

## Long-Term Care Survey Alert

### Reader Question: Fashion Customer Satisfaction Surveys To Help, Not Hurt, Your Facility

**Question:** Are survey findings allowed as evidence in malpractice actions? What about customer satisfaction reports? How should we handle the latter to get the information we need but also protect our facility's interests?

**Answer:** Federal and state licensure survey findings are allowed as evidence in malpractice actions on a state-by-state basis. If the state law allows the findings to be entered into evidence, then the defense attorney can make arguments as to why they should not be included.

Customer satisfaction surveys are likely to be considered "discoverable" in lawsuits, although their relevance is another issue. Whether residents are satisfied may not be of particular relevance in an individual case.

Develop questionnaires that will help the facility make positive changes - not ones that can be used to burn the facility in a lawsuit.

You want the format for these surveys to include yes/no questions or rating scales of 1-5, for example. Don't structure the survey to elicit narrative type responses that go beyond the original inquiry. If you have a lot of responses showing that residents/families ranked the care as extremely poor, the facility is on notice to either change its care processes and/or address residents' and families' perception about the quality of care.

- Expert advice provided by **John Durso, JD**, with **Michael Best & Friedrich LLP** in Chicago.

Editor's Note: Do you have a question you'd like answered in our report? Call/email editor Karen Lusky at [editormon@aol.com](mailto:editormon@aol.com) or 615-370-5042.

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