

## Long-Term Care Survey Alert

### Case Study: Check Out This Behavioral Management Model For Cognitively Intact Residents

#### **Maryland LTC group teams up with survey to tackle a growing problem.**

If the term "nursing home" conjures images of geriatric care, your facility may end up behind the survey curve of a trend with ominous OBRA twists and turns: The growing number of young people requiring post acute or long-term care for mental health problems, AIDS, accidents--even gang-related shootings.

This expanding population of long-term care recipients often has nowhere to go but nursing homes, so be prepared to address a new set of issues that can butt heads with OBRA requirements geared toward protecting the frail elderly.

**Case in point:** One facility received Level J deficiencies resulting from three occasions where male residents ranging in age from 25 to 40 went AWOL briefly but returned to the facility without incident.

One resident was distraught over news his lover had a new partner, and the other two residents went in search of various illegal substances, according to a presentation by private attorney **Howard Sollins** and **Wendy Kronmiller**, acting director of the Maryland survey agency, at this year's **American Health Lawyers Association's** annual long-term care conference.

Even though the residents were mentally competent and didn't miss any essential medical treatments while absent, the state survey agency treated their voluntary leave-taking as "elopements" under OBRA.

**The good news:** The **Health Facilities Association of Maryland** (HFAM) has worked with the state survey agency to develop a model that can help address residents' intentional misbehavior. For example, nursing facilities have had non-geriatric residents bring illegal drugs, alcohol and even guns on the premises, according to the AHL presentation. HFAM has heard reports of young residents engaging in abusive interactions with staff--or refusing needed treatments.

**Transfer, discharge rules not always an out:** If you're thinking your facility would simply discharge or transfer the troublemaking residents, hold that thought. While federal regs allow you to transfer or discharge a resident who poses a danger to self or others, state laws can be more stringent. And practically speaking, a facility can't just discharge a resident with nowhere to go to a homeless shelter, for example, that isn't equipped to meet the person's medical and safety needs.

#### **Behavioral Guidelines an Option**

To address the challenge of caring for mentally competent residents who act out, HFAM developed a set of behavioral guidelines spelling out expected conduct in the facility. The facility asks residents assessed as cognitively intact to review and sign the guidelines, agreeing to abide by the rules as a condition of living in the facility.

If the person refuses at the outset to sign the behavior guideline agreement, the facility can refuse to admit the person, Kronmiller tells **Eli**. But if a person already in the facility refuses to sign the behavioral contract, the federal and state discharge and transfer rules apply, she adds.

When a resident violates the behavioral contract, the facility responds with a tiered set of interventions. For example, a first-time offense might warrant a warning and review of the guidelines, depending on how serious the violation is. Someone who breaks the rules a second or third time might receive counseling or a behavioral management plan.

"Then, if the administrators end up in a position where they believe a resident poses a danger to self or others, the

facility has a great paper trail to support the need for transfer or discharge," says Kronmiller.

**When a resident violates the behavioral contract, the facility responds with tiered interventions, which can provide a paper trail to support the need for transfer or discharge.**

### **Psychosocial Support Required**

Maryland facilities using the behavioral guidelines contract approach must offer psychosocial interventions and access to treatment and support groups to address behaviors stemming from loss, mental illness or substance abuse.

**Example:** The Maryland survey agency heard about one nursing home wanting to discharge an 18-year-old paralyzed by a gun shot to the neck resulting from gang retribution. The woman was lashing out with unresolved anger issues, says Kronmiller, "but who in that situation wouldn't be angry?"

**Tip:** Involve CNAs and staff in training on how to use behavioral guidelines as part of an overall therapeutic plan. "For example, CNAs need to know what to do if a resident physically lashes out at them--or if they find the person inappropriately smoking," says **Sheila Mackertich**, HFAM director of public policy, who helped develop the behavioral management model.

Some nursing facilities consult with therapists and other experts about how to structure the environment, including activities, so the younger residents don't feel like they are in a nursing home, adds Mackertich. But the facilities still have to meet the state and federal requirements for nursing homes.

**The bottom line:** The behavioral management guidelines and contract approach should help facilities successfully manage 95 percent of cases where mentally competent residents engage in inappropriate behaviors, in Mackertich's view. But she agrees the model doesn't resolve the issue of a lack of appropriate discharge destinations for residents who pose a danger to self or others. "The hope is that by using the behavioral management model, facilities can care for such residents until they become medically stable and rehabilitated enough to safely return to the community," says Mackertich.

**Tip:** Identify facilities that specialize in providing care to younger long-term care residents who present behavioral challenges, as there are some niche providers who do a good job in that regard, said Sollins in his AHL presentation.

Might the behavior guidelines and contract approach become a national model? "The **Centers for Medicare & Medicaid Services** has asked for information about the model, which we have sent along," relays Kronmiller.