



SEP 16 2013

Ms. Arlene Mullin-Tinker
Dialysis Advocates LLC

Dear Ms. Mullin-Tinker:

Thank you for your letter concerning involuntary discharge of End Stage Renal Disease (ESRD) patients. We all want to prevent involuntary discharges and at the Centers for Medicare & Medicaid Services (CMS), we are continually working with the ESRD Networks and State Agencies to prevent them.

CMS contracts with 18 Networks to evaluate and resolve patient grievances, to evaluate and identify facilities not providing appropriate medical care, and measure and improve the quality of care through the implementation of quality improvement projects. Networks are required to provide ESRD patients in their jurisdiction with information on patients' rights as well as information on how to file a grievance directly with the Network, how to file a grievance using the provider's grievance process, and how to file a complaint with the State Survey Agency. Additionally, all Network correspondence to beneficiaries and all materials sent to beneficiaries must contain the following language: "To file a grievance, please contact [Network Name] at [Network phone number, mailing address, email address, and website URL]." New ESRD beneficiaries are provided a copy of their rights as part of the New ESRD Patient Orientation Packets. And to assess the grievance process, surveyors conduct a "culture of safety" review, during which patients are asked about the process in the facility for filing complaints or suggestions to improve care.

To minimize fears of retaliation by the facility or practitioner, the current grievance process allows the patient, an appointed representative, family member, friend, patient advocate, an anonymous source, or any other individual to file a grievance on the patient's behalf directly with the Network, thereby reducing any fear of retaliation by the facility or provider. This protection offered to the beneficiary is further enhanced by the knowledge that their personal identifiable information is confidential unless release is authorized by the patient. If a patient files a complaint with the State Survey Agency anonymously, a surveyor cannot contact the person filing the complaint for additional information or to report the status of the complaint investigation, however the complaint will still be assessed and investigated.

Recently CMS has developed a new ESRD Core Survey process which provides guidance to State Survey Agency surveyors about how to perform a focused review of ESRD facilities, including investigating situations in which facilities have begun involuntary discharge proceedings or have discharged patients involuntarily. Prior to going onsite for an ESRD survey, the surveyor contacts the appropriate ESRD Network (Networks) to learn if the facility has involuntarily discharged or involuntarily transferred any patients within the last 12 months, and if there have been any patient complaints about that facility. When a surveyor is onsite at the

facility and is selecting a sample of patients to interview and review medical records, involuntary discharge is one criterion ESRD surveyors use to choose the sample.

We encourage you and any dialysis patients for whom you advocate to contact the State Survey Agency and/or the ESRD Network to report complaints about the care they receive at their dialysis facility. Patients should report if their facility is threatening to discharge or transfer them against their will.

The ESRD Core Survey Field Manual that contains the ESRD Core Survey process and interview worksheets for patients on in-center dialysis, peritoneal dialysis, and home hemodialysis can be found on the CMS Dialysis Survey & Certification Web site at: <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/GuidanceforLawsAndRegulations/Dialysis.html>.

We believe that the new ESRD Core Survey process will help State Survey agencies work more efficiently and effectively to promote the quality of care patients deserve in a safe environment, where non-violent patients no longer fear involuntary discharge.

Sincerely,

A handwritten signature in black ink that reads "Patrick Conway, MD". The signature is written in a cursive, slightly slanted style.

Patrick Conway, M.D., M.Sc.
CMS Chief Medical Officer
Director, Center for Clinical Standards & Quality