

July 18, 2023

CMS Issues Updated Guidance on Ligature Risk and Assessment in Hospitals

The Centers for Medicare & Medicaid Services (CMS) July 17 issued updated [regulatory guidance](#) regarding requirements for hospitals to assess patients and hospital environments for risks of patient harm. The guidance will influence how surveyors evaluate hospital compliance with Medicare Conditions of Participation (CoP).

Key Highlights

- Hospitals need not have the same ligature risk abatement configurations throughout the facility as long as the specific needs and risks of individual patients are considered;
- Corrective actions should focus on addressing particular findings of deficiencies rather than universal or facility-wide remedies;
- Hospitals can demonstrate compliance with patient safety rights by outlining the processes they are taking to minimize risks in accordance with nationally recognized standards and guidelines; and
- Updates are effective immediately — the State Operations Manual will be revised to reflect these changes.

AHA TAKE

The AHA is pleased that CMS will allow hospitals to use clinical evidence and nationally recognized standards and guidelines to assess and manage risk within their facilities rather than leaving evaluation of what is safe up to the arbitrary judgment of surveyors. The AHA has urged CMS to issue this updated guidance for several years to ensure patients can receive care in safe settings with respect, dignity and comfort without adopting requirements that would be excessively burdensome and potentially impractical for hospitals to meet.

BACKGROUND

Under the Medicare Hospital CoP at §482.13(c)(2), hospitals — including freestanding psychiatric facilities — are required to uphold a patient's right to receive care in a safe setting. To evaluate the implementation of this requirement regarding patient self-harm, CMS first issued a memo in December 2017 comprising interim guidance regarding

general definitions for ligature “resistant” or ligature “free” environments, timeframes for corrections of ligature risk deficiencies, and qualifications for waivers from this CoP.¹

While CMS originally announced that this guidance would be reviewed by a CMS psychiatric task force, the task force did not convene as planned in July 2018 because the agency determined that “the proposed psychiatric task force to address environmental risks is not the most appropriate vehicle.”² Instead, CMS announced it would incorporate outcomes of The Joint Commission’s Suicide Panel into its interpretive guidance; in the interim, the agency noted that state survey agencies and accrediting organizations “may use their judgment” in determining whether facilities were in compliance.

This lack of clarity in how surveyors were to evaluate compliance led to multiple reports by facilities of citations by surveyors that would require expensive environmental updates to remediate. The AHA sent a [letter](#) to CMS urging the agency to update the guidance in October 2018. In April 2019, CMS issued a draft update for comment.³

Although the AHA and others submitted [comments](#) on this guidance by the June 19, 2019, deadline, it was never finalized. This meant that surveyors have used been using their “judgment” to determine compliance ever since. In May 2023, the AHA issued a [letter](#) to CMS Administrator Chiquita Brooks-LaSure urging CMS to issue updated guidance addressing these issues. Throughout this period, AHA staff has been engaged with CMS through direct conversation on the issue.

SUMMARY OF GUIDANCE

In a short (four-page) memo to state survey agency directors, the directors of CMS’ Quality, Safety & Oversight Group and Survey & Operations Group state that hospitals can demonstrate compliance with the CoP on patient safety rights through appropriate patient assessments, adequate staffing and monitoring, and mitigation of environmental risks (i.e. strangulation attachment points, harmful substances, access to medications, breakable windows, accessible light fixtures, plastic bags, oxygen tubing, bell cords, etc.).

CMS clarifies that hospitals are not expected to apply the same ligature risk configuration throughout their facility; instead, hospitals should focus on the specific

¹ S&C Memo: 18-06 Hospitals, “Clarification of Ligature Risk Policy,” December 8, 2017. <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-18-06.pdf>

² QSO: 18-21 All Hospitals, “CMS Clarification of Psychiatric Environmental Risks,” July 20, 2018. <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/QSO18-21-Hospitals.pdf>

³ Ref: DRAFT-QSO-19-12 Hospitals, “DRAFT ONLY –Clarification of Ligature Risk Interpretive Guidelines – FOR ACTION,” April 19, 2019. <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/QSO-19-12-Hospitals.pdf>

needs and risks of individual patients based on their clinical or psychiatric assessments. Along the same lines, surveyors should focus corrective actions in response to deficiencies or adverse events on appropriately addressing particular findings or failures “rather than universal remedies.” The agency provides the example of the attempted use of a door as a ligature point, and notes that this would not mean that all patient doors throughout the facility need to be replaced.

Instead, surveyors should concentrate their investigation on underlying causes of lapses in safe patient care, such as insufficient monitoring or patient assessment, and consider all contributing factors in initiating corrective actions. Concordantly, patient safety issues should be cited at the appropriate CoP depending on the specific type of non-compliance; these include (but are not limited to) Patient Rights, Physical Environment, and Nursing Services.

Elements of Patient Safety Assessments

CMS lists three main elements that hospitals should consider in ensuring patient safety related to ligature risks. They include:

1. **Patient Assessment:** although CMS does not require or endorse the use of a particular patient assessment tool, the agency does suggest hospitals review recommendations and resources from the 2018 [report](#) “Recommended Standard Care for People with Suicide Risk” from the National Action Alliance for Suicide Prevention, on which multiple AHA staff serve as advisors.
2. **Staffing/Monitoring:** CMS notes that hospitals have the flexibility to provide the appropriate level of education and training to staff regarding the identification of risks and mitigation strategies. “Staff” is not limited to direct employees. Hospitals are expected to provide education and training to all new staff upon orientation and whenever policies and procedures change, and CMS recommends ongoing training at least every two years.
3. **Environmental Risk:** Risk assessments should be appropriate to each unit, the specific care environment and the specific patient population. These strategies may not be the same in all hospitals or hospital units.

FURTHER QUESTIONS

Please contact Caitlin Gillooley, AHA’s director of behavioral health and quality policy, at cgillooley@aha.org or (202) 626-2267 with any questions.