LATEST OIG REPORT ON HOSPICE
STINGING BLOW OR OPPORTUNITY?

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SUMMARY

A series of OIG reports on vulnerabilities in the hospice program are vexing for hospice leaders. Rather than being defensive, hospices and their boards will benefit from being proactive, especially in building a strong ethical culture.

2019 has seen a string of reports[1] from the OIG about hospice vulnerabilities, all on the heels of another "hospice vulnerabilities" alert raised in July 2018.[2]

In this context, it should be noted that the hospice "vulnerabilities" means problem areas in the Medicare Hospice Benefit (see Medicare's summary in the graphic above).

With each report comes a vicious cycle of reputation impact for all hospices, and increased scrutiny of hospices in general. This graphic is a good indicator of how the government is viewing these latest reports.

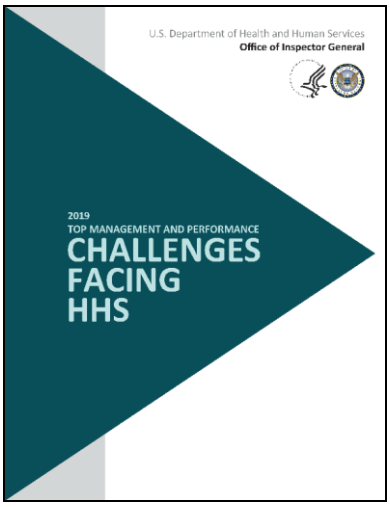
The latest report focuses on a common survey deficiency: failing to document in-home assessment of the quality of care provided by hospice aides. In it, the OIG studies the requirement for an RN visit at

least once every 14 days to assess the quality of care and services provided by hospice aides and then to document that assessment. Historically, this has been a common survey deficiency.

The report emphasizes that a visit alone is not sufficient; there must be documentation of an assessment of the quality of aide services. However, the most common issue was that visits themselves were not made. The OIG attributes this to lack of oversight, scheduling errors and employee turnover.

Even though some may argue that there is no demonstrated consequential outcome of a single missed visit, the OIG is increasingly interpreting process failures, such these missed visits or failure to meet employee screening requirements, as jeopardizing the health and well-being of the patient.

To put things into context, the OIG has also issued two other reports this year about *vulnerable patients*.[3] These reports originated from concerns several years ago about care in nursing facilities and personal care provided in the community. But all home-based care is coming under this scrutiny, and who might be the most vulnerable of all, if not hospice patients.



The OIG's *2019 Top Management and Performance Challenges Facing HHS* reflects a concern about community-based care, and hospice specifically…

> "Significant program integrity concern arises in connection with services furnished in home-and community-based settings…"
>
> *"OIG work in areas such as hospice care… consistently demonstrates that patients and the programs may be vulnerable to fraud and abuse…"*
>
> "Among the top priorities as identified by OIG work are improving hospice care …"

It's easy to be defensive and to try to shoot holes in the data or the approach. But let's face it, hospices serve some of the most vulnerable, and our duty is to support those patients, and never harm them. In fact, there are situations where patients are harmed, and no action is taken against the hospice provider.

While we can look back fondly on the "good old days," reality calls us to step up and

ensure that our patients receive impeccable care. So, what can hospices proactively do to reduce the vulnerabilities of the program that serves the arguably most vulnerable?

1. Ensure that criticism is fair – work with state and national organizations to ensure that surveyors are knowledgeable and consistent.
2. Be proactive in addressing common deficiencies – go beyond minimum requirements where it makes a difference. For example: training your staff to recognize abuse and neglect (which is most often perpetrated by family members); establishing simple processes for patient and family feedback (including complaints) with reminders on a regular basis; having every team member assess for quality of care provided by aides on each in-home visit.
3. Measure the effectiveness of your compliance program. Ask some of the questions suggested by the OIG in their 2019 guidance update:[4]
    - Is there continuous review and improvement of all elements of your compliance program?
    - Is there sufficient autonomy and resources for the compliance function?
    - How do senior management and the board demonstrate their commitment to ethics and compliance?
4. Move beyond compliance by creating a culture of integrity, fairness and respect where speaking up is valued.

Hospices operate in an increasingly complex health care environment, and their boards need to evolve in parallel to deal with an increasing complicated world. Boards can play an especially important role in #3 and #4 above – supporting a strong ethical and compliant culture.

To learn more about how your board can move to the next level in building a culture of integrity, click on

Resources

Hospice Governance Academy modules and Spotlight Interviews related to culture are also available by subscription:

Hospice Governance Academy

[1] Hospice Deficiencies Pose Risks to Medicare Beneficiaries 07-03-2019 | Report (OEI-02-17-00020)

Safeguards Must Be Strengthened To Protect Medicare Hospice Beneficiaries From Harm 07-03-2019 | Report (OEI-02-17-00021)

Medicare Part D Is Still Paying Millions for Drugs Already Paid for Under the Part A Hospice Benefit 08-22-2019 | Audit (A-06-17-08004)

Registered Nurses Did Not Always Visit Medicare Beneficiaries' Homes At Least Once Every 14 Days To Assess The Quality of Care and Services Provided by Hospice Aides 11-18-2019 | A-09-18-03022

[2] Vulnerabilities in the Medicare Hospice Program Affect Quality Care and Program Integrity: An OIG Portfolio 07-30-2018 | Report (OEI-02-16-00570)

[3] CMS Could Use Medicare Data to Identify Instances of Potential Abuse or Neglect 06-12-2019 | Audit (A-01-17-00513)

A Resource Guide for Using Diagnosis Codes in Health Insurance Claims to Help Identify Unreported Abuse or Neglect 07-23-2019 | (A-01-19-00502)

[4] Evaluation of Corporate Compliance Programs, Department of Justice, Updated April 2019