Survey Management and Response: The Evolving Landscape of Hospice Oversight

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Learning Outcomes

Describe	Describe the updates to the hospice survey processes established in the Consolidated Appropriations Act of 2021.
Discuss	Discuss the implications and readiness needs for survey preparation in the new environment of increased transparency and COVID
Define	Define basic survey management principles and recognize survey pitfalls which may derail standard survey activity
Address	Address the development of a plan of correction which produces behavioral outcomes for sustainable performance improvement

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Survey and Certification Updates since 2019

- Section Q of the State Operations Manual
  - Published in March 2019, updated in July 2019
  - Applies to all certified Medicare/ Medicaid entities
  - Combines all definitions and activities related to IMMEDIATE JEOPARDY into one appendix
- 3 key components for IJ citation
  - Noncompliance with any federal health, safety, or quality regulation
  - Serious Adverse Outcome has occurred OR is LIKELY to occur
  - Need for immediate corrective action

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Survey and Certification Updates since 2019

- Immediate Jeopardy – the New Hospice Reality
  - Examples include:
    - Failure to assess or reassess pain or failure to take steps to manage pain appropriately
    - Failure to notify of change in out-of-pocket costs related to commercial insurance coverage
    - Failure to prevent unauthorized disclosure of PHI
    - Failure to identify and mitigate risks for serious/ intolerable outcomes (drug diversion, suicide, etc)
- Immediate corrective action must address:
  - The patient identified as harmed or at risk of harm
  - The situation that led to the outcome or to the risk of the serious adverse outcome
  - The potential for others to experience the same outcome (or potential for that outcome)
  - Immediate really does mean immediate – as soon as it has been identified

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Survey and Certification Updates since 2019

- Infection Control and Emergency Preparedness Surveys
  - COVID-19 created significant concerns about infection control and about emergency response and recovery during the pandemic
  - CMS conducted multiple desk reviews for validation of emergency response plan implementation and effectiveness as well as COVID-19 infection control reviews for policy, procedure, and practice
  - Added to in-person surveys as well
  - Likely not going away

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Survey and Certification Updates since 2019

- Consolidated Appropriations Act of 2021 – General Provisions
  - Codified and made permanent the minimum survey timing of every 36 months
  - Beginning **10/1/2022** all inspection reports, enforcement actions, and other information as determined by the HHS Secretary must be published on the CMS public website. Accrediting bodies will be required to use form 2567 to report survey outcomes.
  - Creation of a "Special Focus Program" for hospices identified as being substantially out of compliance – will require survey every 6 months
  - Immediate jeopardy = immediate correction or immediate loss of certification
  - Sanctions to be developed and implemented by **10/1/2022**:
    - Civil Monetary Penalties (not more than $10K per DAY)
    - Suspension of Medicare payments
    - Appointment of a temporary manager

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Survey and Certification Updates since 2019

- Consolidated Appropriations Act of 2021 – Hospice Survey Activity
  - Beginning **10/1/2021**:
    - Surveys for hospice must be conducted by an interdisciplinary team of professionals including a registered nurse
    - A surveyor who has been employed or served as a consultant for a hospice agency in the 2 years prior to the survey cannot participate in that agency's survey
    - A surveyor who has a personal or familial financial interest in a hospice agency cannot participate in that agency's survey
    - Comprehensive training for all state and federal surveyors, including accreditation organization surveyors – no one may serve on a survey team who has not completed this training

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Who else is looking under the bed?

- OSHA – Workplace safety and COVID
  - New standards published 6/21/2021 (29 CFR 1910 Subsection U)
  - Workplace standards related to wearing masks, having barriers, workers' rights, and vaccination monitoring
- Public Health – CLIA Waivers and point of care testing
  - CMS is verifying whether those providing point of care testing (Rapid Antigen testing) are following through on mandatory reporting at the state level
  - Desk review surveys are happening for any hospice or home care agency that is using point of care testing for staff
  - Doesn't apply to agencies conducting PCR swabs and sending out for testing where that lab is responsible for reporting results

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Impact of COVID and shift in Regulatory Oversight

- Infection Surveillance and Reporting
  - Surveyors are looking more closely at infection control plans, surveillance and monitoring systems, and reporting requirements when staff or patients are identified as having (or being exposed to) communicable diseases
  - Connect current systems of reporting staff illness with patient monitoring/ surveillance and incorporate into standard QAPI processes for oversight
    - If you identify something as a trend, you need evidence you did something about it

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Impact of COVID and shift in Regulatory Oversight

