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To: Administrators of General, Psychiatric and Special Hospitals Licensed Pursuant to N.J.A.C. 8:43G, Assisted Living Residences, Comprehensive Personal Care Homes, and Assisted Living Programs Licensed Pursuant to N.J.A.C. 8:36, Dementia Care Homes Licensed Pursuant to N.J.A.C. 8:37, Long-Term Care Facilities Licensed Pursuant to N.J.A.C. 8:39 and Residential Health Care Facilities Licensed Pursuant to N.J.A.C. 8:43

From: Michael J. Kennedy, J.D. ^{NTC}
Executive Director, Division of Certificate of Need and Licensing

Date: August 16, 2023

Re: Statutory Amendments Regarding End-of-Life Staff Training

This memorandum is to advise you of the requirements of N.J.S.A. 26:2H-132.2, concerning end-of-life care in health care facilities. The requirements of the law will be included in future rulemaking.

Specifically, N.J.S.A. 26:2H-132.2 requires all administrative personnel and professional staff of hospitals (i.e. general, psychiatric, and special hospitals), assisted living residences, comprehensive personal care homes, assisted living programs, dementia care homes, long-term care facilities, and residential health care facilities (collectively referred to as "Facilities") to complete annual training on advance care planning, end-of-life care, and the use of advance directives and Physician Orders for Life-Sustaining Treatment ("POLST") forms. Facilities must provide patients and their families, as appropriate, with educational materials on POLST forms, advance directives, and hospice and palliative care. Facilities shall also develop and implement policies to identify and address end-of-life care issues for patients upon admission to a facility.

N.J.S.A. 26:2H-132.2 requires the Department of Health ("Department") to issue a training manual that contains uniform policies and procedures that a facility must follow. To this end, the Department has worked with subject matter experts to develop the End-of-Life Training Resource Manual and to identify resources for uniform policies and procedures that a facility shall follow, at a minimum, to comply with these requirements. The End-of-Life Training Resource Manual is available on the Department's website at <https://www.nj.gov/health/healthfacilities/certificate-need/guidance>

N.J.S.A. 26:2H-132.2 further provides that facilities may implement policies and procedures that exceed the standards found in the resources in the Department's manual,

provided that such policies and procedures do not conflict with the Department's regulations. The Department will require a facility that fails to comply with the provisions of this section to submit a plan of corrective action to the Department for approval and may impose additional penalties or administrative disciplinary action as prescribed by the Commissioner of Health by regulation.

Questions regarding this memo may be directed to Scott Owens at Scott.Owens@doh.nj.gov.

N.J. Stat. § 26:2H-132.2

Current through New Jersey 220th Second Annual Session, L. 2023, c. 64 and J.R. 10

*LexisNexis® New Jersey Annotated Statutes > Title 26. Health and Vital Statistics (Chs. 1 — 17)
> Chapter 2H. Health Care Facilities (Pts. I — X) > Part XI. Practitioner Orders for Life-Sustaining Treatment (§§ 26:2H-129 — 26:2H-140)*

§ 26:2H-132.2. Requirements for certain facilities concerning end-of-life care

a. Assisted living facilities, dementia care homes, nursing homes, assisted living residences, comprehensive personal care homes, residential health care facilities, hospitals, and long-term care facilities licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) shall:

- (1) require all administrative personnel and professional staff to complete an annual training on advance care planning, end-of-life care, and the use of advance directives and Physician Orders for Life-Sustaining Treatment (POLST) forms;
- (2) provide patients and residents, and their families, as appropriate, with educational materials on POLST forms, advance directives, and hospice and palliative care; and
- (3) develop and implement policies to identify and address end-of-life care issues for patients and residents upon admission to the facility.

b. The Department of Health shall:

- (1) issue a training manual via regulation to establish uniform policies and procedures that a facility, at a minimum, shall follow in order to comply with the requirements outlined in subsection a. of this section. A facility may implement policies and procedures beyond those issued in the department's manual, provided that such policies and procedures do not conflict with the department's regulations; and

(2) require a facility that fails to comply with the provisions of this section to submit a plan of corrective action to the department for approval, and may impose additional penalties or administrative disciplinary action as shall be prescribed by the Commissioner of Health by regulation.

