

CMS Appears to Soften Co-Location Restrictions in Newly-Revised Guidelines

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In a [November 12, 2021 revision](#) of its prior draft guidelines for hospital co-location compliance with Medicare conditions of participation (COP) for hospitals (QSO-19-13), CMS has apparently softened its approach to co-location. The modified guidance is less prescriptive and appears more practical and supportive of co-location where appropriate. In July 2019, CMS issued [draft QSO-19-13](#) that purported to ease its earlier flat prohibition on co-location that it had adopted through sub-regulatory guidance. Although the 2019 version of QSO-19-13 allowed the sharing of non-clinical spaces, CMS noted that “due to infection control, patient management, confidentiality, and other quality and safety concerns, the use of shared clinical space would be limited.” In the recent revision, CMS no longer includes the admonition against sharing clinical space and merely states, “when hospitals choose to co-locate, they should consider the risk of compliance through any shared space or shared services arrangements.” Further, the prior requirement that hospitals have “distinct” clinical space is replaced with an admonition that “hospitals have spaces of operation that meet the [COP],” considering, among others, the conditions regarding patient rights, infection prevention and control, governing body and the physical environment. The modified guidance seems to support co-location where each provider can separately establish that it meets the COP applicable to it, and as such is an important liberalization at a time when hospitals are desperate for operational efficiencies.

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- **Edward S. Kornreich**