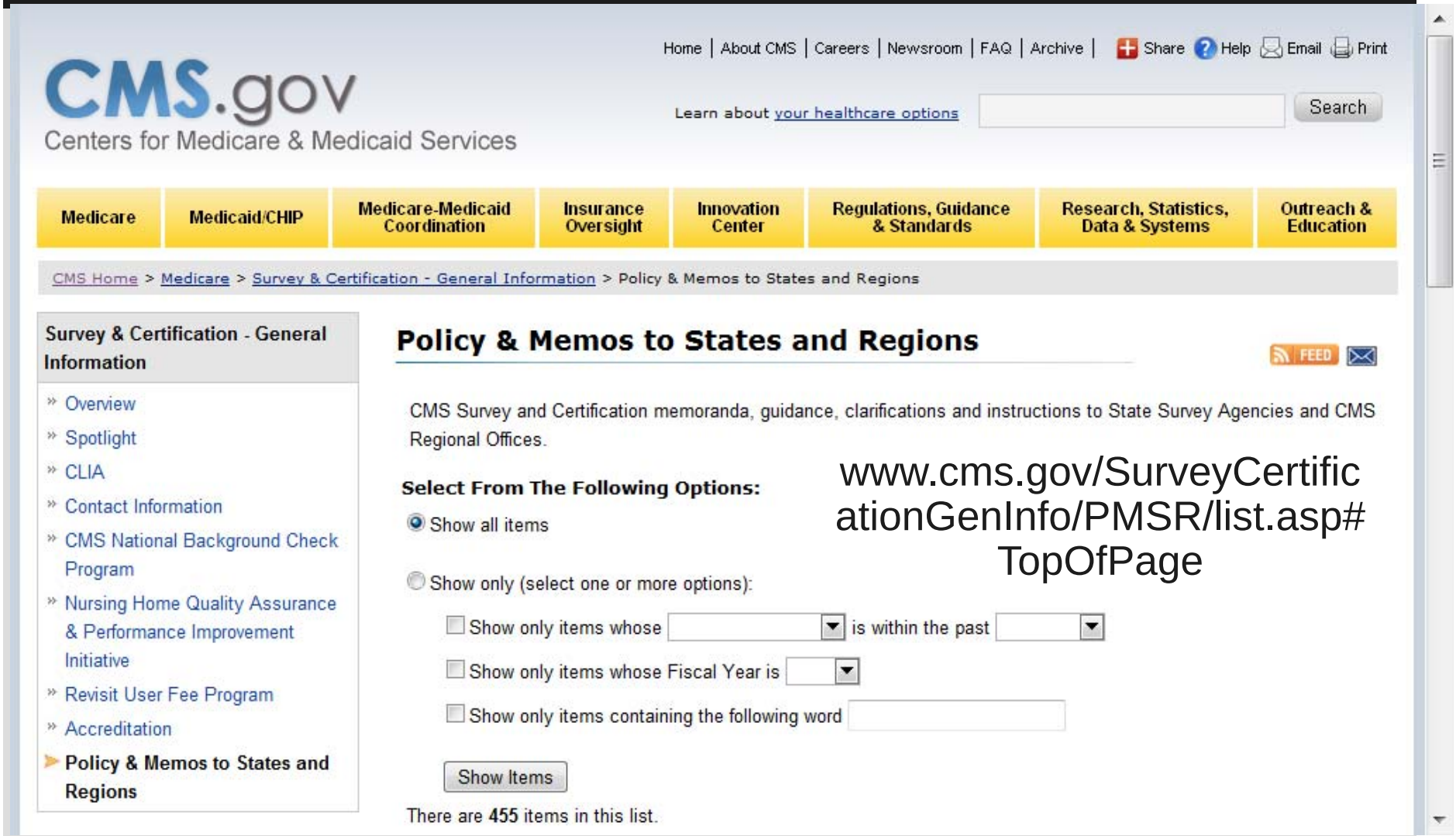
CMS Contract Regulations

The Conditions of Participation (CoPs)

- Regulations first published in 1986
  - Many revisions since to discharge planning, humidity, Visitation, IV medication and Blood, Anesthesia, Pharmacy, medication timing, privacy, insulin pens, safe injection practices, self administered medications and Telemedicine
  - Manual updated August 30, 2013 and 457 pages
- First regulations are published in the **Federal Register** then CMS publishes the **Interpretive Guidelines** and some have **survey procedures** [2]
  - Hospitals should check this website once a month for changes

[1]www.gpoaccess.gov/fr/index.html [2]www.cms.hhs.gov/SurveyCertificationGenInfo/PMSR/list.asp

CMS Survey and Certification Website



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

Policy & Memos to States and Regions

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

Show entries: 10

Filter On:

Title	Memo #	Posting Date	Fiscal Year
Access to Statements of Deficiencies (CMS-2567) on the Web for Skilled Nursing Facilities, Nursing Facilities, Hospitals,& Critical Access Hospitals	13–21- ALL	2013-03-22	2013
AHRQ Common Formats - Information for Hospitals and State Survey Agencies (SAs) - Comprehensive Patient Safety Reporting Using AHRQ Common Formats	13-19-HOSPITALS	2013-03-15	2013
Guidance for Hospitals, Critical Access Hospitals (CAHs) and Ambulatory Surgical Centers (ASCs) Related to Various Rules Reducing Provider/Supplier Burden	13-20-Acute Care	2013-03-15	2013
Luer Misconnection Adverse Events	13-14-ALL	2013-03-08	2013
Physician Delegation of Tasks in Skilled Nursing Facilities (SNFs) and Nursing Facilities (NFs)	13-15-NH	2013-03-08	2013
F tag 155-- Advance Directives- Revised Advance Copy	13-16-NH	2013-03-08	2013
F tag 322—Naso-Gastric Tubes - Revised Advance Copy	13-17-NH	2013-03-08	2013
Revised Roll-Out of the New End Stage Renal Disease (ESRD) Core Survey Process	13-18-ESRD	2013-03-08	2013
Notice -Ninth Opportunity National Background Check Program Funding	13-12- NH	2013-03-01	2013
Information Only: New Dining Standards of Practice Resources are Available Now	13-13-NH	2013-03-01	2013

