

# Verbal orders



## THE MYTH

The Centers for Medicare & Medicaid Services (CMS) and The Joint Commission (TJC) prohibit verbal orders.

## BACKGROUND

Verbal orders are spoken orders given by a physician or other Licensed Independent Practitioner (LIP) to a person authorized to receive and record them in accordance with applicable policies, laws, and regulations. Some physicians and healthcare systems have come to believe that verbal orders are not allowed due to federal healthcare policy and regulatory agency rules. Patient quality and safety organizations have cautioned the practice of verbal orders due to concerns about risks they may introduce in some circumstances. Most healthcare systems have their own policies concerning verbal orders, restricting or setting guidelines for their use. Additionally, while state laws may limit if and how verbal orders may be used, CMS and TJC do not prohibit verbal orders.

## DEBUNKING THE MYTH:

To our knowledge, there are no federal regulatory prohibitions on the use of verbal orders, though CMS regulations and guidance for hospitals are clear that CMS frowns upon verbal orders in the medication context. While CMS regulations and TJC standards do identify recommendations for the use of verbal orders, there are relatively few regulatory requirements specific to their use.

Physicians in Medicare-participating hospitals can use verbal orders as well as pre-printed and electronic standing orders, order sets, and protocols. Verbal orders may be enacted immediately by individuals who are administering care within the scope of their licensure, certification, or credentialing.<sup>1</sup> There are no CMS limitations on the use of verbal orders in the community (ambulatory care) setting.

## REGULATORY CLARIFICATION:

1. According to CMS, verbal orders must be dated, timed, and authenticated promptly by the ordering practitioner or by another practitioner who is responsible for the care of the patient. That practitioner must be acting in accordance with State law, including scope-of-practice laws, hospital policies, and medical staff bylaws, rules, and regulations. CMS regulation states that verbal orders must be dated, timed, and authenticated promptly by the ordering practitioner or by another practitioner who is responsible for the care of the patient. The receiver of a verbal order must date, time, and sign the verbal order in accordance with hospital or clinic policy.<sup>2</sup>
2. In January 2007, CMS added a provision to the Nursing and Medical Records Condition of Participation requiring for the next five years that all orders including verbal orders be dated, timed, and authenticated within 48 hours.<sup>3</sup> This CMS policy was temporary, and lapsed in January 2012 when the 48-hour requirement for authentication of verbal orders was eliminated.<sup>4</sup>
3. The use of repeat-back of the order by the documentation assistant is encouraged, especially for new medication orders. Documentation assistants who are not authorized to submit orders should leave the order as pending for a certified or licensed personnel to activate or submit the orders after verification. Transcribing orders into the EHR while providing documentation assistance is not considered a verbal order. Verbal orders are different because they are expected to be acted upon immediately by individuals who are practicing within the scope of their licensure, certification, or practice in accordance with law and regulation as well as with organizational policy.<sup>1,5</sup>
4. TJC standards do not specify the time frame for authentication of documentation. Organizations are free to determine the time frame for completion of authentication, however the timeframe must comply with any applicable state or local laws or regulations.<sup>6</sup>

5. TJC standards provide that all types of personnel performing documentation assistance, both in ambulatory and hospital settings, may, at the direction of a physician or another LIP, enter orders into an EHR.<sup>1,5</sup> An LIP must authenticate the verbal order as soon as practical, verifying it with their dated and timed signature. This authentication may be performed by the ordering practitioner, or by another practitioner involved in the care of the patient.
6. In general, federal regulations and accreditation agency standards do not require authentication of verbal orders within a specific time frame. These requirements are usually in state licensure regulations. Therefore, it is important to be familiar with any pertinent state-specific laws and regulations to ensure full compliance.

## Resources

CMS §482.23(c)(3)(i) - Page 42: <https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R95SOMA.pdf>

AMA Team-Based Care STEPS Forward Toolkit: <https://edhub.ama-assn.org/steps-forward/module/2702513>

AMA Pre-visit Laboratory Testing STEPS Forward Toolkit: <https://edhub.ama-assn.org/steps-forward/module/2702697>

AMA Creating the Organizational Foundation for Joy in Medicine™ STEPS Forward Toolkit: <https://edhub.ama-assn.org/steps-forward/module/2702510>

AMA STEPS Forward™ Saving Time Playbook for physicians: 3 strategies: <https://www.ama-assn.org/practice-management/sustainability/ama-steps-forward-saving-time-playbook-physicians-3-strategies#strategy-one-stop-doing-unnecessary-work>

<sup>1</sup>The Joint Commission. Ambulatory FAQs. Documentation Assistance Provided By Scribes. 2021. Available from: <https://www.jointcommission.org/standards/standard-faqs/ambulatory/record-of-care-treatment-and-services-rc/000002210/>

<sup>2</sup>United States Title 42 Chapter IV Subchapter G Part 482 Subpart C. 482.24 (c)(2). Available at [https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-G/part-482/subpart-C#p-482.24\(c\)\(2\)\)](https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-G/part-482/subpart-C#p-482.24(c)(2)))

<sup>3</sup>Centers for Medicare & Medicaid Services Proposed Rule. Medicare and Medicaid Programs; Hospital Conditions of Participation: Requirements for History and Physical Examinations; Authentication of Verbal Orders; Securing Medications; and Postanesthesia Evaluations. 2005. Available from: <https://www.federalregister.gov/documents/2005/03/25/05-5916/medicare-and-medicare-programs-hospital-conditions-of-participation-requirements-for-history-and>

<sup>4</sup>Centers for Medicare & Medicaid Services Final Rule. Medicare and Medicaid Programs Reform of Hospital and Critical Access Hospital Conditions of Participation. Available at <https://www.cms.gov/Regulations-and-Guidance/Legislation/CFCsAndCoPs/Downloads/CMS-3244-F.pdf>

<sup>5</sup>The Joint Commission. Hospital and Hospital Clinics FAQs. Documentation Assistance Provided by Scribes. 2021. Available from: <https://www.jointcommission.org/standards/standard-faqs/hospital-and-hospital-clinics/record-of-care-treatment-and-services-rc/000002210/>

<sup>6</sup>The Joint Commission. Standards FAQs Medical Record Authentication Time Frame. 2021. Available from: <https://www.jointcommission.org/standards/standard-faqs/ambulatory/record-of-care-treatment-and-services-rc/000001691/>