

## Eli's Hospice Insider

### Regulations: Pseudo-Patient Aide Competency Testing Poised To Go Permanent

**Plus: No sign of CAA survey changes in proposed rule.**

Hospices' workloads should get a bit lighter, thanks to a few aide competency testing flexibilities the feds have proposed.

**Background:** The Centers for Medicare & Medicaid Services allowed the use of pseudo-patients for aide competency testing under a COVID-19 public health emergency waiver, a CMS staffer recounted in the April 14 Open Door Forum for home health and hospice agencies. "CMS is temporarily modifying the requirement in § 418.76(c)(1) that a hospice aide must be evaluated by observing an aide's performance of certain tasks with a patient," CMS said in its waiver. "This modification allows hospices to utilize pseudo patients such as a person trained to participate in a role-play situation or a computer-based mannequin device, instead of actual patients, in the competency testing of hospice aides for those tasks that must be observed being performed on a patient. This increases the speed of performing competency testing and allows new aides to begin serving patients more quickly without affecting patient health and safety during the public health emergency (PHE)."

Now, CMS wants to make the COVID flexibility permanent. "We are proposing to permit skill competencies to be assessed by observing an aide performing the skill with either a patient or a pseudo-patient as part of a simulation," CMS says in the hospice proposed rule for 2022 published in the April 14 Federal Register.

This "would allow hospices to utilize pseudo-patients, such as a person trained to participate in a role-play situation or a computer-based mannequin device, instead of actual patients, in the competency testing of hospice aides for those tasks that must be observed being performed on a patient. This could increase the speed of performing competency testing and would allow new aides to begin serving patients more quickly while still protecting patient health and safety," according to the rule. The rule also defines "pseudo-patient" and "simulation."



**Another change:** CMS also proposes "to amend the requirement at § 418.76(h)(1)(iii) to specify that if an area of concern is verified by the hospice during the onsite visit, then the hospice must conduct, and the hospice aide must complete, a competency evaluation of the deficient skill and all related skill(s) in accordance with § 418.76(c)," the rule notes. Instead, "this proposed change would permit the hospice to focus on the hospice aides' specific deficient and related skill(s) instead of completing another full competency evaluation."

This is a "complementary" change to the other aide proposal, the CMS employee noted in the forum.

The National Association for Home Care & Hospice cheers this proposal. "These are helpful for providers and align with the home health conditions of participation regarding aides," NAHC's **Katie Wehri** tells AAPC. The home health-hospice alignment will make operations more efficient for those providers utilizing aides in both hospice and home health, NAHC says.

Meanwhile, some COP changes that hospices might have expected to be in the proposed rule are not there. "None of the hospice survey reforms that are part of the Consolidated Appropriations Act were included in this proposed rule," Wehri points out. "We thought we might see some reference to them."

**Reminder:** The CAA signed into law on Dec. 27, 2020, throttled hospice survey frequency back down to every three

years, as well as a number of other provisions including requiring a registered nurse to be on the hospice survey team and development of alternative sanctions (see HOP, Vol. 14, No. 2).

Note: The COVID waiver compilation is at

[www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf](https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf).