


THE CORRIDOR GROUP
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Patient Rights, Complaint Investigations and Response


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Hospice Patient Rights
42 CFR 418.52

- Standard A, Notice of Rights, Hospice Patients Have the Right to:
 - Receive effective pain management related to terminal illness.
 - At initial assessment in advance of care.
 - Verbal and written notice of patient rights.
 - Language and manner that patient understands.
 - Advance directives.
 - Patient or representative’s signature.
 - Patient representative, verify legal authority to make health care decisions.


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Hospice Patient Rights
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- Standard A, Notice of Rights, cont’d.
 - Use of translators for non-English speaking patients. Limitations on using family and friends.
- Standard B, Exercise of Rights.
 - Patient may exercise rights as hospice patient.
 - Properly treated with respect.
 - Voice grievances.
 - Not subject to discrimination or reprisal for exercising rights.
 - Competent patients may still appoint a legal representative.


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**Hospice Patient Rights
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- Standard B, Exercise of Rights, cont'd.
 - Immediately report to hospice administrator neglect, abuse, mistreatment, misappropriation of patient property by anyone furnishing services for the hospice.
 - Hospice is required to investigate alleged patient rights violations.
 - Investigations must be conducted per established hospice procedures.
 - 5 working day requirement unless state requirement is shorter.
 - Take appropriate action and report to state survey agency or law enforcement as necessary.
 - Surveyors look at 12 months of complaint documentation to verify hospice is following complaint investigation procedure.

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**Hospice Patient Rights
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- Standard B, Exercise of Rights, cont'd.
 - Surveyors will probe patients and family during home visits to verify they know how to file a complaint and if complaints have been addressed.

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**Hospice Patient Rights
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- Standard C, Rights of the Patient.
 - Receive effective pain management.
 - Participate in plan of care.
 - Refuse care/treatment.
 - Choose attending physician.
 - Confidential treatment of clinical record.
 - Free from mistreatment, neglect, abuse, and misappropriation of property.
 - Notified of services provided under the hospice benefit and scope of services provided.

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Hospice Patient Rights
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- Standard C, Rights of the Patient, cont'd.
 - Surveyors are instructed to probe families and patients on how quickly the hospice responds to questions about pain management and symptom control.
 - Surveyors are probed to see if there are trends of hospice patients refusing service (social, spiritual services) to make sure patients are not being instructed to refuse services or are notified of all services available.


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Current HHA CoP
41 CFR 484.10 – Patient Rights

- Six Standards:
 - Standard A, Notice of Rights.
 - Standard B, Exercise of Rights and Respect for Property and Person.
 - Standard C, Right to be Informed and to Participate in Planning Care and Treatment.
 - Standard D, Confidentiality of Medical Records.
 - Standard E, Patient Liability for Payment.
 - Standard F, Home Health Hotline.


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Organization of Proposed CoPs

- Subpart A...
- Subpart B – Patient Care (§ 484.40-.80)
 - 484.40.CoP-Release of patient identifiable outcome and assessment information set (OASIS) information.
 - 484.45.CoP-Reporting Oasis information.
 - 484.50.CoP-Patient rights.**
 - 484.55.CoP-Comprehensive assessment of patients.
 - 484.60.CoP-Care planning, coordination of services, and quality of care.
 - 484.65.CoP-QAPI.
 - 484.70.CoP-Infection prevention and control.
 - 484.75.CoP-Skilled professional services.
 - 484.80.CoP-Home health aid services.
- Subpart C...


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42 CFR 484.50 – Patient Rights

- Revised and expanded into six standards:
 - Standard A, Notice of Rights.
 - Standard B, Exercise of Rights.
 - Standard C, Rights of the Patient.
 - Standard D, Transfer and Discharge.
 - Standard E, Investigation of Complaints.**
 - Standard F, Accessibility.


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42 CFR 484.50 – Patient Rights


- CMS Comments:
 - Patient rights retain “much of basic focus,” but new provisions “clearer and more organized view of our expectation of how HHAs should promote patient rights by focusing on ensuring patient safety and improving patient outcomes.”


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42 CFR 484.50 – Patient Rights


- Written and verbal patient rights.
- Contact information for administrator.
- OASIS privacy notice to all patients.
- Obtain signature confirming receipt of patient rights and responsibilities.

