

# Emergency Preparedness: New Regulations For Healthcare Facilities Proposed By CMS.

The US Centers for Medicare & Medicaid Services (CMS) has announced an intention to set nationwide emergency-preparedness requirements for Medicare and Medicaid participating providers.

CMS's proposed new regulations are not mandatory at this time.

CMS, being a US Federal agency, must first publish new regulations as proposed regulations and accept and consider public comments before issuing new regulations in mandatory final form.

CMS is accepting public comments until February 25, 2014.

## Medicare/Medicaid Participating Providers Affected

The new regulations affect hospitals, long term care facilities, religious non-medical healthcare institutions, ambulatory surgical centers, hospices, inpatient residential psychiatric treatment facilities, programs of all-inclusive care for the elderly, transplant centers, organ procurement centers, intermediate care facilities for individuals with intellectual disabilities, home health agencies, comprehensive outpatient rehabilitation facilities, critical access hospitals, community mental health centers, rural health centers, Federally-qualified health centers and end-stage renal disease facilities.

## Proposed New Regulations for Hospitals

We are including *verbatim* starting to the right on this page the proposed new regulations for hospitals.

Although there are minor variations in the separate regulations for each of the classes of providers listed above, each set of regulations for each separate class of providers tracks the general template set out in the hospital regulations.

## Nursing Involvement

CMS has expressed an expectation that healthcare facilities will involve nurses, nursing managers and nurse practitioners throughout the risk assessment and emergency preparedness plan development process and implementation of required staff training.

Providing for adequate nursing staffing is also a critical component throughout the emergency preparedness process.

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***The US Centers for Medicare & Medicaid Services (CMS) has issued proposed new emergency preparedness regulations for healthcare facilities including hospitals, long term care facilities, hospices, home health agencies, ambulatory surgical centers and critical access hospitals.***

***The proposed new regulations are not mandatory at this time.***

***Before issuing new regulations in mandatory final form CMS, as any US Federal agency, must first publish its proposed new regulations in the Federal Register and accept and consider public comments.***

***CMS is accepting public comments until February 25, 2014.***

***CMS's December 27, 2013 Federal Register announcement is available at <http://www.nursinglaw.com/CMS122713.pdf>***

***The new regulations themselves begin on Federal Register page 79181, page 101 of the PDF document.***

***Hospital requirements begin on Federal Register page 79186, page 106 of the PDF document.***

***Long term care requirements begin on Federal Register page 79187, page 107 of the PDF document.***

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## Sec. 482.15 Condition of participation: Emergency preparedness.

The hospital must comply with all applicable Federal and State emergency preparedness requirements. The hospital must develop and maintain a comprehensive emergency preparedness program that meets the requirements of this section, utilizing an all-hazards approach. The emergency preparedness program must include, but not be limited to:

(a) **Emergency plan.** The hospital must develop and maintain an emergency preparedness plan that must be reviewed, and updated at least annually. The plan must do the following:

(1) Be based on and include a documented, facility-based and community-based risk assessment, utilizing an all-hazards approach.

(2) Include strategies for addressing emergency events identified by the risk assessment.

(3) Address patient population, including, but not limited to, persons at-risk; the type of services the hospital has the ability to provide in an emergency; and continuity of operations, including delegations of authority and succession plans.

(4) Include a process for ensuring cooperation and collaboration with local, tribal, regional, State, and Federal emergency preparedness officials' efforts to ensure an integrated response during a disaster or emergency situation, including documentation of the hospital's efforts to contact such officials and, when applicable, its participation in collaborative and cooperative planning efforts.

(b) **Policies and procedures.** The hospital must develop and implement emergency preparedness policies and procedures, based on the emergency plan set forth in paragraph (a) of this section, risk assessment at paragraph (a)(1), and the communication plan at paragraph (c) of this section. The policies and procedures must be reviewed and updated at least annually. At a minimum, the policies and procedures must address the following:

(1) The provision of subsistence needs for staff and patients, whether they evacuate or shelter in place, include, but are not limited to the following:

