

Long-Term Care Survey Alert

Survey Management: COUNTERACT SURVEYORS' 'TALL TALES' ABOUT NURSING HOMES

The facility might be wise to take pictures of the resident's preexisting pressure ulcers and any bruises at admission, suggests **Annaliese Impink**, an attorney with **The Law Offices of Bianculli & Impink** in Arlington, VA. "Otherwise, the facility can't prove that the bruising didn't occur in the facility," she cautions. Impink also recommends checking with hospital staff when you see bruising on residents admitted from that setting. In addition, consider taking pictures of residents before transferring them to the hospital to show they left the facility free of pressure ulcers □ or the size and location of any pressure ulcers under treatment, suggests **Marilyn Mines**, a consultant with **FR&R Healthcare Consulting** in Deerfield, IL.

Tackle the 'Rehab Myth'

Facilities may also encounter what Larrabee calls the "rehab myth." That's where surveyors expect providers to help residents achieve a higher level of functioning than is realistic under OBRA, which only requires facilities to help residents achieve or maintain the "highest practicable" level of functioning.

"You cannot be expected to rehab someone to a higher level than they started out," Larrabee stresses. Social histories and careful assessments □ including accounts of family members about a resident's previous functioning □ are critical to show that a resident has achieved optimal functioning.

"With OBRA, the phrase 'highest practicable' is an important one because you're not going to make everything go away," **Jacqueline Vance**, the **American Medical Directors Association's** director of clinical affairs said in a presentation at the recent **American Association of Homes & Services for the Aging** annual convention in Baltimore.

"For example, you can never stop a Parkinson's patient from falling, but you can reduce the risk of their falling and the risk of injury when they do fall," Vance notes.

Another way to protect yourself against a surveyor's wrath is to follow practice guidelines. When something bad happens to a patient in your care (e.g., a fall), surveyors will be more likely to deem that the facility is in regulatory compliance if it can show that it adhered to practice guidelines, especially in areas where the survey interpretive guidance is murky, Vance said. The AMDA publishes numerous practice guidelines, including ones on fall management and other common clinical issues in long-term care settings.

Defend Quality of Life

Surveyors may also have set ideas that nursing homes' residents are more impaired in their basic decision making than is fair or realistic, Larrabee says.

If so, a facility may find itself in the "Catch-22" of trying to honor residents' rights to refuse medications, pureed diets or thickened liquids □ without netting a serious quality-of-care tag as a result.

If a resident refuses a prescribed diet or medication, document that you explained all of the risks of the resident's choice to him, his family and/or legal representative, advises Impink. And even when you dot all the I's and cross the T's in such cases, be prepared to defend your stance (see the September 2002 Long-Term Care Survey Alert, p. 84).

As the quality of life movement moves into the mainstream, facilities also find themselves defending environments that offer more spontaneity and joy, but also a somewhat higher risk of accidents.

Larrabee recalls one facility he administered that had a decorative fountain with large goldfish swimming in the shallow pond. While residents and visitors found the fountain magical, surveyors were afraid the residents would try to swallow the fish.

But Larrabee managed to convince surveyors that the fish were in more danger of someone urinating in the pool than the residents were of choking on the fish. "The fish remained in the pool for years," he reports, "and no resident ever tried to eat one of them."