

Mitigating Risks in Hospice Care

Hospice care involves providing palliative measures to terminally ill patients to enhance their comfort and relieve their pain. This care is provided in patients' homes as well as in acute care hospitals, nursing facilities, assisted living facilities, and freestanding hospice facilities. The organizations that provide hospice care must adhere to various federal and state regulations as well as manage any risks that may be incurred in providing care to hospice patients.

Hospice became a Medicare benefit in 1983.¹ Congress directed federal regulatory agencies to implement strategies for hospice oversight,

quality improvement, and payment reform under the authority of various statutes.² Even with this oversight, reports from the Office of Inspector General of the Department of Health and Human Services, research studies, investigative journalism reports, and federal enforcement actions, indicate that some hospices are failing their patients.³

To optimize the care for patients and avoid potential liability exposure, organizations that provide hospice care may use these strategies on contracts, communication, staffing, risk assessment, and opioid policies.

1

Be aware of, and ensure compliance with, federal and state laws and regulations related to hospice care.

2

Involve the organization's board of directors in compliance risk mitigation efforts.

3

Ensure that the organization's policies, procedures, and training materials reflect current requirements of the Centers for Medicare & Medicaid Services' (CMS') Conditions of Participation (CoPs).

4

Perform risk assessments informed and guided by CMS' most frequently cited deficiencies and quality-measure reports.

5

Develop and implement a quality improvement program, and report results to the organization's board of directors.

6

Use CMS guidance for surveyors to prepare the staff in healthcare organizations for survey inspections.

7

Anticipate the necessity of devising a plan of correction for alleged deficiencies cited for the organization.

8

Confirm that written contracts are in place between Medicare-certified hospice providers and long-term care facilities that contract with them.

9

Ensure that contracts for hospice services include all CMS requirements.

10

Identify and implement applicable best practices to enhance hospice nurse-patient-caregiver communication.

11

Provide training and resources to help hospice nurses improve communication with grieving caregivers.

12

Secure adequate staffing to ensure that patients receive skilled visits during the last week of life and on the day of death.

13

Stay up-to-date on the applicable federal and state laws and regulations regarding opioid disposal. Create a written policy for the safe administration, management, and disposal of pain medications, including opioids.

14

Implement an opioid medication safety program to prevent drug diversion. Educate and train hospice staff on the program's requirements.

15

Establish a policy for conducting criminal background checks that aligns with Medicare CoPs and federal and state laws. Confirm that a process is in place to ensure compliance with the most stringent requirements.

Endnotes

¹ ECRI. (2018, August 12). Hospice care. *Health Systems Risk Management*.

² Ibid.

³ ECRI. (2018, August 12). Ready, set, go: Know your risks. Hospice care. *Health Systems Risk Management*.

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