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§482.52 Condition of Participation: Anesthesia Services

If the hospital furnishes anesthesia services, they must be provided in a well-organized manner under the direction of a qualified doctor of medicine or osteopathy. The service is responsible for all anesthesia administered in the hospital.

Interpretive Guidelines §482.52

The provision of anesthesia services is an optional hospital service. However, if a hospital provides any degree of anesthesia service to its patients, the hospital must comply with all the requirements of this Condition of Participation (CoP).

"Anesthesia" involves the administration of a medication to produce a blunting or loss of:

- pain perception (analgesia);
- voluntary and involuntary movements;
- autonomic function; and
- memory and/or consciousness,

depending on where along the central neuraxial (brain and spinal cord) the medication is delivered.

In contrast, "analgesia" involves the use of a medication to provide relief of pain through the blocking of pain receptors in the peripheral and/or central nervous system. The patient does not lose consciousness, but does not perceive pain to the extent that may otherwise prevail.

Anesthesia exists along a continuum. For some medications there is no bright line that distinguishes when their pharmacological properties bring about the physiologic transition from the analgesic to the anesthetic effects. Furthermore, each individual patient may respond differently to different types of medications. The additional definitions below illustrate distinctions among the various types of "anesthesia services" that may be offered by a hospital. These definitions are generally based on American Society of Anesthesiologists definitions found in its most recent set of practice guidelines (Anesthesiology 2002; 96:1004-17).

- **General anesthesia**: a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory support is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. For example, a patient undergoing major abdominal surgery involving the removal of a portion or all of an organ would require general anesthesia in order to tolerate such and extensive surgical procedure. General anesthesia is used for those procedures when loss of consciousness is required for the sage and effective delivery of surgical services;

- **Regional anesthesia**: the delivery of anesthetic medication at a specific level of the spinal cord and/or to peripheral nerves, including epidurals and spinals and other central neuraxial nerve blocks, is used when loss of consciousness is not desired but sufficient analgesia and loss of voluntary and involuntary movement is required. Given the potential for the conversion and extension of regional to general anesthesia in certain procedures, it is necessary that the administration of regional and general anesthesia be delivered or supervised by a practitioner as specified in 42 CFR 482.52(a).

- **Monitored anesthesia care (MAC)**: anesthesia care that includes the monitoring of the patient by a practitioner who is qualified to administer anesthesia as defined by

the regulations at §482.52(a). Indications for MAC depend on the nature of the procedure, the patient's clinical condition, and/or the potential need to convert to a general or regional anesthetic. Deep sedation/analgesia is included in MAC.

  - Deep sedation/analgesia: a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. Because of the potential for the inadvertent progression to general anesthesia in certain procedures, it is necessary that the administration of deep sedation/analgesia be delivered or supervised by a practitioner as specified in 42 CFR 482.52(a).

- **Moderate sedation/analgesia: ("Conscious Sedation"):** a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. CMS, consistent with ASA guidelines, does not define moderate or conscious sedation as anesthesia (71 FR 68690-1).

- **Minimal sedation**: a drug-induced state during which patients respond normally to verbal commands. Although cognitive function and coordination may be impaired, ventilator and cardiovascular functions are unaffected. This is also not anesthesia.

- **Topical or local anesthesia**; the application or injection of a drug or combination of drugs to stop or prevent a painful sensation to a circumscribed area of the body where a painful procedure is to be performed. There are generally no systemic effects of these medications, which also are not anesthesia, despite the name.

Rescue Capacity: As stated above, because the level of sedation of a patient receiving anesthesia services is a continuum, it is not always possible to predict how an individual patient will respond. Further, no clear boundary exists between some of these services. Hence, hospitals must ensure that procedures are in place to rescue patients whose level of sedation becomes deeper than initially intended, for example, patients who inadvertently enter a state of Deep Sedation/Analgesia when Moderate Sedation was intended. "Rescue" from a deeper level of sedation than intended requires an intervention by a practitioner with expertise in airway management and advanced life support. The qualified practitioner corrects adverse physiologic consequences of the deeper-than-intended level of sedation and returns the patient to the originally intended level of sedation. (Rescue capacity is not only required as an essential component of anesthesia services, but is also consistent with the requirements under the Patients' Rights standard at §482.13(c)(2), guaranteeing patients care in a safe setting.)

Anesthesia services throughout the hospital (including all departments in all campuses

and off-site locations where anesthesia services are provided) must be organized into one anesthesia service.