History

L. 2019, c. 420, § 1, effective July 19, 2020.

Annotations

Notes

Editor's Notes

Section 2 of L. 2019, c. 420 provides: "The Department of Health, pursuant to the 'Administrative Procedure Act,' P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations as are necessary to effectuate the provisions of section 1 of this act."

Effective Dates

Section 3 of L. 2019, c. 420 provides: "This act shall take effect 180 days after the date of enactment, except that the Commissioner of Health may take such anticipatory administrative action in advance thereof as shall be necessary for the implementation of this act." Chapter 420, L. 2019, was approved on Jan. 21, 2020.

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End of Life Training Resource Manual

About This Manual

This is the New Jersey Department of Health (NJDOH) **End of Life Electronic Training Resource Manual** for professional and administrative staff who work in assisted living facilities, dementia care homes, nursing homes, comprehensive personal care homes, residential health care facilities and hospitals. The resources included in this manual address advance care planning, end-of-life care, and the use of advance directives and Physician Orders for Life-Sustaining Treatment (POLST) forms. The resource manual also includes links to patient, resident, and family educational materials on POLST forms, advance directives, hospice, and palliative care. To ensure uniformity, these resources should be used in your facility's development of the required policies and procedures to address the aforementioned aspects of resident or patient care. A facility may use additional resources to implement policies and procedures beyond those referred to by NJDOH provided that such policies and procedures do not conflict with the department's regulations.

N.J.S.A. 26:2H-132.2 requires assisted living facilities, dementia care homes, nursing homes, hospitals, and long-term care facilities licensed pursuant to P.L. 1971. c.136, to require all administrative personnel and professional staff to complete an annual training on advance care planning, end-of-life care, and the use of advance directives and POLST forms. In addition, such licensed facilities are required to provide patients and residents and their families, as appropriate, with educational materials on hospice, palliative care, advance directives and POLST forms. Finally, such facilities are required to develop and implement policies to identify and address end-of-life care issues for patients and residents upon admission to the facility.

Research continues to address improvements in end-of-life care, and multiple expert resources, such as the American College of Emergency Physicians (ACEP) and the Center to Advance Palliative Care (CAPC) frequently provide updated training and research-based educational resources. Therefore, this NJDOH training resource manual will supply links to those national and state agencies and organizations that provide updated and specialized information as the appropriate and most up-to-date primary source of information for licensed health care facilities.

Facilities should review the Centers for Medicare and Medicaid Services regulations that address the Hospital Conditions of Participation at 42 CFR 482, on patient rights, emotional, psychological, and spiritual needs, the management of distress, pain management, wound management, and the assessment of all conditions of the patient.

Facilities should also review the New Jersey Hospital Licensing Standards at N.J.A.C. 8:43G.

Requirements

STAFF EDUCATION

Who: The following employees and contractors must be educated: Administrative staff and professional staff who work in assisted living facilities, dementia care homes, nursing homes, comprehensive personal care homes, residential health care facilities, and hospitals.

What: The following education must be provided: Training on advance care planning, end-of-life care, the use of advance directives and POLST forms. End-of-life care must include information on hospice care services such as medical and nursing care, social services, and counseling. At a minimum, the training should contain content centered around the following six categories, as identified by the World Health Assembly in 2014. They are:

1. The definition and principles of palliative care
2. The identification and control of symptoms
3. End-of-life care
4. Ethical and legal issues
5. Psychological and spiritual issues
6. Teamwork

When: Upon employment and on an annual basis thereafter.

How: The facility must develop and implement policies and procedures that address the above requirements.

PATIENT, RESIDENT, AND FAMILY EDUCATION AND RESOURCES

Who: Facilities are required to provide education to patients, residents, and their families as appropriate.

What: Facilities must provide education and educational materials on POLST forms, advance directives, and hospice and palliative care. This education should include clarification on the differences between hospice and palliative care. The facility should address aspects of hospice and palliative care, such as those of the provision of physical comfort, of mental and emotional support, the approach to meeting of spiritual needs, and resources for the provision practical assistance.

When: Education must begin on admission of the patient or resident to the facility.

How: Facilities are required to develop and implement policies to identify and address end-of-life care issues for patients and residents upon admission to the facility.