- Emergency Preparedness – the pandemic happened!
  - US and other world leaders have been planning for different pandemic scenarios as a group since 1978
  - H1N5 (Avian Flu) outbreaks in China as well as the 2003 SARS surge created working scenarios for the application of planned responses
  - COVID-19 is the first global pandemic since the Spanish flu in 1918
    - To date, over 4 million people have died from COVID-19, including over 600K in the US
    - Vaccination rates in the US remain much lower than anticipated
  - This is an ongoing event, and your emergency response plans should be reviewed, updated, and amended as needed to reflect changes

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Top 10 Focus Areas

(unscientific and not publicly reported)

- 418.56
  - 418.56 – Care Planning and Care Coordination
  - 418.56(b) – Care provided according to the POC
  - 418.56(c) – POC addresses problems identified in the assessments
  - 418.56(d) – documentation of progress to goals/ goals not measurable
- 418.54
  - 418.54(b) – Initial and comprehensive assessments completed within 5 days of election
  - 418.54(c)(6) – Drug review
  - 418.54(d) – Assessment reflects patient's response to care
- 418.76
  - 418.76(g) – Written aide instructions prepared and updated by RN
  - 418.76(g)(2) – Hospice aide follows plan of care (frequency and task completion)
- 418.104 – Clinical record is complete and contains all documentation of services provided

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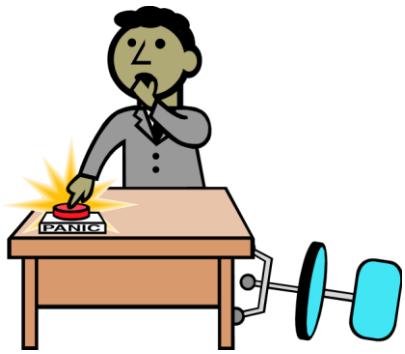
Official Company – Survey Management Basics

- Surveyor entrance



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Official Company – Survey Management Basics

- Location/ Location/ Location

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Official Company – Survey Management Basics

- Documents
  - List of current employees including name, date of hire, and title
  - List of current patients including name, diagnosis, date of admission, and location of care
  - List of discharges for previous six (6) months including name, diagnosis, date of admission, date of discharge, and reason for discharge
  - List of contracted facilities (nursing facilities, hospitals, etc)
  - List of contracted vendors for therapy services, DME, pharmacy, and other patient related purchased services
  - List of current volunteers including name, date of hire, and patient or administrative volunteer designation

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Official Company – Survey Management Basics

- Documents
  - Current organizational chart (by title is best, avoid names on the org chart as a best practice!)
  - Admission packet (make sure it's complete and current)
  - Emergency Response plan – including COVID-19 plan and response
  - QAPI documentation
    - Meeting minutes
    - Complaint logs
    - Infection control logs
  - Governing Body minutes, including when the administrator was appointed
  - Policies and Procedures as requested

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Official Company – Survey Management Basics

- Record Reviews
  - Patient records, sample size is based on unduplicated census in previous 12 months
  - Bereavement files
  - Personnel files (including volunteers)

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Tips for Success

- Provide what is asked for – and only what is asked for – as soon as possible
- Keep a list of what is provided
- If the surveyor asks for a copy of something, keep a copy for yourself as well
- Be forthright about when documents are going to be provided
  - Example: We will have the employee files you requested within the next hour

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Official Company – Survey Management Basics

- Ride Along Experience
  - Can't predict who the surveyor will select for home visit
  - Can't predict the patient/family response
  - Can't predict the circumstances of the day

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Official Company – Survey Management Basics

- Staff Interviews

Who	Topic(s)	Observations
Clinical Manager, Administrator, Medical Director	Operations Clinical oversight and decision-making Continuity of care and services Staff assignments	Communication practices Level of comfort with leadership and overseeing operations and clinical care
Bereavement Coordinator	Provision of grief support services	Comprehensiveness of the program Grief resources available
Volunteer Coordinator	Oversight of volunteer services, including recruitment and retention	Volunteer files Volunteer recruitment Recordkeeping Retention efforts
Field team	Interdisciplinary operations Patient assignments	Communications Infection Control Collaboration/ Coordination of care

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Official Company – Survey Management Basics

- Exit
  - You can have people present
  - You can have people on the phone/ zoom
  - You can ask to record it – and they will record it as well
  - Take good notes!
  - Ask for clarification if there is anything you don't understand

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Official Company – Survey Management Basics

- Debrief
  - After your "company" leaves, gather your team and talk about experiences, observations, concerns, achievements, and positive outcomes
  - Celebrate where you can
  - Get ready to work on corrective actions if identified

