The Centers for Medicare and Medicaid Services (CMS) issued a final rule Nov 27 revising certain parts of the Medicare hospital conditions of participation. The rule covers histories & physicals (H&Ps), authentication of verbal orders, medication security, and postanesthesia evaluations. The revisions, effective Jan 26, 2007, apply to inpatient and outpatient settings.

CMS says the new rule addresses concerns that the old regulations were outdated and burdensome. The agency received more than 600 comments on the changes, which were proposed in March 2005.

Here are highlights:

**History and physical**

The rule expands the time frame for completing the H&P and broadens who may perform the exam:

- The H&P must be completed no more than 30 days before or 24 hours after an admission but before a surgical procedure.
- An H&P performed before admission will no longer need to be completed by a practitioner credentialed and privileged by the admitting hospital. The practitioner must be qualified to perform H&Ps in accord with state law and hospital policy. CMS notes that H&Ps are often done by a patient’s primary care physician, who may not have privileges at the admitting hospital.
- H&Ps performed before admission must be updated within 24 hours of admission or before surgery.
- The update can be completed by a physician, oromaxillofacial surgeon, or other qualified individual granted these privileges by the medical staff in accord with state law. CMS says the update note “can be brief as long as the update adequately addresses any changes in the patient’s medical condition since the H&P was conducted. It would be adequate for the physician to make an entry in the patient’s medical record stating that the H&P was reviewed, the patient was examined, and that ‘no change’ has occurred in the patient’s condition since the H&P was completed” (Federal Register, Nov 27, 2006, pp 68676, col 3).

Who may perform the update has been a contentious issue among physicians. CMS is now saying “qualified individuals” can be granted privileges by the medical staff to do the update as long as that is consistent with state law. Oromaxillofacial surgeons are specifically mentioned because they were concerned they might not be allowed to perform the update unless that was stated. CMS says it wants to provide flexibility so nurse practitioners could perform H&Ps if state law permits, and the medical staff provides privileges.

**Verbal orders**

Regarding verbal orders, the new rule states:

- Hospitals still must prohibit routine use of verbal orders.
- All orders (including verbal orders) must be dated, timed, and authenticated by the ordering practitioner. But temporarily for the next 5 years, verbal orders do not need to be signed by the prescribing practitioner but can be authenticated by another practitioner responsible for care of the patient. CMS says this temporary measure provides hospitals with flexibility until technology has advanced enough to allow the prescribing practitioner to authenticate orders promptly and efficiently.
• Verbal orders must be authenticated within 48 hours unless there is a state law designating a specific time frame.

**Medication security**

The regulation requires all drugs and biologicals to be kept in secure areas and locked “when appropriate.” While all controlled substances must be kept locked, CMS says the revision gives hospitals more flexibility for noncontrolled substances. Organizations will be able to decide which of these noncontrolled substances need to be stored in locked areas rather than kept in secure areas accessible only to “authorized hospital personnel.”

CMS comments: “We expect all noncontrolled substances to be locked when a patient care area is not staffed. Hospitals have the flexibility to determine the most effective way to safeguard noncontrolled drugs and biologicals when they are not locked. Hospitals are expected to develop policies and procedures to keep medications secure and minimize risk of tampering and diversion as much as possible.”

ORs would be considered “secure,” CMS notes, when the suite is staffed, and the staff is providing active care. But when the suite is not in use, for example, on weekends, holidays, and after hours, the suite would not be considered secure, and “we would expect all drugs and biologicals to be locked.” That could mean locking the entire suite or locking carts and/or storage areas. The definition of “authorized personnel” is left up to hospital policy.

Some commenters asked about the CMS interpretive guidelines to the conditions of participation, which refer to monitoring of unlocked anesthesia carts. But CMS says the new rule does not address the interpretive guidelines, which will be revised after the rule is final.

**Postanesthesia evaluation**

The regulation permits the postanesthesia evaluation to be completed and documented by any practitioner qualified to administer anesthesia, not only the person who administered the anesthesia.

Read the rule in the Federal Register.

[Read the rule in the Federal Register](www.access.gpo.gov/su_docs/fedreg/frcont06.html). Click on Monday, Nov 27, and look under Centers for Medicare and Medicaid Services.