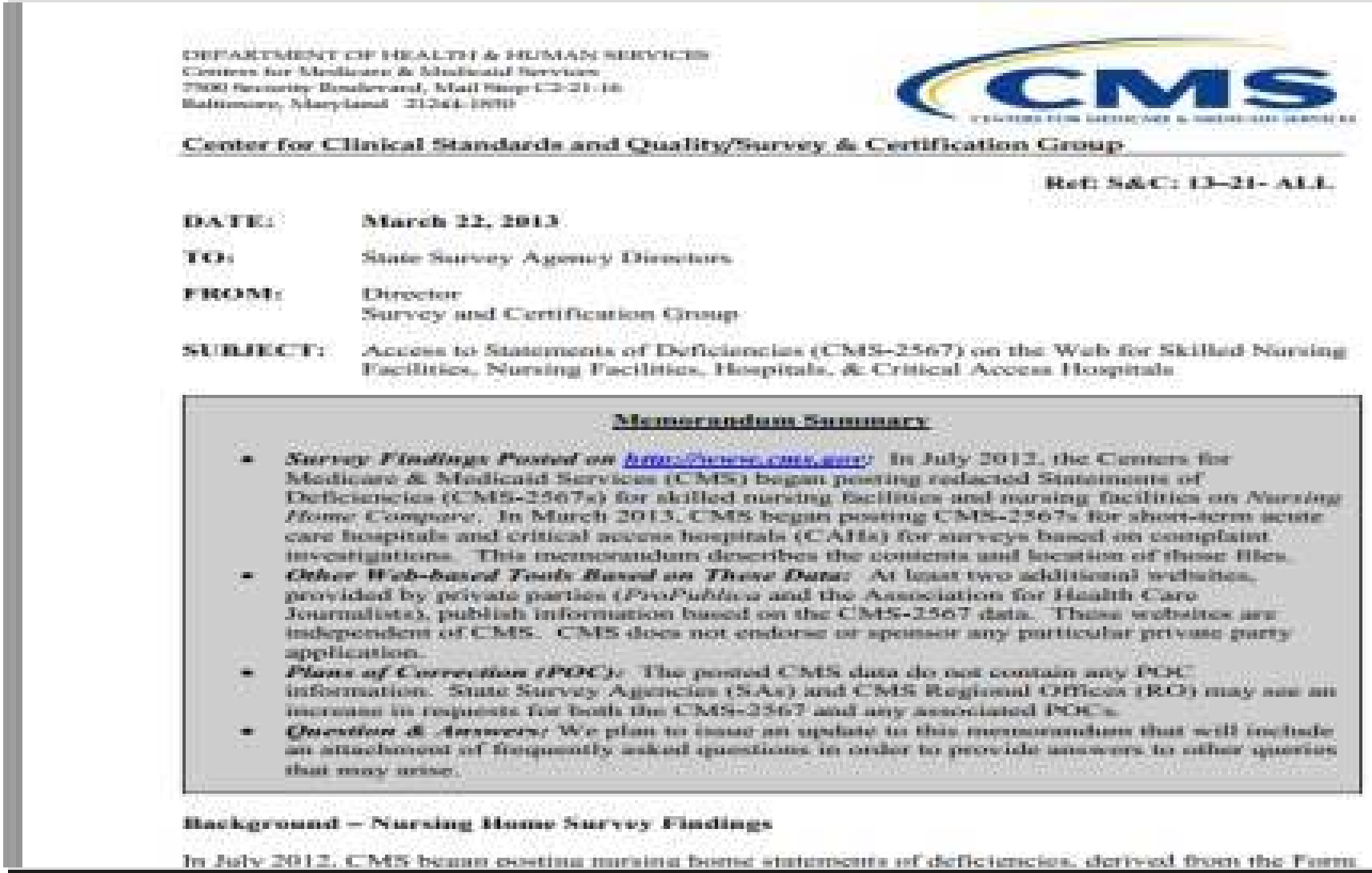
Access to Hospital Complaint Data

- CMS issued Survey and Certification memo on March 22, 2013 regarding access to hospital complaint data
- Includes acute care and CAH hospitals
  - Does not include the plan of correction but can request
  - Questions to bettercare@cms.hhs.com
- This is the CMS 2567 deficiency data and lists the tag numbers
- Will update quarterly & updated June & Nov 2013
  - Available under downloads on the hospital website at www.cms.gov

Access to Hospital Complaint Data

- There is a list that includes the hospital's name and the different tag numbers that were found to be out of compliance
  - Many on restraints and seclusion, EMTALA, infection control, patient rights including consent, advance directives and grievances
- Two websites by private entities also publish the CMS nursing home survey data
  - The ProPublica website for LTC
  - The Association for Health Care Journalist (AHCJ) websites for hospitals

Access to Hospital Complaint Data



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

Center for Clinical Standards and Quality/Survey & Certification Group

Ref: S&C: 13-21- ALL

DATE: March 22, 2013

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Access to Statements of Deficiencies (CMS-2567) on the Web for Skilled Nursing Facilities, Nursing Facilities, Hospitals, & Critical Access Hospitals

