



Corporate Headquarters

7619 Little River Turnpike, Suite 600
Annandale, VA 22003
Phone: (703) 752-8700
Fax: (703) 752-8779

Centralized Intake Department

Northern Virginia/Maryland/DC
Phone: (703) 752-8741
Fax: (703) 752-8746
Toll Free
Phone: (866) 243-1234
Fax: (866) 845-0762

BRANCH OFFICE LOCATIONS

Annandale, VA Office

7619 Little River Turnpike, Suite 600
Annandale, VA 22003
Phone: (703) 379-9012
Fax: (703) 379-9095

Bethesda, MD Office

10411 Motor City Drive, Suite 300
Bethesda, MD 20817
Phone: (240) 395-0000
Fax: (240) 395-0001

Lanham, MD Office

4429 Forbes Blvd, Suite 208
Lanham, MD 20706
Phone: (301) 552-8325
Fax: (301) 552-2734

Norfolk, VA Office

JANAF Office Building
5900 E. Virginia Beach Blvd, Suite 119
Norfolk, VA 23502
Phone: (757) 333-4969
Fax: (757) 333-6614

Richmond, VA Office

1650 Willow Lawn Drive, Suite 301
Richmond, VA 23230
Phone: (804) 288-8686
Fax: (804) 288-6216

Roanoke, VA Office

5401 Fallowater Lane, Suite G
Roanoke, VA 24018
Phone: (540) 904-7880
Fax: (540) 904-7870

Washington, DC Office

1010 Wisconsin Avenue NW, Suite 300
Washington, DC 20007
Phone: (202) 955-8355
Fax: (202) 289-5461



*Eileen DeCesare, RN
President / CEO Emeritus*

Welcome!

Welcome to the premiere edition of Heartbeat!, Professional Healthcare Resource's Referral Sources newsletter! We are very excited and pleased to bring you newsworthy articles on current healthcare topics. Employees of Professional Healthcare Resources concentrate on the "care" in healthcare. We strive to deliver excellence in home healthcare services. It is our mission, and it's at the heart of everything we do. It is my sincere hope you enjoy reading our newsletter, and continue to benefit each month from information on how Professional Healthcare Resources is ensuring that we deliver quality care to our clients, and to share with you the various health-related topics our committed staff is writing about, or have researched. Before closing, as March is the national recognition month for Social Workers, I'd like to take this opportunity to recognize and thank all social workers for their invaluable service to individuals and all of our communities. Your spirit and dedication is so appreciated. Bravo!

Eileen DeCesare, RN, MS, CNA, LNC
President / CEO Emeritus
Professional Healthcare Resources, Inc.

Physicians and Patients' Right to Freedom of Choice

Hospital discharge planners/case managers are increasingly concerned that physicians may violate patients' right to freedom of choice of providers.

First, it is important to note that longterm care, home health, including some services provided by private duty agencies, home medical equipment (HME) and hospice services are provided under the supervision of physicians based upon specific orders from them. Because physicians supervise these types of services, they are at risk for legal liability, along with providers and staff members, if providers supervised by physicians do not meet applicable standards.

Consequently, physicians have a clear interest in assuring the quality of care rendered by other providers to their patients. Physicians may, therefore, choose to designate in their orders which providers will render services to their patients in order to help assure quality of care and manage their risks of liability.

Nonetheless, all providers, including physicians, are required to abide by patients' right to freedom of choice of providers. There are two (2) sources of this right that apply to physicians:

- 1) All patients have a common law right based upon court decisions to control the care provided to them, including who renders it. Thus, when patients, regardless of payor source or type of care, voluntarily express preferences for certain providers, their choices must be honored.
- 2) Federal statutes of the Medicare and Medicaid Programs guarantee Medicare beneficiaries and Medicaid recipients the right to freedom of choice of providers. (Medicaid recipients may have waived this right, if they participate in waiver programs.) Consequently, when Medicare patients and non-waiver Medicaid patients voluntarily express preferences for providers, these choices must be honored.

