

§418.52(a) Standard: Notice of rights and responsibilities.

(1) During the initial assessment visit in advance of furnishing care the hospice must provide the patient or representative with verbal (meaning spoken) and written notice of the patient's rights and responsibilities in a language and manner that the patient understands.

Interpretive Guidelines §418.52(a)(1)

When reference is made to “patient” in the Guidelines, it also refers to any person who may, under State law, act on the patient’s behalf when the patient is unable to act for him or herself. That person is referred to as the patient’s surrogate or representative. If a court has formally declared the patient incompetent, the surrogate or representative is whomever the court guardian, conservator, or committee appointed. The hospice should verify that the representative has the necessary authority. For example, a court-appointed conservator might have the power to make financial decisions, but not health care decisions.

All hospice patients should be aware of their rights and responsibilities before the hospice begins to provide care. The hospice must verbally explain the patient rights and responsibilities to all patients accepted for care (or explain the rights to the patient’s representative if the patient is physically or mentally incapacitated).

There must be evidence that the hospice conscientiously tried, within the constraints of the individual situation, to inform the patient/family both verbally (spoken) and in writing of patient rights and responsibilities. If a patient is able to read and understand written materials without assistance, an oral summary, along with the complete written documentation is acceptable.

For the patient who does not speak or understand English, hospices should make all reasonable efforts to secure a professional, objective translator for hospice-patient communications, including those involving the notice of patient rights and responsibilities. The hospice may only use family and friends as translators for the

patient when the hospice cannot secure an objective translator or if the patient specifically requests this approach. Hospices should make all reasonable efforts to have written copies of the notice of rights and responsibilities available in the language(s) that are commonly spoken in the hospice's service area. For those patients who speak languages in areas where professional translators for those languages are not readily available, using family and friends of the patient is an acceptable option if the patient agrees.

Further information on this topic is available from the Department of Health and Human Services, Office for Civil Rights Policy Guidance: Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficiency Persons