Areas where anesthesia services are furnished may include (but are not limited to):

- Operating room suite(s), both inpatient and outpatient;
- Obstetrical suite(s);
- Radiology department;
- Clinics;
- Emergency department;
- Psychiatry department;
- Outpatient surgery areas;
- Special procedures areas (e.g., endoscopy suite, pain management clinic, etc.)

The anesthesia services must be under the direction of one individual who is a qualified doctor of medicine (MD) or doctor of osteopathy (DO). Consistent with the requirement at §482.12(a)(4) for it to approve medical staff bylaws, rules and regulations, the hospital's governing body approves, after considering the medical staff's recommendations, medical staff rules and regulations establishing criteria for the qualifications for the director of the anesthesia services. Such criteria must be consistent with State laws and acceptable standards of practice.

As previously mentioned, there is often no bright line, i.e., no clear boundary, between anesthesia and analgesia. This is particularly the case with moderate versus deep sedation, but also with respect to labor epidurals. However, the anesthesia services CoP establishes certain requirements that apply only when anesthesia is administered. Consequently, each hospital that provides anesthesia services must establish policies and procedures, based on nationally recognized guidelines that address whether specific clinical situations involve anesthesia versus analgesia. (It is important to note that anesthesia services are usually an integral part of "surgery," as we have defined that term in our guidance. Because the surgical services CoP at §482.51 requires provision of surgical services in accordance with acceptable standards of practice, this provides additional support for the expectation that anesthesia services policies and procedures concerning anesthesia are based on nationally recognized guidelines.) We encourage hospitals to address whether the sedation typically provided in the emergency department or procedure rooms involves anesthesia or analgesia. In establishing such policies, the hospital is expected to take into account the characteristics of the patients served, the skill set of the clinical staff in providing the services, as well as the characteristics of the sedation medications used in the various clinical settings.

The regulation at 42 CFR 482.52(a) establishes the qualifications and, where applicable, supervision requirements for personnel who administer anesthesia. However, hospital anesthesia services policies and procedures are expected to also address the minimum qualifications and supervision requirements for each category of practitioner who is permitted to provide analgesia services, particularly moderate sedation. This expectation is consistent not only with the requirement under this CoP to provide anesthesia services in a well-organized manner, but also with various provisions of the Medical Staff CoP at §482.22 and the Nursing Services CoP at §482.23 related to qualifications of personnel providing care to patients. Taken together, these regulations require the hospital to assure that any staff administering drugs for analgesia must be appropriately qualified, and that the drugs are administered in accordance with accepted standards of practice. Specifically:

- The Medical Staff CoP at §482.22(c)(6) requires the medical staff bylaws, "Include criteria for determining the privileges to be granted to individual practitioners and a procedure for applying the criteria to individuals requesting privileges."

- The Nursing Services CoP requires at:

    - §482.23(b)(5) that nursing personnel be assigned to provide care based on "the specialized qualifications and competence of the nursing staff available."

    - §482.23(c) that, "Drugs and biologicals must be prepared and administered in accordance with Federal and State laws, …and accepted standards of practice." And

    - §482.23(c)(3) , "… If … intravenous medications are administered by personnel other than doctors of medicine or osteopathy, the personnel must have special training for this duty."

Finally, it is expected that the anesthesia services policies and procedures will undergo periodic re-evaluation that includes analysis of adverse events, medication errors and other quality or safety indicators related not only to anesthesia, but also to the administration of medications in clinical applications that the hospital has determined involve analgesia rather than anesthesia. This expectation is also supported by the provisions of the Quality Assessment and Performance Improvement (QAPI) CoP at §482.21, which requires the hospital to ensure its QAPI program, "…involves all hospital departments and services…"; "…focuses on indicators related to improved health outcomes and the prevention and reduction of medical errors...."; "…track[s] quality indicators, including adverse patient events…"; "… use[s] the data collected to monitor the effectiveness and safety of the services and quality of care…"; and "…take[s] actions aimed at performance improvement…"

Hospitals are free to develop their own specific organizational arrangements in order to

deliver all anesthesia services in a well-organized manner. Although not required under the regulation to do so, a well-organized anesthesia service would develop the hospital's anesthesia policies and procedures in collaboration with several other hospital disciplines (e.g., surgery, pharmacy, nursing, safety experts, material management, etc.) that are involved in delivering these services to patients in the various areas in the hospital.

A well-organized anesthesia service must be integrated into the hospital's required Quality Assessment/Performance Improvement program, in order to assure the provision of safe care to patients.

Survey Procedures §482.52

- Request a copy of the organizational chart for anesthesia services.

