

October 22, 2008

Mark R. Chassin, M.D.
President
The Joint Commission
One Renaissance Blvd.
Oakbrook Terrace, IL 60181

Re: Anesthesia Carts

Dear Dr. Chassin:

This letter concerns the conditions under which anesthesia carts must be locked and seeks The Joint Commission's confirmation that our understanding is correct concerning how The Joint Commission will interpret its standards vis-à-vis a new federal rule.

In the November 27, 2006, *Federal Register*, the Centers for Medicare & Medicaid Services (CMS) published a final rule concerning the hospital Conditions of Participation (CoP). The rule was effective January 26, 2007, and included Section 482.25(b)(2)(i), which states: "All drugs and biologicals must be kept in a secure area, and locked when appropriate." [See 71 Fed. Reg. 68672, at page 68694; CMS originally proposed this revised language on March 25, 2005; see 70 Fed. Reg. 15266, at page 15273.] This revised the old Medicare regulation, which states in Section 482.25(b)(2) of the CoP that: "Drugs and biologicals must be kept in a locked storage area." In the *Federal Register* in which the new rule was published, CMS includes extensive commentary regarding how it intends to interpret "secure area" and related issues. [See 71 Fed. Reg. 68672, at pages 68688-68689.]

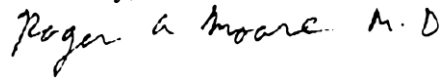
The effect of the new rule is to permit facilities to allow anesthesia carts that contain drugs and biologicals that are not controlled substances to remain unlocked, so long as the carts are kept in a secure area, and locked when appropriate. Both the American Society of Anesthesiologists (ASA) and the American Academy of Anesthesiologists Assistants supported this change. The rule revision provides needed flexibility, particularly in dealing with emergency situations when quick access to drugs is necessary.

There does not appear to be any Joint Commission standard which requires that anesthesia carts be locked. Medication Management (MM) Standard 2.20 provides only that: "Medications are properly and safely stored." Element of Performance (EP) 5 adds that: "Unauthorized persons, in accordance with the hospital's policy and law or regulation, cannot

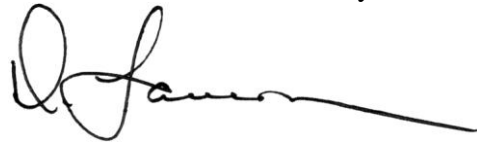
obtain access to medications.” In addition, emergency medications must be stored in sealed or in locked containers; in a locked room; or under constant supervision in accordance with law or regulation” (MM.2.30, EP.6). Our understanding is that storage in a “secure area” as defined in the new CMS regulation would satisfy the Joint Commission requirement of “constant supervision” in accordance with law or regulation.

We request that The Joint Commission confirm in writing that, in fact, our understanding of the Joint Commission’s standards vis-à-vis the new CMS rule is correct and that the Commission intends to interpret its standards consistent with our above analysis. It would be our intent to share this confirmation with our respective members to clear up any confusion that may exist. We look forward to hearing from you.

Sincerely,



Roger A. Moore, M.D.
President, American Society of Anesthesiologists



Deborah A. Lawson, AA-C
President, American Academy of Anesthesiologist Assistants

cc: Robert A. Wise, M.D.
Vice President, Joint Commission, Division of Standards and Survey Methods
Harold J. Bressler, J.D.
Joint Commission, General Counsel