



NHPCO REGULATORY ALERT

To: NHPCO Provider Members in CMS Region V (Chicago)
NHPCO State Members in CMS Region V (Chicago)
From: NHPCO Health Policy Team
Re: Roles and Responsibilities of the Medical Director and Other Hospice Physicians
Date: March 27, 2018

Summary at a Glance

CMS Region V (Chicago) has clarified the roles and responsibilities of the hospice medical director and other hospice physicians. After months of NHPCO advocacy, CMS has agreed that:

1. There can be only one hospice medical director per hospice provider number.
2. Either the medical director **or** a physician member of the IDT may certify or recertify patients for terminal illness and eligibility for the Medicare Hospice Benefit.

Read more about what your hospice should do to ensure compliance.

Since early fall 2017, NHPCO has received numerous calls and emails from hospices in CMS Region V (Chicago) who have been cited for various conditional level survey deficiencies related to the role and responsibilities of the medical director. The citations were largely focused on surveyors' claims that the medical director must certify and recertify all patients as well as confusion regarding the role of other hospice physicians within the organization. In response to these citations and CMS's recommendation to terminate the Medicare certification of some hospices, many providers made significant changes to their certification and recertification processes to ensure the direct involvement of the hospice's medical director. These survey issues were focused on hospices in CMS Region V (Chicago), covering the states of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin.

NHPCO Advocacy

Since fall 2017, NHPCO has been in ongoing dialogue with CMS Region V and with CMS Baltimore Center for Clinical Standards and Quality (CCSQ), Hospice Survey and Certification. NHPCO's President and CEO, Edo Banach, was actively involved in the discussions with CMS, as were other NHPCO staff. In addition, NHPCO convened a meeting of healthcare lawyers working with hospice providers on this issue to discuss details and options for resolution. As a result of these efforts, NHPCO is pleased to share the following clarification from CMS about this issue.

CMS Confirmation of Hospice Medical Director Issues

On January 12, 2018, the CMS Region V Office (Chicago) sent out clarification to their State Agencies. This clarification directs that:

- 1) There is only one designated Medical Director for the Hospice Agency (provider number). This is no change from the Medicare Hospice Conditions of Participation at §418.102, as finalized in 2008.

- 2) Either the Medical Director or a physician from the interdisciplinary team (IDT) can certify and recertify patients for terminal illness and eligibility for the Medicare hospice benefit.

NHPCO has awaited written confirmation of this clarification and was notified by CMS on Friday, March 23, 2018 of the resolution. CMS agreed that NHPCO can share this clarification with members in the region.

What Should Your Hospice Do?

The CMS instruction brings needed clarification and relief to hospices that adapted their processes to require their medical director to directly perform all patient certifications and recertifications. It also provides an opportunity for all hospices to more closely evaluate, distinguish and document the roles of their hospice physicians. To maintain survey readiness, below are key considerations.

- (1) **Job title for hospice medical director:** Check the job titles for physicians in your hospice. There can be only one hospice medical director for a hospice provider number, which includes all of the hospice's multiple locations. Use the "Hospice Medical Director" job title only for the ONE medical director. If another job title is used, such as Chief Medical Officer, ensure that this individual's duties include the medical director responsibilities, as outlined in §418.102.
- (2) **Job duties and descriptions for all hospice physicians:** Review the written job duties of your hospice medical director, whether it be documented in a job description, written agreement or elsewhere. If there are additional physicians employed by, or under contract with the hospice, review these descriptions as well to ensure the duties are properly distinct from the medical director. For example, it will be important to make clear that the medical director is responsible for the overall medical component of the hospice's patient care program and supervising all hospice physicians. Similarly, hospice physicians should be designated to act under the supervision of the medical director.
- (3) **Job titles for other hospice physicians:** While the law does not generally prescribe job titles for other hospice physicians, evaluate your job titles to confirm it is clear that other physician(s) are not the medical director.
- (4) **Reporting relationship:** Verify that the reporting relationship between your medical director and all other hospice physicians is clearly depicted and consistently documented throughout the organization (e.g. organizational charts, relevant policies and procedures).
- (5) **Physician designee:** It is important to verify that the hospice has designated a "physician designee" to serve as the hospice's medical director in that person's absence
- (6) **Staff understanding of hospice physicians' roles and responsibilities:** During the survey process, hospice staff may be interviewed to assess their understanding of the medical director's role and how this relates to other physicians within the organization. Therefore, it is not enough to just address these issues "on paper" but confirm proper operation and understanding with staff. If asked, would staff be able to report that the hospice has a single medical director, identify that person by name and accurately communicate their role within the organization? Likewise, could staff distinguish this role from other hospice physicians? Where would they say these responsibilities are documented?

