



Southern California
Renal Disease Council
INCORPORATED

Understanding Involuntary Discharge

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Network Role in Conflict Situations

- To guide staff in dealing with conflict situations appropriately and consistently and in accordance with CMS guidelines
- To protect the rights of patients under the Federal Regulations: Section 405.2138(b)(2), which states that patients be transferred or discharged only for the following reasons:

Network Role in Conflict Situations (cont.)

- Medical Reasons
- The patient’s welfare or that of other patients
- Nonpayment of fees (except as prohibited by title XVII of the Social Security Act)

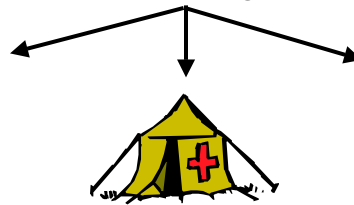
3

The New Taxonomy (DPC Project)

“At Risk” Categories



Risk To Self



Risk To Facility



Risk To Others

Both Patients & Staff can do things that are a risk to themselves, the facility and others

4

At Risk Categories

Category 1 – Risk to Self

Behaviors, physical or non-physical, acts or omission by a patient that result in placing the patient's own health, safety and well being at risk. (Generally referred to as non-conforming/non-adherent medical behavior)

Ex: Signing out against medical advice (AMA), refusal of saline for hypotension, shortening or not appearing for treatment as prescribed, failure to follow diet or medication orders.



5

At Risk Categories (cont.)

Category 2 – Risk to Facility

Behaviors, actions or inactions by patients or staff that are perceived to put the safe and efficient operations of the facility at risk.

Ex: Disruptive, attention seeking, or acting out behaviors, and/or failure to adhere to facility policies and procedures.



6

At Risk Categories (cont.)

Category 3 – Risk to Others

Behaviors, actions or inactions by patients or staff that are perceived to place health, safety, or wellbeing of others at risk. Others include patients, staff, families, and other persons on the facility premises.

Ex: Abuse, physical/verbal assault, battery, dangerous acts, intimidation, threats, sexual harassment, disorderly conduct.



7

Key Ethical, Legal and Regulatory Guidelines from the DPC Project

- Groups of providers should not exclude patients from acceptance and treatment from all their facilities or other physicians, except for irreconcilable cases of credible, intentional verbal/written/physical abuse, threats or physical harm.

8



***Key Ethical, Legal and Regulatory
Guidelines from the DPC Project (cont.)***

- It is unethical for patients to be left without treatment based solely upon non-adherent behaviors that are a risk only to themselves.
- Treatment should be continued until the patient provider relationship has been legally and adequately terminated.
 - This requires advance notice and direct assistance to obtain alternate care.

9



***Key Ethical, Legal and Regulatory
Guidelines from the DPC Project (cont.)***

- Both the physician and the facility are obligated ethically, legally and by regulation to assist the patient in securing life saving treatment with another facility and/or nephrologist.

10



***Key Ethical, Legal and Regulatory
Guidelines from the DPC Project (cont.)***

- A certified facility cannot provide dialysis without a treating physician
 - Must discharge a patient if the treating nephrologist terminates the patient physician relationship, or
 - Transfer the patient's care to another treating nephrologist within that facility

11



***Key Ethical, Legal and Regulatory
Guidelines from the DPC Project (cont.)***

- Facilities have legal authority to refuse to treat patients who are acting violently or are physically abusive thereby jeopardizing the safety of others.
- The use of treatment agreements to facilitate effective and efficient use of facilities is permissible.

12

Conditions For Coverage Guidelines on IVD

1. Facility must have a patient discharge/transfer policy & procedure
2. Medical Director has oversight to ensure appropriate reason for discharge or transfer
3. Must have a written physicians order that must be signed by both the medical director and patient's attending physician concurring with the patient's discharge or transfer

Oct. 14, 2008 will be effective date of implementation 13

Conditions For Coverage Guidelines on IVD (cont.)

4. Attempts to find placement for the patient and documents the effort
5. Notifies the state survey agency of the involuntary transfer or discharge
6. In case of immediate severe threats to the health and safety of others, the facility may utilized an abbreviated involuntary discharge procedure

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Network Recommended Steps *Involuntary Discharge*

If all forms of intervention have been exhausted the facility may decide to end the facility patient relationship. This should only occur as a last resort in resolving the situation. Before proceeding, the facility should have the following documentation in the patient's medical record:

- Specific problem behavior (s)
- The impact of the patient's behavior on other patients and the staff
- All steps taken by the facility to attempt resolution of the problem
- The patient's response to the steps taken

15

Final Steps

When the decision to involuntary discharge has been made, the following steps should be taken:

- The facility should inform their legal counsel of the decision to involuntary discharge and the reason (s) for it
- Notify the patient in writing. Send copies of the letter to the patient via certified mail, return receipt requested, and via regular mail, or present to the patient in person

16

Final Steps (cont.)

- A last treatment date is set in writing. The patient must be given reasonable notice, thirty (30) days as directed by Conditions of Coverage
- Assure the patient that the facility will continue to provide treatment up to the termination date period, unless patient behavior warrants immediate discharge
- Attempt to find placement for the patient. If patient refuses assistance provide a list of facilities for the patient to contact for placement

17

Final Steps (cont.)

- Emphasize to the patient importance of finding another facility and/or physician for continued care
- The Administrator/Medical Director should ensure that all steps taken are consistent with federal regulations, state law, and corporate/facility policy
- Involuntary Discharge should not be used by the facility to remove a patient who is non-adherent with diet, medication, etc.
- Not the responsibility of the dialysis staff to end the physician/patient relationship

18

Immediate Discharge

- Patients may be involuntarily discharged immediately from the physician and/or dialysis facility if their behavior (s) endangers the safety or other patients
- It is imperative that facility policy stipulates specific behaviors that will be grounds for immediate involuntary discharge
- Patient may be notified verbally but facility should follow-up with written documentation

19

Immediate Discharge (cont.)

- Patients should be educated on the facilities policy during initial orientation and subsequent, as appropriate
- The facility should send a letter by same-day service/overnight delivery and via regular mail

20

New Network Guidelines for Reporting Involuntary Discharges

Involuntary Discharges should **only** occur as a last resort and **only** when all other forms of intervention have been exhausted.

Definition of Involuntary Discharge: Patient has been discharged or is asked to transfer-out from the facility *against his/her will*. A patient is considered involuntarily discharged if they have received written or verbal notice that they will no longer be allowed to receive dialysis at your facility.

21

Reporting

When the decision to involuntarily discharge a patient is made, please do the following:

- Notify the Patient Services Department at Network 18 to review the situation and decision
- Fax or mail a copy of the discharge letter after speaking with the Patient Services Department

22

Reporting (cont.)

- Report the involuntary discharge on the monthly Patient Activity Report (PAR) under event “6c” (category C in the losses column)
- Use this event for all involuntary discharges regardless of where the patient received services after discharge. As the business rule for the Networks related to Transfer-out-Category C reads: “Patient has been discharged from facility against his/her will”

23

In Summary

- The best way to manage conflict is to prevent it!
- Spot it and address it early!
- A cohesive health-care team is effective!
- Contact the Network and/or your risk management early to assist with the interventions

24



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25