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Official Company – Survey Management Basics

- Corrective Actions to take RIGHT NOW
  - If any patient records were identified as having documentation issues, missing notes, etc – review those records and determine what can be corrected
  - If the surveyor indicated that any patient didn't have a follow up pain or symptom assessment or was missing an order for wound care – anything that can be corrected with a visit, get it scheduled
  - Call your patients and check in with them – all of them. How are they doing? Do they have any medication or supply needs? Are they satisfied with their current plan of care?
  - If any staff were identified as missing education or training or competency, get that corrected ASAP
  - If any staff didn't pass an infection control observation, retrain them right now

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Official Company – Survey Management Basics

- Record diligence
  - Whatever issues were identified in your documentation during the survey are potentially wide-spread until you verify they are not – conduct a 100% review for that item with all active patient records
  - If you find multiple examples of the deficient practice identified in the survey, start a performance improvement project (PIP) right away

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Official Company – Survey Management Basics

- Training
  - Who needs training?
  - What training do they need?
  - Do they need it right now or over time?

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Survey Pitfalls and Recovery Options

- Chatty staff
- Facility experience didn't go well
- Bad day for the patient/ caregiver the surveyor visited
- Conflict between surveyor and a team member

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Developing a Plan of Correction that Drives Behaviors for Sustained Improvement

- Identify the immediate corrective actions taken
- Identify the scope of the issue
- What training, by whom, and for whom
- Any disciplinary action taken or needed? What, specifically?
- What is the DATE by when you will have all corrective actions above COMPLETED?
- How will you monitor whether the issue remains corrected?
- For how long? And THEN what?
- Who will oversee and direct any changes to the plan based on assessment of plan effectiveness?

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Developing a Plan of Correction that Drives Behaviors for Sustained Improvement

- Identify the immediate corrective actions taken:
  - "The patients identified in the citation received a visit by the SW within 7 days and the SW developed a patient-directed plan of care based on the assessment conducted."
  - "The employee identified in the citation is no longer employed with the agency and the employee file cannot be updated."
  - "The patient's record identified in the citation was reviewed for aide assignment accuracy and the aide care plan and assignment were updated to reflect the patient's current precautions needed."

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Developing a Plan of Correction that Drives Behaviors for Sustained Improvement

- Identify the scope of the issue
  - "The DCS and RN Case Managers reviewed 100% of active records for aide plan of care accuracy and the RN Case Managers updated the aide plan of care if needed to reflect the patient's current level of functional capacity."
  - "The quality nurse reviewed 100% of patient records where oxygen is in use to verify an order is present and that the oxygen is included in the plan of care. Clarification orders were obtained where needed."

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Developing a Plan of Correction that Drives Behaviors for Sustained Improvement

- What training, by whom, and for whom
  - "The DCS provided training via in-service to all hospice aides regarding the appropriate methods of communicating with the hospice RN when the patient's plan of care or the aide assignment are not reflective of the patient's current functional capacity."
  - "The clinical manager provided in-service training to all hospice social workers regarding the scheduling and completion of comprehensive assessment within 5 days of election and that a bereavement risk assessment should be completed at that time as well."

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Developing a Plan of Correction that Drives Behaviors for Sustained Improvement

- Any disciplinary action taken or needed? What, specifically?
  - "The administrator conducted a counseling review session with the hospice RN Case Manager identified in the citation for failing to document a complete physician's order for oxygen. The RN acknowledged this was an oversight on his part."
  - "The DCS will conduct disciplinary review with any hospice aide who fails to communicate with the hospice RN that assigned tasks are incomplete. The disciplinary review may be an initial or final disciplinary step per the DCS's determination based on individual performance."

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Developing a Plan of Correction that Drives Behaviors for Sustained Improvement

- What is the DATE by when you will have all corrective actions above COMPLETED?
  - You should set this date to be between 21 and 30 days from the date of the survey
  - Give yourself enough time to get your records reviewed, your training completed, and your team to meet your new requirements
  - Should not go beyond 30 days from the date the letter is received from the state/ CMS/ accrediting body

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Developing a Plan of Correction that Drives Behaviors for Sustained Improvement

- How will you monitor whether the issue remains corrected?
  - "The DCS or designee will perform 100% record reviews for all active patients with wounds each week to verify the wound care documentation reflects an accurate assessment of the wound including measurements. These reviews will continue weekly until 100% compliance is achieved and sustained for 4 consecutive weeks. When compliance is sustained, the reviews will be reduced to 10% of patients with wounds each month for an additional 3 months to ensure ongoing compliance. If compliance falls below 100%, the nurse who failed to follow documentation requirements will receive counseling from the DCS and will have 100% of their wound care documentation reviewed until compliance is again restored to 100%. The results of all reviews will be reported to the QAPI committee for additional oversight or direction if required."

