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HOSPICE AND NURSING HOME/ASSISTED LIVING RELATIONSHIPS: CHOOSING THE RIGHT PARTNERS

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As with any contractual relationship, hospices and long term care facilities should be selective when choosing parties to contract with. It is critical that a hospice feels confident that each nursing or assisted living facility that the hospice contracts with is going to live up to its responsibilities under the agreement and provide a high level of services, as the hospice retains professional management responsibility for all services provided to its patients.

In turn, long term care facilities must also be confident that the hospice provider will fulfill all of its obligations to patients and the facility under the agreement. Long term care facilities may want to be proactive in seeking out hospices that will provide high quality services to residents, rather than waiting to be approached by a hospice. Increasingly, facility residents are demanding hospice services, and residents are not likely to differentiate between services provided by the facility and those provided by a hospice that it contracts with. The poor performance by the hospice will reflect poorly on the facility. In addition, an uninvolved or unresponsive hospice places the facility at greater risk for survey citations and family complaints to the state survey agency.

There are several ways that a hospice or long term care facility can informally review another entity's fitness to become a contractual partner:

1. Review Hospice or Facility Staffing Levels and Turnover

- Nursing homes are required by law to post daily information regarding their staffing levels (e.g., the number of licensed and unlicensed staff per resident). Some states may also maintain statistics on staff

turnover.

- In the assisted living setting, the majority of care is often provided by unlicensed staff. Hospices should evaluate whether the assisted living facility has on-site licensed nursing staff and, if so, how often nurses work and the level of oversight they provide.
- Long term care facilities should determine the hospice patient census and staffing levels of the hospice and (if available) information on staff retention. NHPCO puts out guidelines on recommended hospice staffing ratios based on the hospice patient census. If you are an NHPCO member, you can access this at www.nhpc.org under "Technical Resources".

2. Hospices should Review the Acuity of Facility Patient Population

- When entering into relationships with assisted living facilities, it is important for hospices to remember that the overall acuity level of assisted living residents is increasing. Ask whether the training and expertise of staff often has grown at the same rate as the facility's acuity level. It is also important to ensure that state regulations permit bed-bound patients to reside in the type of facility that the hospice is contracting with.

3. Review Hospice or Facility Survey History

- Nursing homes, hospices and most assisted living facilities are surveyed by the government for compliance with applicable regulatory requirements. These results typically need to be posted in the facility. For nursing homes, survey information can also be found on the "Nursing Home Compare" website at <http://www.medicare.gov/NHCompare/Home.asp>. Assisted living and hospice survey information is often available through the state licensing authority.

4. Determine Hospice or Facility's Reputation

- Physicians, other hospices or long term care facilities and hospital personnel can all be good sources of information regarding the hospice or long term care facility's performance. These sources may also have experiences related to the responsiveness of the hospice staff to a patient or facility concern.
- One complaint sometimes raised by nursing facilities related to their relationship with hospice is the perception that the hospice does not provide meaningful services to residents of the nursing facility. The OIG has raised similar concerns (see the discussion of the 2007 OIG Work Plan in section 1 of this toolkit). Ask questions about the hospice—how responsive are staff to nursing facility patient needs? Will the hospice provide support to the facility if issues, including survey citations, arise related to hospice patients residing in the facility?

5. Determine Hospice or Facility Insurance Coverage

- It has become increasingly difficult for nursing facilities to obtain sufficient insurance coverage due to the scarcity of insurance companies writing policies for nursing facilities. In addition, assisted living facilities and hospices are often run by small, private operators who are not financially able to acquire sufficient insurance coverage. If the hospice or long term care facility determines that the other party is underinsured or has no insurance, it becomes a business decision whether to contract with that party. If a dispute arises, the party with adequate insurance might be considered the "deep pocket"—an uncomfortable position. Hospices and long term care facilities should consult with their own insurance carrier as contractual discussions proceed if the other party lacks adequate insurance coverage.

We understand that long term care providers are sometimes hesitant to enter into contractual relationships with hospices. However, the reality is that consumers are increasingly demanding hospice care, and nursing facilities and assisted living facilities will need to make such care available as hospice continues to gain popularity. Some providers have found that relationships with a hospice or long term care facility can be difficult to manage, with the

relationship sometimes deteriorating into an "us versus them" mentality between the two providers.

A productive, mutually beneficial relationship between a hospice and long term care facility is possible, but it takes considerable work on the part of both parties. We suggest that you look at the written agreement developed between the providers as the building block upon which a successful relationship is based. Clear roles and responsibilities of each party described in a written agreement can reduce disputes between the parties. In our experience, a number of factors beyond a good written agreement can also contribute to meaningful facility/hospice collaborations. These factors include:

- Mutual respect between the providers
- Sharing of information and knowledge of the other provider's business
- Support for the collaboration at the leadership level of each provider
- High level of hospice staff presence in the facility
- Staff training for each provider's discipline
- Timely response on the part of both providers
- Coordination in care planning between the parties

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Reinhart Boerner Van Deuren's Hospice and Palliative Care Practice Group serves hospices across the country in a variety of areas, including: regulatory compliance; survey and certification; accreditation; licensing; HIPAA; caregiver misconduct investigations; due diligence, mergers and acquisitions and other corporate matters; labor and employment; criminal and civil investigations by state or federal government agencies; litigation; contracts and daily operational issues.



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