

**OHIO HEALTH CARE ASSOCIATION
HOME CARE AND HOSPICE COMMITTEE**

**November 30, 2021, 1:00 p.m.
Conference Call**

MINUTES

Ms. Erin Begin opened the call and welcomed committee members. She referenced the minutes from the previous meeting as well as the conflict of interest, anti-trust compliance and confidentiality policies included in the online folder. She requested that any committee members who called in send an email for their attendance. A summary of attendance is included in a chart at the end of this document.

First Ms. Begin turned to the Vaccine Mandates for Home Health and Hospice. Beginning with Hospice, she reviewed the toolkits developed by OHCA. She explained that the toolkits contain links to the relative CDC Guidance, EEOC and CMS templates and conditions of participation to include in policies for agency providers. She reviewed the key dates of CMS mandate for hospice, having all staff with a first dose or exemption request no later than December 6, 2021, and full compliance no later than January 4, 2022. Policies must be in place by the first deadline. She explained that the medical exemption criteria was very prescriptive, with specific conditions outlined in the CDC guidance and documentation requirements clearly outlined. Religious exemptions were less prescriptive, with emphasis on the consistency of the provider's policy to accommodate religious exemptions. She reminded committee members that employees who obtain an approved exemption must have reasonable accommodations. . CMS has mentioned things like source control, distancing, testing or working in a non-patient care setting. She pointed to the documentation requirements outlined in the CMS rule and toolkits, and also to the requirement to have a contingency plan for disaster planning. This may include having workers who were moved to non patient care settings deployed in emergency situations or utilizing contract staffing. Ms. Begin asked if hospice agencies were experiencing issues with facilities requiring that all staff are vaccinated and that exemptions are not allowed. David Walsh responded that they have received the addendum developed by ROLF which does allow for exemptions, but have received a follow up in one organizations case where they are requiring twice weekly testing and N95s for unvaccinated staff with an exemption. There are also private pay communities not allowing unvaccinated staff with an exemption to care for their residents. Kim Tilley discussed a home infusion company that was performing their own reviews of home health agency approved exemptions. Pete Van Runkle commented that this issue is muddled by the definition of "Staff" in the CMS mandates and that there may not be a clear cut answer to that. However, the civil rights law applies to the employer and employee.

Ms. Begin then reviewed the decision tree developed by OHCA to help home health agency providers who have separately incorporated their waiver settings decide whether the CMS

vaccine mandate, OSHA healthcare ETS or OSHA Vaccine mandate applies to their staff members. She added that some waiver providers have administrative staff that may be under the OSHA vaccine mandate. In the home health toolkit, there are a great deal of templates from OSHA for these policies and procedures.

Mr. David Walsh asked about employee terminations for those which have not requested an exemption. Mr. Pete Van Runkle stated that it is up to each individual provider, but that they must weigh the risks and benefits to keeping those staff on. Considerations such as negative impacts to patient care may be more important than possible risks for survey issues. CMS has indicated that they will work with providers to come into compliance, although the survey guidance explaining enforcement actions is not yet available. Ms. Begin added that providers should clearly document the exception in relation to care outcomes, and that many home health and hospice members have reported terminations of employees who are unwilling to apply for exemption or become vaccinated. Laura Barbetta reported one employee out of a staff of 95 has resigned due to the mandate. Additionally, litigation is pending on both the OSHA and CMS vaccine mandates. Mr. Van Runkle stated that it is unlikely that the CMS mandate would be reversed and that providers should continue with their communications and policy roll out. Ms. Begin mentioned that committee member Stephanie Johnston of Transcend Strategy Group has offered to assist with communication for our OHCA home care and hospice members.

Ms. Begin then discussed the Nursing Home Visitation Guidance, QSO-20-39-NH. This guidance is helpful for hospice agencies to understand, as the families of residents they care for often come to the hospice nurses for guidance. Facilities can no longer require visitation be scheduled in advance, but they can request scheduling. None of the previous restrictions apply outside of those that ensure social distancing, for frequency of visits. CMS advised to try to schedule heavy traffic, such as holiday visitation, in blocks to ensure that they can keep safe distances of 6 feet. Large gatherings for residents are not permitted. Fully vaccinated family members can remove masks and dispense of distancing if resident is vaccinated. County color designation no longer impacts visitation status, but does impact things like face coverings for residents in room visitations for areas of medium to high transmission. SNFS should not be restricting access to facilities to vaccinated employees or hospice staff entry. They may require things such as testing for those under a religious or medical exemption.

