Long-Term Care Survey Alert

5 Ways To Turn Your Ombudsman Into An Ally

Prevent ombudsman concerns from turning into complaint surveys.

When it comes to survey outcomes, the long-term care ombudsman can be your facility's best friend - or its worst enemy.

As for the latter category, ombudsmen sometimes initiate a complaint survey by reporting a resident's/family's complaint or their own observations to the state survey agency. In fact, the number of complaints from ombudsmen to state survey agencies increased by 28 percent from 1996 to 2000, according to a recent report by the **Health and Human Services' Office of Inspector General.**

Yet, acting as a friend, the ombudsman lets the facility administrators know about a problem that they can fix, which promotes good care and can stave off survey disaster. "Facilities that win the battle with ombudsmen are those who befriend these individuals and use them as a resource to promote residents' rights and quality of care/quality of life," says **Kenneth Burgess**, an attorney in San Francisco. "The ombudsman can be a big help on surveys by saying positive things about a facility or supporting providers' version of events or policies applicable in the facility."

Many surveyors, in fact, look to the ombudsman for input about certain situations or what they have seen or heard about a facility, which can help or hurt depending on what they say, Burgess notes.

How can nursing homes work most effectively with ombudsmen?

1. Take some time to get to know the ombudsman and develop a relationship of trust. "It's a mistake not to do that," says Burgess. "The relationship works best when both parties... have the courage and strength of character to say, 'We have a problem and let's work it out together.'"

2. Consult with the ombudsman on residents' rights. "The ombudsman is trained and versed in such issues, notes **Sue Wheaton**, ombudsman program specialist with the federal Administration on Aging (AoA). For example, ombudsman **Sam Kidder** in Silver Spring, MD, notes that he had one facility that was trying to send a notice of discharge to a resident because the resident was endangering the health of other residents. Kidder pointed out that the facility was not allowed to make that determination on its own, according to the OBRA '87. "The facility had to first get the physician to document in the clinical record that the resident was a danger to someone else," Kidder points out.

3. Work with the ombudsman to improve care where appropriate. A former surveyor and doctor of pharmacy, Kidder sometimes suggests how facilities might improve care - for example, one elderly resident on a particular drug required some monitoring of his glucose testing, in Kidder's view. The facility listened and obtained an order to do finger sticks. An ombudsman's ability to offer this kind of advice will depend, in part, on his background and training. But even those without a long-term care or geriatric background may be aware of approaches that have solved difficult clinical issues in other settings.

4. Give the ombudsman (and residents/families) an explanation of any changes in the facility that deviate from the norm. These changes include quality innovations that may look strange or different. Without an explanation in such cases, the ombudsman might conclude that the facility isn't following its normal protocol, Burgess says. To stave off confusion, facilities should meet with residents/families and the ombudsman to explain new programs and their rationale and to ask for feedback, Burgess advises. "Where facilities get in trouble with ombudsmen is where the latter feel a provider is being secretive or purposefully excluding them from something that impacts residents/families," he cautions.

5. Listen and respond when the ombudsman shares a resident/family complaint. Kidder recalls one situation where a resident's family member complained that her brother had suffered through the night without receiving any pain medication. He looked at the medication administration record but couldn't decipher it due to all of the scribbling. Kidder says he next scheduled a meeting with the consulting pharmacist, who didn't show up - and then with the associate DON, who also didn't make the appointment. Then he checked the narcotic sign-out sheets to make sure there hadn't been any diversion of drugs, which didn't appear to be the case.

   After that, and with permission, Kidder enlarged the MAR and discovered that the family member's allegations were probably true. At that point he reported the situation to the survey agency, which has more "investigative power" and can do an objective assessment of the situation, Kidder notes. "My objective was to find out if the nurse needed training on pain management or was neglectful," he says.

SURVEY DILEMMA

What should you do when an over zealous ombudsman crosses the privacy line? Can your facility get in HIPAA or survey trouble for not intervening in such situations? Share your thoughts on the subject on the Eli list serve at http://codelist.net/list/longtermcare.html (or sign up there if you're not a member). Also read the article in the October 2003 Long-Term Care Survey Alert on how experts suggest facilities handle this potential tricky privacy dilemma.

Check Out Top Ombudsman Complaints

The **HHS Office of Inspector General** recently released a report compiling data from state ombudsmen on nursing home complaints filed between 1996 and 2000.

Complaints regarding care plans went up 69.5 percent during the period, while those involving requests for assistance went up 59.5 percent, the OIG says in "State Ombudsman Data: Nursing Home Complaints" (OEI-09-02-00160).

Top 10 Ombudsman Complaint Categories, 1996-2000:
#1 Accidents
#2 Request for assistance
#3 Personal hygiene
#4 Dignity, respect, staff attitudes
#5 Care plan
#6 Staff shortages
#7 Physical abuse
#8 Menu quality
#9 Discharge, eviction
#10 Personal property

Top 10 Complaint Categories With The Largest Growth, 1996-2000:
#1 Staff turnover
#2 Dehydration
#3 Infection control
#4 Supervision
#5 Exercise choice and/or civil rights
#6 Cleanliness, pests
#7 Care plan/assessment
#8 Call lights, requests for assistance
#9 Medication administration
#10 Staff unresponsive, unavailable

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To see the report, go to http://oig.hhs.gov/oei/reports/oei-09-02-00160.pdf.