

QUESTION: How does a Long-Term Care Ombudsman advocate for a resident who is on hospice?

Occasionally there will be a miscommunication or misunderstanding between nursing home staff and a hospice provider that negatively impacts a resident's care. Understanding the federal requirements nursing homes and hospice providers must follow is vital in successfully advocating for residents. Questions to consider asking when investigating a case involving a hospice providing services to a resident in a facility, applicable federal regulations and surveyor guidance, and successful practices are below.

Questions to Ask

- Is the resident able to make care decisions? If not, who is the resident representative that can assist with medical decisions and are they using the resident's history to guide decisions? If so, what are the resident's wishes?
- Is there an advance directive or other paperwork regarding end-of-life care?
- What is in the care plan and how are the resident's needs met by both the nursing home and hospice provider? What are the care responsibilities of the hospice provider compared to the nursing facility? NOTE: Per federal requirements, the nursing home retains primary responsibility for providing care not related to the duties of hospice (e.g., 24-hour room and board, personal care, and nursing needs).

Important Information to Know

If a resident wants to have hospice services, the nursing home must have a written agreement with a Medicare-certified hospice. Federal regulations say that nursing homes do not have to work with one or more hospices. It is up to each nursing home to decide if they want to have an agreement with one or more hospice providers (see below).

F684 Quality of Care (CMS State Operations Manual, Appendix PP, Guidance for Surveyors)

Resident Care Policies

The facility, in collaboration with the medical director, must develop and implement resident care policies that are consistent with current professional standards of practice for not only pain management and symptom control, but for assessing residents' physical, intellectual, emotional, social, and spiritual needs as appropriate. **In addition, if the facility has a written agreement with a Medicare-certified hospice, the policies must identify the ongoing collaboration and communication processes established by the nursing home and the hospice.** (Refer to F841 - §483.70(h) Medical Director, or for the written agreement, to F849, §483.70(o) Hospice Services) Page 267 of Appendix PP

§483.70(o) Hospice services.

§483.70(o)(1) A long-term care (LTC) facility may do either of the following:

(i) Arrange for the provision of hospice services through an agreement with one or more Medicare-certified hospices.

(ii) Not arrange for the provision of hospice services at the facility through an agreement with a Medicare-certified hospice and assist the resident in transferring to a facility that will arrange for the provision of hospice services when a resident requests a transfer.

§483.70(o)(2) If hospice care is furnished in an LTC facility through an agreement as specified in paragraph (o)(1)(i) of this section with a hospice, the LTC facility must meet the following requirements:

(i) Ensure that the hospice services meet professional standards and principles that apply to individuals providing services in the facility, and to the timeliness of the services.

(ii) Have a written agreement with the hospice that is signed by an authorized representative of the hospice and an authorized representative of the LTC facility before hospice care is furnished to any resident. The written agreement must set out at least the following:

(A) The services the hospice will provide.

(B) The hospice's responsibilities for determining the appropriate hospice plan of care as specified in §418.112 (d) of this chapter.

(C) The services the LTC facility will continue to provide based on each resident's plan of care.

(D) A communication process, including how the communication will be documented between the LTC facility and the hospice provider, to ensure that the needs of the resident are addressed and met 24 hours per day.

(E) A provision that the LTC facility immediately notifies the hospice about the following:

(1) A significant change in the resident's physical, mental, social, or emotional status.

(2) Clinical complications that suggest a need to alter the plan of care.

(3) A need to transfer the resident from the facility for any condition.

(4) The resident's death.

(F) A provision stating that the hospice assumes responsibility for determining the appropriate course of hospice care, including the determination to change the level of services provided.

(G) An agreement that it is the LTC facility's responsibility to furnish 24-hour room and board care, meet the resident's personal care and nursing needs in coordination with the hospice representative, and ensure that the level of care provided is appropriately based on the individual resident's needs.

(H) A delineation of the hospice's responsibilities, including but not limited to, providing medical direction and management of the patient; nursing; counseling (including spiritual, dietary, and bereavement); social work; providing medical supplies, durable medical equipment, and drugs necessary for the palliation of pain and symptoms associated with the terminal illness and related conditions;