

Long-Term Care Survey Alert

Case Study: Let An Ethics Committee Be Your Guide For Residents' Rights At End Of Life

The time to prevent survey and legal disputes is way before they occur.

Are you looking for a beacon to lead the way in the gray areas of ethical decision-making at end of life - the ones fraught with potential survey complaints and litigation?

An ethics committee can help lead caregivers and families down the same path for honoring residents' wishes at end of life.

Case in point: The ethics committee at **Statesman Health and Rehabilitation Center** in Levittown, PA, has laid the groundwork for ethical decision making in a way that has sharply reduced disputes that can escalate into survey and legal entanglements. To pull off that feat, the committee performs six key functions, as follows:

1. Develop ethical guidelines to drive facility policies for managing end-of-life requests for care. The committee helped the nursing facility develop ethical guidelines for handling requests for comfort care, refusal of treatment - or withdrawal of interventions already in place when someone is imminently dying, says the facility's medical director, **Maryann C. Galietta, CMD, MD**. Galietta serves on the committee along with the DON, administrator and the directors of social services and dietary, and several representatives from the community, including clergy, a hospice provider and an elder law attorney.

2. Educate patients, families, staff and the community about ethical issues in the long-term care setting. The committee reviews current literature related to ethical issues and keeps abreast of relevant case law. It has also developed a library of such materials for interested staff and outside parties. In addition, the committee conducts educational inservices for staff and gives presentations to the public or outside organizations when invited, adds Galietta.

3. Teach staff to use language in a way that clearly communicates the reality of a situation. For example, staff use the word "dying" and not "passing on" or "leaving us," says Galietta. "Calling things as they are has helped staff be much more clear about what they are doing - and that clarity also helps family decision makers."

4. Review cases where a resident has no living will or durable power of attorney and a family member asks the facility to withhold care. In such cases, the committee "makes a strong effort to advocate for the patient," says Galietta. "The committee ascertains the patient's wishes by interviewing her family and friends about her life values and attitudes," she adds.

When staff suspect a family member has a sinister motive in wanting to withdraw or not provide nutritional or other care, the committee tries not to focus on that issue, says Galietta. "Instead we look at what the patient's wishes might have been given the circumstances - and on the diagnosis and prognosis," she says.

Experience has taught the committee not to rush to judgment in such situations. "We have had situations where we believed someone did not have a motive to do what was in the resident's best interest, and then have later been humbled when we clearly saw such was not the case," says Galietta.

Education is Key

5. Work with physicians who have concerns about certifying the resident is dying. Without that certification,

the facility cannot withhold services as specified by the person's living will under such circumstances. "If the physician doesn't agree the resident has an end-stage condition, but the family or resident's power-of-attorney wants to withhold treatment, the committee advises the family it has the right to get another physician's opinion," says Galietta.

The attending physicians working at Statesman have come to trust the ethics committee and use it as part of their decision making to navigate the gray areas.

"Some physicians require education because they don't think of certain conditions as end-stage - for example, a resident with dementia at a certain point who can't eat or drink due to swallowing problems and, thus, requires enteral nutrition," says Galietta. "We will show the physician how the Alzheimer's Association and many studies show that the quality or length of life [in such cases] isn't improved by providing tube feedings."

If the physician still feels uneasy about certifying that someone is in an end-stage condition, the committee might suggest he ask for a second or even third opinion from physicians unrelated to the case.

6. Assist family members having difficulty in letting go of a loved one in an end-stage condition. For example, the family member might be insisting the facility feed a loved one who is clearly dying and suffering from forced tube feedings. Sometimes the committee has been able to help staff address such a family member's underlying fear about the dying process. For example, the person may be afraid her loved one is suffering or hungry - and the staff can take measures to assuage those concerns, says Galietta.