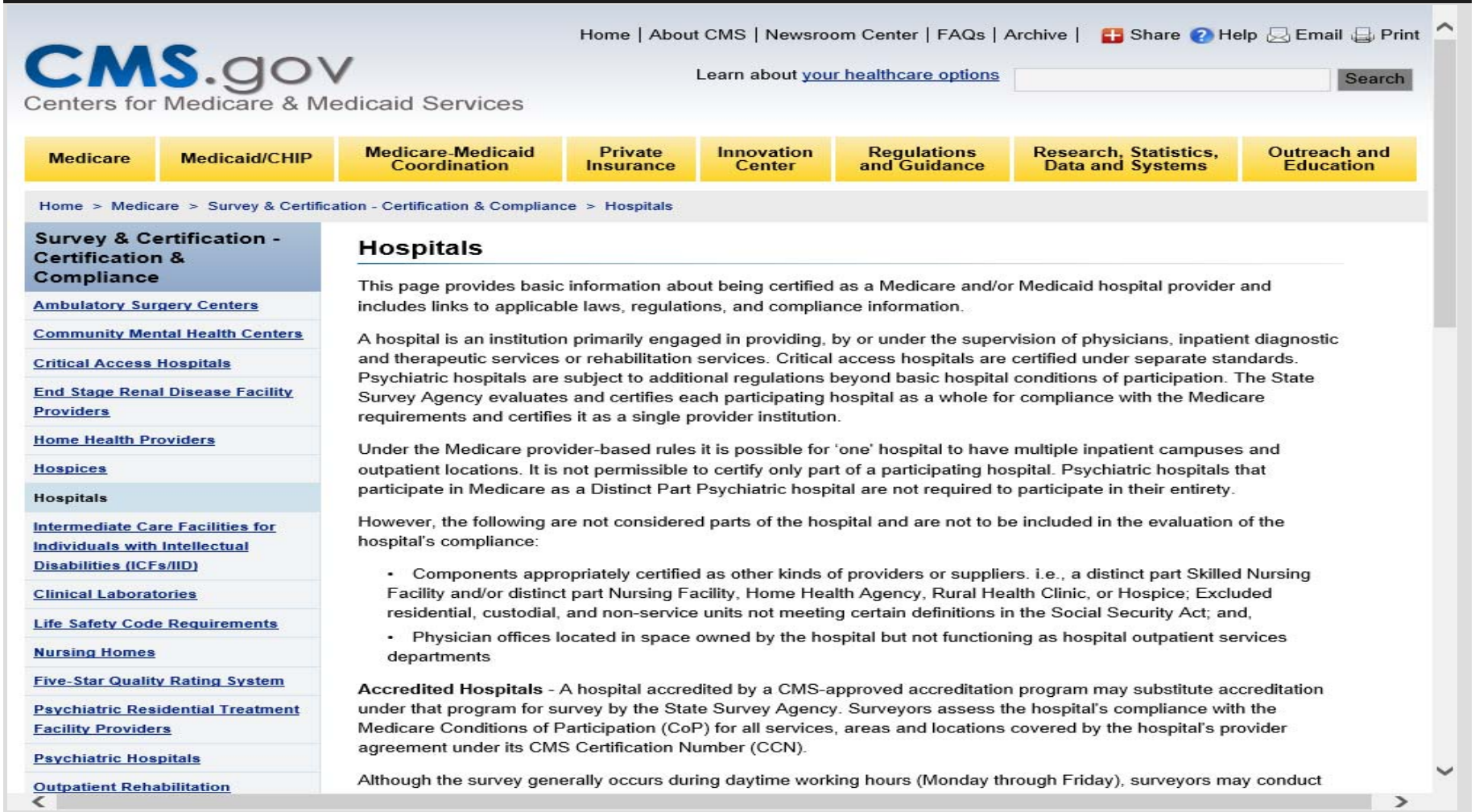
Memorandum Summary

- ***Survey Findings Posted on*** *http://www.cms.gov:* In July 2012, the Centers for Medicare & Medicaid Services (CMS) began posting redacted Statements of Deficiencies (CMS-2567s) for skilled nursing facilities and nursing facilities on *Nursing Home Compare*. In March 2013, CMS began posting CMS-2567s for short-term acute care hospitals and critical access hospitals (CAHs) for surveys based on complaint investigations. This memorandum describes the contents and location of these files.
- ***Other Web-based Tools Based on These Data:*** At least two additional websites, provided by private parties (*ProPublica* and the Association for Health Care Journalists), publish information based on the CMS-2567 data. These websites are independent of CMS. CMS does not endorse or sponsor any particular private party application.
- ***Plans of Correction (POC):*** The posted CMS data do not contain any POC information. State Survey Agencies (SAs) and CMS Regional Offices (RO) may see an increase in requests for both the CMS-2567 and any associated POCs.
- ***Question & Answers:*** We plan to issue an update to this memorandum that will include an attachment of frequently asked questions in order to provide answers to other queries that may arise.

Background – Nursing Home Survey Findings

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

Updated Deficiency Data Reports



www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandComplianc/Hospitals.html

Contract Deficiencies Hospitals Nov 2013

Section Name	Tag Number	Number of Deficiencies
Contracted Services	83	40
Contracted Services	84	28
Contracted Services	85	2 Total 70

CMS Hospital CoP Manual

- Interpretative guidelines under state operations manual (SOM) [1]
  - Appendix A, Tag A-**0001** to A-**1164** and 457 pages long
  - Interpretative guidelines updated August 30, 2013
- Manuals found at[2]
  - Manuals are now being updated more frequently
  - Still need to check survey and certification website monthly

[1]www.cms.hhs.gov

[2]http://www.cms.hhs.gov/manuals/downloads/som107_Appendicestoc.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 red button in the 'Download' column to see any available file in PDF.
- To return to this page after opening a PDF file on your desktop. use the browser "back" button. This is because closing the file usually will also close most browsers

New website at
www.cms.hhs.gov/manuals/downloads/som107_Appendixtoc.pdf

App. No.	Description	PDF File
A	Hospitals	2,185 KB
AA	Psychiatric Hospitals	606 KB

CMS Hospital CoP Manual

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

Table of Contents

(Rev. 89, 08-30-13)

www.cms.hhs.gov/manuals/downloads/som107_Appendixtoc.pdf

CMS Hospital Worksheets Third Revision

- October 14, 2011 CMS issues a 137 page memo in the survey and certification section
- Memo discusses surveyor worksheets for hospitals by CMS during a hospital survey
- Addresses discharge planning, infection control, and QAPI
  - It was pilot tested in hospitals in 11 states and on May 18, 2012 CMS published a second revised edition
  - November 9, 2012 CMS issued the third revised worksheet which is now 88 pages and will be updated 2014
  - Has section on **contracts** in the PI chapter

CMS Hospital Worksheets

- Will select hospitals in each state and will complete all 3 worksheets at each hospital
  - From 1-9 hospitals in every state with more in states with larger numbers and will select hospitals with higher than average readmissions for all causes
- This is the third and most likely final pilot and in 2013 and will use whenever a validation survey is done at a hospital by CMS
- Third pilot is non-punitive and will not require action plans unless immediate jeopardy is found
- Hospitals should be familiar with the three worksheets

Third Revised Worksheets

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

Center for Clinical Standards and Quality/ Survey & Certification Group

REF: S&C: 13-03-Hospital

DATE: **November 9, 2012**

TO: State Survey Agency Directors

FROM: Director
Survey & Certification Group

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

SUBJECT: Patient Safety Initiative FY 2013 Pilot Phase – Revised Draft Surveyor Worksheets

Memorandum Summary

- *Patient Safety Initiative*: The Centers for Medicare & Medicaid Services (CMS) is continuing to test revised surveyor worksheets for assessing compliance with three hospital Conditions of Participation (CoPs): Quality Assessment and Performance Improvement (QAPI), Infection Control, and Discharge Planning. We are focusing on compliance with these CoPs as a means to reduce hospital-acquired conditions (HACs), including healthcare associated infections (HAIs), and preventable readmissions.
- *Draft Worksheets Made Public:* Via this memorandum we are making the revised draft worksheets publicly available. As was the case previously, there may be additional revisions to the worksheets at the end of FY 2013.

Patient Safety Initiative Pilot Phase

The Survey & Certification Group (SCG) Patient Safety Initiative is continuing to pilot test three revised surveyor worksheets designed to help surveyors assess compliance with the hospital CoPs for QAPI, infection control, and discharge planning. In S&C-12-01 released October 14, 2011 and in S&C-12-32 released May 18, 2012, we made available to the public copies of the initial and revised draft surveyor worksheets. These worksheets were used during the pre-test and pilot phases of the SCG initiative, from September 2011 through September 2012.

Asks About Contracts in the PI Section

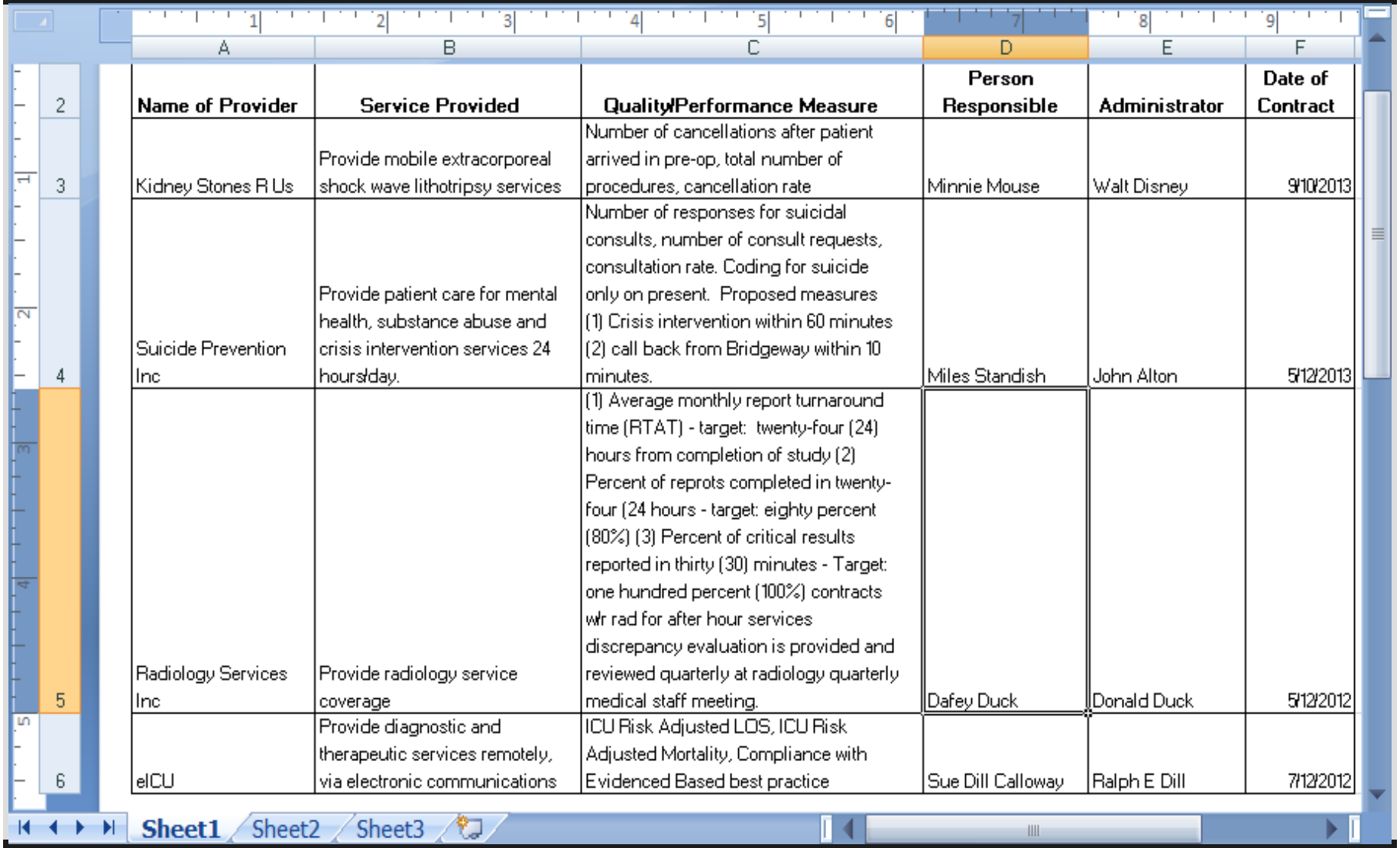
PART 6 – BROAD QAPI REQUIREMENTS AND LEADERSHIP RESPONSIBILITIES (CONTINUED)

