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The Hospice Care Conundrum: Ensuring Quality Amidst Rapid Growth

Priority Update:

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The hospice sector, a critical pillar in providing end-of-life care, is currently navigating a tumultuous phase. It faces increased government oversight, rising labor challenges, and the introduction of new regulations aimed at addressing problematic business practices. These issues reflect wider trends in healthcare, yet they are acutely amplified in the hospice context due to America's rapidly aging population. This demographic shift is turning hospice into a veritable pressure cooker, illustrating the extensive challenges inherent in geriatric care as a whole.

Data from the 2020 U.S. Census reveals that approximately one in six Americans are aged 65 or older. By 2030, this ratio is anticipated to rise to one in five. Additionally, the segment of the population aged 75 and older is expected to double compared to its count in 2008. The Centers for Disease Control and Prevention (CDC) corroborates this trend, estimating that the number of Americans aged 65 and older will surpass 71 million, with those aged 80 and older expected to increase from 9.3 million in 2000 to 19.5 million in 2030.

The economic implications of this demographic shift are staggering. In California, for example, 'personal care aides' are predicted to become the largest occupation in the state by 2026, leading to a potential shortfall of up to 3.2 million direct care workers. Meanwhile, the hospice sector is experiencing difficulties in attracting and retaining both nurses and non-clinical caretakers. This sector faces a distinct set of challenges: the psychological and physical demands on staff are often disproportionate to the compensation they receive, compared to other healthcare areas. This imbalance not only discourages new entrants into the hospice care field but also prompts current professionals to seek more favorable opportunities elsewhere.

In the face of these escalating pressures, 2023 has witnessed a notable surge in advocacy efforts by hospice workers. Their primary demands focus on expanding staffing levels and reducing individual caseloads. This shift towards active advocacy is also accompanied by an increasing trend in unionization among hospice workers and homecare nurses, particularly gaining traction in states like California and Oregon. While the prospect of improved benefits could potentially attract more workers, it also raises concerns about increased employment costs, which might inadvertently limit further hiring and exacerbate staffing shortages.

For now, the most critical issue impacting patient care is an ongoing inability of hospice providers to accommodate all those in need. Resource constraints have led to a troubling trend of patient rejections. Nationally, the patient rejection rate has escalated sharply, soaring from approximately 25% pre-pandemic to a staggering 41% at its height. For families endeavoring to secure hospice care for a loved one, whether in a facility or at home, the scarcity of resources can translate into lengthy waiting lists and frantic searches for available beds or home assistants. This often involves an exhaustive process of contacting numerous providers until a suitable option becomes available.

Meanwhile, hospice providers have also been confronted with public allegations of employer misconduct. These allegations encompass a range of issues, including litigation around off-the-clock work, failure to provide mandated meal or rest breaks, and inaccuracies in calculating overtime pay. Concurrently, the industry has come under fire for unethical practices, notably in the realm of predatory business tactics. A pivotal moment came in December 2020 when the *Los Angeles Times* published an extensive investigation into the hospice industry in Los Angeles County. The investigation revealed that over the previous decade, the number of hospices in the county had increased sixfold, representing half of all certified hospice providers in California. The report shed light on intense competition for new patients — who generate significant Medicare payments daily — and the emergence of illicit

practices, such as kickbacks to doctors and recruiters.

In response to these challenges, California's legislature has enacted two significant pieces of legislation: Assembly Bill 1280, aimed at curbing unethical compensation practices, and Senate Bill 664, which imposed a moratorium on new hospice licenses to regulate industry growth. This moratorium, effective since January 2022, is scheduled to expire on January 1, 2027, though the California State Auditor may recommend an earlier repeal. Given the escalating demographic trends, there is a valid debate over whether the moratorium on new hospices is the most effective approach to addressing the industry's problems.

On the federal level, the Centers for Medicare & Medicaid Services (CMS) is gearing up to implement new regulations in 2024, including the Hospice Special Focus Program (SFP), aimed at intensifying oversight. This program's objective is to identify hospice providers that are underperforming based on specific quality indicators, enabling CMS to select certain hospices for enhanced scrutiny to ensure compliance with Medicare requirements. Providers selected for the SFP must either successfully complete the program or face termination from the Medicare program.

However, it is noteworthy that neither state nor federal measures directly address the critical issue of labor shortages in the hospice industry. This gap highlights a growing tension between the need to meet increasing demand and the obligation to provide safe and responsible care. As these demographic pressures continue to mount, this challenge is expected to become even more acute in the years ahead.

Tara A. Davidoff, Attorney, Nelson Hardiman

Yehuda Hausman, Law Clerk, Nelson Hardiman

Nelson Hardiman LLP

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