The Centers for Medicare and Medicaid Services (CMS) is proposing 4 revisions it says will make its rules more flexible and in line with current practice. The proposals came in March 25 draft revisions for the Medicare hospital conditions of participation (CoPs). Comments are due by May 24. No date was given for a final rule.

The proposed revisions cover:
- history and physical (H&P) exams
- authentication of verbal orders
- securing of medications
- postanesthesia evaluation.

The revisions are limited to these issues and do not address nursing in the operating room. CMS says more changes are coming to help relieve “unnecessary burdens” in the rules.

**History and physical**

CMS proposes the following changes in the Medical Staff CoP at 482.22(c)(5):
- The H&P would have to be completed no more than 30 days before or 24 hours after admission and placed in the patient’s medical record within 24 hours after admission.
- When the H&P is performed within 30 days of admission, there would have to be an update in the record within 24 hours of admission documenting any changes in the patient’s condition. The proposal does not state what would be required if there are no changes in the patient’s condition.

No change was proposed for the Surgical Services CoP at 482.51(b)(1), which says a complete H&P must be in the patient’s chart before surgery, except in emergencies.

The current CMS requirement is that the H&P must be done no more than 7 days before admission or within 48 hours after admission, with an update required if the H&P was done 8 to 30 days before admission. In effect, the only proposed changes are to require an update for all H&Ps and to require the H&P to be in the record within 24 hours of admission rather than 48 hours.

The changes would bring the CMS requirements in line with those of the Joint Commission on Accreditation of Healthcare Organizations.
- CMS would also allow other practitioners to do the H&P. The proposal says the H&P could be completed by a physician or “other qualified individual who has been granted these privileges by the medical staff in accordance with state law.”
- Under current rules, the H&P must be done by a doctor of medicine or osteopathy, or an oromaxillofacial surgeon for oromaxillofacial surgery. The MD or DO may delegate the H&P but must sign it and assume responsibility for it.

**Authentication of verbal orders**

The proposal reinforces the current regulations that say verbal orders should be used infrequently. To make the rule more flexible, CMS proposes allowing an exception for 5 years after the rule is final to the current rule that “all orders, including verbal orders, must be dated, timed, and authenticated promptly by the prescribing practitioner.” The exception would allow “another practitioner who is responsible for the care of the patient” to authenticate orders. The exception would help in situations where a practitioner gives a verbal order, then is off duty for the weekend or an extended time. CMS is allowing 5 years to see if technology develops that would allow practitioners to authenticate orders more efficiently.

If there is no state law specifying a time frame, verbal orders would need to be authenticated within 48 hours.
Medication security

Proposed revisions are meant to help address discussions CMS has had with the American Society of Anesthesiologists (ASA) and JCAHO over locking of anesthesia carts in the OR suite.

Anesthesiologists have taken issue with the CMS rule that anesthesia carts with noncontrolled drugs (ie, not Schedule 3 and 4 drugs) have to be locked and under constant observation even though they are in a secure OR suite. Anesthesiologists say it is standard practice to set up anesthesia carts before surgery. That practice is supported by ASA in a 2003 position statement, which states anesthesia carts and machines can remain unlocked and noncontrolled drugs left on top immediately before, during, and after cases as long as authorized OR personnel are in the suite (www.asahq.org. Look under Clinical Information.)

CMS proposes that all drugs and biologicals would have to be kept in secure areas and locked when appropriate. All controlled drugs (Schedule 2, 3, 4, and 5) would have to be kept locked within a secure area, and only authorized personnel would be allowed access to these locked areas. CMS notes that restricted areas generally would be considered “secure” areas.

Postanesthesia evaluation

Responding to requests from the medical community, CMS proposes that postanesthesia evaluations for inpatients could be completed and documented by any individual who is qualified to administer anesthesia. The current requirement is that the report must be written by the person who administered the anesthesia.

The proposal is in the March 25 Federal Register at www.access.gpo.gov/su_docs/fedreg/a050325c.html.