Resources for your reference

[§ 418.102 Condition of participation: Medical director.](#)

The hospice must designate a physician to serve as medical director. The medical director must be a doctor of medicine or osteopathy who is an employee, or is under contract with the hospice. When the medical director is not available, a physician designated by the hospice assumes the same responsibilities and obligations as the medical director.

(a) **Standard: Medical director contract.**

(1) A hospice may contract with either of the following—

- (1) A self-employed physician; or
- (2) A physician employed by a professional entity or physicians group. When contracting for medical director services, the contract must specify the physician who assumes the medical director responsibilities and obligations.

(b) **Standard: Initial certification of terminal illness.** The medical director or physician designee reviews the clinical information for each hospice patient and provides written certification that it is anticipated that the patient's life expectancy is 6 months or less if the illness runs its normal course. The physician must consider the following when making this determination:

- (1) The primary terminal condition;
- (2) Related diagnosis(es), if any;
- (3) Current subjective and objective medical findings;
- (4) Current medication and treatment orders; and
- (5) Information about the medical management of any of the patient's conditions unrelated to the terminal illness.

(c) **Standard: Recertification of the terminal illness.** Before the recertification period for each patient, as described in §418.21(a), the medical director or physician designee must review the patient's clinical information.

(d) **Standard: Medical director responsibility.** The medical director or physician designee has responsibility for the medical component of the hospice's patient care program.

Medicare Hospice Interpretive Guidelines

[State Operations Manual – Appendix M](#)

L664

(Rev. 69, Issued: 12-15-10, Effective: 10-01-10, Implementation: 10-01-10)

§418.102 Condition of Participation: Medical director.

L665

(Rev. 69, Issued: 12-15-10, Effective: 10-01-10, Implementation: 10-01-10)

§418.102 - The hospice must designate a physician to serve as medical director. The medical director must be a doctor of medicine or osteopathy who is an employee, or is under contract with, the hospice. When the medical director is not available, a physician designated by the hospice assumes the same responsibilities and obligations as the medical director.

Interpretive Guidelines §418.102

There is only one medical director for the hospice, including all multiple locations, if it has them. That individual may work full time or part time. If the medical director is not a paid employee or a contracted medical director, he/she is considered a volunteer under the control of the hospice. All other hospice physicians function under the supervision of the medical director.

Procedures and Probes §418.102

Identify through interview and documentation who the medical director is and who is designated to serve in this capacity in his/her absence.

L666

(Rev. 69, Issued: 12-15-10, Effective: 10-01-10, Implementation: 10-01-10)

§418.102(a) Standard: Medical director contract.

- (1) A hospice may contract with either of the following—
 - (i) A self-employed physician; or
 - (ii) A physician employed by a professional entity or physicians group. When contracting for medical director services, the contract must specify the physician who assumes the medical director responsibilities and obligations.

Interpretive Guidelines §418.102(a)

The medical director may also be a volunteer physician under the control of the hospice, as long as this person meets all Federal and State requirements for a hospice physician.

L667

(Rev. 69, Issued: 12-15-10, Effective: 10-01-10, Implementation: 10-01-10)

§418.102(b) Standard: Initial certification of terminal illness. The medical director or physician designee reviews the clinical information for each hospice patient and provides written certification that it is anticipated that the patient's life expectancy is 6 months or less if the illness runs its normal course. The physician must consider the following when making this determination:

- (1) The primary terminal condition;
- (2) Related diagnosis(es), if any;
- (3) Current subjective and objective medical findings;
- (4) Current medication and treatment orders; and
- (5) Information about the medical management of any of the patient's conditions unrelated to the terminal illness.

Interpretive Guidelines §418.102(b)

- The medical director or physician designee (who is a hospice employee or under contract with the hospice) has the responsibility for the medical component of the hospice's patient care program, including initial certifications and recertifications of terminal illness.
 - During the clinical record review, verify that the clinical information necessary for certification is present in the record.
-

L668

(Rev. 69, Issued: 12-15-10, Effective: 10-01-10, Implementation: 10-01-10)

§418.102(c) Standard: Recertification of the terminal illness. Before the recertification period for each patient, as described in §418.21(a), the medical director or physician designee must review the patient's clinical information.

L669

(Rev. 69, Issued: 12-15-10, Effective: 10-01-10, Implementation: 10-01-10)

§418.102(d) Standard: Medical director responsibility. The medical director or physician designee has responsibility for the medical component of the hospice's patient care program.

Interpretive Guidelines §418.102(d) The single individual who fills the role of the medical director assumes overall responsibility for the medical component of the hospice's patient care program. This responsibility, which extends to all hospice multiple locations, includes overseeing the implementation of the entire physician, nursing, social work, therapy, and counseling areas within the hospice to ensure that these areas consistently meet patient and family needs.

-###-

NHPCO members with questions should email regulatory@nhpco.org.

NHPCO • 1731 King Street • Alexandria, VA 22314
703/837-1500 • 703/837-1233 (fax) • www.nhpco.org