HOSPICE

The top 5 survey deficiencies in hospice care.

Explore how hospice oversight, the IMPACT Act, and OIG findings led to actions within the industry to address hospice concerns. Take a deep dive into the top five survey deficiencies in hospice care. And discover expert strategies to help with overcoming these deficiencies moving forward.

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How legislation and studies are increasing hospice quality oversight.

On October 6, 2014, the Improving Medicare Post-Acute Care Transformation Act (IMPACT Act) was signed into law. This legislation primarily focused on the requirements for the reporting of standardized patient assessment data for certain post-acute care providers. However, it also included a provision requiring certified hospice programs to be surveyed by a state or local agency or an approved accreditation agency, no less frequently than once every thirty-six months. (If passed, currently introduced legislation would increase frequency to no less than once every twenty-four months.)

Used to determine federal health and safety compliance, this provision was the first statutory requirement for hospice survey frequency and addressed a longstanding critique that hospice agencies could go several years—some even a decade—without being surveyed.

While the IMPACT Act addressed a shortcoming in hospice oversight, it did not alter hospice *quality* oversight. Since this act passed in 2014, there have been numerous government studies and reports identifying hospice concerns and the need for increased oversight in the industry. These reports came from the Office of Inspector General (OIG) and the Government Accounting Office (GAO).

OIG findings and recommendations

In July 2018, the OIG began releasing various studies and work plans on hospice insight findings and recommendations.

Vulnerabilities in Medicare Hospice Program Affect Quality Care and Program Integrity

This portfolio report identified vulnerabilities in the Medicare hospice program and made sixteen recommendations to CMS to strengthen it. Among several issues, the OIG found that hospices do not always provide needed services to beneficiaries and sometimes provide poor quality care. In some cases, hospices were not able to effectively manage symptoms or medications, leaving beneficiaries in unnecessary pain for many days.

The findings in this report led two OIG work plan items: *protecting Medicare hospice beneficiaries from harm and trends in hospice deficiency and complaints*—both of which conducted the research that produced the following 2019 studies below that have received much industry attention relating to hospice survey deficiencies and complaints.

Read the report

Hospice Deficiencies Pose Risk to Medicare Beneficiaries

Based on an analysis of CMS' deficiency and complaint data from 2012 through 2016, this report provides a first-time look at nationwide hospice deficiencies, including both hospices that were surveyed by state agencies and those surveyed by accrediting organizations. The report also found that, of 4,563 hospices surveyed in the five-year period:

- 87% of hospices had at least one condition-level or standard-level deficiency.
- Each year, 69% to 76% of hospices had at least one deficiency.
- 70% of the hospices that had a deficiency in 2016, also had at least one other deficiency in the five-year period.
- 20% of hospices had at least one serious condition-level deficiency.
- Twenty-eight hospices had at least one immediate jeopardy situation.
- 59% of hospices had deficiencies related to care planning.
- 53% of hospices had deficiencies related to hospice aide and homemaker services.
- 42% of hospices had deficiencies related to patient assessments.

Read the report

OIG recommendations for CMS based on this report:

- Expand the deficiency data that accrediting organizations report to CMS and use the data to strengthen its oversight of hospices.
- Take the steps necessary to seek statutory authority to include information from accrediting organizations on Hospice Compare, CMS' website that contains limited information about individual hospices.
- Include the survey reports from state agencies on Hospice Compare.
- Include on Hospice Compare the survey reports from accrediting organizations, once authority is obtained.
- Educate hospices about common deficiencies and those that pose particular risks to beneficiaries.
- Increase oversight of hospices with a history of serious deficiencies.

CMS either concurred or partially concurred with all the recommendations except the third, since publicizing surveys from state agencies may be misleading. They are also statutorily prohibited from releasing survey data from accrediting organizations (except for home health).

Safeguards Must Be Strengthened to Protect Medicare Hospice Beneficiaries from Harm

This report describes specific instances of harm to hospice beneficiaries and identifies vulnerabilities in CMS' efforts to prevent and address such harm. Primarily based on twelve purposefully selected cases of beneficiary harm, the OIG found some instances of hospice providing poor care to beneficiaries and abuse by caregivers or others—but there was failure to report such abuse. These cases do not represent the majority of hospice beneficiaries or hospice providers. They also do not reflect the prevalence of harm to hospice beneficiaries.

