



CLINICAL & REGULATORY UPDATE

2017-17 | August 3, 2017

The Connecticut Association for Healthcare at Home supports its members in the provision of exceptional quality and accessible services through collaboration, leadership, provision of information, advocacy and education.

VISIT OUR WEBSITE

HOME HEALTH

Create a Patient Rights Verification Form to Prevent Survey Citations Related to Revised CoPs

Source: HHL, July 31, 2017

[CLICK HERE TO VIEW SAMPLE FORM](#)

Create a checklist to verify that your agency has explained to patients and/or their legal representative(s) all the patient rights outlined in the revised Home Health Conditions of Participation (CoPs) - and that you have provided them with the necessary documentation.

One of the major landmines agencies will face after the revised Home Health Conditions of Participation (CoPs) take effect is all the documentation agencies will need to produce when it comes to patient rights, says attorney Elizabeth Pearson of Pearson & Bernard in Edgewood, Ky.

Even if the clinician fully explains the patient's rights to the patient, your agency will be cited for noncompliance if proper documentation is unavailable for surveyors to view.

CMS recently delayed the implementation date for most of the revised CoPs including patient rights until Jan. 13, 2017.

Agencies can't afford to wait until the last minute to prepare. They should revamp their notice of patient rights and their policy on transfer/discharge, Pearson says.

Clinicians also should fill out a "Patient rights verification" checklist following the initial patient visit and include it within the patient record, Pearson recommends.

It's not enough just to say you explained to the patient the rights listed in a revised notice of patient rights form, Pearson says.

You must document that the rights were explained and get a signature from the patient and/or legal representative sign documentation.

Pearson feels such a form should be detailed. ([View sample form.](#))

But attorney Robert Markette of Indianapolis-based Hall, Render, Killian, Heath & Lyman feels a simple, brief document will confirm for surveyors that your agency is in compliance.

Pearson also believes agencies must ensure patients understand their rights. Within the final rule, CMS tells agencies to "thoroughly discuss the content of the notice of patient rights with the patient and representative, and to allow patients and representatives an opportunity to ask questions and otherwise seek clarification regarding the notice of patient rights."

Markette, however, notes that it isn't explicitly detailed within the CoPs that clinicians must ensure that patients understand each individual right.

Gerrienne Griffin, clinical coordinator for performance improvement with Brookhaven Memorial Hospital Medical Center in Patchogue, N.Y., contends that it's important to explain the rights in a way the patient can understand. She recommends using the teach-back method to ensure patient understanding of rights.

Key patient rights changes in the rule

Regardless of the content of a verification form, here are some of the many new things you'll need to explain to patients and include within their notice of patient rights:

1. Free from abuse. Include language that specifically indicates the patient will be free from verbal, sexual and physical abuse, including injuries of unknown source, neglect and misappropriation of property. Your agency will need to explain that it has the legal duty to report these instances.
2. Right to refuse treatments. Provide detail advising that the patient has right to participate in the overall care plan and will be informed of treatments in advance of them being provided. The patient may consent to treatments or refuse the treatment.
3. Expected outcomes. Provide an explanation that you'll include expected outcomes of care from all disciplines providing services.
4. Confidential records. Explain that your agency will maintain a confidential clinical record and information on how the patient can protect his/her health information in the home.
5. List available resources. Provide a listing of the specific, federally funded and state-funded agencies that could serve as additional resources. You must include names, addresses and phone numbers for the agency on aging, center for independent living, protection and advocacy agency, aging and disability resource center and quality improvement organizations in your region (HHL 3/6/17).
6. Language assistance. Explain that patients who speak English as a secondary language have the right to receive language assistance free of charge.

Include this in your verification form

- List whether the patient has a legal and/or personal representative. List the name and contact numbers for the representative(s) and say whether the representative was present at the visit. Create a check box to detail whether the patient and/or representatives received the written notice of rights. A "legal representative" has formal, legal decision-making authority, while a patient-designated representative can be somebody just involved in the care - someone who doesn't have decision-making authority (HHL 5/8/17). Agencies must provide the notice of rights and the agency's transfer and discharge policies to the patient and the patient's legal

representative. The patient's non-legal representative must receive these policies within four business days of the initial evaluation visit.

- Include a check box to show you've provided patients a simplified, easier-to-understand version of the plan of care. This is another new document your agency will have to create due to the patient rights CoP, Markette notes. The proposed CoPs indicated the agency should provide patients with the plan of care itself, but that was changed in the final CoPs because CMS agreed with commenters who argued the plan of care might be difficult for patients to understand.
- Add a check box showing that you provided the patient with a written notice of the patient's rights. Also add a box showing that you explained the rights to the patient.
- Make sure there's space on the form for the patient and/or personal representative(s) to sign and date the document. That way you can validate to a surveyor that the verification form was viewed by the appropriate people and the documents themselves were provided, Markette says.

[View Sample Form](#)

QUESTIONS? CONCERNS? COMMENTS?

Connecticut Association for Healthcare at Home

Tracy Wodatch

VP of Clinical & Regulatory Services

wodatch@cthealthcareathome.org

[Website](#) [Association](#) [Members](#) [Calendar](#) [Legislative](#) [Regulatory](#) [Contact](#)

