

White Paper:

## **How healthcare facilities can prepare for the next disaster event by embracing the recent CMS rulings**

\*\*\*\*\*

By, Ralph Petti, MBCI, CBCP, GRCP

April 24, 2020 – Portland, ME

### **The Issue at Hand:**

As the world continues to be affected by the COVID-19 pandemic event, the time has come to consider the after-effects and how it will impact us all.

While major cities seem to be squarely in the sights of this calamity, the less-populated areas in countries are also similarly impacted. Hospitals and medical staffs have risen – deservedly – to the status of “Heroes” as they seem to be risking their lives for others by working even harder these days.

The healthcare industry is taking extraordinary steps to support them with the hope that the “curve will be flattened.” However, as we all seem to agree, the world may never be the same. After 9/11 and other such major events, there seemed to be a light at the end of the tunnel that the worst was behind us. With the Coronavirus, we are unsure of how this will end.

Given that, we have no other choice than to prepare for the eventuality of pandemics to return sooner rather than later. Consider that there seems to be a pattern of “every few years” having another such incident. In just the past 18 years, we have endured

SARS (2002-03), Swine Flu (2009-11), MERS (2014-15), Ebola (2014-16) and the ever-present HIV/AIDS virus.

## **What can Hospitals do right now?**

Page | 2

“Those who fail to learn from history are condemned to repeat it” is a popular quote from Sir Winston Churchill, and in today’s times, we must all learn from and prepare for these events. In risk management, there is the concept of “All-Hazards Planning,” in which an organization is prepared for the eventuality of “anything happening.” That will work most of the time if one depends on an unlimited supply of resources to address any event.

The steps that need to be taken right now are to revisit your organization’s points of vulnerability and what your firm – YOU – need to recover in the event of a disaster. The greater the responsibility to society, the more to plan for within your organization. For healthcare systems, the time is now.

Healthcare systems have, perhaps, the greatest responsibility to their communities of all professions. Evidence of that is the constant reminder on the evening news that “this facility needs more ventilators or more PPE so that their staff members can attend to high demands that exist today.” We prioritize this news as directly impactful to the number of lives lost.

## **Using new CMS Rules to optimize Healthcare System participation**

Follow the resource trails to maximize the opportunity to balance the daily use with the ability to save for a rainy day. And, lately, it has been pouring.

With organizations such as the Centers for Medicare & Medicaid Services, also called CMS, there are new emergency services outlined in the form of an updated CMS Final

Rule, which was announced not long ago. The goal is to enhance the level of recoverability and checkpoints this year.

The CMS Emergency Preparedness Rule has four major components, as stated on the [CMS website](#).

1. Risk Assessment and Emergency Planning  
(including, but limited to):
  - a. Hazards likely in Geographic areas
  - b. Care-related Emergencies
  - c. Equipment and Power failures
  - d. Interruption in Communications, including Cyber Attacks
  - e. Loss of all or portion of Facilities
  - f. Loss of all or portion of Supplies
  - g. Plan is to be reviewed and updated at least annually
2. Communication Planning
  - a. Complies with Federal and State Laws
  - b. System to Contact Staff, including patient's physicians, other necessary persons
  - c. Well-coordinated within the facility, across healthcare providers, and with state and local public health departments and emergency management agencies
3. Policies and Procedures
  - a. Complies with Federal and State Laws
4. Training and Testing
  - a. Complies with Federal and State Laws
  - b. Maintain and, at a minimum, update bi-annually

On March 9, 2020, CMS Administrator Seema Verma announced the new “Admit, Discharge and Transfer of Electronic Notifications Conditions of Participation,” to enhance planning – with a Compliance Date of Fall 2020.

The doctrine focus is on notification, data availability/accessibility, physician and patient audit trails and increased facility preparation and accountability.

## **Summary of the new CMS Rules**

The new CMS Condition of Participation requires all hospitals, psychiatric hospitals, and Critical Access Hospitals utilizing an electronic medical records system or other electronic administration system that conforms with the content exchange standard HL7 v2.5.1 to make a reasonable effort to send real-time electronic notifications:

### **Real-time Notifications:**

- **At:** The point of inpatient and observation admission, discharge, transfer and at emergency department presentation or discharge.
- **To:** Every patient’s established Primary Care Practice (PCP) group or entity, other practitioners/practice groups/entities identified by the patient as primarily responsible for his or her care, and applicable post-acute providers who need to receive notification for treatment, care coordination, or quality improvement purposes.
- **Containing:** At a minimum a patient’s name, treating practitioner name, and sending institution name.