Resources

There are multiple national and local organizations that provide extensive up-to-date clinical information, education resources for patients and families, and training guidance support for educators in the field of end-of-life care. Material such as teaching toolkits are available on hospice care, palliative care, advance directives and POLST forms. Below are the recommended resources:

The End-of-Life Nursing Education Consortium (ELNEC)

<https://www.aacnnursing.org/ELNEC>

The Center to Advance Palliative Care (CAPC) <https://www.capc.org/>

The American College of Emergency Physicians (ACEP) <https://www.acep.org/>

The New Jersey Hospital Association (NJHA) www.njha.com/quality-patient-safety/healthcare-resources/advanced-care-planning/

The New Jersey Home Health and Hospice Association (NJHHA)

<https://www.homecarenj.org/>

The Goals of Care Coalition of New Jersey (GCCNJ) <https://goalsofcare.org/>

The New Jersey Department of Health (NJDOH)

www.nj.gov/health/advancedirective/palliative-hospice-care/

The National Institute on Aging (NIA) <https://www.nia.nih.gov/>

The National Hospice and Palliative Care Organization (NHPCO) <https://www.nhpc.org/>

The American Medical Association (AMA) <https://www.ama-assn.org/>

The Centers for Disease Control (CDC) <https://www.cdc.gov/>

Palliative Care in the Emergency Department

N.J.S.A. 26:2H-5s requires that the emergency departments of all New Jersey licensed general hospitals develop and implement a plan to integrate the provision of palliative care services for patients treated in the emergency department for whom palliative care is appropriate.

1. These plans must include the adoption of a standardized screening tool for use by health care professionals in the emergency department to facilitate the identification of patients who present to the emergency department for acute symptom management, pain relief, or otherwise would benefit from palliative care services. NJDOH recommends the use of the tool developed by the American College of Emergency Physicians (<https://www.acep.org/by-medical-focus/palliative-medicine/>), however, the Department does not mandate the use of this tool. If hospitals wish to use another screening tool, or develop their own, the tool should reflect that all individuals presenting to the emergency department for care should be screened for palliative care needs if they present with a serious non-survivable illness and one or more of the following:
 - a. One would not be surprised if the patient died in the next 12 months, or, if a pediatric patient, will not survive to adulthood
 - b. The patient has had more than one emergency department visit or hospital admission for the same condition within several months
 - c. The emergency department visit was prompted by difficult-to-control physical or psychological symptoms
 - d. There is a decline in function, feeding intolerance, unintentional weight loss or caregiver distress
 - e. There are complex long-term care needs requiring more support.
2. If the professional emergency department staff identifies an individual who may be appropriate for referral for palliative care, a part of the conversation between the individual, family and medical staff should include the provision of patient-centered information concerning the benefits of palliative care, the conditions, diagnoses, and disease for which palliative care is generally appropriate, and referrals to providers of outpatient palliative care services, if appropriate.
3. Professional staff should consider the unique needs of patients with intellectual or developmental disabilities or mental health issues who present to the emergency department and for whom palliative care may be indicated.
4. A pamphlet should be provided to patients and families that contains information on what palliative care is, the difference between palliative and hospice care, and its benefits. Some suggested models (but not an exclusive list) for a pamphlet are:
 - a. National Institute of Nursing Research, Palliative Care: The Relief You Need When You Have a Serious Illness. Available at

<https://www.ninr.nih.gov/newsandinformation/publications/palliative-care-relief-for-serious-illness>.

- b. Get Palliative Care. Available at <https://getpalliativecare.org/handouts-for-patients-and-families/>.
 - c. National Hospice and Palliative Care Organization: Palliative Care or Hospice. Available at <https://www.caringinfo.org/types-of-care/what-is-the-difference-between-palliative-care-and-hospice-care/>.
 - d. In addition, please review the resources noted above under the section S3116 for information. Available at <https://pub.njleg.state.nj.us/Bills/2018/AL19/420 .PDF>
5. Resources for professional staff can be found at:
- i. <https://www.acep.org/by-medical-focus/palliative-medicine/>
 - ii. Mierendorf, SM and Gidvani, V, (2014). Palliative Care in the Emergency Department, *The Permanente Journal*, Spring, 18(2), 77-85.
 - iii. DeSandre, PL, Fairbrother, H, Rosenberg, M, Jesus, J (2016). End-of-Life Discussions in the Emergency Department, *ACEP Now*, Aug. 9, 2016.
6. The licensed facility must develop and implement a policy and procedure to ensure compliance with these requirements.