



# STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303, Troy, New York 12180-2299

Richard F. Daines, M.D.  
*Commissioner*

April 24, 2007  
DPACS: 07-08

Dear Chief Executive Officer:

This purpose of this letter is to update facilities on recent amendments to federal regulations that impact hospital operations. The Department was advised of the following changes via transmittal from the Center for Medicare and Medicaid Services (CMS) and State Operations/Survey and Certification Group (copy enclosed). Effective January 26, 2007, the Hospital Conditions of Participation governing requirements for history and physical examinations, authentication of verbal orders, securing medications, and post-anesthesia evaluations were amended.

Specifically in regard to history and physical examination requirements and the authentication of verbal orders, existing State regulations *will* be amended to be consistent with federal requirements. Effective immediately, hospitals may adopt policies consistent with the amended federal rules as described below in advance of any change to State requirements. Existing State regulations and newly adopted federal rules specific to securing medications and post-anesthesia evaluations are consistent and no new State rule will be required.

Effective January 26, 2007, in regard to history and physical examination requirements and the authentication of verbal orders, CMS formally amended the Conditions of Participation for Hospitals as follows:

- Formal amendments were adopted to reflect language that had been previously provided as interpretative guidance in implementing requirements for the timing of the history and physical examination (H&P). Under the revised requirement, the history and physical for hospital patients must be completed no more than 30 days before or 24 hours after admission. When the H&P is completed within 30 days before the patient's admission, the hospital must ensure that an updated medical record entry documenting an examination for changes in the patient's condition is completed. This updated examination must be completed and documented in the patient's medical record within 24 hours after admission.

State regulations, Section 405.9 (b)(12) and 405.10(b)(2)(i), *will* be amended to reflect that every patient shall have a complete history and physical examination performed by a physician or an appropriately credentialed practitioner, privileged by the governing Board, within thirty days before or 24 hours after admission. The history and physical must be recorded in the patient's medical record within 24 hours after admission. When the history and physical is completed within the thirty days prior to admission, an examination to update any changes in the patient's health status, must be completed and documented in the patient's medical record within 24 hours after admission.

- Federal requirements pertaining to verbal orders were amended and now require that all orders, including verbal orders, must be dated and timed. Verbal orders must be authenticated within 48 hours by the prescribing practitioner or another practitioner responsible for the care of the patient, even if the order did not originate with him or her.

State regulations, Section 405.10(c)(8) *will be* amended to require authentication of verbal orders within 48 hours and will allow authentication of verbal orders by the prescribing practitioner or other practitioner responsible for the care of the patient.

Any questions regarding the information provided or specific to current State requirements should be addressed to this office at the above address or by phone at (518) 402-1003.

Sincerely,

A handwritten signature in cursive script that reads "Martin J. Conroy".

Martin J. Conroy  
Director  
Division of Primary & Acute Care Services

Enclosure

**Center for Medicaid and State Operations/Survey & Certification Group**

Ref: S&C-07-13

(Revised 2/23/07)

**DATE:** January 26, 2007

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** Hospitals – Publication of the Hospital Condition of Participation: Requirements for History and Physical Examinations; Authentication of Verbal Orders; Securing Medications; and Post-anesthesia Evaluations Final Rule.

\*\*\* This memorandum corrects some technical errors in the original memorandum released January 26, 2007, and also adds an attachment showing the language of the new temporary tags A-1000 through A-1023. It should replace that memorandum. \*\*\*

**Memorandum Summary**

- The Hospital Conditions of Participation governing Requirements for History and Physical Examinations; Authentication of Verbal Orders; Securing Medications; and Post-anesthesia Evaluations have been amended, effective January 26, 2007.
- Surveyors should use the temporary tags A-1000 through A-1023 for the new provisions.
- New interpretive guidelines are being developed and will be provided via a future Survey & Certification letter when they are finalized.

On November 27, 2006, the Centers for Medicare & Medicaid Services (CMS) published a final rule (CMS-3122F, 72 FR 68672) amending Hospital Conditions of Participation (CoPs) pertaining to requirements for history and physical examinations; authentication of verbal orders; securing medications; and post-anesthesia evaluation. This rule revised selected aspects of the hospital CoPs to address concerns of the health care community that the previous regulations did not reflect current practice and were unduly burdensome. The regulations contained in this final rule are effective January 26, 2007.