OIG recommendations for CMS based on this report:

- Strengthen requirements for hospices to report abuse, neglect, and other harm.
- Ensure that hospices are educating their staff to recognize signs of abuse, neglect, and other harm.
- Enhance guidance for surveyors to report crimes to local law enforcement.
- Monitor surveyors' use of immediate jeopardy.
- Improve and make user-friendly the process for beneficiaries and caregivers to make complaints.

Read the report

CMS concurred with the first four of these recommendations and partially concurred with the fifth.

GAO findings and recommendations

Asked to review aspects of Medicare's hospice program, the GAO analyzed CMS data on hospice care from 2014 through 2017—the latest years for which full-year data were available at the time of the analysis.

Medicare Hospice Care: Opportunities Exist to Strengthen CMS Oversight of Hospice Providers

This 2019 report found that, while CMS instructs surveyors to review previous survey findings and complaints, CMS does not instruct surveyors to use information on providers' performance on quality measures or other potential indicators of quality as part of the survey process. It compares quality scores and other potential indicators of quality for both for-profit and non-profit hospices as well as examines opportunities for strengthening CMS' oversight of hospice providers.

Read the report

GAO recommendations:

- CMS should incorporate the use of additional information that could be used to identify quality of care issues into its survey process for hospice oversight.
- Congress should consider giving CMS authority to establish additional enforcement remedies for hospices that do not meet federal health and safety requirements.

The Department of Health and Human Services concurred with these recommendations.

Examples of industry actions based on these reports

With the publication of the OIG and GAO reports, the industry has taken various actions, which include:

CMS fact sheet: Safeguards for Medicare Patients in Hospice Care

In response to the two OIG reports released in 2019, this fact sheet emphasizes the hospice responsibilities relating to patient rights and includes a list of examples that may constitute patient abuse and/or neglect. It also reviews hospice requirements for CoP compliance relating to the reporting of abuse or neglect and provides reporting guidance with contact information. Hospices are encouraged to review this fact sheet with staff members.scale data dumps to other corporate databases. Nor does it replace operational reports from the source system.

Read the fact sheet.

H.R. 5821 Hospice Act

This bill was introduced to the house on February 12, 2020. If signed into law, this legislation will amend the Social Security Act to establish hospice program survey and enforcement procedures under the Medicare Program. A similar bill, S. 2807, the Hospice Care Improvement Act of 2019, was introduced in 2019.

Read the bill.

The top 5 hospice deficiencies

Looking at the top five citations over the last three years—2017 through 2019*—four have remained consistently in these top spots: plan of care, content of the plan of care, content of the comprehensive assessment, and supervision of hospice aides. These four citations are the same that raised concerns in the OIG study based on surveys between 2012 and 2016. Here we take a deeper dive into the top five hospice deficiencies.

*Please note that this data is for CY 2019, and was sourced in March 2020, from the CMS S&C QCOR website (https://qcor.cms.gov). Since it updates continuously as survey reports and other data are loaded, it is subject to change.

Plan of care

The number-one citation from 2017 to 2019, L543, plan of care correlates to the CoP §418.56(b) Standard requiring hospice care and services provided to patients follow the individualized plan of care established by the hospice IDG in collaboration with the attending physician (if any), the patient or patient representative, and the primary caregiver in accordance with the patient's needs (if desired).

Evidence surveyors look for in the medical record and/or staff interviews:

- The plan of care is individualized (not cookie-cutter) and developed within guidelines.
- The medical record shows the plan of care was established with the patient, their representative, and the primary caregiver.
- Proof that IDG members are kept informed of the patient/family status and the need for further assessment.

"Our plan of care is a living document, so it really has to reflect the patient and the family at every visit. And our care plan is actually the first item in our EHR that our staff see when they go into their visits and that they document against. They do that in real-time documentation inside the home. Every visit, as the patient changes, the care plan is documented against with the family, and it is changed to really address the needs and address the status of the patient. Every patient is unique and we're truly able to make all of our care plans unique and address their specific needs."

–Deborah Wesley, VP and CEO, Addison County Home Health and Hospice

Content of the plan of care

Often cited along with the plan of care citation (L543) is content of the L545, plan of care. This was the second-highest deficiency in 2019, and correlates with the CoP §418.56 (c) Standard requiring that the individualized written plan of care must reflect patient and family goals, identify planned interventions based on the comprehensive assessments, and include all services necessary for the palliation and management of the terminal illness.

Evidence surveyors look for in the medical record and/or staff interviews:

- The hospice agency should be able to show through interviews and observation that plans of care are individualized and patient-specific.
- There should be evidence of patients receiving medications and treatments as ordered.
- The plan of care should identify all services needed to address problems identified in the initial, comprehensive, and updates assessments and integrate changes based on assessment findings.
- There must be documentation that the development of the plan of care was a collaborative effort involving all members of the IDG and the attending physician.