Elements to be Assessed		Manner of Assessment Code (Enter all that apply) & Surveyor Notes
6.2.b Using information from the hospital identifying services provided under arrangement (contract), can the QAPI manager provide evidence of QAPI assessment for each service related to clinical care provided under contract or arrangement? (Exclusively administrative contractual services, e.g., payroll preparation, are not required to be included in the QAPI program.)	○ YES ○ NO ○ N/A	○ 1 ○ 2 ○ 3 ○ 4 ○ 5
If no to 6.2.b, cite at 42 CFR 482.12(e) and 482.21 (for pilot - Standard level tag) (Tags A-083 and A-308)		
6.3 Is there evidence that the governing body, hospital CEO, Medical Staff leadership, and other senior administrative officials, e.g., Director of Nursing, each play a role in QAPI program planning and implementation?	○ YES ○ NO	○ 1 ○ 2 ○ 3 ○ 4 ○ 5
If no to 6.3, cite at 42 CFR 482.21(e)(2) (Tag A-309)		
6.4 Is there evidence, e.g. in minutes, that the hospital's governing body:		
6.4.a Approves QAPI program indicators selected and frequency of data collection?	○ YES ○ NO	○ 1 ○ 2

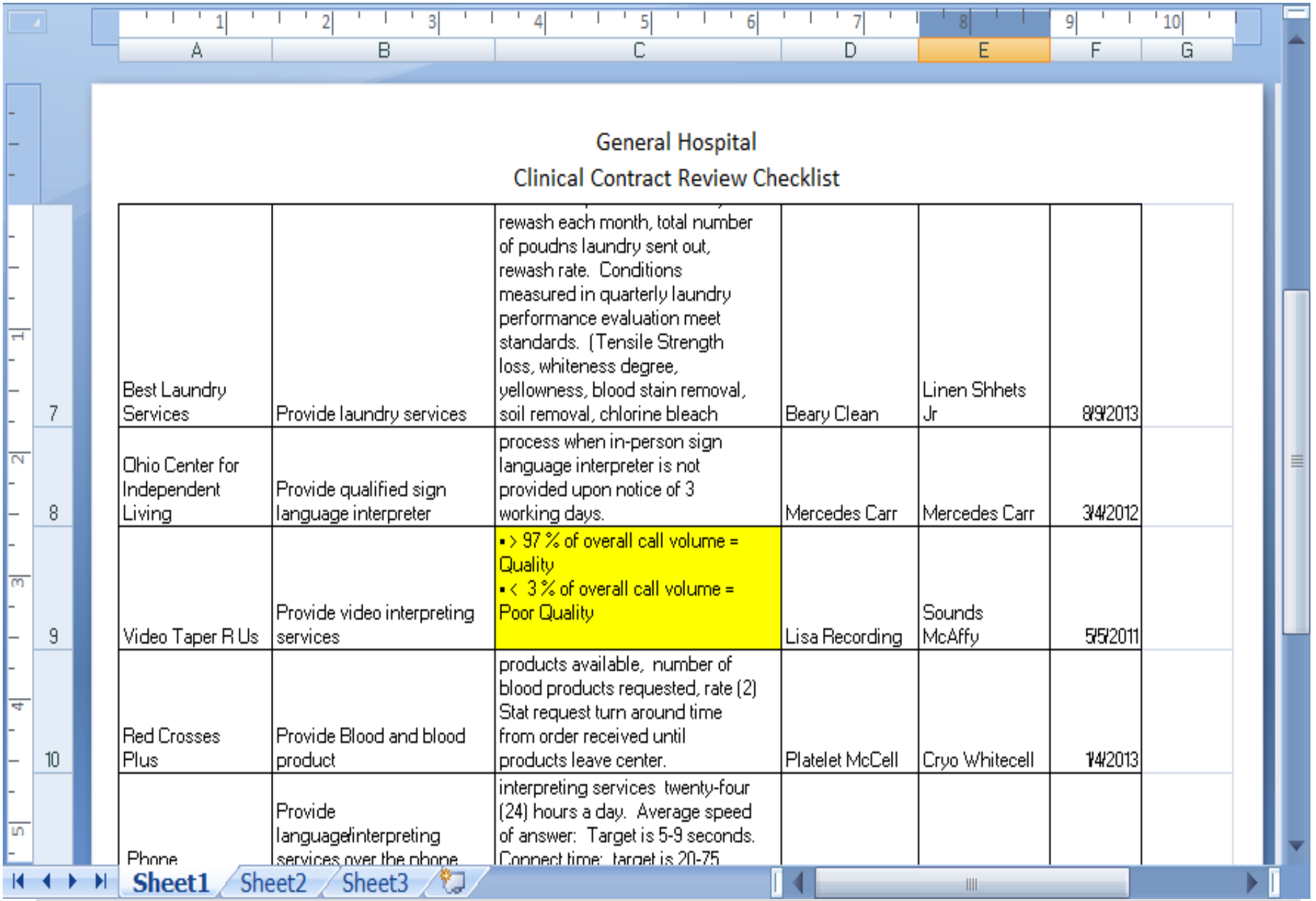
Entrance Activities of Surveyor

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

Have a List of Contracted Services



Name of Provider	Service Provided	Quality/Performance Measure	Person Responsible	Administrator	Date of Contract
Kidney Stones R Us	Provide mobile extracorporeal shock wave lithotripsy services	Number of cancellations after patient arrived in pre-op, total number of procedures, cancellation rate	Minnie Mouse	Walt Disney	9/10/2013
Suicide Prevention Inc	Provide patient care for mental health, substance abuse and crisis intervention services 24 hours/day.	Number of responses for suicidal consults, number of consult requests, consultation rate. Coding for suicide only on present. Proposed measures (1) Crisis intervention within 60 minutes (2) call back from Bridgeway within 10 minutes.	Miles Standish	John Alton	5/12/2013
Radiology Services Inc	Provide radiology service coverage	(1) Average monthly report turnaround time (RTAT) - target: twenty-four (24) hours from completion of study (2) Percent of reprots completed in twenty-four (24 hours - target: eighty percent (80%) (3) Percent of critical results reported in thirty (30) minutes - Target: one hundred percent (100%) contracts w/r rad for after hour services discrepancy evaluation is provided and reviewed quarterly at radiology quarterly medical staff meeting.	Dafey Duck	Donald Duck	5/12/2012
eICU	Provide diagnostic and therapeutic services remotely, via electronic communications	ICU Risk Adjusted LOS, ICU Risk Adjusted Mortality, Compliance with Evidenced Based best practice	Sue Dill Calloway	Ralph E Dill	7/12/2012