Within the Medical Staff and Medical Records CoPs, changes have been made to expand the timeframe for completion of the medical history and physical examination. The history and physical must now be completed no more than 30 days before or 24 hours after admission. When the history and physical is completed within 30 days before the patient's admission, the hospital must ensure that an updated medical record entry documenting an examination for any changes in the patient's condition is completed. This updated examination must be completed and documented within the patient's medical record within 24 hours after admission.

The revised regulation also expanded the categories of personnel who may perform history and physical examinations to include not only physicians and oromaxillofacial surgeons, but also other qualified individuals in accordance with State law and hospital policy.

Within the Nursing and Medical Records CoPs, changes have been made to provide that, for a five-year period beginning January 26, 2007, all orders, including verbal orders, must be dated, timed and authenticated promptly by the prescribing practitioner *or another practitioner responsible for the care of the patient, even if the order did not originate with him or her*. In the absence of a State law specifying the timeframe for authentication of verbal orders, such orders must be authenticated within 48 hours. The revised regulation clarifies and reinforces previous regulations regarding minimizing use of verbal orders and persons who may accept verbal orders.

The Pharmaceutical Services CoP has been amended to require that all drugs and biologicals be kept in secure areas, and locked when appropriate. Schedule II, III, IV and V drugs must be kept locked within a secure area.

The Anesthesia Services CoP has been amended to permit the post-anesthesia evaluation of a patient to be completed and documented by any individual qualified to administer anesthesia, not just the individual who administered the anesthesia to that patient.

Temporary tags are being set up in ASPEN to be used by surveyors for hospital surveys that end on or after January 26, 2007. These tags, and the corresponding tags that they replace, are as follows:

- Tags A-1000 through A-1004 pertain to the Medical Staff CoP requirements for completion of the history and physical examination. These tags replace tag A-0191.
- Tags A-1005 through A-1007 pertain to authentication of orders, including verbal orders in the Nursing Service CoP. These tags replace tags A-0210, A-0211, and A-0213.
- Tags A-1008 through A-0015 pertain to medical record entries, authentication, and verbal orders in the Medical Record CoP. These tags replace tags A-212, A-230, A-0231, and A-0232.
- Tags A-1016 through A-1019 pertain to the Medical Record CoP requirements for a patient history and physical examination. These tags replace tag A-0234.
- Tags A-1020 through A-1022 pertain to locking and securing medications in the Pharmaceutical Services CoP, replacing tag A-0254.
- Tag A-1023 pertains to completion of the post-anesthesia evaluation in the Anesthesia Services CoP, replacing tag A-0421.

At this time, the following Tags will remain in ASPEN: A-0191, A-0210, A-0211, A-0212, A-0213, A-0230, A-0231, A-0232, A-0234, A-0254, and A-0421. Effective for hospital surveys that end on or after January 26, 2007, these tags are not to be cited. Rather, the new ASPEN Tags A-1000 through A-1023 must be used to cite non-compliance with the new regulations.

Revised interpretive guidelines are being developed and will be released via a future Survey & Certification letter when they are finalized.

The revised rule may be accessed at [http://www.access.gpo.gov/su\\_docs/fedreg/a061127c.html](http://www.access.gpo.gov/su_docs/fedreg/a061127c.html).

If you have additional questions or concerns, please contact David Eddinger at 410-786-3429 or via email at [david.eddinger@cms.hhs.gov](mailto:david.eddinger@cms.hhs.gov) or Kathryn Linstromberg at 410-786-8279 or via email at [kathryn.linstromberg@cms.hhs.gov](mailto:kathryn.linstromberg@cms.hhs.gov).

**Effective Date:** Immediately. Please ensure that all appropriate staff are fully informed within 30 days of the date of this memorandum.