CMS Comment: “Seeking public comment on ways to assure that patient choice is respected and upheld, while also balancing the need to assure patient safety.”


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42 CFR 484.50(b) – Patient Rights: Exercise of Rights

- Court appointed.
- Patient representative.
- Court order.


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42 CFR 484.50(c) – Patient Rights: Rights of Patient

- Property and person.
- Free from abuse.
- Make complaints to HHA.
- Consent in advance of treatment.
- Written notice when it will be non-covered care.
- State toll free home health telephone hotline.
- Names, address, and telephone numbers of consumer protection and advocacy agencies.
- Free from discrimination.
- Right to access auxiliary aids and language services.


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42 CFR 484.50(e) – Patient Rights: Investigation of Complaints

- Key: Expand investigation and complaint processes.
 - Document complaint and resolution.
 - Take action.
 - Document again.


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Joint Commission Standard

- HHA assesses the patient who may be a victim of possible abuse and neglect or exploitation (PC.01.02.09).
 - HHA has written criteria to identify those patients who may be victims of physical assault, sexual assault, sexual molestation, domestic abuse or elder or child abuse, neglect or exploitation.
 - HHA assists with referrals of possible victims and maintains list of private and public agencies that provide or arrange assessment and care.
 - HHA educates staff about how to recognize signs of possible abuse, neglect and exploitation and their roles in follow-up.
 - HHA uses criteria to identify possible victims of abuse, neglect and exploitation at time of contact.
 - HHA either assess patients or refer to public or private agency for assessment.
 - HHA internally reports cases of possible abuse, neglect and exploitation.
 - HHA reports cases of possible abuse, neglect and exploitation to external agencies, in accordance with law and regulation.




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Joint Commission Standard

- The patient has the right to be free from neglect; exploitation; and verbal, mental, physical and sexual abuse (RI.01.06.03).
 - HHA determines how it will protect patients from neglect, exploitation and abuse that occur while patient is receiving care from HHA.
 - HHA evaluates all allegations, observations, and suspected cases of neglect, exploitation and abuse that occur during time that patient is receiving care from HHA.
 - HHA reports allegations, observations and suspected cases to appropriate authorities based on its evaluation of the suspected events.


**Whatever HHA can do to make sure patient is safe while under care of HHA.



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Conducting a Patients Rights Investigation

- Have a Game Plan Ready in Advance of the Investigation.
 - Consider addressing via policy and procedures, QA, compliance program.
 - Who will conduct the investigation? Consider a complaint investigation committee.
 - Consider alternatives if the person(s) identified to conduct the investigation are the accused.
 - Have your complaint investigation process documented in advance of conducting an investigation.
 - Remember, complaint investigation is no longer optional and is required by hospice aid home health CoPs.



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■ ■ Conducting a Patients Rights Investigation

- Witness interviews – Advisable to have two people conduct the interview. Helps with accuracy of information.
- When to seek advice of counsel.
- Key questions relative to any investigation.
 - Who is subject to complaint?
 - What are complaint allegations?
 - Where did the allegation take place?
 - When did alleged complaint take place?


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■ ■ Conducting a Patients Rights Investigation

- Determine whether complaint allegations require immediate action.
- Implement a policy on patient complaint investigations.
- Policy Considerations.
 - Response Time: Consider triage based on seriousness of the allegation.
 - Who will lead the investigation? Consider limiting to small group.
 - How will results of investigation be documented?
 - How will it be communicated back to the patient?
 - How will reports to applicable regulatory agencies be handled?
- Does seriousness of complaint warrant immediate discipline of employee?
 - Inform EE he/she will get opportunity to be heard.


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■ ■ Conducting a Patients Rights Investigation

- Policy or complaint process must address non-retaliation or fear of reprisal.
- Have a plan on how witness will be interviewed.
 - Have questions prepared in advance.
 - Conduct interviews in such a way as to prevent witness collaboration.
 - Don't forget to review personnel files of accused and accuser.
- Written report of investigation must be careful on what and how you document as it could likely get submitted to state survey agency.
- If event is reportable, you only have 5 days from the time the HHA becomes aware of the violation.
- Have a separate investigation file. Not everything discovered will go in the personnel file.
- Final resolution of complaint.


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Questions???



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Thank you for attending!

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