- Determine that a doctor of medicine or osteopathy has the authority and responsibility for directing all anesthesia services throughout the hospital.

- Look for evidence in the director's file of the director's appointment privileges and qualifications, consistent with the criteria adopted by the hospital's governing body. Review the position description. Confirm that the director's responsibilities include at least the following:

    - Planning, directing, and supervising all activities of the service;

    - Evaluating the quality and appropriateness of the anesthesia services provided to patients as part of the hospital's QAPI program;

- Request a copy of and review the hospital's anesthesia services policies and procedures.

    - Do they apply in all hospital locations where anesthesia services are provided?

    - Do they indicate the necessary qualifications that each clinical practitioner must possess in order to administer anesthesia as well as moderate sedation or other forms of analgesia?

    - Do they address what clinical applications are considered to involve analgesia, in particular moderate sedation, rather than anesthesia, based on identifiable national guidelines? What are the national guidelines that they are following and how is that documented?

- Does the hospital have a system by which adverse events related to the administration of anesthesia and analgesia, including moderate sedation, are tracked and acted upon?

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§482.52(a) Standard: Organization and Staffing

The organization of anesthesia services must be appropriate to the scope of the services offered. Anesthesia must be administered only by --

(1) A qualified anesthesiologist;

(2) A doctor of medicine or osteopathy (other than an anesthesiologist);

(3) A dentist, oral surgeon, or podiatrist who is qualified to administer anesthesia under State law;

(4) A certified registered nurse anesthetist (CRNA), as defined in §410.69(b) of this chapter, who, unless exempted in accordance with paragraph (c) of this section, is under the supervision of the operating practitioner or of an anesthesiologist who is immediately available if needed; or

(5) An anesthesiologist's assistant, as defined in Sec. 410.69(b) of this chapter, who is under the supervision of an anesthesiologist who is immediately available if needed.

§482.52(c) Standard: State Exemption

(1) A hospital may be exempted from the requirement for MD/DO supervision of CRNAs as described in paragraph (a)(4) of this section, if the State in which the hospital is located submits a letter to CMS signed by the Governor, following consultation with the State's Boards of Medicine and Nursing, requesting exemption from MD/DO supervision of CRNAs. The letter from the Governor must attest that he or she has consulted with State Boards of Medicine and Nursing about issues related to access to and the quality of anesthesia services in the State and has concluded that it is in the best interests of the State's citizens to opt-out of the current MD/DO supervision requirement, and that the opt-out is consistent with State law.

(2) The request for exemption and recognition of State laws, and the withdrawal of the request may be submitted at any time, and are effective upon submission.

Interpretive Guidelines §482.52(a) and (c)

<u>Who May Administer Anesthesia</u>

Topical/local anesthetics, minimal sedation, moderate sedation

The requirements at §482.52(a) concerning who may administer anesthesia do not apply to the administration of topical or local anesthetics, minimal sedation, or moderate sedation. However, the hospital must have policies and procedures, consistent with State scope of practice law, governing the provision of these types of anesthesia services. Further, hospitals must assure that all anesthesia services are provided in a safe, well-organized manner by qualified personnel.

General anesthesia, regional anesthesia and monitored anesthesia, including deep sedation/analgesia, may only be administered by:

- A qualified anesthesiologist;
- An MD or DO (other than an anesthesiologist);
- A dentist, oral surgeon or podiatrist who is qualified to administer anesthesia under State law;
- A CRNA who is supervised by the operating practitioner or by an anesthesiologist who is immediately available if needed; or
- An anesthesiologist's assistant under the supervision of an anesthesiologist who is immediately available if needed.

Administration by an MD/DO/dentist/oral surgeon/podiatrist

The hospital's anesthesia services policies must address the circumstances under which an MD or DO who is not an anesthesiologist, a dentist, oral surgeon or podiatrist is permitted to administer anesthesia. In the case of a dentist, oral surgeon or podiatrist, administration of anesthesia must be permissible under State law and comply with all State requirements concerning qualifications. Hospitals should conform to generally accepted standards of anesthesia care when establishing policies governing anesthesia administration by these types of practitioners as well as MDs or DOs who are not anesthesiologists.

Administration by a CRNA

Unless the hospital is located in a State that has chosen to opt out of the CRNA supervision requirements, a CRNA administering general, regional and monitored anesthesia must be supervised either by the operating practitioner who is performing the procedure, or by an anesthesiologist who is immediately available.