**Training:** The information contained in this announcement should be shared with all survey and certification staff, their managers, the State/RO training coordinators.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management

Attachment

### **3122-F**

**A-1000** 482.22(c)(5) Include a requirement that a medical history and physical examination be completed no more than 30 days before or 24 hours after admission for each patient. (Replaces A-0191)

**A-1001** 482.22(c)(5) [Include a requirement that a medical history and physical examination be completed] by a physician (as defined in section 1861(r) of the Act), an oromaxillofacial surgeon, or other qualified individual in accordance with State law and hospital policy. (Replaces A-0191)

**A-1002** 482.22(c)(5) The medical history and physical examination must be placed in the patient's medical record within 24 hours after admission. (Replaces A-0191)

**A-1003** 482.22(c)(5) When the medical history and physical examination are completed within 30 days before admission, the hospital must ensure that an updated medical record entry documenting an examination for any changes in the patient's condition is completed. (Replaces A-0191)

**A-1004** 482.22(c)(5) This updated examination must be completed and documented in the patient's medical record within 24 hours after admission. (Replaces A-0191)

**A-1005** 482.23(c)(2) With the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician-approved hospital policy after an assessment of contraindications, orders for drugs and biologicals must be documented and signed by a practitioner who is authorized to write orders by hospital policy and in accordance with State law, and who is responsible for the care of the patient as specified under §482.12(c). (Replaces A-0210)

**A-1006** 482.23(c)(2)(i) If verbal orders are used, they are to be used infrequently. (Replaces A-0213)

**A-1007** 482.23(c)(2)(ii) When verbal orders are used, they must only be accepted by persons who are authorized to do so by hospital policy and procedures consistent with Federal and State law. (Replaces A-0211)

**A-1008** 482.24(c)(1) All patient medical record entries must be legible (Replaces A-0230)

**A-1009** 482.24(c)(1) [All patient medical record entries must be] complete, (Replaces A-0230)

**A-1010** 482.24(c)(1) [All patient medical record entries must be] dated, timed, and (Replaces A-0230)

**A-1011** 482.24(c)(1) [All patient medical record entries must be] authenticated in written or electronic form by the person responsible for providing or evaluating the service provided, consistent with hospital policies and procedures. (Replaces A-0231 and A-0232)

**A-1012** 482.24(c)(1)(i) All orders must be dated, timed, and authenticated promptly by the ordering practitioner, except as noted in paragraph (c)(1)(ii) of this section. (No previous tag)

**A-1013** 482.24(c)(1)(i) All verbal orders [must be dated, timed, and authenticated promptly by the ordering practitioner, except as noted in paragraph (c)(1)(ii) of this section.] (Replaces A-0212)

**A-1014** 482.24(c)(1)(ii) For the 5 year period following January 26, 2007, all orders, including verbal orders, must be dated, timed, and authenticated by the ordering practitioner or another practitioner who is responsible for the care of the patient as specified under §482.12(c) and authorized to write orders by hospital policy in accordance with State law. (No previous tag)

**A-1015** 482.24(c)(1)(iii) All verbal orders must be authenticated based upon Federal and State law. If there is no State law that designates a specific timeframe for the authentication of verbal orders, verbal orders must be authenticated within 48 hours. (No previous tag)

**A-1016** 482.24(c)(2) All records must document the following, as appropriate:

(i) Evidence of--

(A) A medical history and physical examination completed no more than 30 days before or 24 hours after admission. (Replaces A-0234)

**A-1017** 482.24(c)(2)(i)(A) The medical history and physical examination must be placed in the patient's medical record within 24 hours after admission. (No previous tag)

**A-1018** 482.24(c)(2)(i)(B) [All records must document the following, as applicable: evidence of-] An updated medical record entry documenting an examination for any changes in the patient's condition when the medical history and physical examination are completed within 30 days before admission. (No previous tag)

**A-1019** 482.24(c)(2)(i)(B) This updated examination must be completed and documented in the patient's medical record within 24 hours after admission. (No previous tag)

**A-1020** 482.25(b)(2)(i) All drugs and biologicals must be kept in a secure area, and locked when appropriate. (Replaces A-0254)

**A-1021** 482.25(b)(2)(ii) Drugs listed in Schedules II, III, IV, and V of the Comprehensive Drug Abuse Prevention and Control Act of 1970 must be kept locked within a secure area. (Replaces A-0254)

**A-1022** 482.25(b)(2)(iii) Only authorized personnel may have access to locked areas. (No previous tag)

**A-1023** 482.52(b)(3) With respect to inpatients, a post-anesthesia evaluation must be completed and documented by an individual qualified to administer anesthesia as specified in paragraph (a) of this section within 48 hours after surgery. (Replaces A-0421)