Hospice Physicians Compliance Guide

November 2021

Key CoPs related to role of the hospice physician

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Background

The role of the hospice physician is a focus in the Medicare Hospice Conditions of Participation. The hospice must designate one physician to be the medical director and oversee the medical component of the hospice plan of care for each patient. The hospice medical director, and other members of the interdisciplinary team, must collaborate with the patient's attending physician to coordinate end of life care for the patient.

§ 418.52 Condition of participation: Patient rights

Every member on the Interdisciplinary team (IDT) has a responsibility to ensure that the patient rights outlined in this regulation are applied to every patient the same. Coordination of translation services and documentation that the patient/representative received notification of the rights is the responsibility of the IDT.

§ 418.54 Condition of participation: Initial and comprehensive assessment of the patient

- As a member of the IDT, the hospice physician should participate in the development of a comprehensive assessment tool that focuses on clinically meaningful information.
- This could include the selection of symptom assessment scales (and training staff to use them); development of processes for reviewing patient medication profiles (including determination of effectiveness, recognition of side effects, and anticipation of drug interactions); and consistent identification of patients in need of referral for evaluation by other health professionals.
  - The hospice physician reviews the medication profile at admission and determines which medications (if any) are not related to the patient's terminal prognosis.
- The hospice physician should also participate in the IDT task of assessing the patient's progress towards goals at least every 15 days.
- This CoP requires measurement of outcomes. The hospice physician should offer expertise in the selection of data elements that are clinically relevant for the patient and recognized as valid for the hospice quality assessment and performance improvement program.

§ 418.56 Condition of participation: Interdisciplinary Team, care planning, and coordination of services

This CoP affirms that the hospice physician is a member of the IDT. Although there are many important elements in this CoP, the hospice physician should be attuned to the requirement that the plan of care "include all services necessary for the palliation and management of the terminal illness and related conditions."[1] This contains:

- Interventions to manage pain and symptoms;
- Measurable outcomes anticipated from implementing and coordinating the plan of care.
- Determination of related diagnoses and conditions.
- Determination of drugs and treatment necessary to meet the needs of the patient and related to the terminal prognosis.
- The hospice physician should be knowledgeable about available interventions and medications, the expected palliative benefits in the hospice population, and the likely ability to meet the needs of an individual patient.
- The physician should also help the team define and measure meaningful outcomes to assess effectiveness of these interventions and medications. In this way the hospice physician serves as a resource to the IDT and an advocate for the patient.

§ 418.58 Condition of participation: Quality assessment and performance improvement

- This CoP requires hospices to "develop, implement, and maintain an effective, ongoing, hospice-wide data-driven quality assessment and performance improvement program."[2]
- The hospice physician should participate in the selection of indicators related to improved palliative outcomes and the effectiveness and safety of service. Again, indicators should be valid and meaningful.

§ 418.60 Condition of participation: Infection control

- Per this regulation, education to patient/family and other members of the hospice team is a one of the three required components of the standard and nurses should be actively involved in any infection control program in the organization.
- Hospice physicians may also participate in the organization's infection control program and quality assessment/performance improvement activities related to infections control.
- All hospice staff should have ongoing education in a clear, concise format regarding the infection control program and impact on all staff and caregivers.
- All hospices should have a process and contingency plan for 100% vaccination for COVID-19 for all staff, a process for medical and religious exemptions, and a contingency plan for unvaccinated workers.

§ 418.64 Condition of participation: Core services

- This CoP reaffirms that the hospice physician is "responsible for the palliation and management of the terminal illness and conditions related to the terminal illness."[3]
- Thus, the hospice physician has a responsibility for the plan of care beyond providing medical advice to hospice staff during IDT meetings.
- The hospice physician also has a responsibility to collaborate with the patient's attending physician as needed to maintain an effective plan of care.
- Medical social services must be provided by a qualified social worker, under the direction of a physician.

§ 418.100 Condition of Participation: Organization and administration of services

- As a part of the organization, designated hospice services, and the IDT, physicians have the responsibility to optimize the comfort and dignity for a patient and provide care that is consistent with patient and family needs and goals, with patient needs and goals as priority.
- Physician services must be available all day, every day. (24/7)
- The hospice physician must be available to participate in such orientation, and the hospice must orient physicians to the hospice philosophy and "hospice-specific" elements of their position.

§ 418.102 Condition of participation: Medical director

- This CoP, focuses on medical directors and hospice physicians, and requires a hospice to **designate one physician as medical director**.
- All physician employees and those under contract, must function under the supervision of the hospice medical director.
- Physician designee.

