Welcome to this edition of Hospital Happenings, a newsletter published by the North Dakota Department of Health, Division of Health Facilities. Hospital Happenings is designed to help hospitals stay up-to-date on various issues. Please share with your staff.

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Most Commonly Cited Deficiencies

Following is a breakdown of the most common deficiencies cited in the North Dakota Critical Access Hospital (CAH) program from Oct. 1, 2007, through Sept. 30, 2008. These deficiencies were cited in 50 percent or more of the CAH surveys conducted during this time frame.

Life Safety Code

K0029 - One-hour fire-rated construction (with 3/4-hour fire-rated doors) or an automatic sprinkler system must be provided for hazardous areas. Where an automatic sprinkler system is provided, the areas must be separated from the other spaces by smoke-resisting partitions and doors. Hazardous-area doors must be provided with self-closing devices. Doors to hazardous areas in areas without sprinklers must be fire rated and provided with appropriate gaskets. Penetrations through hazardous-area walls must be sealed with material to maintain the fire- and smoke-resistance rating.

K0130 - Miscellaneous Life Safety Code deficiencies include testing and maintenance of emergency lighting and transfer switches and proper location of alcohol-based hand-rub solutions.

K0018 - Corridor doors must be at least 1 3/4-inch solid wood core, capable of resisting fire for at least 20 minutes. In buildings with sprinklers, the doors are required only to resist the passage of smoke. The doors must latch automatically into the frame. There can be no impediments to the closing of the doors. Roller latches are prohibited.

K0038 - Means of egress must be arranged to be readily accessible at all times. Hard surfaces that lead to a public way must be provided at the exterior of all required exits. Dead bolt locks and other multi-latching devices must not be used on doors in the means of egress.

K0062 - Automatic sprinkler systems must be maintained in reliable operating condition and inspected and tested periodically. Annual and quarterly testing is required. Sprinklers must be free of corrosion, paint, overspray, etc., and must be rated appropriately for the location.

K0051 - Fire alarm systems are manually tested monthly. Electronic or written records of tests are available. Fire alarm systems are maintained periodically and records of maintenance kept readily available. The system is tested annually.

Health

C0241 - GOVERNING BODY
The CAH’s governing body is responsible for determining, implementing and monitoring policies governing the CAH’s total operation and for ensuring those

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- **S&C 09-26 Inpatient Prospective Payment System (IPPS) 2009 Final Rule Revisions to Emergency Medical Treatment and Active Labor Act (EMTALA) Regulations.**
  
The Fiscal Year 2009 IPPS final rule included EMTALA revisions, effective Oct. 1, 2008. The regulatory provisions have been revised and reorganized. Key changes include introduction of a shared community call plan option and elimination of ambiguous language concerning on-call list criteria. Technical corrections were made to track the statutory language. The Interpretative Guidelines in the State Operations Manual Appendix V that correspond to these changes are attached to the S&C letter.

- **S&C 09-30 Survey and Certification Issues Related to North Dakota and Minnesota Flooding.**
  
  Several states in the Midwest have been seriously impacted during this year’s active flooding season. Citizens in North Dakota, South Dakota and Minnesota faced difficult circumstances as they responded to the flooding. The President declared a national emergency in specified counties in North Dakota and Minnesota. Charles Johnson, the acting secretary of the U.S. Department of Health and Human Services, also declared a public health emergency in the North Dakota and Minnesota geographic areas covered by the President’s declaration. CMS may waive or modify, to the extent necessary, certain requirements, or timetables if providers, acting in good faith to provide needed services, are unable to comply with the requirements as a result of the effects of the disaster.

- **S&C 09-32 Expansion of Moratorium Exception on Classification of Long Term Care Hospitals (LTCH) or Satellites.**
  
  The American Recovery and Reinvestment Act, enacted Feb. 17, 2009, expands the exceptions to the three-year moratorium on LTCH or LTCH satellites previously enacted in the Medicare, Medicaid, and SCHIP Extension Act (Pub. L. 110-173). The new exception permits an increase in the number of beds in an existing LTCH or LTCH satellite when the bed increase was authorized under a Certificate of Need issued within a specified timeframe. CMS is amending the guidance issued in S&C 08-26 to reflect this statutory change. CMS regional offices will determine whether a facility qualifies for the new exception to the moratorium.

- **S&C 09-33 Survey and Certification Issues Related to Swine Flu Outbreak.**
  
  Human cases of swine influenza A (H1N1) virus infection have been identified in several states in the United States, as well as internationally. Charles Johnson, the acting secretary of the U.S. Department of Health and Human Services, as a consequence of confirmed cases of swine influenza A (swH1N1) in California, Texas, Kansas and New York, declared that a public health emergency exists nationwide. In emergencies where certain conditions precedent have been met, the secretary of the Department of Health and Human Services may invoke his or her waiver authority under Section 1135 of the Social Security Act and delegate to CMS the authority to waive or modify certain survey and certification requirements. At this time, the secretary has not invoked the 1135 authority.