General Hospital

Clinical Contract Review Checklist

7	Best Laundry Services	Provide laundry services	rewash each month, total number of poudns laundry sent out, rewash rate. Conditions measured in quarterly laundry performance evaluation meet standards. (Tensile Strength loss, whiteness degree, yellowness, blood stain removal, soil removal, chlorine bleach	Beary Clean	Linen Shhets Jr	8/9/2013
8	Ohio Center for Independent Living	Provide qualified sign language interpreter	process when in-person sign language interpreter is not provided upon notice of 3 working days.	Mercedes Carr	Mercedes Carr	3/4/2012
9	Video Taper R Us	Provide video interpreting services	• > 97 % of overall call volume = Quality • < 3 % of overall call volume = Poor Quality	Lisa Recording	Sounds McAffy	5/5/2011
10	Red Crosses Plus	Provide Blood and blood product	products available, number of blood products requested, rate (2) Stat request turn around time from order received until products leave center.	Platelet McCell	Cryo Whitecell	1/4/2013
	Phone	Provide language interpreting services over the phone	interpreting services twenty-four (24) hours a day. Average speed of answer: Target is 5-9 seconds. Connect time: target is 20-75			

Sheet1 Sheet2 Sheet3

Document Review Session

- Provide any contracted patient care services such as dietary, treatment or diagnostic services
- During document review session provide the following documents
  - "Contracts, if applicable, to determine if patient care, governing body, QAPI, and other CoP requirements are included"

Contract Section Starts at Tag 83

A-0083
(Rev. 37, Issued: 10-17-08; Effective/Implementation Date: 10-17-08)
§482.12(e) Standard: Contracted Services

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

Interpretive Guidelines §482.12(e)

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

Contracted Services 83

- Board is responsible for services provided in hospital
- Whether provided by hospital employees or under contract
- Board must make sure the contractors furnish services that meet the hospital CoPs and standards for contracted services
  - This includes ones for shared services and joint ventures
  - Different from the TJC standards that only affect patient care contracts

Contracted Services 83

- Board must take action under hospital's QAPI program to assess services provided both by employees and under direct contract
- Board must take action to identify quality problems and ensure monitoring and correction of any problems
- Board must make sure corrections sustained
  - TJC has more detailed contract management standards in LD chapter, revised 1-1-09 and 7-1-09 and 2012 as discussed

Contracted Services A-0084

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

List of Contracted Services 85

- Review QAPI plan to ensure that every contracted service is evaluated
- CMS asks about contracted and PI activity under the revised CMS worksheets
- Hospital must maintain a list of all contracted services (85)
- Contractor services must be in compliance with CoPs
  - Consider adding a section to all contracts to address CoP requirements that contractors agree to follow all hospital CoPs and TJC requirements

ESSENTIAL CONTRACT COMPONENTS REVIEW CHECKLIST

Service Provider Name _____ Date _____

All hospital contracts need to include the following essential components to meet corporate standards: Blacked-out areas indicate the component does not apply to that type of contract.

Essential Components	Physician Contracts	Clinical Contracts	Non-Clinical Contracts	Hospital Service Agreements
30-90 day out clause without termination				
Double indemnity				
Stated amounts				
Clear cut definition of responsibilities				
Liability Insurance Coverage				
Independent Contractor				
PI Program/Quality Improvement				

Community Hospital
Monitoring Tool for Operations Contracts

Name of Provider:_____ **Contract Date:** _____

Type of Services:_____

Last Review Date:_____ **Review for Period FYE:**_____

STANDARD	Almost Always (5)	Sometimes (3)	Almost Never (1)
1. Contract service provider performs consistently according to policies, procedures, and practices established by the Health Center and in accordance with the plan of care established for client.			
2. Contract service provider is consistently available to support the Health Center with problems related to service.			
3. Contract service provider consistently makes effort to respond to the Center in the time frame requested after accepting an assignment. The designated Health Center staff is notified in the event time limits cannot be met.			
4. Contract service provider consistently submits necessary materials within the time frames specified in the contract.			
5. Contract service provider consistently submits necessary documents that are complete and adequate with regard to the Health Center's standards and regulations.			

	regulations.			
6.	A verbal report is provided to the Health Center following any unscheduled service, information and services.			
7.	Contract service provider does not alter requested service in type, scope, or duration.			
8.	Contract service provider reports significant information and/or problems in servicing the Health Center at the time of the discovery.			
9.	Contract service provider attends meetings concerning the Hospital contract or services if problems occur.			
10.	Contract service provider informs designated Hospital staff of available work hours and when unable to complete assignment.			
11.	Contract service provider consistently informs the Hospital of any pertinent information that should become available to them that relates to the operations of the Hospital.			
12.	If applicable, the Contract service provider has obtained, and is obtaining, accreditation with a national accrediting body (i.e., TJC, COLA).			

Any problems?

_____

_____

_____

Action taken:

_____

_____

_____

Resolved:

_____

_____

_____

Almost always _____ X 5 points = _____

Sometimes _____ X 3 points = _____

Almost never X 1 points =

A Checklist for Contract Review

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

Sample Policy and Procedure

Contract Review

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

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

I. STATEMENT OF PURPOSE

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

II. STATEMENT OF POLICY

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

III. PROCEDURE

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

B. The Risk Manager shall complete a risk assessment using review

2. Contractual conditions that may have the effect of putting either party in violation of the law (finding them may require extrapolating the possibilities of what *might* happen under the contract over time.

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

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

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

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

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

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

F. All contracts will be reviewed annually and renegotiated appropriately.

Joint Commission Contract Standard

- The Joint Commission (TJC) has a contract standard
- It is located in the leadership standard which was rewritten in 2009 and amended 2012, 2013 & 2014
  - Hospitals leadership must monitor patient care that is provided by contracted services
- Standard LD.04.03.09 and has 11 elements of performance (EPs) and a rationale
- Hospitals enter into a number of contracts from provider groups, diagnostic centers, vendors, employment agencies and other business partners

Contracts

- Hospitals need to have a system for management of contracts
- It is necessary to manage contracts to save time and money, guard against liability exposure and reduce the likelihood of conflict and litigation
- Does your hospital have a centralized contract development and review process?
- Hospitals must also keep CMS and Joint Commission contract standards in mind in drafting contracts
  - These require closer monitoring of hospital contractors

LD Standard Organized into 4 Sections

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

Operations IV of IV

IV. Operations

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

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

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

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

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

Introduction Contracts

- The same level of care must be provided to patients whether you provide the service directly or through contract services
- The hospital leaders must over see the contracted services to make sure they are provided **safety** and **efficiently** and have P&P to ensure this
- This means leaders must be actively involved not only in negotiating and approving initial contracts but also in monitoring the on-going performance (PI)
  - Must take appropriate action to correct any deficiency and terminate the contract if necessary

