



Emergency Management and Compliance

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https://www.youtube.com/watch?v=rTL-sRSD_l4



Objectives

- CMS emergency preparedness rule basics
- Lessons learned from Florence and Michael
- Unexpected crisis management issues and how to prepare
- Advance crisis tools you want from your lawyer



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Practical Tips for Compliance Professionals

- Not likely primary responsibility for overall emergency preparedness program
- But important role in ensuring emergency preparedness readiness and compliance
- Also ongoing role in addressing other compliance requirements applicable to your organization that may often still apply



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CMS Emergency Preparedness Rule Basics

- Risk Assessment and Emergency Plan 42 § 482.15(a)
- Policies and Procedures 42 § 482.15(b)
- Communication Plan 42 § 482.15(c)
- Training and Testing 42 § 482.15(d)



Applicability of CMS Rules

- Apply to both internal crises and overall community events/disasters
- Do not apply to independent physician practices



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Four Phases of Emergency Management



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Emergency Plan Development

- All Hazards
- Driven by Risk Assessment
 - Addressing the identified risk assessment
- Must be Collaborative
 - Include local partners such as Emergency Management Agencies, Health Care Coalitions
- Creating the Emergency Operations Plan



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Policies and Procedures

- How do you implement your plan?
- Address key risks and threats
 - Subsistence planning
- Must Cover
 - Patient Management
 - Facility Evacuation
 - Shelter in Place
 - Tracking of Staff and Patients
 - Subsistence Needs
 - Continuity Planning
 - Staff Management
 - 1135 Waiver Impact
 - Communication
 - Medical Documentation



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Hurricane Lessons Learned: PACT

- Prepare
- Administer
- Communicate
- Team



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Lessons Learned from Michael and Florence

- Supply chains can be interrupted
- Hospitals serving as refuge locations
- Mutual aide vs. government support
- Certain facilities lost all communication
- Impact of staff
- Access to staff



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Evacuation Considerations

- Florence
 - Created Multiple Facility Evacuations
 - Decompression vs Evacuation
 - Supply Chain Impacts
- Michael
 - Unplanned Impacts
 - Extended Power Outages



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Evacuation vs Decompression

- Some facilities fully evacuated while some partially evacuated (Decompressed)
- Community needs drove decision making
- Patient choice and residential considerations
- Resource availability could change depending on activity



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Evacuation – Planning Considerations

- Notification to accreditation/regulatory body
- Notification of capabilities to EMS, other providers, etc.
- Public notification of closure or limitations (“suspending services”)
- Securing consent to transport
- Legally when can force transfer/discharge of patient
- Remember state law
- EMTALA and acceptance considerations (obligation to report violations)



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Advance Crisis Tools You Want From Your Lawyer

- Discharge notice due to inability to meet patient needs as a result of expected emergency
- Form for transfer of patient that communicates expectations, documents consent and includes agreed or permissible notifications
- Template notice letters



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Evacuation – Planning Considerations

- Communication and Coordination
 - Community partners around impacts
 - EMS and patient transportation resources
 - Patient and caregiver
- CMS specifically identifies evacuation as a necessary plan
- Memoranda of Understanding/Transfer Agreements
- Network payor coverages
- Patient accountability – homebound patient



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Evacuation – Receiving Facility

- Hospital EMTALA requirements around emergency transfers
- Continuation of care
- Resource utilization
- Traveling staff
 - Credentialing
 - Who is employing and holds liability
 - Payment
 - Billing



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Advance Crisis Tools You Want From Your Lawyer

- Template notice of suspending operations
- Emergency transfer agreements that consider:
 - large number of patient transfers
 - provisions for high resource patients
 - emergency credentialing of staff with equivalent privileges based on sending facility privileges
 - possible need to send facility staff and make alternate payroll arrangements
 - Some personal items to accompany long term care residents



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Repatriation

- Patients were evacuated to other skilled facilities.
- In some cases no staff transferred with the patients
- Medical record documentation transfer
- Some facilities “allowed” patients to stay instead of facilitating return to sending facility
- Patient can choose not to return



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Repatriation – Planning Considerations