"We encourage our staff to include patients' names in the individualization of their care plan so that's really putting it into the perspective of the clinician, that they're talking about a human. Adding an item to the care plan or the plan of care isn't just another task. It's really capturing what that patient and that family really wants in the care and by using names in care plan interventions, it really helps to make sure that is individualized specific for that person and/or family."

–Amy Rose, VP of Clinical Operations, Sangre de Cristo Community Care

Content of the comprehensive assessment

The third-highest citation in 2019, L530, content of the comprehensive assessment correlates to the CoP §418.54(c)(6) Standard that requires the documented comprehensive assessment to include a drug profile that contains prescription and OTC drugs, supplements, herbal remedies and other alternative treatments that could affect drug therapy. The medical review process must also include identification of drug effectiveness, side effects, interactions, duplicate therapies, and lab monitoring. Drug side effects must be anticipated with preventative measures implemented.

"One of the things that we require our staff to do is at every comprehensive assessment, do a true medication reconciliation. Meaning that we sweep all of the cupboards and cabinets and anything that the patient might be taking and lay them out, and then the nurse is responsible for making sure that what is in our EMR matches what the patient is actually taking."

–Amy Rose, VP of Clinical Operations, Sangre de Cristo Community Care

Evidence surveyors look for in the medical record and/or staff interviews:

- The medical record should have evidence that: the drug profile is updated during comprehensive assessments and/or when medications are added or changed in accordance with hospice policy/procedures and CoP requirements, assessments include anticipated drug side effects and preventative measures, and medication in the patient's home matches what is documented in the plan of care.
- Staff knowledge includes: drug side effects, non-compliant patient processes, non-pharmacological methods for pain relief and other symptoms, patient education on symptom management, processes and procedures for assessing symptom measurement, monitoring new medication or dosage in patients.

Coordination of services & level of activity (tie)

Tied for the fourth-highest citation in 2019 were L555, coordination of services and L647, level of activity.

Coordination of services correlates to the CoP §418.56 (e)(2) Standard, which requires that the care and services provided by both the hospice agency and contracted staff are in accordance with the plan of care.

Evidence surveyors look for in the medical record and/or staff interviews:

- There must be evidence that care and services provided by the hospice agency and contracted staff are in accordance with the care plan.
- Staff knowledge and practices must align with hospice policy and procedures.

Level of activity correlates to the CoP §418.78(e) Standard requiring that hospice agencies must use volunteers to provide a minimum of 5% of the total number of patient service hours.

Evidence surveyors look for in the medical record and/or staff interviews:

- There must be document review of hospice written policies and procedures for volunteer hours.
- Volunteer hours must be tracked based on time worked and type of care.

"The care plan becomes the most important piece, something that you embed in your clinicians to look at every single visit—the first thing every visit. I encourage you, that if you're not already working within a system that allows for your care plan to be shared across disciplines, that you work towards that because that is key in making sure that your entire IDG team has all of the information that they need."

–Amy Rose, VP of Clinical Operations, Sangre de Cristo Community Care

Supervision of hospice aides and prevention (tie)

Tied for the fifth-highest citation in 2019 were L629, supervision of hospice aides, and L579, prevention.

Supervision of hospice aides correlates to the CoP §418.76 (h)(1)(i) Standard requiring a registered nurse to make an onsite visit to the patient's home no less frequently than every fourteen days, to ensure hospice services are meeting the patient's needs.

Evidence surveyors look for in the medical record and/or staff interviews:

- There must be evidence of RN onsite supervisory visits, with visit notes in the patient's medical record assessing quality of care, adequacy of aide services, and results of care.

Prevention correlates to CoP §418.60 (a) Standard, which requires the control of infections and communicable diseases by following accepted standards of practices to prevent transmission defined by the CDC.

Evidence surveyors look for in the medical record and/or staff interviews:

- Hospice staff compliance to follow standards of practice and implement precautions through direct observation of care.
- Hospice staff must be knowledgeable of infection control practices and precautions, and implementing those practices with every visit.

"We made every single clinician show us technique, show us hand hygiene, making sure that they have the PPE necessary, and that they understand how to use that PPE, how to don it, how to doff it. I think competency in watching your staff to make sure that they understand and that they're doing things correctly is the most important piece to this tag."

–Amy Rose, VP of Clinical Operations, Sangre de Cristo Community Care

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