Introduction Contracts

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

Contracted Services

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

Contracted Services Introduction

- This standard does **not** apply to contracted services not directly related to patient care
  - Hospital signs contract with company to provide linen service or snow removal
  - Hospital contracts with company to put a new roof on the hospital
- Contracts for consultation or referral are not subject to these requirements

Contracted Services or Agreements

- However, regardless of whether or not a contract is subject to this standard, the actual performance of the standard is evaluated at other standards in the manual
- Performance of the contract should reflect
  - Basic principles of risk reduction
  - Safety
  - Staff competence and
  - Performance improvement (PI)

Methods to Evaluate Contracted Services

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

Contract Review Ideas

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

Contract Review Ideas

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

Credentialing and Privileging

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

Credentialing and Privileging (C&P)

- Direct care through a tele-medical link:
  - Standard MS.13.01.01 describes several options for C&P LIPs who are responsible for the care, treatment, and services of the patient through a tele-medical link
- Interpretive services through a tele-medical link:
  - EP 9 in this standard describes the circumstances under which a hospital can accept the C&P decisions of a TJC ambulatory care hospital for licensed independent practitioners providing interpretive services through a tele-medical link (see CMS telemedicine standards discussed later)

TJC Telemedicine Effective 8-1-2011

The Joint Commission

Telemedicine Requirements

Hospital Accreditation Program

Standard LD.04.03.09

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

Element of Performance for LD.04.03.09

1. Clinical leaders and medical staff have an opportunity to provide advice about the sources of clinical services to be provided through contractual agreement.
2. The hospital describes, in writing, the nature and scope of services provided through contractual agreements.
3. Designated leaders approve contractual agreements.
4. Leaders monitor contracted services by establishing expectations for the performance of the contracted services.
   Note 1: In most cases, each licensed independent practitioner providing services through a contractual agreement must be credentialed and privileged by the hospital using their services following the process described in the "Medical Staff" (MS) chapter.
   Note 2: For hospitals that do not use Joint Commission accreditation for deemed status purposes: When the hospital contracts with another accredited organization for patient care, treatment, and services to be provided off site, it can do the following:
   - Verify that all licensed independent practitioners who will be providing patient care, treatment, and services have appropriate privileges by obtaining, for example, a copy of the list of privileges.
   - Specify in the written agreement that the contracted organization will ensure that all contracted services provided by licensed independent practitioners will be within the scope of their privileges.
   Note 3: For hospitals that use Joint Commission accreditation for deemed status purposes: The leaders who monitor the contracted services are the governing body.
5. Leaders monitor contracted services by communicating the expectations in writing to the provider of the contracted services.
   Note: A written description of the expectations can be provided either as part of the written agreement or in addition to it.
6. Leaders monitor contracted services by evaluating these services in relation to the hospital's expectations.
7. Leaders take steps to improve contracted services that do not meet expectations.
   Note: Examples of improvement efforts to consider include the following:
   - Increase monitoring of the contracted services.
   - Provide consultation or training to the contractor.
   - Renegotiate the contract terms.
   - Apply defined penalties.
   - Terminate the contract.
8. When contractual agreements are renegotiated or terminated, the hospital maintains the continuity of patient care.
9. For hospitals that do not use Joint Commission accreditation for deemed status purposes: When using the services of licensed independent practitioners from a Joint Commission–accredited ambulatory care organization through a telemedical link for interpretive services, the hospital accepts the credentialing and privileging decisions of a Joint Commission–accredited ambulatory provider only after confirming that those decisions are made using the process described in Standards MS.06.01.03 through MS.06.01.07, excluding MS.06.01.03, EP 2. (See also MS.13.01.01, EP 1)

CMS Telemedicine

- The new regulation was published in the May 5, 2011 Federal Register
  - 16 pages long
- The new regulation became effective on July 5, 2011
- These have been placed in the hospitals Conditions of Participations (CoPs) Manual
  - CMS published the interpretive guidelines to the regulations became effective August 15, 2011 with transmittal issued 12-22-2011 and 27 pages

Published in FR May 5, 2011 Final Rule

apply to the navigable waters in the San Pablo Bay, and will encompass an area beginning at position 38°01′44″ N, 122°27′06″ W; 38°04′36″ N, 122°22′06″ W; 38°00′35″ N, 122°26′07″ W; 38°03′00″ N, 122°20′20″ W (NAD 83) and back to the starting point.

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

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

Centers for Medicare & Medicaid Services

42 CFR Part 482 and 485

[CMS–3227–F]

RIN 0938–AQ05

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

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

ACTION: Final rule.

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

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

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

http://www.access.gpo.gov/su_docs/fedreg/a110505c.html

CMS Interpretive Guidelines on Telemedicine

- CMS final transmittal on telemedicine 12-22-2011

CMS hospital CoP now includes all the telemedicine standards

- Hospitals can still choose to do full C&P of practitioners with telemedicine privileges
- Hospitals can still choose to use a third party credentials verification organization or CVO
  - Board is still legally responsible for privileging decisions

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7000 Security Boulevard, Mail Stop 02-02-38
Baltimore, Maryland 21244-1850

Center for Medicaid, CHIP, and Survey & Certification/Survey & Certification Group

Ref: S&C: 11-32- Hospital/CAH

DATE: **July 15, 2011**

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

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

SUBJECT: Telemedicine Services in Hospitals and Critical Access Hospitals (CAHs)

Memorandum Summary

- ***Telemedicine Rules Adopted for Hospitals/CAHs:*** New and amended rules effective July 5, 2011 permit hospitals and CAHs to provide telemedicine services to their patients through written agreements with a distant-site hospital or a distant-site telemedicine entity
- ***Streamlined Credentialing & Privileging for Telemedicine Physicians & Practitioners.*** Hospitals and CAHs may rely, when granting telemedicine privileges, upon the privileging decisions of a distant-site hospital or telemedicine entity with which they have a written agreement that meets Medicare requirements.

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

Operations LD.04.03.09 Contract Definition

- **Definition** of contractual agreement: An agreement with any organization, group, agency, or individual for services or personnel to be provided by, to, or on behalf of the organization.
- Such agreements are defined in a contract or in some other form of **written** agreement;
- Such as a letter of agreement, memorandum of understanding, contract, contracted services, contractual services, or written agreement.

Operations Contracts LD.04.03.09

LD Standard: Care and treatment provided through contractual agreement are provided safely and effectively,

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

Contract Approval and Monitoring

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

Contracts with Another Organization

- Most LIPs through a contractual agreement must be C&P through the MS process
- When the organization contracts with another accredited organization, verify that all LIPs who will be providing patient care and treatment, **have appropriate privileges** by obtaining, for example, a copy of the list of privileges
  - Hospitals that do not use TJC for deemed services like VA Hospitals
- Board monitors contracted services and ensure all LIPs via a telemedicine link are C&P at the originating site
  - See MS.13.01.01 EP1

Contract Expectations

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

Monitoring the Contract Expectations

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

Improving the Contracted Services

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

Renegotiating or Terminating a Contract

- EP8. When contracts are renegotiated or terminated, the continuity of patient care is maintained
  - Hospital terminates contracts of anesthesiologist
  - Need to ensure that new group coming in starts at the time the old contract is terminated so patients have access to needed anesthesia services

4. Operations Contracts

- EP9. When using the services of LIP from a TJC accredited ambulatory care organization through a tele-medicine link for interpretive services, all LIPS are C&P through the origination site (DS)
  - Note that TJC amended their standards to ensure compliance with the CMS telemedicine standards so need to use the CMS law and interpretive guidelines
  - Published in January 2012 Perspective the final changes and language
  - For hospitals that do NOT use TJC for DS

January 2012 Perspective

ACCEPTED: Final Revisions to Telemedicine Standards

The Centers for Medicare & Medicaid Services (CMS) recently approved The Joint Commission's final revisions to requirements related to the credentialing and privileging of telemedicine practitioners in **hospitals** and **critical access hospitals**.