Ms. Begin then discussed Hospice Survey Enforcement Actions resultant from the Consolidated Appropriations Acts of 2021 and Finalized in the Home Health Final Rule in CY2022. The most impactful changes for Ohio hospice agencies are the reported of the survey results in a public facing platform by October 2022, comprehensive training on four core hospice areas (including patient rights, the initial and comprehensive assessment, care planning and IDG, and QAPI), enforcement remedies such as civil money penalties no later than October 1, 2022, and a special focus program which has been delayed to 2023 rulemaking pending results from a technical expert panel. The Ohio Department of Health is awaiting further guidance from CMS to enact these changes and provide timeline information.

Ms. Begin then moved to the Home Health Final Rule CY2022 Conditions of Participation changes. Changes were made to finalize allowing Occupational therapists to complete initial and comprehensive assessments in certain situations, finalizing their proposal to revise the home health aide supervision requirements to allow for virtual visits through real-time, audio-visual technology permitting one virtual supervisory visit per patient per 60-day episode, and revising the language at § 484.80(h)(2) to clarify that the every 60 day home care aide supervisory visit for patients not receiving skilled services is conducted on each patient and not on each aide caring for that patient. OHCA would update the survey manuals with the relative CoP changes and send to committee members for review. Ms. Begin also briefly touched on the updates from the CDC on booster shot guidance to allow all people over the age of 18 and mix-and-match of booster shots. She also noted that the Public Health Emergency was extended to January 16, 2022 and would likely be extended again, since no 60 day notice was given.

Ms. Begin then discussed changes to the Hospice Quality Reporting Program effective in 2022. There are now 4 Quality Measures, and the previous 7 Hospice Item Set (HIS) measures have been removed, and will no longer display on Care Compare in May 2022. The HIS admission and discharge are still required for the hospice and palliative care composite process measure calculation. There are two new claims based measures. The Hospice Visits in Last Days of Life and the Hospice Care Index (HCI). The HCI consists of data that shows gaps in nursing visits, nurse minutes in routine home care, skilled nursing on the weekends throughout the entire episode. This will give more information, as HIS records are only pulled at admission and discharge. HCI points are awarded by meeting thresholds set for each of the 10 measures Hospices should review their November preview reports to see what areas points are not delivered. CAHPS star ratings will begin displaying on Care Compare, and the next refresh will occur in February 2022. The first two quarters of 2020 are the only quarters excluded from data reporting, so providers may be negatively impacted by telehealth visits not reported on the claim for claims based frequency measures. She reminded members that the QRP penalty for timely HIS submission will increase to 4% for submissions made in CY2022 applicable to 2024 payments.

Ms. Begin then discussed the Temporary Nurse Assistant (TNA) to State Tested Nursing Assistant (STNA) pathway developed by ODH. Some OHCA hospice and home health members have expressed interest in this process, as it may open up TNAs in their larger Corporation to have flexibility for future work as home health and hospice aides. Currently, TNAs cannot serve in this capacity. However, once certified as an STNA, these employees would meet regulatory requirements to serve as a home health or hospice aide. ODH is implementing legislation OHCA secured this summer authorizing the TNA-to-STNA pathway and CMS guidance on the subject. The pathway is now available, effective October 1, 2021. TNAs who receive sufficient on-the-job training at a SNF may sit for the state test and may become STNAs.

Ms. Begin then gave an update on the OHCA Workforce Committee activities. OHCA is exploring grant opportunities available in the pending reconciliation bill, the Build Back Better Act, which would fund activities such as student loan repayment and recruitment. OHCA is also exploring rule changes with the Ohio Association of Career Technical Education and the Board

of Nursing to increase the number of LPN programs available to high school students. Ms Begin also stated that Relias is working on a home health aide certification program for our members. Lastly, she discussed work in the immigration and refugee resettlement programs to learn more about obtaining those workers in our settings. She encouraged members to attend the upcoming Workforce Conference to learn more.

Ms. Begin asked again if there was any other business. Hearing none, the meeting was adjourned.

First Name	Last Name	Company/Facility	11/30/21
Erin	Begin	OHCA Staff	X
Amy	Allen	Continuum Hospice	X
-NHLaura	Barbetta	Staywell Home Health	X
Lisa	Bracy	Legacy Hospice	X
Catie	Bryan	BellaCare Hospice	X
Gina	Covelli	Cypress Hospice	X
Britteny	Creel	Plante Moran	X
Jeff	Mazer	McKesson	X
Lori	Revis	Hospice of Southwest Ohio	X
Yolanda	Riley	Richter Healthcare Consultants	X
Kim	Tilley	Staywell Home Health	X
Pete	VanRunkle	OHCA Staff	X
David	Walsh	Hospice of Southwest Ohio	X

Next Meeting: December 28, 2021 at 1:00 p.m. Financial Focus