

# CODE OF ETHICS

of the

Utah Hospice and Palliative Care Organization



*"Promoting the Art and Science of Hospice and Palliative Care"*

## 1. CLINICAL STANDARD

Each member hospice should show evidence of its clinical staff's commitment to Hospice as a specialty by encouraging its medical director, director of nursing, and/or team leaders to:

- A. Seek board certification in hospice and palliative care,
- B. Participate in national meetings of hospice and palliative care organizations,
- C. Obtain CEU or CME training in hospice and palliative care, and/or
- D. Pursue education in hospice and palliative care by conducting research, presenting poster sessions, and/or writing articles about hospice and palliative care issues, AND
- E. Participate in the UHPCO Annual Conference.

## 2. ETHICS STATEMENT:

**Principle:** Member Hospices shall engage in marketing and referral practices that promote compassionate, high quality care for patients and their families, and that adhere to hospice regulations and ethical business practices.

**Intent:** To enhance public trust in and access to hospice care; to serve the needs and goals of the patient and family; to share full and complete information; and to support informed decision-making for and among hospice patients and their families.

**Guidelines:** Member hospice and palliative care organizations will:

- A. Ensure that services provided are consistent with current regulatory standards;
- B. Disclose business and financial relationships to patients and families so that they can make informed and knowledgeable choices and decisions;
- C. Disclose the scope of services offered by the hospice and/or palliative care organization; in the event that the hospice and/or palliative care organization does not offer a service that would benefit the patient, it is obligated to inform the patient that other hospices may provide the service;
- D. Develop a code of ethics that assures that its employees comply with existing regulations and ethical business practices; and
- E. Educate and socialize all employees about its code of conduct, ethical marketing, and appropriate clinical care, specifically addressing hospice regulations and the need for sensitivity to patients and families.

## 3. EXAMPLES

- A. A person calls your hospice and says that her neighbor needs your help, but the caller refuses to identify herself. What should you do?

**Recommendation:**

- 1) First, ask the neighbor to contact the potential patient and have the patient or his/her family contact the hospice.
- 2) Only after trying 1, ask the neighbor to obtain the potential patient/family consent to have your hospice contact the potential patient/family. In the event that a hospice makes such contact after the neighbor obtains consent, the contact should begin with confirmation that the contact is welcome and wanted. If not, the hospice should terminate efforts to become a provider for that patient.
- 3) A hospice should not contact a potential patient or family without first obtaining consent. Consent need not be in writing, but should be documented.

- B. A physician's office calls and asks you to contact a patient who needs hospice. What should you do?

**Recommendation:** Professional ethics and common courtesy require that the physician's office must tell the patient/family that it is making a referral to Hospice. Failure to do so may also raise HIPAA concerns.

- C. A nursing home or assisted living facility calls and asks you to contact a patient who needs hospice. What should you do?

**Recommendation:** Professional ethics and common courtesy require that the physician's office must tell the patient/family that it is making a referral to Hospice. Failure to do so may also raise HIPAA concerns.

- D. Your marketing representative suggests that she should visit assisted living facilities and nursing homes and walk the halls and approach residents who may be terminally ill to see whether they want hospice care.

**Recommendation:** "Trawling" is always inappropriate.

- E. Your marketing representative suggests that she should call random numbers in the phone book and ask if the person who answers is or knows someone who is terminally ill and might need hospice.

**Recommendation:** Cold calling is always inappropriate.

- F. Your marketing representative suggests that every time a patient with whom he made the initial contact comes on service he should receive a set monetary incentive.

**Recommendation:** Per-referral incentives to marketing representatives are inappropriate.

- G. A hospice administrator requires that each marketing representative must make a specified number of referrals each month in order to obtain a bonus.

**Recommendation:** Performance standards for marketing representatives are acceptable.

- H. A hospice administrator decides that doctors, nurses, and aides should receive a bonus for new patients who come on service.

**Recommendation:** Incentives to individual clinical staff for referrals are inappropriate because they may promote unethical professional behaviors.

- I. You are negotiating a contract with a SNF. The SNF administrator demands that you pay for all the patient's medications, whether palliative or curative, that your aides do all bathing, and that you pay for GIP.

**Recommendation:**

- 1) A hospice can only pay for medications that are palliative and related to the terminal condition.
- 2) A hospice must supplement, not replace, already-existing services, such as bathing.
- 3) A hospice can only pay for GIP if there is a documented need for that level of care
- 4) Giving in to these demands may constitute illegal kickbacks.

- J. A hospice aide who is caring for a patient in a nursing home offers to paint the nails of other residents while visiting her patient.

**Recommendation:** The hospice aide is violating the facility's rules that would prohibit activities that are not on the plan of care and that regulate the role of volunteers. In addition, the aide or the hospice agency is committing fraud if the aide is being paid for, and someone is being charged for, caring for the hospice patient, when instead the aide is providing services to others.

- K. Hospice A evaluates a patient and determines that the patient does not meet the criteria for a hospice admission. The next day, Hospice B signs up the patient.

**Recommendation:**

- 1) The attending physician, or if no attending physician then the hospice medical director, must believe that the patient has a prognosis of six months or less.
- 2) All hospices should obtain informed consent and aggressively seek records and documentary evidence that the patient is declining.
- 3) The medical director must get a full history and physical and should try to recreate the history if there are missing records.

- L. Hospice A goes out to sign up a patient who has a high level of needs, including expensive care requirements, such as Lupron.

**Recommendation:**

- 1) If Hospice A does not provide the expensive care requirements, as part of obtaining informed consent, it should let the patient/family know that other hospices might provide the high-cost medications/treatments, but that Hospice A does not. See Guideline C.
- 2) Hospice A should keep the primary care physician/oncologist/other medical specialist involved in the decisionmaking process, and should encourage the patient and family to take time to undertake a thorough decisionmaking process.

- M. Hospital discharge planner refers a patient to hospice. He later learns that the family is unhappy because your hospice/home health agency signed the patient up for home health care instead. The reimbursement for home health care is more profitable than the reimbursement for hospice, but the patient's out-of-pocket costs are higher for home health.

**Recommendation:** In obtaining informed consent, the hospice must explain options thoroughly, including how the decision will impact the family financially and in terms of types of care provided.

#### **4. ENFORCEMENT**

Once the Ethics Code is adopted, every member organization shall agree to abide by the code. Members and member organizations have the option of submitting questions to the Ethics Committee for advisory guidelines.

If any individual or organizational member believes that a member hospice is violating the ethics code, he/she/it should either (1) contact the administrator of the hospice allegedly violating the ethics code to try to resolve the issue or (2) contact a member of the UHPCO Executive Board who will, in turn, communicate the complaint to the administrator of the hospice that is allegedly violating the ethics code.