The Joint Commission's initial revisions, approved by CMS in response to its May 5, 2011, Medicare Conditions of Participation (CoP) final rule, were published in the October 2011 issue of *Perspectives* on pages 6–9. The revisions appear in the elements of performance (EPs) of the Leadership (LD) and Medical Staff (MS) standards related to the Medicare CoP requirements. In all, the new Medicare CoP requirements remove barriers to the use of telemedicine for medically necessary interventions and uphold The Joint Commission's existing practice of allowing an originating site (where the patient is located) to use the credentialing and privileging information from a distant site when making final privileging decisions for telemedicine practitioners.

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

Joint Commission Requirement

Official Publication of Joint Commission Requirements

Final Telemedicine Revisions

APPLICABLE TO HOSPITALS

Effective immediately

Leadership (LD)

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

Element of Performance for LD.04.03.09
A 23. Ⓓ **For hospitals that use Joint Commission accreditation for deemed status purposes:** The originating site has a written agreement with the distant site that specifies the following:

If the originating site chooses to use the credentialing and privileging decision of the distant-site telemedicine provider, then the following requirements apply:

- The governing body of the distant site is responsible for having a process that is consistent with the credentialing and privileging requirements in the "Medical Staff" (MS) chapter (~~For more information, see~~ Standards MS.06.01.01 through MS.06.01.13).
- The governing body of the originating site grants privileges to a distant-site licensed independent practitioner based on the originating site's medical staff recommendations, which rely on information provided by the distant site.

4. Operations LD Contracts

- EP10. Reference and contract lab services meet the applicable federal regulations for clinical laboratories and maintain evidence of the same (CLIA).
- EP23 For hospitals that use the Joint Commission for deemed status (DS)
- This change was one announced in January 2012 Perspective and it went into effect at that time

LD.04.03.09 EP 23 Revised in 2012

- EP 23 The originating site has a written agreement with the distant site that specifies the following:
- The distant site is a contractor of services to the hospital
- The distant site furnishes services in a manner that permits the originating site to be in compliance with the Medicare CoPs
- The originating site makes certain through the written agreement that all distant-site telemedicine providers' credentialing and privileging processes meet, at a minimum, The COPs

LD.04.03.09 EP 23 Revised 2012

- CFR 482.12(a)(1) through (a)(9) and 482.22(a)(1) through (a)(4).
- See also MS.13.01.01, EP 1
- The governing body of the distant site is responsible for having a process that is consistent with the credentialing and privileging requirements in the “MS chapter (MS.06.01.01-.13)
- The board of the originating site grants privileges to a distant-site licensed independent practitioner based on the originating site’s medical staff recommendations, which rely on information provided by the distant site

Contract TJC

- The distant site furnishes services in a manner that permits the originating site to be in compliance with the CMS CoPs
- The board of the originating site grants privileges to the distant site LIP based on the originating site's MS recommendations
- The distant site can rely on their information
- For hospitals that use the Joint Commission for deemed status which are most hospitals
- To comply with the CMS Telemedicine standards

Examples of Compliance

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

Examples of Compliance

- Monitor patient satisfaction surveys for problems with contracted services (waited 6 weeks to get mammogram when patient had a suspicious lump),
- Develop an evaluation tool to do this,
- Contracts should include language about contractor expectations such as will comply with all TJC standards, federal and state and local regulations, etc.,
- Consider having a contract committee,

Operations LD.04.02.02 Ethical PRs

Ethical principles guide the hospital's business practices.

- EP1. The hospital establishes and uses mechanisms that allow staff, patients, and families to address ethical issues or issues prone to conflict.
- EP2. The hospital follows ethical practices for marketing and billing.
- EP3. Marketing materials accurately represent the hospital, and address the care and treatment that the hospital provides either directly or by **contractual arrangement**.

Operations LD.04.03.01 Needed Services

LD: The hospital provides services that meet patient population needs.

- Leaders have to decide which services are essential to the population they serve,
- Services can be provided directly or,
- Can be provided through referral, consultation, **contractual arrangements**, or other agreements.

Operations Needed Services

- EP1. The needs of the population served guide decisions about which services will be provided directly or through referral, consultation, contractual arrangements, or other agreements.
- EP2. Essential services include at least the following: diagnostic radiology; dietetic, ED, nuclear medicine, nursing care; pathology and clinical laboratory; pharmaceutical; physical rehabilitation; respiratory care*; and social work.
- * Not required for hospitals that provide only psychiatric and substance use services.

Examples of Compliance

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

Contracts TJC Has Asked About

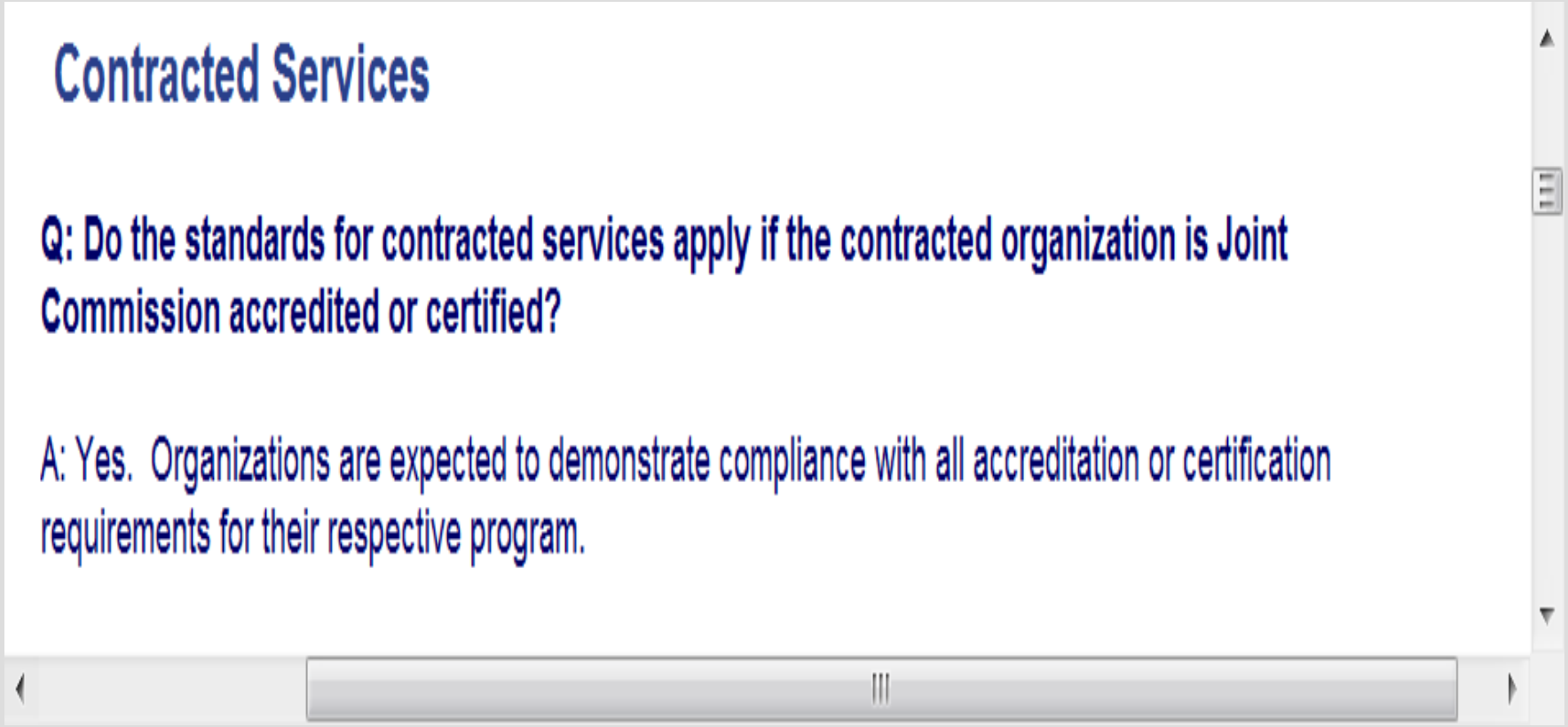
- How do you make a decision about where to purchase the drugs on your formulary?
- How do you decide on what company to pick who makes the floor cleaner that is used in patient rooms?
- What decision making process to select the company that supplies canned goods to the dietary department?
- How did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

