END-OF-LIFE SERIES · PART 4

Comfort Promised

Hospice Care Failures

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Hospice is under more federal scrutiny right now than at any time I can remember. In May, CMS announced a six-month moratorium on new Medicare enrollments for hospice and home health agencies, suspended payments to roughly eight hundred agencies in the Los Angeles area, and put heightened oversight on six states.

Most of that attention is about fraud. But fraud and quality are connected. A hospice that bills for visits that never happened is often the same hospice that isn't delivering care to the patients who are actually dying.

THE FEDERAL YARDSTICK

Part four of our end-of-life series is about hospice care failures, and the yardstick is the federal Conditions of Participation: an initial assessment within 48 hours of election, a comprehensive assessment within five days, a plan of care reviewed at least every 15 days, RN supervision of aides at least every 14 days, nursing available around the clock, and a patient right to effective pain and symptom control.

HOW WE REVIEW A HOSPICE CASE

The way into these cases is to put the plan of care next to what actually happened. The plan says two nurse visits a week. How many are documented, on what dates, and how long did each one last? Hospice visit notes are usually electronic, and the metadata can show when a note was started and finished, and sometimes where. It can also show notes completed days after the visit.

Then follow the phone calls and the medications. After-hours calls often go to an outside answering service whose records aren't in the hospice chart, so ask for them separately. The

pharmacy's delivery records show exactly when the morphine arrived at the house and when it ran out.

There's also a newer record worth requesting. Since October of last year, hospices have had to use a standardized assessment tool called HOPE, which captures symptoms and needs at set points during the stay. When the visit notes say "patient comfortable" and the family says he was crying out in pain, the HOPE assessments, call logs, and pharmacy records help sort out what really happened.

ON DAMAGES

And don't assume there's no case because the patient was already dying. The harm in a hospice case is often the suffering itself: days of uncontrolled pain and breathlessness that proper care would have relieved. Ask the family what they kept, too. Texts, voicemails, and a notebook by the bed can be some of the most powerful evidence you'll find.

Episode 80 of Lexcura Clinical Insights walks through a full example, plus live discharge, facility hospice agreements, and patients who should never have been on hospice in the first place.

This newsletter is for education only and isn't medical or legal advice.

ABOUT LEXCURA CLINICAL INTELLIGENCE

Lexcura Clinical Intelligence provides integrated clinical and regulatory analysis for attorneys handling healthcare litigation. If you have a case that turns on what the medical record really shows, we'd welcome the conversation.

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