- Cover repatriation in transfer agreement
- Prior notification to patients as to risk and care
- Continuity of care
- Reimbursement considerations
- Reimbursement of return transportation may not be covered
- Can require patient to leave but cannot require return
- How handle belongings and records of residents/patients that do not return



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Advance Crisis Tools You Want From Your Lawyer

- Agreement with receiving facility to return patient
- Notice to resident that payors may treat stay at receiving facility as out of network
- Acknowledgment by resident and family that resident must pay cost to move her belongings to new facility or elsewhere if resident does not return



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At Risk Patients--Plan to Address

- Language issues
- Cultural differences
- Elderly
- Disabilities
- Chronic medical disorders
- Medication dependency
- Lack transportation

§ 482.15(a)(3)



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Advance Crisis Tools You Want From Your Lawyer

- List of required languages to make available
- Tool to document why certain disability accommodations cannot be made due to emergency conditions and alternate efforts made



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Communication – Always an Issue

- How do you communicate non-traditionally?
- Facility could be cutoff from its data center and its EMR
 - Some millennials have never documented on paper
- Communication of resource requests
- Communication with specialists
- Educate staff and stakeholders on back-up methods
- CMS requires a Communication Plan



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Alternate Communication Methods

- Suppose landlines or cell phones do not work
- Pagers
- Satellite communication systems
- Walkie-talkies
- Ham radios
- Runners



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Communication Plan

- Comply with federal and state law
- Internal and external
- Emergency contact list and plan
 - Staff
 - Volunteers
 - Suppliers
 - Other providers
 - Agencies
 - Families involved in care



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Communication – Patients, Caregivers, Family

- Communicating within the bounds of HIPAA 45 CFR 164.510
 - HIPAA could be relaxed but is never eliminated during a disaster
- Family Resource Center - Creating a safe space for information sharing
- Maintaining the right database of information
- Setting expectations of how will communicate



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Advance Crisis Tools You Want From Your Lawyer

- Checklist of points to address under state law
- Tool to obtain needed information and consents
- Notice to use at check-in regarding disclosures to agencies, providers and family
- Patient commitment to honor privacy of others
- Notice not to post regarding others on social media



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Boarders – Non-Admitted Individuals

- During Florence and December Snow Storm
- Community members arrived at multiple hospitals requesting access to power.
 - Ventilator Dependent
 - Oxygen Dependent
 - CPAP
- Increased consumption of resources
- One hospital opened an oxygen bar
- One hospital opened a medical respite shelter



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Boarders – Planning Considerations

- Boarder check-in and accountability
- How set expectations of services (or lack there of) and limit risk?
- How address privacy?
- What to do if the situation changes and boarder needs medical care?
- How communicate with the boarder and caregivers?
- Require a caregiver to be present?



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Advance Crisis Tools You Want From Your Lawyer

- Notice and acknowledgment not a patient but a guest of facility and assume risk
- Notice that resources are limited and could be changed at any time without notice
- Warning to call 911 or report need for care to person in charge



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Volunteers and Donation Management

- Credentialing Medical Volunteers
- Screening Non-Medical Volunteers
 - Do normal standards apply?
 - How do you educate on the fly?
- Donations Management
 - How do you know it is safe?
 - Do you actually need it?
 - OK to ask for money but how do you broker it?



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Advance Crisis Tools You Want From Your Lawyer

- Volunteer agreements
 - Contact information
 - Acknowledgment not employed and no pay
 - Agreement to honor patient confidentiality and code of conduct
 - Consent to notify designated individuals if needed concerning volunteer
- Donation acknowledgment that verifies no tampering with items



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The Power of Information

- Managing the media and dignitaries
- Impact of visits on facility capabilities
- Communicating facility message to the media
 - Social media
 - Traditional media
- Media rules for staff
- Posted signs
- Communication of expectations to visitors



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Advance Crisis Tools You Want From Your Lawyer

- Process and documentation of approved media credentials
- Form for media to agree to certain rules
- Patient consent to visits and media contact



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Preparing for the Government

- Maintaining Documentation § 482.15(c)(4)
 - Clinical
 - Compliance
 - Financial
- Regulatory Considerations
- FEMA and Insurance Considerations
 - FEMA as insurer of last result
- After Action Review
 - Improvement plan for any identified gaps
- Critical Incident Stress Management – Employee Assistance Programs



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