TJC FAQ on Contracted Services

- TJC has a section on standards FAQ[1]
- Scroll down to leadership section and one FAQ on contracted services
- New and posted April 8, 2010
  - Does the contract standards apply if the organization you are contracting with is also TJC accredited?
  - What are hospital responsibilities related to services by our contracted organizations?
  - Does surveyor manually verify with HR files for contracted services

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

FAQ Leadership Contract Services



Contracted Services

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

A: Yes. Organizations are expected to demonstrate compliance with all accreditation or certification requirements for their respective program.

www.jointcommission.org/standards_information/jcfaqdetails.aspx?StandardsFAQId=37&StandardsFAQChapterId=71

Q: What are our responsibilities related to services provided by our contracted organization?

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

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

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

In the event that contracted services do not meet expectations, leaders take steps to improve care, treatment, and services. In some cases, it may be best to work with the contractor to make improvements, whereas in other cases it may be best to renegotiate or terminate the contractual relationship. When the leaders anticipate the renegotiation or termination of a contractual agreement, planning needs to occur so that the continuity of care, treatment, and services is not disrupted.

Q: During a Joint Commission survey of a hospital (organization), is the surveyor required to manually verify human resource files/documents for employees, or independent contractors, of a Joint Commission accredited or certified contracted service?

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

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

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

TJC Contract Services Tracer

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

Surveyor Arrival & Preliminary Planning

- During this time the survey team may ask for a list of all contracted services to include the nature and scope of services provided
- Instructed to ask if or when the survey team identifies an issue of concern
- During orientation to the hospital session surveyor may discuss contracted services and monitoring performance
- This may include telemedicine services

Contract Services Tracer Individual Tracer

- May include patient who received care from contracted providers including telemedicine
- Surveyors are to interview staff about the scope and nature of the contracted services
- May ask how contractors were oriented to the hospital's processes
- Instructed to interview the hospital leaders to find out their oversight process

Contract Services Tracer Individual Tracer

- Be sure to know the PI you are doing on contracted services and individuals
- Surveyor may review contracts
- Make sure you have place on review form to cover any specific performance based expectations, goals, or benchmarks contained in the contract
- So know how you monitor contracted services and contracted individuals

Contract Services Tracer

- Consider having all contracts in one place and have log of all contracts
- Will talk to a patient who received care from a contracted provider
- Be sure to know the scope and nature of contract services and how they were oriented to the hospital's processes especially interpreters
- Surveyor will interview leaders on their oversight for contracted services

Contract Services Tracer

- Know how you monitor contracted services and contracted individuals
- Be sure to know the PI you are doing on contracted services and individuals
- Surveyor may review contracts
- Will validate that the reference contracted lab service meets CLIA regulations

Summary

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

Summary

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

Summary

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

Summary

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

Summary

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

Summary

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

Summary

- Written agreements should include a comprehensive list of all services to be provided by the contractor along with a list of performance-based expectations, goals, objectives and benchmarks
- Decide who is going to be the contract owner and who will do the contract review evaluation and make sure contractor is competent also
- Determine the contract owner when entering into the contract
- Review written reports from contractors

Summary

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

Clinical Contract Review Checklist

Title of Contract: _____

Brief description of scope of contract: _____

Signature of Reviewer: _____ Date of review: _____
Signature of Administrator: _____
Signature of Contract Service Provider: _____

1. Is the entity accredited by The Joint Commission? ☐ Yes ☐ No ☐ NA

   a. If YES – what is the date the accreditation was achieved? _____
   b. If YES – what is the accreditation status:

   ____ Accredited ____ Preliminary Denial of Accreditation
   ____ Accreditation with Follow Up ____ Denial of Accreditation
   ____ Contingent Accreditation

2. Contract includes **Quality/Performance Measures**:

   ☐ Acceptable List the quality/performance measures for the contracted service related directly to this service/ patient care. _____

   _____

   ☐ Unacceptable Include recommended Action Plan for improvement: _____

   _____

   ☐ NA

3. Provides **timely services** ☐ Acceptable ☐ Unacceptable ☐ NA

   If unacceptable, include Action Plan for improvement:

3. Provides **timely services** ☐ Acceptable ☐ Unacceptable ☐ NA
If unacceptable, include Action Plan for improvement: _____
_____

4. Provides **efficient and accurate services** ☐ Acceptable ☐ Unacceptable ☐ NA
If unacceptable, include Action Plan for improvement: _____
_____

5. Provides **appropriate/competent staffing**: ☐ Acceptable ☐ Unacceptable ☐ NA
If unacceptable, include Action Plan for improvement: _____
_____

6. Knows and adheres to **policies and customer service efforts**. ☐ Acceptable ☐ Unacceptable ☐ NA
If unacceptable, include Action Plan for improvement: _____
_____

7. Complies with **Human Resources policies for licensing and evaluation**: ☐ Acceptable ☐ Unacceptable ☐ NA
If unacceptable, include Action Plan for improvement: _____
_____

8. Maintains/respects **rights and confidentiality** of all people. ☐ Acceptable ☐ Unacceptable ☐ NA
If unacceptable, include Action Plan for improvement : _____
_____

9. Participates in all **meetings as requested**. ☐ Acceptable ☐ Unacceptable ☐ NA
If unacceptable, include Action Plan for improvement: _____
_____

The End

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Basic Contract Tips

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

Basic Contract Tips

- Is there a non-compete clause?
- Insurance requirements and does the hospital need to be a named insured or indemnification?
- Confidentiality of patient information clause
- Need to protect any proprietary information
- Be sure to include performance standards
- Assignment only with the consent of the parties
- Choice of venue as far as which state would be selected if needed to litigate

? QUESTIONS ?

Do you have a question that you would like answered during the Q&A session? Simply follow the instructions below.

You may enter your question in the chat box in the webinar room.

OR

If you are listening to the conference via streaming audio through your computer, you must dial in on the telephone at **1-877-776-3544** to ask your question live. After dialing-in (or if you are already dialed-in):

1. Press *1 on your touchtone phone. If you are using a speaker phone, please lift the receiver and then press *1.

2. If you would like to withdraw your question, press *1.

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