Emergency Management and Compliance

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https://www.youtube.com/watch?v=Ts-sR5D_J4
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

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
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

Four Phases of Emergency Management

- Preparedness
  - Emergency Response Plans
  - Training and Exercises
  - Community Outreach
- Response
  - Life Saving
  - Incident Stabilization
  - Property Preservation
  - Evacuation & Mass Care
- Mitigation
  - Public Education
  - Hazard Assessments
  - Infrastructure Improvements
- Recovery
  - Economic Recovery
  - Debris Management
  - Housing
  - Health/Social Services
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

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
Hurricane Lessons Learned: PACT

• Prepare
• Administer
• Communicate
• Team
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

Evacuation Considerations

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

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)
**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

**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
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

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
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

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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• 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

At Risk Patients--Plan to Address

• Language issues
• Cultural differences
• Elderly
• Disabilities
• Chronic medical disorders
• Medication dependency
• Lack transportation § 482.15(a)(3)
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

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
Alternate Communication Methods

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

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
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

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
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

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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• 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

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?
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

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

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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