  - Another hospice physician may be pre-selected as the "physician designee" to fulfill the duties of the medical director as needed.
- The hospice physician must:
  - Have a formal relationship with the hospice (employment or contract).
  - Certify and recertify the patient's prognosis taking into account a variety of clinical information.
  - The Medical Director must be responsible for the medical component of the hospice plan of care.

§ 418.104 Condition of participation: Clinical records

- The clinical record must contain accurate clinical information about the patient as recorded by hospice staff, the attending physician, the medical director, and any other entities involved with the patient's care.
- A physician is one of the key documenters in the clinical record and needs to be aware of the requirements in the regulation.
- Physician documentation should include but is not limited to:
  - All certification of terminal illness requirements.
  - Clinical notes including documentation of medical judgment regarding why a diagnosis/condition, drug, treatment, etc. is not related to the terminal prognosis.
  - Clinical notes describing medical judgment related to a changed terminal diagnosis(s).
  - Clinical notes describing medical judgment related to patient discharge for no longer being terminally ill.

§ 418.106 Condition of participation: Drugs and biologicals, medical supplies, and durable medical equipment

- To comply with this CoP, hospice physicians can help "ensure that the IDT confers with an individual with education and training in drug management."[4]
  - The hospice physician may be that designated individual and/or may collaborate with the pharmacist member of the IDT. Further information on the qualifications of this individual will be available in the Interpretive Guidelines.
- The IDT, as part of the review of the plan of care, must determine the ability of the patient and/or family to safely self-administer drugs and biologicals to the patient in his or her home.
- The physician must ensure that verbal drug orders or electronic transmission are only given to a licensed nurse, nurse practitioner (where appropriate), or pharmacist.
- Patients receiving care in a hospice that provides inpatient care directly in its own facility may only be administered medications by the following individuals:
  - Licensed nurse,
  - Physician, or
  - Other health care professional in accordance with their scope of practice and State law.

§ 418.110 Condition of participation: Hospices that provide inpatient care directly

Key points of this condition directly related to patient care are the detailed focus on restraint and seclusion.

- The hospice physician working in a hospice that utilizes restraints and/or seclusion must complete a training program on the use of restraints and consult with hospice staff whenever the use of restraints becomes necessary.
- Hospice physicians must evaluate patients with restraint and/or seclusion orders at least every 24 hours and should be prepared to evaluate violent or self-destructive patients within 1 hour of ordering restraints or seclusion if other staff is not trained to do so.
- Hospice physicians should also be prepared to help the hospice determine if restraint and/or seclusion contributed directly or indirectly to a patient's death, thereby making the death an event reportable to CMS.

§ 418.112 Condition of participation: Hospices that provide hospice care to residents of a SNF/NF or ICF/IID

- A key point in this condition is the importance of the development of the patient plan of care and coordination of care between the hospice, the patient/family and the facility.
- When a hospice patient resides in a facility, hospice remains responsible for medical direction and management of the patient.
- The hospice physician should maintain collegial relationships with the medical staff of these facilities in order to help the hospice staff collaboration with these physicians.

§ 418.114 Condition of participation: Personnel qualifications

- *Licensure*
  - All professionals who furnish services directly, under an individual contract, or under arrangements with a hospice, must be legally authorized (licensed, certified or registered) in accordance with applicable Federal, State and local laws, and must act only within the scope of his or her State license, or State certification, or registration. All personnel qualifications must be kept current at all times.
  - Physicians must meet the qualifications and conditions as defined in section 1861(r) of the Act and implemented at 42 CFR 410.20 - Physicians' services. (govregs.com) of this chapter.
- *Criminal Background Checks*
  - All hospice employees (both paid and volunteer staff) who have direct patient contact or access to patient records must have a criminal background check.

Resources

- Physician section of MyNHPCO: MyNHPCO | NHPCO Professional networking community for members
- Medicare Benefit Policy Manual, Chapter 9 - Coverage of Hospice Services Under Hospital Insurance

References

- Part II - Department of Health and Human Services, Centers for Medicare & Medicaid Services 42 CFR Part 418 Medicare Hospice Care Regulations Code of Federal Regulations (eCFR).
- [1]Electronic Code of Federal Regulations (eCFR) 42 CFR 418 Hospice Services
- [2]Electronic Code of Federal Regulations (eCFR) 42 CFR 418 Hospice Services
- [3]Electronic Code of Federal Regulations (eCFR) 42 CFR 418 Hospice Services
- [4]Electronic Code of Federal Regulations (eCFR) 42 CFR 418 Hospice Services