



Patients' Rights, Grievances & Involuntary Discharge

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Thanks to CMS for the use of training slides. They have been modified for this presentation.



Objective

- To understand the relevant provisions of the new Conditions for Coverage and their requirements for compliance



Patients' Rights

Subpart C (Patient Care) §494.70

- ❖ The dialysis facility must inform patients or their representatives of rights and responsibilities when they begin their treatment and must protect and provide for the exercise of those rights
 - ✓ Within the first 6 treatments
 - ✓ Basic information first should be followed by more in-depth discussions later
 - ✓ “Inform”= oral explanation, audiovisual presentation, written materials
 - ✓ Patient-chosen representative
 - ✓ Must document when/how done



Patients' Rights

- ❖ Treated with respect, dignity, recognition of individuality and personal needs, sensitivity to psychological needs and coping ability
- ✓ Staff must consider patient's physical, emotional states, and cultural backgrounds in all care decisions
- ✓ Patients have the right to question staff performance/procedures without reprisal
- ✓ No deducting restroom use time from treatment time
- ✓ No involuntary seclusion/use of restraints for discipline/convenience



Patients' Rights

- ❖ Receive all information in a way that he or she can understand
- ✓ Consider patients' literacy levels, communication disorders, primary languages
- ✓ Must assess patient needs/barriers and develop ways to address barriers
- ✓ Must validate patient understanding
- ✓ Must have reasonable plan to provide information in other languages



Patients' Rights

- ❖ Privacy and confidentiality in all aspects of treatment
- ✓ Staff should allow patient to direct where sensitive discussions occur
- ✓ There should be ready access to private rooms in the facility
- ✓ Use privacy screens, curtains, or blankets to give privacy for body part exposure



Patients' Rights

- ❖ Privacy and confidentiality in personal medical records
- ✓ Patients must be informed of their privacy rights under HIPAA
- ✓ Protect records from casual access



Patients' Rights

- ❖ To be informed of and participate, if desired, in all aspects of care, and be informed of the right to refuse/discontinue treatment and experimental research
- ✓ Facility must encourage patient participation in care planning
- ✓ Patients must be told of all changes in dx prescription and reasons for changes
- ✓ Patients may refuse the change, any aspect of treatment, or may discontinue treatment completely



Patients' Rights

- ❖ Be informed about the right to execute advance directives and the facility's policy regarding honoring advance directives
- ✓ Includes living wills, durable powers of attorney, DNRs
- ✓ Facilities must know/comply with State laws about ADs
- ✓ If no State law and facility does not honor patient wishes, must help patient transfer to another facility



Patients' Rights

- ❖ Be informed about:
 - All treatment modalities (transplantation, in-center and all home dialysis modalities)
 - Resources for dialysis modalities not offered by the facility and alternative scheduling options for working patients
- ✓ Document unbiased patient education
- ✓ Give resource list of facilities offering other modalities/alternative schedules
- ✓ Provide alternate schedules for those going to school or employed



Patients' Rights

- ❖ Be informed of facility policies regarding patient care, including, but not limited to, isolation of patients
- ✓ Hepatitis B isolation
- ✓ Food policies
- ✓ Late arrival policies
- ✓ Visitor policies



Patients' Rights

- ❖ Be informed of facility policies regarding the reuse of dialysis supplies, including hemodialyzers
- ✓ Inform patient if your facility is a reuse facility
- ✓ Inform patient of options if they refuse reuse



Patients' Rights

- ❖ Be informed by a physician, APRN or PA treating the patient for ESRD of his/her medical status in the patient's medical record, unless the medical record contains a documented contraindication
- ✓ “There should be few, if any, cases when a patient/designee cannot be informed about the patient's medical status”



Patients' Rights

- ❖ Be informed of services available in the facility and charges for services not covered under Medicare
- ✓ In most cases self-explanatory
- ✓ But, if billing a patient for services usually covered under Medicare, but not deemed reasonable/necessary in that particular situation, patient must be told and given an Advanced Beneficiary Notice to sign