### **What Data needs to be shared:**

- Send real-time e-notifications containing patient name, treating practitioner name, and sending institution name at the point of patient admission discharge, and transfer for ED, inpatient and observation patients

- The following data elements encouraged, but not required: chief complaint, medication profile, discharge disposition, and diagnoses

To whom do you need to send Data:

Page | 5

- Sent e-notifications to patient-identified practitioners
  - Established primary care practitioners
  - Other practitioners primarily responsible for patient care
  - Named treating providers with signed patient consent for patients in psychiatric units
- Have the ability to meet e-notification requirements for all recipients who need to receive notifications for purposes of treatment, care coordination, and quality improvement
  - Entities affiliated with a patient's primary care practitioner
    - Primary Care Practices
    - Accountable Care Organizations
    - Federally Qualified Health Centers
    - Physician Organizations
    - Independent Physician Associations
    - Multi-Specialty Practices
  - Post-acute Services providers and suppliers with whom the patient has an established care relationship prior to their admissions or to whom the patient is being transferred or referred including:
    - Skilled Nursing Facilities
    - Home Health Agencies
    - Hospices
    - Inpatient Rehab Facilities
    - Long-term Acute Care Hospitals

According to [www.adtnotifications.com](http://www.adtnotifications.com), CMS received 1,600+ comments from all parties. In addition, 22 healthcare systems responded with three groups supporting the ruling, 16 opposed and six offering “no opinion.”

## **Stepping up to be prepared**

With this new regulation, all healthcare systems must find ways to enhance their risk management solutions, in part, with education to all staff, supply chain partners and engage in further, detailed public/private sector training.

While all healthcare systems back up their data (Disaster Recovery) and most have detailed plans to run business processes (Business Continuity) in the event of a disaster event, it is known that some healthcare systems were struggling to be completely prepared during this pandemic event.

A reliance on third-party providers had become an issue, and in-house supplies were quickly exhausted. These areas, to name just two, are very typical of the concerns outlined in the CMS Ruling documentation. A goal is to minimize assumptions and plan in the best detail possible for disasters.

Following the new “Admit, Discharge and Transfer of Electronic Notifications Conditions of Participation” CMS regulations, announced on March 9, 2020, would likely be the best place to start for hospitals, healthcare organizations, medical offices, long-term care facilities and others. The industry has the opportunity for change at this critical time.

As these CMS Rules are clear, the resources available in the marketplace for healthcare organizations are in greater quantities as a result of the COVID-19 pandemic and the

needs based on current findings. Hospitals need not be subjected again to the unavailability of their most key assets.

## **What resources are available now that will be needed in the future?**

Page | 7

These are some of the critical elements for recovery that have emerged:

- Emergency Facilities & Testing Sites delivery
  - It is imperative to consider that the current pandemic is not an event that will end. If this one does end, another will begin. The time to prepare for additional screening procedures PRIOR to entry into a hospital is at hand.
  - Specific companies have the resources and experience to deliver as much as 10,000 square feet of floorspace per day on a temporary basis to meet your tactical needs.
  - For longer-term planning, many hospital systems are already considering strategic plans to have such structures permanently placed at the entry points of their facilities.
  - BENEFITS of Emergency Facilities & Testing Sites:
    - Consideration of potential threatening events to facilities
    - Very quick assembly based on pre-planning work done
    - Entry Testing Sites for viruses and other calamities
    - Staging areas to help respond to any disaster event

- Flexibility of using them for many other purposes
  - Patient overflow
  - Patient segregation
  - Triage areas
  - Reception areas
  - These may be paid for by Operating Expense Funding as opposed to Capital Expense, and certain property insurance coverages may apply
- Cybersecurity Planning
  - As the most topical point of concern in all industries, all types of companies – and especially healthcare systems – need to bring greater Cybersecurity controls to their enterprises.
  - One must: Assess → Test → Prepare → Educate → Protect their employees and their business operations so that they will reduce the possibility of interruptions to their service delivery.
  - In fact, some insurance policies today do NOT consider a Cyber Attack as something “unexpected” and many policies do not invoke the “Force Majeure” clause as an Act of Nature.
  - The likelihood of Cyber Attacks is nearing 100% for all firms



- BENEFITS of Cybersecurity Planning:
  - Customized preparation for ALL your facilities
  - A more likely Continuity Of Operations (COOP)
  - Increased monitoring and study of trending
  - Earlier detection and actions to be taken
  - Specifically planned and detailed responses in place
  - Assurance to your Board of Directors that this is being addressed and the sanctity of your healthcare system is in a better place in the face of a very menacing threat
- Communications/Notification Planning
  - All organizations need to be sure that their communications and notifications processes are available when disaster strikes
  - Some companies run parallel systems to help ensure that there is communication of staff, resources and supply chain
  - Many tools are available to address this issue with employees getting information with the ability to respond from their PDAs
  - BENEFITS of Communications/Notification:
    - All employees are advised of changing scenarios
    - All stakeholders and supply chain partners are advised
    - All facilities can be on the same informational page
    - Public/Private Sector coordination can be enhanced
    - Regular testing will make emergency announcements easier for all parties in their receipt and responses of info

