

## Report on Medicare Compliance Volume 30, Number 37. October 18, 2021 With Difficult Patients, Providers Balance Legal Risks, Safety

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By Nina Youngstrom

A hospital is in a bind when an inpatient demands a treatment that the care team doesn't think is medically appropriate and may be dangerous, while refusing to agree to the course suggested by the care team that would allow for safe discharge. It's one example of difficult patient situations that require hospitals and other providers to navigate their ethical and legal obligations to patients while protecting the safety of their employees and other patients, attorneys say.

"Challenging patients can put providers in a position where they have competing duties and priorities," said attorney Pari McGarraugh, with Fredrikson & Byron.

In the case of the treatment the care team thinks is medically inappropriate, such as Ivermectin for COVID-19, "a hospital ethics committee might be helpful here," McGarraugh said at an Oct. 13 webinar sponsored by the law firm.<sup>[1]</sup> If consents are in place, the physician and other members of the care team also may find it helpful to work with the patient's family "to build trust and reach a consensus to try to move forward." Transferring the patient is a possibility if the patient has a provider in mind who's willing to take over treatment. "It's much better to solve the problems on an interpersonal level," she said. "This is a problem that won't be efficiently or neatly solved by lawyers in the courts. The legal system is blunt, expensive and unpredictable on these types of questions. You may not get the answer you would like." Anyway, courts generally find patients have a greater right to decline treatment than demand it.

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