Patients' Rights

- ❖ Receive the necessary services outlined in the patient plan of care
- ✓ Patients have the right to receive individualized care as determined by the IDT, and to be included on the team
- ✓ The care specified in the care plan should be given to the patient or the care plan should be revised



Patients' Rights

- ❖ Be informed of the rules and expectations of the facility regarding patient conduct and responsibilities
- ✓ Treatment adherence issues
- ✓ Keeping appointments/schedules
- ✓ Interpersonal conduct
- ✓ Restrictions during treatment
- ✓ Supplying facility with needed contact and insurance information



Patients' Rights (Addressing Grievances)

- ❖ Be informed of the facility's internal grievance processes
- ✓ Each facility should develop and implement an internal grievance process
- ✓ Patients should be informed:
 - about the process as well as the steps for filing an internal grievance
 - that they may file internal grievances without reprisal or denial of services
 - that they may file internal grievances personally, anonymously, or by a representative of their choosing



Patients' Rights (Addressing Grievances)

- ❖ Be informed of external grievance processes
- ✓ Must inform patients:
 - How to contact the ESRD Network and State Survey Agency
 - That they may file external grievances without reprisal or denial of services
 - That they may file external grievances personally, anonymously, or by a representative of their choosing



Patients' Rights

- ❖ The facility must prominently display (where it can be seen and read) a copy of patient's rights in the facility, with contacts for State Survey Agency and ESRD Network



Involuntary Discharge

Addressed in 3 places under:

- ❖ Patients' Rights
- ❖ Responsibilities of the Medical Director
- ❖ Governance

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Involuntary Discharge (Patients' Rights)

- ❖ Patients must be informed of the facility's policies for transfer, routine or involuntary discharge, and discontinuation of services



Involuntary Discharge (Patients' Rights)

- ❖ Patients must receive a 30-day advance written notice of an involuntary discharge
- ❖ Allows abbreviated discharge procedure in the case of immediate threats to the health and safety of others
- ✓ Facility must follow specific involuntary discharge procedures in Governance section



Involuntary Discharge

Responsibilities of Medical Director
(Subpart D Administration §494.150)

- ❖ The interdisciplinary team must adhere to discharge and transfer policies and procedures specified in Governance section

Involuntary Discharge

Governance

(Subpart D Administration §474.180)

- ❖ Governing body must ensure that staff follow discharge and transfer policies and procedures
- ❖ Medical Director must ensure that no patient is discharged or transferred unless:
 - **Patient/ payer no longer reimburses the facility for the ordered services;**
 - **Facility ceases to operate;**
 - **Facility can no longer meet the patient's documented medical needs**
 - **The facility has reassessed the patient and determined that the patient's behavior is disruptive and abusive to the extent that the delivery of care to the patient or the ability of the facility to operate effectively is seriously impaired**



Involuntary Discharge Governance

- ✓ Facilities must have and follow written policies and procedures for involuntary discharge and involuntary transfer
- ✓ Patients should not be discharged for failure to comply with facility policy unless the violation adversely affects clinic operations
- ✓ Patients should not be discharged for shortened or missed treatments unless this has an adverse affect on other patients' treatment schedules



Involuntary Discharge Governance

In the event of the need to involuntarily discharge a patient, the Medical Director ensures that the IDT:

- ❖ Documents reassessments, ongoing problems(s), efforts to resolve the problem(s) in patient's medical record;
- ❖ Gives patient and ESRD Network a 30-day notice of discharge;
- ❖ Obtains a written physician's order signed by Medical Director and patient's attending physician agreeing to discharge or transfer;



Involuntary Discharge Governance

- ❖ Facility contacts another facility, attempts to place patient, and documents;
- ❖ Notifies State Survey Agency of involuntary transfer or discharge.



Involuntary Discharge

Governance

- ❖ In cases of immediate severe threats to health and safety of others, facility may utilize an abbreviated discharge procedure
- ✓ “Immediate severe threat” = threat of physical harm (patient has weapon or makes credible threats of physical harm)
- ✓ In these instances, call 911, assure safety of staff and other patients
- ✓ Notify patient’s physician and Medical Director of events
- ✓ Notify Network and SSA of IVD
- ✓ Document the above thoroughly



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Questions?

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