- Enterprise Risk Management Planning
  - One strategic plan can be created for the entire enterprise
  - Tactically, each facility can create its own specific plans
  - These plans can be ISO Standards-based and utilize the special advisements of healthcare facility planning
  - These plans can also be a contributing factor in the compliance model as it relates to CMS recovery planning
  - Headquarters plans can be created as a “hub-and-spoke” model whereby the HQ knows what each specific location is doing and, in the absence of communication/power/etc., knows that these facilities are empowered to act on their own, subject to previously agreed-upon solutions and planning.
  - BENEFITS of Enterprise Risk Management Planning
    - One Strategic Plan for all entities
    - Individual Plans for each department or location
    - Standards-based
    - Plan creation will allow business owners to consider their most important factors and needs during disaster events
    - Easy to implement and test

- Vendor Management/Supply Chain Planning
  - This is a critical area that somehow always impacts a recovery
  - In addition to direct supply chain providers for you hospitals, there are secondary and tertiary considerations of those upon whom they depend for their goods and services
  - This translates into several areas – especially manufacturing and transportation – which can impact the supply chain greatly
  - Dedicated resources should be focused on tracking such vendors and incorporating them into your BC/DR testing
  - If a Supply Chain vendor is not responding at this time for this current pandemic event, you should consider other sources
  - BENEFITS of Vendor Management/Supply Chain Planning
    - Greater assurance of reliable partners
    - Ability to successfully conduct recover tests dependably
    - A single point of contact with confidence in their role
    - Documented records of their performance or lack thereof
    - Being a key focus of their own planning by knowing that your healthcare practice considers such factors – and they can be confident that you are prepared
- Experienced Management Consultants
  - The right people involved in the right area of focus
  - Healthcare-experienced resources bring new ideas to you
  - Ability to train your staff and stakeholders
  - Ability to vet your supply chain partners
  - Ability to report on positive or negative trending
  - Understanding well the current CMS regulations

- BENEFITS of Experienced Management Consultants
  - Fairly priced as an Operating Expense for you
  - Ability to be hired on an “as-needed” basis
  - Selected upon their specific focus area of knowledge
  - Ability to bring ideas from other client scenarios
  - They can start right away and be flexible in utilization
- Strategic, Long-term Planning
  - The Bottom line – once this pandemic ends, another event will occur, and you can leverage any resources where you have made any investments in the safety and productivity of facilities
  - There will always be events for which to be prepared
  - Incorporating Enterprise Risk Planning into long-term goals helps to secure long-term funding to support such programs
  - Most of these expenses will be Capital Expenses
  - BENEFITS of Strategic, Long-term Planning
    - Capital Expense driven
    - Long-term project planning
    - Ability to invite stakeholders long term
- Access to Funding and Financial Resources
  - There are agencies and companies out there that have the resources and experience to find CMS Funding for your group

- BENEFITS for Access to CMS Funding/Financial Resources
  - The CMS organization wants you to ask for assistance
  - Financial firms will work directly on your team's behalf
  - This is a replicatable model that can be used to renew

### **Action Items for Healthcare Systems to move forward**

Making a commitment to review your healthcare organization and facilities for improvement is an extremely important task to be doing right now.

It may also be the one that is currently escaping you and your colleagues!

Now is the time to take more notes, vet more partners, find more avenues and resources to make necessary enhancements in your service delivery. You may need some outside help from trained professionals who know what to do, what to ask, and what to look for – or, you can study the CMS Guidelines as mentioned here or at [www.CMS.gov](http://www.CMS.gov) and get ideas there.

Either way, while you are busier than you have ever been, please consider the opportunity to evaluate what is working and what has not worked – and take action internally so that things can be enhanced.

These are difficult times for all – and many organizations would like to help.



## About the author

Ralph Petti, MBCI, CBCP, GRCP, is a certified risk manager. He holds credentials in several disciplines of business continuity and disaster recovery and has a rare certification in governance, risk & compliance. Ralph is an operations principal at Readiness Associates, a full-service business continuity and emergency preparedness firm with the core mission of ensuring that organizations of all types, and especially healthcare organizations nationally, are CMS compliant while preparing teams and their families to be: **Safe. Ready. Prepared.**