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Developing a Plan of Correction that Drives Behaviors for Sustained Improvement

- How will you [WHO] or whether the issue [WHAT] corrected?
  - "The DCS or designee will perform 100% record reviews for all active patients with wounds each week to verify the wound care documentation reflects an accurate assessment of the wound including measurements. These reviews will continue weekly until 100% compliance is achieved and sustained for 4 consecutive weeks. When compliance is sustained, the reviews will be reduced to 10% of patients with wounds each month for an additional 3 months to ensure ongoing compliance. If compliance falls below 100%, the nurse who failed to follow documentation requirements will receive counseling from the DCS and will have 100% of their wound care documentation reviewed until compliance is again restored to 100%. results of all reviews will be reported to the QAPI committee for additional oversight or direction if required."

FREQUENCY

DURATION

THRESHOLD

COURSE CORRECTION

OVERSIGHT

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Developing a Plan of Correction that Drives Behaviors for Sustained Improvement

- Basic tenets of the POC
  - Never use names – always titles
  - Avoid listing/ identifying specific forms or processes
  - Use references to specific policies/ procedures very sparingly
  - Dates must be absolute – and should be considered non-negotiable with team members
  - Address ONLY what is cited in the deficiency

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Developing a Plan of Correction that Drives Behaviors for Sustained Improvement

- The Plan of Correction Binder
  - Table of Contents
    - The 2567 with the results of your survey
    - The Plan of Correction
    - Any correspondence with the state or federal or accrediting agency
    - All Training – sign in sheets, copies of materials, etc
    - Any record review outcomes (reports, etc) to demonstrate corrective measures
    - Any new or revised policies, procedures, processes, documents to support the corrective measures and/or outcomes monitoring

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L 505 EXERCISE OF RIGHTS/RESPECT FOR PROPRTY/PERSON
CFR(s): 418.52(b)(1)

(1) The patient has the right:
(i) To exercise his or her rights as a patient of the hospice;
(ii) To have his or her property and person treated with respect;
(iii) To voice grievances regarding treatment or care that is (or fails to be) furnished and the lack of respect for property by anyone who is furnishing services on behalf of the hospice; and
(iv) To not be subjected to discrimination or reprisal for exercising his or her rights.

This STANDARD is not met as evidenced by:
Based on interviews, record review and review of the agency's policy titled "HIPPA Privacy Rule Policy #3" the agency failed to protect patients rights and failed to involve the patient's power of attorney (POA) or designee in decisions about their care, treatment and services. The agency's failure created an immediate jeopardy in which the agency violated Health Insurance Portability and Accountability Act of 1996 (HIPPA) to protect patient health information from being disclosed without the patients consent or knowledge. The agency violated patient rights to protect patient's health information for one patient (P#1) out of six patients P#2, P#3, P#4, P#5, P#6 reviewed for patient rights and privacy.

L 50

Area to Address	Plan of Correction
Immediate Corrective Action	
Scope of the Issue	
Training	
Disciplinary Action	
Date completed	
Monitoring Plan	
Duration and Threshold	
Oversight of POC	

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{L 553} Continued From page 3
A revised plan of care must include information from the patient's updated comprehensive assessment and must note the patient's progress toward outcomes and goals specified in the plan of care.

This STANDARD is not met as evidenced by:
Based on review of clinical records, it was determined the interdisciplinary group failed to ensure that the plan of care review process included documentation of the patient's progress toward the specific goals and outcomes reflected in the plan of care for 4 of 4 (#4, #5, #6, and #7) patients who were current hospice beneficiaries.

Findings were:

1. Review of the clinical record for patients #4, #5, #6, and #7 revealed that documentation of the care plan review/revision for each patient lacked documentation regarding the patient's progress or lack of progress toward the specific goals and outcomes reflected in the plan of care.

{L 553}

Area to Address	Plan of Correction
Immediate Corrective Action	
Scope of the Issue	
Training	
Disciplinary Action	
Date completed	
Monitoring Plan	
Duration and Threshold	
Oversight of POC	

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Learning Outcomes

Describe	Describe the updates to the hospice survey processes established in the Consolidated Appropriations Act of 2021.
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Define	Define basic survey management principles and recognize survey pitfalls which may derail standard survey activity
Address	Address the development of a plan of correction which produces behavioral outcomes for sustainable performance improvement

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