

§418.74

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with applicable Federal, State and local laws and regulations.

(a) *Standard: Licensure of program.* If State or local law provides for licensing of hospices, the hospice must be licensed.

(b) *Standard: Licensure of employees.* Employees who provide services must be licensed, certified or registered in accordance with applicable Federal or State laws.

**§418.74 Condition of participation—
Central clinical records.**

In accordance with accepted principles of practice, the hospice must establish and maintain a clinical record for every individual receiving care and services. The record must be complete, promptly and accurately documented, readily accessible and systematically organized to facilitate retrieval.

(a) *Standard: Content.* Each clinical record is a comprehensive compilation of information. Entries are made for all services provided. Entries are made and signed by the person providing the services. The record includes all services whether furnished directly or under arrangements made by the hospice. Each individual's record contains—

- (1) The initial and subsequent assessments;
- (2) The plan of care;
- (3) Identification data;
- (4) Consent and authorization and election forms;
- (5) Pertinent medical history; and
- (6) Complete documentation of all services and events (including evaluations, treatments, progress notes, etc.).

(b) *Standard: Protection of information.* The hospice must safeguard the clinical record against loss, destruction and unauthorized use.

**Subpart D—Conditions of
Participation: Core Services**

**§418.80 Condition of participation—
Furnishing of core services.**

Except as permitted in §418.83, a hospice must ensure that substantially all the core services described in this subpart are routinely provided directly by hospice employees. A hospice may use contracted staff if necessary to supplement hospice employees in order to

meet the needs of patients during periods of peak patient loads or under extraordinary circumstances. If contracting is used, the hospice must maintain professional, financial, and administrative responsibility for the services and must assure that the qualifications of staff and services provided meet the requirements specified in this subpart.

[52 FR 7416, Mar. 11, 1987, as amended at 55 FR 50835, Dec. 11, 1990]

**§418.82 Condition of participation—
Nursing services.**

The hospice must provide nursing care and services by or under the supervision of a registered nurse.

(a) Nursing services must be directed and staffed to assure that the nursing needs of patients are met.

(b) Patient care responsibilities of nursing personnel must be specified.

(c) Services must be provided in accordance with recognized standards of practice.

**§418.83 Nursing services—Waiver of
requirement that substantially all
nursing services be routinely provided
directly by a hospice.**

(a) CMS may approve a waiver of the requirement in §418.80 for nursing services provided by a hospice which is located in a non-urbanized area. The location of a hospice that operates in several areas is considered to be the location of its central office. The hospice must provide evidence that it was operational on or before January 1, 1983, and that it made a good faith effort to hire a sufficient number of nurses to provide services directly. CMS bases its decision as to whether to approve a waiver application on the following:

(1) The current Bureau of the Census designations for determining non-urbanized areas.

(2) Evidence that a hospice was operational on or before January 1, 1983 including:

(i) Proof that the organization was established to provide hospice services on or before January 1, 1983;

(ii) Evidence that hospice-type services were furnished to patients on or before January 1, 1983; and

(iii) Evidence that the hospice care was a discrete activity rather than an

aspect of another type of provider's patient care program on or before January 1, 1983.

(3) Evidence that a hospice made a good faith effort to hire nurses, including:

(i) Copies of advertisements in local newspapers that demonstrate recruitment efforts;

(ii) Job descriptions for nurse employees;

(iii) Evidence that salary and benefits are competitive for the area; and

(iv) Evidence of any other recruiting activities (e.g., recruiting efforts at health fairs and contacts with nurses at other providers in the area);

(b) Any waiver request is deemed to be granted unless it is denied within 60 days after it is received.

(c) Waivers will remain effective for one year at a time.

(d) CMS may approve a maximum of two one-year extensions for each initial waiver. If a hospice wishes to receive a one-year extension, the hospice must submit a certification to CMS, prior to the expiration of the waiver period, that the employment market for nurses has not changed significantly since the time the initial waiver was granted.

[52 FR 7416, Mar. 11, 1987]

**§ 418.84 Condition of participation—
Medical social services.**

Medical social services must be provided by a qualified social worker, under the direction of a physician.

**§ 418.86 Condition of participation—
Physician services.**

In addition to palliation and management of terminal illness and related conditions, physician employees of the hospice, including the physician member(s) of the interdisciplinary group, must also meet the general medical needs of the patients to the extent that these needs are not met by the attending physician.

**§ 418.88 Condition of participation—
Counseling services.**

Counseling services must be available to both the individual and the family. Counseling includes bereavement counseling, provided after the patient's death as well as dietary, spir-

itual and any other counseling services for the individual and family provided while the individual is enrolled in the hospice.

(a) *Standard: Bereavement counseling.* There must be an organized program for the provision of bereavement services under the supervision of a qualified professional. The plan of care for these services should reflect family needs, as well as a clear delineation of services to be provided and the frequency of service delivery (up to one year following the death of the patient). A special coverage provision for bereavement counseling is specified § 418.204(c).

(b) *Standard: Dietary counseling.* Dietary counseling, when required, must be provided by a qualified individual.

(c) *Standard: Spiritual counseling.* Spiritual counseling must include notice to patients as to the availability of clergy as provided in § 418.70(f).

(d) *Standard: Additional counseling.* Counseling may be provided by other members of the interdisciplinary group as well as by other qualified professionals as determined by the hospice.

**Subpart E—Conditions of
Participation: Other Services**

**§ 418.90 Condition of participation—
Furnishing of other services.**

A hospice must ensure that the services described in this subpart are provided directly by hospice employees or under arrangements made by the hospice as specified in § 418.56.

[48 FR 56026, Dec. 16, 1983, as amended at 55 FR 50835, Dec. 11, 1990]

**§ 418.92 Condition of participation—
Physical therapy, occupational
therapy, and speech-language pathology.**

(a) Physical therapy services, occupational therapy services, and speech-language pathology services must be available, and when provided, offered in a manner consistent with accepted standards of practice.

(b)(1) If the hospice engages in laboratory testing outside of the context of assisting an individual in self-administering a test with an appliance that has been cleared for that purpose by the FDA, such testing must be in