



AMERICA'S ESSENTIAL HOSPITALS

Feb. 17, 2026

Mehmet Oz, MD
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Ave. SW
Washington, DC 20201

Ref: CMS-3481-1: Medicare and Medicaid Programs; Hospital Condition of Participation: Prohibiting Sex-Rejecting Procedures for Children

Dear Administrator Oz:

Thank you for the opportunity to comment on the proposed rule. We write to share our longstanding concerns with the use of Medicare and Medicaid conditions of participation (CoP) that could interfere with hospitals' and clinicians' ability to provide safe and needed health care to their patients. **In our view, CoP should remain focused on core standards of care and patient safety and should not target individual services or patients. Decisions about needed medical care should remain in the hands of licensed clinicians in consultation with their patients.**

America's Essential Hospitals is the leading association and champion for hospitals and health systems dedicated to keeping all Americans healthy, including people who cannot afford other options for care. Since 1981, America's Essential Hospitals has advanced policies and programs that ensure access to critical services that meet the needs of the patients our members serve. We support our nearly 400 members with advocacy, policy development, research, education, and leadership development.

Essential hospitals are committed to serving people in all communities that need access to quality care. Although essential hospitals account for only 6% of acute-care hospitals nationwide, in 2023 they provided 29% of the nation's charity care. Additionally, nearly three-quarters of essential hospital patients are uninsured or enrolled in Medicaid or Medicare.¹ To meet the needs of all patients, essential hospitals constantly engage in initiatives to improve quality, increase care access, and combat chronic health conditions, all while lowering health care costs.

¹ Miu R, Kelly K, Nelb R. *Essential Data 2025: Our Hospitals, Our Patients—Results of America's Essential Hospitals 2023 Annual Member Characteristics Survey*. America's Essential Hospitals. November 2025. essentialdata.info. Accessed Dec. 19, 2025.

As major providers of care to Medicaid and Medicare patients, essential hospitals adhere to all regulatory requirements and CoP they must meet. We recognize CMS' role in establishing CoP to protect patients' health and safety, but **we are concerned by CMS' recent attempts to use CoP to regulate the practice of medicine for particular services or patients.** For example, in 2024 we submitted comments opposing CMS' efforts to establish CoP related to obstetric care.²

Section 1801 of the Social Security Act expressly prohibits CMS from exercising any supervision or control over the practice of medicine or the manner in which medical services are provided. Although this proposed rule argues that the services in question are not classified as medicine, **we believe that licensed clinicians are best equipped to make decisions about the care their patients need.**

America's Essential Hospitals appreciates the opportunity to submit these comments. If you have questions, please contact Director of Policy Robert Nelb, MPH, at 202-585-0127 or rnelb@essentialhospitals.org.

Sincerely,

Jennifer DeCubellis
President and CEO

² America's Essential Hospitals. Letter to Chiquita Brooks-LaSure on Sept. 9, 2024. <https://essentialhospitals.org/wp-content/uploads/2024/09/AEH-FY2025-OPPS-Comments-20240906.pdf> Accessed Feb. 9, 2026.