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CMS Final Co-Location Guidance Emphasizes 'Independent Compliance,' Drops Some Examples

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When hospitals share space with other hospitals, they have to be able to respond to patient emergencies on their own turf or they may run afoul of the Medicare conditions of participation (CoPs). For example, if a patient has a heart attack while visiting a patient at a children's hospital in the wing of a large hospital, the children's hospital is expected to start response and treatment before calling for reinforcements.

That's one of the messages in the final CMS "Guidance for Hospital Co-location with Other Hospitals or Healthcare Facilities" memo posted Nov. 12.^[1]

"You can't just rely on the co-located hospital's adult code blue team and wait for them to provide care," said Mary Ellen Palowitch, who assisted in writing the guidance when she worked at CMS and is now with Dentons US LLP. Medicare-certified providers and suppliers are required to provide the initial response to emergencies that occur in their space or on their campus. That's a general theme of the guidance: "all co-located hospitals must demonstrate independent compliance with the hospital CoPs."

Co-location refers to two Medicare-certified hospitals or a Medicare-certified hospital and another entity on the same campus or in the same building and sharing space, staff or services, according to David Wright, the director of the Quality, Safety & Oversight Group, who wrote the memo to state survey directors. For example, part of a hospital's inpatient services may be located in another hospital's building or a hospital outpatient department may be found in another hospital's building. Surveyors will use the guidance to determine compliance with the Medicare CoPs.

Although it finalizes 2019 draft guidance, the new version is a departure in style and substance.^[2] It was seen as both "amorphous" because most examples have been removed but also more flexible because it has fewer dos and don'ts, except for explicitly saying the guidance doesn't apply to critical access hospitals or physician practices. "Physician practices can be located within a hospital, but this arrangement does not represent co-location," a CMS spokesperson told RMC. "Co-location is applicable to hospitals that are located on the same campus or in the same building used by another Medicare-certified hospital or Medicare-certified healthcare facility."

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