Hospitals should conform to generally accepted standards of anesthesia care when establishing policies for supervision by the operating practitioner. An anesthesiologist is considered "immediately available" when needed by a CRNA under the anesthesiologist's supervision only if he/she is physically located within the same area as the CRNA, e.g., in the same operative/ procedural suite, or in the same labor and delivery unit, and not otherwise occupied in a way that prevents him/her from immediately conducting hands-on intervention, if needed.

If the hospital is located in a State where the Governor has submitted a letter to CMS

attesting that he or she has consulted with State Boards of Medicine and Nursing about issues related to access to and the quality of anesthesia services in the State and has concluded that it is in the best interests of the State's citizens to opt-out of the current physician supervision requirement, and that the opt-out is consistent with State law, then a hospital may permit a CRNA to administer anesthesia without operating practitioner or anesthesiologist supervision. (A list of States that have opted out of the CRNA supervision requirement may be found at http://www.cms.hhs.gov/CFCsAndCoPs/02_Spotlight.asp)

A CRNA is defined in §410.69(b) as a "registered nurse who:

(1) Is licensed as a registered professional nurse by the State in which the nurse practices;

(2) Meets any licensure requirements the State imposes with respect to non-physician anesthetists;

(3) Has graduated from a nurse anesthesia educational program that meets the standards of the Council on Accreditation of Nurse Anesthesia Programs, or such other accreditation organization as may be designated by the Secretary; and

(4) Meets the following criteria:

(i) Has passed a certification examination of the Council on Certification of Nurse Anesthetists, the Council on Recertification of Nurse Anesthetists, or any other certification organization that may be designated by the Secretary; or

(ii) Is a graduate of a program described in paragraph (3) of this definition and within 24 months after that graduation meets the requirements of paragraph (4)(i) of this definition."

Administration by an Anesthesiologist's Assistant

An anesthesiologist's assistant may administer anesthesia when under the supervision of an anesthesiologist. The anesthesiologist must be immediately available if needed. An anesthesiologist is considered "immediately available" to assist the anesthesiologist's assistant under the anesthesiologist's supervision only if he/she is physically located within the same area as the anesthesiologist's assistant, e.g., in the same operative/procedural suite, or in the same labor and delivery unit, and not otherwise occupied in a way that prevents him/her from immediately conducting hands-on intervention, if needed.

An anesthesiologist's assistant is defined at §410.69(b) as a "person who-

(1) Works under the direction of an anesthesiologist;

(2) Is in compliance with all applicable requirements of State law, including any licensure requirements the State imposes on nonphysician anesthetists; and

(3) Is a graduate of a medical school-based anesthesiologist's assistant education program that –

(a) Is accredited by the Committee on Allied Health Education and Accreditation; and

(b) Includes approximately two years of specialized basic science and clinical education in anesthesia at a level that builds on a premedical undergraduate science background."

Anesthesia Services Policies

The medical staff bylaws or rules and regulations must include criteria for determining the anesthesia service privileges to be granted to an individual practitioner and a procedure for applying the criteria to individuals requesting privileges, as required by the regulations at §482. 22(c)(6) for any type of anesthesia services, including those not subject to the anesthesia administration requirements at §482.52(a). The hospital's governing body must approve the specific anesthesia service privileges for each practitioner who furnishes anesthesia services, addressing the type of supervision, if any, required. The privileges granted must be in accordance with State law and hospital policy. The type and complexity of procedures for which the practitioner may administer anesthesia must be specified in the privileges granted to the individual practitioner. Deficiencies related to these requirements should be cited under §482. 22(c)(6).

When a hospital permits operating practitioners to supervise a CRNA administering anesthesia, the medical staff bylaws or rules and regulations must specify for each category of operating practitioner, the type and complexity of procedures that category of practitioner may supervise. However, individual operating practitioners do not need to be granted specific privileges to supervise a CRNA.

Survey Procedures §482.52(a) and (c)

- Review the qualifications of individuals authorized to administer general anesthesia, regional anesthesia and monitored anesthesia, including deep sedation/analgesia to determine if they satisfy the requirements at §482.52(a) and (c).

- Determine that there is documentation of current licensure and, as applicable, current certification for all persons administering anesthesia.

- Determine if the state is an "opt-out state" and therefore permits CRNAs to administer anesthesia without supervision in accordance with 482.52(c).

- Review the hospital's policies and procedures governing supervision of CRNA's and anesthesiologist's assistants, and determine whether they comply with the regulatory requirements. and

- Review the qualifications of individuals authorized to furnish other anesthesia services, to determine if they are consistent with the hospital's anesthesia service policies.