

§ 460.71

42 CFR Ch. IV (10-1-04 Edition)

near the PACE organization's service area.

(3) A PACE organization must designate an official liaison to coordinate activities between contractors and the organization.

(c) *List of contractors.* A current list of contractors must be on file at the PACE center and a copy must be provided to anyone upon request.

(d) *Copies of signed contracts.* The PACE organization must furnish a copy of each signed contract for inpatient care to CMS and the State administering agency.

(e) *Content of contract.* Each contract must be in writing and include the following information:

- (1) Name of contractor.
- (2) Services furnished (including work schedule if appropriate).
- (3) Payment rate and method.
- (4) Terms of the contract, including beginning and ending dates, methods of extension, renegotiation, and termination.
- (5) Contractor agreement to do the following:
 - (i) Furnish only those services authorized by the PACE interdisciplinary team.
 - (ii) Accept payment from the PACE organization as payment in full, and not bill participants, CMS, the State administering agency, or private insurers.
 - (iii) Hold harmless CMS, the State, and PACE participants if the PACE organization does not pay for services performed by the contractor in accordance with the contract.
 - (iv) Not assign the contract or delegate duties under the contract unless it obtains prior written approval from the PACE organization.
 - (v) Submit reports required by the PACE organization.
 - (vi) Agree to perform all the duties related to its position as specified in this part.
 - (vii) Participate in interdisciplinary team meeting as required.
 - (viii) Agree to be accountable to the PACE organization.
 - (ix) Cooperate with the competency evaluation program and direct participant care requirements specified in § 460.71.

(f) *Contracting with another entity to furnish PACE Center services.* (1) A PACE organization may only contract for PACE Center services if it is fiscally sound as defined in § 460.80(a) of this part and has demonstrated competence with the PACE model as evidenced by successful monitoring by CMS and the State administering agency.

(2) The PACE organization retains responsibility for all participants and may only contract for the PACE Center services identified in § 460.98(d).

[64 FR 66279, Nov. 24, 1999, as amended at 67 FR 61505, Oct. 1, 2002]

§ 460.71 Oversight of direct participant care.

(a) The PACE organization must ensure that all employees and contracted staff furnishing care directly to participants demonstrate the skills necessary for performance of their position.

(1) The PACE organization must provide each employee and all contracted staff with an orientation. The orientation must include at a minimum the organization's mission, philosophy, policies on participant rights, emergency plan, ethics, the PACE benefit, and any policies related to the job duties of specific staff.

(2) The PACE organization must develop a competency evaluation program that identifies those skills, knowledge, and abilities that must be demonstrated by direct participant care staff (employees and contractors).

(3) The competency program must be evidenced as completed before performing participant care and on an ongoing basis by qualified professionals.

(4) The PACE organization must designate a staff member to oversee these activities for employees and work with the PACE contractor liaison to ensure compliance by contracted staff.

(b) The PACE organization must develop a program to ensure that all staff furnishing direct participant care services meet the following requirements:

(1) Comply with any State or Federal requirements for direct patient care staff in their respective settings.

(2) Comply with the requirements of § 460.68(a) regarding persons with criminal convictions.

(3) Have verified current certifications or licenses for their respective positions.

(4) Are free of communicable diseases.

(5) Have been oriented to the PACE program.

(6) Agree to abide by the philosophy, practices, and protocols of the PACE organization.

[67 FR 61505, Oct. 1, 2002]

§ 460.72 Physical environment.

(a) *Space and equipment*—(1) *Safe design.* A PACE center must meet the following requirements:

(i) Be designed, constructed, equipped, and maintained to provide for the physical safety of participants, personnel, and visitors.

(ii) Ensure a safe, sanitary, functional, accessible, and comfortable environment for the delivery of services that protects the dignity and privacy of the participant.

(2) *Primary care clinic.* The PACE center must include sufficient suitable space and equipment to provide primary medical care and suitable space for team meetings, treatment, therapeutic recreation, restorative therapies, socialization, personal care, and dining.

(3) *Equipment maintenance.* A PACE organization must establish, implement, and maintain a written plan to ensure that all equipment is maintained in accordance with the manufacturer's recommendations.

(b) *Fire safety.* (1) *General rule.* Except as otherwise provided in this section—

(i) A PACE center must meet the applicable provisions of the 2000 edition of the Life Safety Code (LSC) of the National Fire Protection Association that apply to the type of setting in which the center is located. The Director of the Office of the Federal Register has approved the NFPA 101® 2000 edition of the Life Safety Code, issued January 14, 2000, for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A copy of the Code is available for inspection at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD or at the National Archives and Records Administration (NARA). For information on the availability of this mate-

rial at NARA, call 202-741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269. If any changes in this edition of the Code are incorporated by reference, CMS will publish notice in the FEDERAL REGISTER to announce the changes.

(ii) Chapter 19.3.6.3.2, exception number 2 of the adopted edition of the LSC does not apply to PACE centers.

(2) *Exceptions.* (i) The Life Safety Code provisions do not apply in a State in which CMS determines that a fire and safety code imposed by State law adequately protects participants and staff.

(ii) CMS may waive specific provisions of the Life Safety Code that, if rigidly applied, would result in unreasonable hardship on the center, but only if the waiver does not adversely affect the health and safety of the participants and staff.

(3) Beginning March 13, 2006, a PACE center must be in compliance with Chapter 9.2.9, Emergency Lighting.

(4) Beginning March 13, 2006, Chapter 19.3.6.3.2, exception number 2 does not apply to PACE centers.

(c) *Emergency and disaster preparedness*—(1) *Procedures.* The PACE organization must establish, implement, and maintain documented procedures to manage medical and nonmedical emergencies and disasters that are likely to threaten the health or safety of the participants, staff, or the public.

(2) *Emergencies defined.* Emergencies include, but are not limited, to the following:

(i) Fire.

(ii) Equipment, water, or power failure.

(iii) Care-related emergencies.

(iv) Natural disasters likely to occur in the organization's geographic area. (An organization is not required to develop emergency plans for natural disasters that typically do not affect its geographic location.)

(3) *Emergency training.* A PACE organization must provide appropriate training and periodic orientation to all staff (employees and contractors) and