## Emergency Preparedness: Hospitals (Continued).

- (i) Food, water, and medical supplies.
- (ii) Alternate sources of energy to maintain the following:
- (A) Temperatures to protect patient health and safety and for the safe and sanitary storage of provisions.
- (B) Emergency lighting.
- (C) Fire detection, extinguishing, and alarm systems.
- (D) Sewage and waste disposal.
- (2) A system to track the location of staff and patients in the hospital's care both during and after the emergency.
- (3) Safe evacuation from the hospital, which includes consideration of care and treatment needs of evacuees; staff responsibilities; transportation; identification of evacuation location(s); and primary and alternate means of communication with external sources of assistance.
- (4) A means to shelter in place for patients, staff, and volunteers who remain in the facility.
- (5) A system of medical documentation that preserves patient information, protects confidentiality of patient information, and ensures records are secure and readily available.
- (6) The use of volunteers in an emergency and other emergency staffing strategies, including the process and role for integration of State and Federally designated health care professionals to address surge needs during an emergency.
- (7) The development of arrangements with other hospitals and other providers to receive patients in the event of limitations or cessation of operations to ensure the continuity of services to hospital patients.
- (8) The role of the hospital under a waiver declared by the Secretary, in accordance with section 1135 of the Act, in the provision of care and treatment at an alternate care site identified by emergency management officials.
- (c) **Communication plan.** The hospital must develop and maintain an emergency preparedness communication plan that complies with both Federal and State law and must be reviewed and updated at least annually. The communication plan must include all of the following:
- (1) Names and contact information for the following:
- (i) Staff.
- (ii) Entities providing services under arrangement.
- (iii) Patients' physicians.
- (iv) Other hospitals
- (v) Volunteers.
- (2) Contact information for the following:
- (i) Federal, State, tribal, regional, and local emergency preparedness staff.
- (ii) Other sources of assistance.
- (3) Primary and alternate means for communicating with the following:
- (i) Hospital's staff.
- (ii) Federal, State, tribal, regional, and local emergency management agencies.
- (4) A method for sharing information and medical documentation for patients under the hospital's care, as necessary, with other health care providers to ensure continuity of care.
- (5) A means, in the event of an evacuation, to release patient information as permitted under 45 CFR 164.510.
- (6) A means of providing information about the general condition and location of patients under the facility's care as permitted under 45 CFR 164.510(b)(4).
- (7) A means of providing information about the hospital's occupancy, needs, and its ability to provide assistance, to the authority having jurisdiction, the Incident Command Center, or designee.
- (d) **Training and testing.** The hospital must develop and maintain an emergency preparedness training and testing program that must be reviewed and updated at least annually.
- (1) Training program. The hospital must do all of the following:
- (i) Initial training in emergency preparedness policies and procedures to all new and existing staff, individuals providing services under arrangement, and volunteers, consistent with their expected role.
- (ii) Provide emergency preparedness training at least annually.
- (iii) Maintain documentation of the training.
- (iv) Ensure that staff can demonstrate knowledge of emergency procedures.
- (2) Testing. The hospital must conduct drills and exercises to test the emergency plan. The hospital must do all of the following:
- (i) Participate in a community mock disaster drill at least annually. If a community mock disaster drill is not available, conduct an individual, facility-based mock disaster drill at least annually.
- (ii) If the hospital experiences an actual natural or man-made emergency that requires activation of the emergency plan, the hospital is exempt from engaging in a community or individual, facility-based mock disaster drill for 1 year following the onset of the actual event.
- (iii) Conduct a paper-based, tabletop exercise at least annually. A tabletop exercise is a group discussion led by a facilitator, using a narrated, clinically-relevant emergency scenario, and a set of problem statements, directed messages, or prepared questions designed to challenge an emergency plan.
- (iv) Analyze the hospital's response to and maintain documentation of all drills, tabletop exercises, and emergency events, and revise the hospital's emergency plan, as needed.
- (e) **Emergency and standby power systems.** The hospital must implement emergency and standby power systems based on the emergency plan set forth in paragraph (a) of this section and in the policies and procedures plan set forth in paragraphs (b)(2)(i) and (ii) of this section.
- (1) Emergency generator location.
- (i) The generator must be located in accordance with the location requirements found in NFPA 99, NFPA 101, and NFPA 110.
- (2) Emergency generator inspection and testing. In addition to the emergency power system inspection and testing requirements found in NFPA 99--Health Care Facilities and NFPA 110--Standard for Emergency and Standby Power systems, as referenced by NFPA 101.
- (i) At least once every 12 months, test each emergency generator for a minimum of 4 continuous hours. The emergency generator test load must be 100 percent of the load the hospital anticipates it will require during an emergency.
- (ii) Maintain a written record, which is available upon request, of generator inspections, tests, exercising, operation and repairs.
- (3) Emergency generator fuel. Hospitals that maintain an onsite fuel source to power emergency generators must maintain a quantity of fuel capable of sustaining emergency power for the duration of the emergency or until likely resupply.