Consequently, physicians' orders based upon quality of care concerns for specific providers should be implemented unless patients express preferences to receive services from different providers.

If, however, patients voluntarily express preferences or choose providers other than providers ordered by their attending physicians, patients' choices "trump" physicians' orders and must be honored.

(over)

Physicians may then choose whether or not they wish to supervise services and assume the risk of services provided by providers different from those they ordered.

It is at this point that physicians and their office staff members must be especially cautious. If they try to “strong arm” patients into receiving services from providers physicians’ prefer instead of providers chosen by patients, consent to such services may not be voluntary. Statements by physicians or their employees, for example, that the doctor will no longer care for them if they do not accept services from the provider the doctor ordered may amount to duress which invalidates any consent by patients to such services.

Attempts to force patients to accept physicians’ choices have ethical implications as well. Patients’ right to act autonomously may be compromised by the insistence of physicians or staff members.

From a very practical point of view, physicians who are serious about quality of care and sound risk management should talk to patients about their preferences for providers before they write orders for specific providers. Patients will then have an opportunity to understand physicians’ preferences, to express their own choices and/or to resolve any differences between physicians and patients.

Discharge planners/case managers who encounter instances in which physicians and their employees put inappropriate pressure on patients to use providers chosen by physicians should carefully document violations of patients’ right to freedom of choice. Documentation should preferably be in the form of signed statements from patients. These statements should be forwarded to physicians with a letter from providers/case managers. A word to the wise should be sufficient!

Practitioners who encounter physicians who persist in pressuring patients despite their letters and documentation from patients may wish to report violations to both the central and regional offices of the Centers for Medicare and Medicaid Services (CMS). Such reports should include documentation from patients.

The competition among post-acute providers continues to “heat up.” The rights of patients, however, cannot be trampled despite fierce competition among providers.

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Elizabeth E. Hogue, Esq.

15118 Liberty Grove, Burtonsville, Maryland 20866

Office: 301-421-0143 • Fax: 301-421-1699 • E-mail: ehogue5@comcast.net

Guidelines for Referring Wound Care Patients for Home Health Care

Professional Healthcare Resources has developed and implemented an advanced wound product formulary for better standardization of topical wound therapies. To improve wound assessment and outcomes, Professional Healthcare Resources offers the following referral criteria for wound care patients:

Characteristics of Appropriate Wound Care Referrals

- Patient is able to be taught wound care or has a caregiver willing/able to assume care.
- Patient/identified caregiver is able/willing to comply with treatment plan as outlined by MD and home care staff.
- The referring MD is willing to collaborate with nursing staff and wound care specialty nurses to determine appropriate topical therapy based on patient’s needs and advanced wound product formulary.

Patients Who May Not Meet Home Care Criteria

- A chronic non-healing wound and no one to assume the ongoing treatment.
- Requires BID dressing changes and no available caregiver.
- Will require ongoing daily dressing changes and no caregiver to assume care.

- Patient has a history of non-compliance with wound treatment plans.
- A Medicare patient who is receiving outpatient wound therapy and needs dressing changes on weekends and holidays.

Special Considerations

- For a wound that is high risk for complication and/or requires close assessment, RNs may go into the home for daily assessment and treatment for a limited time period. If the wound cannot be stabilized, moving the patient to a higher level of care may be necessary.
- Wound care treatments that require ongoing, intermittent skilled nursing are acceptable when the wound is responding favorably to treatment.
- In the instance that a wound is determined to be non-healing, the patient and/or caregiver will be instructed in all aspects of wound care. Once the patient and/or caregiver are deemed competent and wound is stable, the patient may be discharged to the community with physician follow up.

If you have questions regarding whether a referral is appropriate for home care please feel free to contact your local Professional Healthcare Resources office. We will work with you in determining the best options for your patient’s care.

Betty Basile, RN

Branch Manager, Roanoke Office