- **S&C 09-34 Release of Form CMS-2567 (Statement of Deficiencies) by State Survey Agencies.**
  
  This memorandum reiterates current law and
policies are administered so as to provide quality care in a safe environment. The governing body must ensure medical staff appointments/reappointments occur consistent with the approved bylaws and the medical staff adhere to and follow the bylaws approved by the governing board.

C0276 - POLICIES — DRUG MANAGEMENT
The CAH must have rules for the storage, handling, dispensation and administration of drugs and biologicals. Pharmaceutical services must be administered in accordance with accepted professional principles.

C0277 - POLICIES — MEDICAL ERRORS AND ADVERSE DRUG REACTIONS
The CAH must have procedures and a proactive system for reporting adverse drug reactions and errors in the administration of drugs.

C0279 - POLICIES — NUTRITIONAL NEEDS
The CAH must have procedures that ensure the nutritional needs of patients are met in accordance with recognized dietary practices and the orders of the practitioner responsible for the care of the patients.

C0221 - CONSTRUCTION
The CAH is constructed, arranged and maintained to ensure access to and safety of patients and provides adequate space for the provision of direct services.

C0307 - RECORD SYSTEMS
The CAH must maintain a record of each patient that includes dated signatures of the MD/DO or other health-care professional.

Take a look at your facility to see if it is deficient in these areas. If so, take corrective action to fix the problem areas!

UPDATE ON NOTICE OF INTENT TO AMEND ADMINISTRATIVE RULES

The North Dakota Department of Health held a public hearing Feb. 26, 2009, to address a proposed amendment to North Dakota Administrative Code Section 33-07-01.20, Medical Records Services. The period for public comment closed March 13, 2009. Written comments were received from four entities. No comments were received opposing these changes. The department worked closely with the hospital industry to address the comments. The Attorney General approved the proposed rules as to their legality and the State Health Council adopted the rules May 12, 2009. The Legislative Council’s Administrative Rule Committee will be reviewing the rules June 11, 2009. The rules will be published in the July 2009 supplement to the North Dakota Administrative Code. The underlined text is to be added to the following section: 33-07-01.20 (1)(i)(2)

Telephone and verbal orders may be used provided they are given only to qualified licensed personnel and reduced to writing and dated, timed, and signed or initialed by a licensed health care practitioner responsible for the care of the patient within forty-eight hours unless the hospital policies and procedures for verbal orders and telephone orders include a process by which the review of the order reads the order back to the ordering practitioner to verify its accuracy. For verbal orders and telephone orders using the read-back and verify process, the verbal orders and telephone orders must be authenticated within thirty days of discharge or within thirty days of the date the order was given if the length of stay is longer than thirty days.

Spring makes its own statement, so loud and clear that the gardener seems to be only one of the instruments, not the composer.

Goffrey B. Charlesworth
DEATH REPORTING
REQUIREMENT REMINDER

The final rule for the general acute hospital condition of participation for patients’ rights was published in the Federal Register Dec. 8, 2006, and became effective Jan. 8, 2007. The death reporting requirement at 482.12(g) requires hospitals to report deaths associated with seclusion or restraint to CMS by telephone no later than the close of business the next business day following knowledge of the patient’s death. This includes:

- Deaths that occur while a patient is in restraint or seclusion.
- Each death that occurs within 24 hours after the patient has been removed from restraint or seclusion.
- Each death known to the hospital that occurs within one week after restraint or seclusion where it is reasonable to assume that the use of restraint or placement in seclusion contributed directly or indirectly to a patient’s death. “Reasonable to assume” in this context includes, but is not limited to, deaths related to restrictions of movement for prolonged periods of time or death related to chest compression, restriction of breathing or asphyxiation.

Staff must document in the patient’s medical record the date and time the death was reported to CMS. The reporting contact for CMS Region VIII is Helen Jewell at 303.844.7048. The revised regulation can be accessed at: www.access.gpo.gov/su_docs/fedreg/a061208c.html

(Continued from page 2) New Survey and Certification Letters

regulations and also guidance contained in Chapters 3 and 7 of the CMS State Operations Manual that involve the release of the survey findings as reflected in the Statements of Deficiencies, commonly referred to as the CMS-2567. Procedures for release of the form CMS-2567 have not changed with the publication of 73 FR 53148, dated Sept.15, 2008, that amended 45 CFR Part 2 entitled: “Testimony by Employees and the Production of Documents in Proceedings Where the United States Is Not a Party.” More detailed information concerning the impact of this regulation will follow in the near future.

- S&C 09-36 H1N1 Flu State Survey Agency Guidance and Provider Tracking Tools.

To assist surveyors to observe signs of the H1N1 flu virus infection and proper facility etiquette, a guidance document has been developed in collaboration with the CDC. To assist in reporting any impact to state survey activities and providers affected by the H1N1 virus infection to the CMS regional office, a tracking tool also has been developed.

The best reason for having dreams is that in dreams no reasons are necessary.
~ Ashleigh Brilliant