Long-Term Care Survey Alert

Beware These Top Immediate Jeopardy Triggers

Here's how to keep residents and your facility out of harm's way

An immediate jeopardy citation is a survey disaster in anyone's book, but you can stave off this worst-case scenario by staying one step ahead of the latest IJ hot spots.

A proactive tack is needed these days, legal experts warn, as the **Centers for Medicare & Medicaid Services** shows an ominous trend toward refusing to lower the scope and severity of citations, even for bogus deficiencies. Here are some of the current IJ triggers and related strategies to keep your residents and facility in the clear.

1. Cardiopulmonary resuscitation and "do not resuscitate" (or DNR) orders. Attorney **Jason Bring** is seeing more IJ citations for failure to provide CPR for residents without DNR orders and, conversely, for doing CPR on someone who is a no code. "Surveyors appear to believe that, in the absence of a DNR order, facility staff should perform CPR until paramedics arrive or the coroner comes to pronounce the resident dead," says Bring, an associate with the law firm of **Arnall Golden Gregory** in Atlanta.

   Strategy for success: Determine at admission if the resident wants a DNR order and obtain it in writing from the physician. Find a way to clearly designated who has a DNR order and who is a full code so staff knows immediately how to proceed in an emergency situation. Remind MDS staff to document advance directives on the background section, as required (CMS' DAVE program has already flagged this as a problem on the MDS see story, "Beat DAVE to the Punch").

2. Hot-water temperature even when there's no adverse outcome. This has become a focus of IJ citations nationally, cautions **Annaliese Impink**, associate general counsel for **Mariner Healthcare** in Atlanta.

   Strategy for success: Make sure you have good documentation for monitoring plant-related matters, such as the water temperature. **Tip:** Validate your thermometer's readings periodically. One nursing facility recently got an IJ citation for water temperature when they had been monitoring it with a new digital thermometer that had not been calibrated.

3. Resident-to-resident abuse in the absence of supervision. Surveyors are now citing resident-to-resident abuse more under an F324 tag for shortfalls in supervision rather than F224 (policies to prevent abuse and neglect), Bring says.

   Strategy for success: Provide extra supervision for aggressive residents and intervene promptly in situations that appear to be escalating toward abuse. Sometimes a simple change in roommates can help. One facility got written up for IJ big time when a resident was found to have been physically abusing his spouse who was sharing the room with him. The medical record included a litany of such incidents with little intervention by staff, who seemed to view the situation more as a "family matter."

4. A delay in seeking medical treatment that results in a negative outcome for the resident. Attorney **Joseph Bianculli** reports a recent case where a doctor gave a resident a clean bill of health after a fall. The resident subsequently died of a ruptured spleen that regulators claimed was fall-related, and the facility ended up with IJ, which it ultimately beat on appeal. **Lesson learned:** Facilities have a responsibility to do their own assessments, care plans and follow-up for resident's conditions, which is separate from the MD's actions, Bianculli emphasizes.

   Strategy for success: Work with the medical director to develop a protocol for managing residents after a fall, including guidelines for when to send residents to the emergency room.

5. What surveyors view as avoidable pressure ulcers. Surveyors may cite IJ at F314 for pressure ulcers if they find the facility lacks a systematic plan for prevention and management of decubiti or if they find the system has failed, according to **Barbara Nodiff**, president of **Associated Geriatric Information Network** in New Rochelle, NY. (To find out what surveyors expect to see in a facility's skin care program, see the reader question.)

6. Residents who smoke unsupervised. Impink has seen a rise in citations nationwide related to the dangerous smoker who hasn't been adequately supervised.
   Strategy for success: Work out a documented plan to provide close supervision for the resident who wants to smoke. Consider discharging the person if he insists on smoking unsupervised.

7. Residents who choke when the facility fails to provide thickened liquids or a modified diet. Facilities not only get IJ when this happens, they often end up in major malpractice lawsuits. Yet it's a complex issue because modified diets can affect residents' nutrition and quality of life.

   Strategy for success: Suggest that the physician obtain evidence that the resident is at risk of aspiration before changing the diet, advises **Janet Brown**, a speech language pathologist (SLP) with the **American Speech-Language-Hearing Association**. The SLP can do a bedside clinical evaluation of the resident to see if a swallowing study is needed, she says. Part B will pay for the study for a non Part A-stay resident under the fee schedule, but the study is rolled into the Part A PPS per diem, notes **Marilyn Mines**, a survey consultant with **FR&R Healthcare Consulting** in Deerfield, IL. Speech therapists can also help residents regain the ability to swallow or at least teach staff how to help dysphagic residents eat and drink more safely.

   Tip: If a dysphagic resident refuses modified diets, dot all of the I's and cross the T's carefully, including how you educated the resident/family about the risks and met with the family, etc.

   Editor's Note: For a case study on a nursing facility that got IJ for honoring a dysphagic resident's wish to drink thin coffee, see the September 2002 Long-Term Care Survey Alert. Good news: The facility recently prevailed in its appeal of the IJ.)