

administering agency must be forwarded to the consumer advisory committee described in §460.62(c) of this part for dissemination to participants as appropriate.

**§ 460.62 Governing body.**

(a) *Governing body.* A PACE organization must be operating under the control of an identifiable governing body (for example, a board of directors) or a designated person functioning as a governing body with full legal authority and responsibility for the following:

(1) Governance and operation of the organization.

(2) Development of policies consistent with the mission.

(3) Management and provision of all services, including the management of contractors.

(4) Establishment of personnel policies that address adequate notice of termination by employees or contractors with direct patient care responsibilities.

(5) Fiscal operations.

(6) Development of policies on participant health and safety, including a comprehensive, systemic operational plan to ensure the health and safety of participants.

(7) Quality assessment and performance improvement program.

(b) *Community representation.* A PACE organization must ensure community representation on issues related to participant care. This may be achieved by having a community representative on the governing body.

(c) *Consumer advisory committee.* A PACE organization must establish a consumer advisory committee to provide advice to the governing body on matters of concern to participants. Participants and representatives of participants must constitute a majority of the membership of this committee.

**§ 460.64 Personnel qualifications.**

(a) *General qualification requirements.* Except as specified in paragraphs (b) and (c) of this section, each member of the staff (employee or contractor) of the PACE organization must meet the following conditions:

(1) Be legally authorized (currently licensed or, if applicable, certified or

registered) to practice in the State in which he or she performs the function or actions.

(2) Only act within the scope of his or her authority to practice.

(b) *Federally-defined qualifications for physician.* (1) A physician must meet the qualifications and conditions in §410.20 of this chapter.

(2) A primary care physician must have a minimum of 1 year's experience working with a frail or elderly population.

(c) *Qualifications when no State licensing laws, State certification, or registration requirements exist.* If there are no State licensing laws, State certification, or registration applicable to the profession, the following requirements must be met:

(1) *Registered nurse.* A registered nurse must meet the following requirements:

(i) Be a graduate of a school of professional nursing.

(ii) Have a minimum of 1 year's experience working with a frail or elderly population.

(2) *Social worker.* A social worker must meet the following requirements:

(i) Have a master's degree in social work from an accredited school of social work.

(ii) Have a minimum of 1 year's experience working with a frail or elderly population.

(3) *Physical therapist.* A physical therapist must meet the following requirements:

(i) Be a graduate of a physical therapy curriculum approved by one of the following:

(A) The American Physical Therapy Association.

(B) The Committee on Allied Health Education and Accreditation of the American Medical Association.

(C) The Council on Medical Education of the American Medical Association and the American Physical Therapy Association.

(D) Other equivalent organizations approved by the Secretary.

(ii) Have a minimum of 1 year's experience working with a frail or elderly population.

(4) *Occupational therapist.* An occupational therapist must meet the following requirements:

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(i) Be a graduate of an occupational therapy curriculum accredited jointly by the Committee on Allied Health Education and Accreditation of the American Medical Association and the American Occupational Therapy Association or other equivalent organizations approved by the Secretary.

(ii) Be eligible for the National Registration Examination of the American Occupational Therapy Association.

(iii) Have 2 years of appropriate experience as an occupational therapist and have achieved a satisfactory grade on a proficiency examination conducted, approved, or sponsored by the U.S. Public Health Service, except that the determination of proficiency does not apply with respect to persons initially licensed by a State or seeking initial qualification as an occupational therapist after December 31, 1977.

(iv) Have a minimum of 1 year's experience working with a frail or elderly population.

(5) *Recreation therapist or activities coordinator.* A recreation therapist or activities coordinator must have 2 years experience in a social or recreational program providing and coordinating services for a frail or elderly population within the last 5 years, one of which was full-time in a patient activities program in a health care setting.

(6) *Dietitian.* A dietitian must meet the following requirements:

(i) Have a baccalaureate or advanced degree from an accredited college with major studies in food and nutrition or dietetics.

(ii) Have a minimum of 1 year's experience working with a frail or elderly population.

(7) *Drivers.* A PACE center driver must meet the following requirements:

(i) Have a valid driver's license to operate a van or bus in the State of operation.

(ii) Be capable of, and experienced in, transporting individuals with special mobility needs.

**§ 460.66 Training.**

(a) The PACE organization must provide training to maintain and improve the skills and knowledge of each staff member with respect to the individual's specific duties that results in his or her continued ability to dem-

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onstrate the skills necessary for the performance of the position.

(b) The PACE organization must develop a training program for each personal care attendant to establish the individual's competency in furnishing personal care services and specialized skills associated with specific care needs of individual participants.

**§ 460.68 Program integrity.**

(a) *Persons with criminal convictions.* A PACE organization must not employ individuals or contract with organizations or individuals—

(1) Who have been excluded from participation in the Medicare or Medicaid programs;

(2) Who have been convicted of criminal offenses related to their involvement in Medicaid, Medicare, other health insurance or health care programs, or social service programs under title XX of the Act; or

(3) In any capacity where an individual's contact with participants would pose a potential risk because the individual has been convicted of physical, sexual, drug, or alcohol abuse.

(b) *Direct or indirect interest in contracts.* Except as provided in paragraph (c) of this section, no member of the PACE organization's governing body or any immediate family member may have a direct or indirect interest in any contract that supplies any administrative or care-related service or materials to the PACE organization.

(c) *Waiver.* (1) HCFA and the State administering agency may waive the requirement in paragraph (b) of this section for PACE organizations in the following communities:

- (i) Rural.
- (ii) Tribal.
- (iii) Urban Indian.

(2) If an applicant seeking approval as a PACE organization believes a waiver under this paragraph is warranted, it must include a request for the waiver in its application that meets the following requirements:

- (i) Identifies the rural, tribal, or urban Indian community.
- (ii) Establishes recusal restrictions for each member of the PACE organization governing body or immediate family member to which the exception would apply.