

## Long-Term Care Survey Alert

### Survey Management: Have A Plan To Manage These Critical Aspects Of The Survey

Failing to do this can land you a failing survey.

Facility staff may not be the ones handing out F tags during the survey. But focusing survey management strategies on what is under the facility's purview -- staff, residents and records -- can go a long way toward warding off unfair deficiencies during your next inspection.

"The facility administration/staff should set the tone for the survey during the entrance conference," advises **Barbara Miltenberger**, a nurse attorney with **Husch & Eppenberger** in Jefferson City, MO.

Example: The administrative staff person might tell surveyors that the staff wants to cooperate but also expects to maintain the flow of resident care during the survey. The administrative person could also tell surveyors: "We understand that a survey is a very stressful time for our employees and want to support them as much as possible. We have advised our staff that if they prefer to have another facility person present during surveyors' interviews, they may do so. However, if they want to speak with the surveyors confidentially, that is their right as well."

Important: Educate staff that they have the right to speak to surveyors alone or to have a facility staff person available during the interview, Miltenberger advises.

Having another staff person present during an interview can help counter instances where surveyors misquote staff on the CMS 2567. Attorney **Paula Sanders** relays how one federal attorney advised surveyors to interview staff with more than one surveyor present to avoid a "he said, she said" situation if there's a hearing.

Unfortunately, some employees "delight" in giving surveyors negative information, observes Sanders, partner in the law firm of **Post & Schell** in Harrisburg, PA. "One facility had a staff person tell surveyors that the care staff put lap buddies on residents and only removed them when they saw a manager coming down the hall."

Proactive strategy: Miltenberger suggests administrators ask staff on a regular basis as part of the QA process to share their concerns about quality or other issues. Ditto for residents and families. Then if concerns "come to light during a survey, the facility can show the surveyors" how the facility has elicited and addressed them.

Good idea: Before the survey, prepare staff for questions that surveyors will likely ask. And help them understand their limits in being able to provide answers on their own. In Miltenberger's experience, surveyors often ask CNAs questions that require a nursing background to answer appropriately. Then they use the CNAs' inadequate response to cite a deficiency.

#### Protect Residents

Surveyors have the right to interview residents and family members alone. But you should give surveyors a heads up at the get-go about residents who may not respond well to an interview. If the administrative staff is aware of a resident who could participate in an interview but gets very nervous or agitated when an unfamiliar person asks him questions, inform the surveyors of this concern in writing, Miltenberger advises. "Then the staff has documentation if ... the surveyors try to interview that resident, and the resident becomes upset," she says. Also keep in mind that surveyors are not supposed to cite a deficiency based on a resident's statements alone. Instead, they should "validate that information through observations and other means."

Unfair is unfair: Surveyors should not allow a resident to become upset due to an interview or to fall just to allow a

deficiency to unfold, says Miltenberger, who has heard of such things happening. "If a surveyor is acting in a way that is abusive to residents," she suggests the facility administrative staff as a first step contact the surveyor's supervisor about the situation.

#### Stay on Top of Resident Records

Miltenberger suggests these strategies for managing records:

- Never give surveyors loose pieces of paper from a resident's record.
- Copy all records and documentation for surveyors. Assign someone to make requested copies promptly and also make a duplicate copy for the facility.
- Review copies of the records requested by surveyors. This lets the facility know what the surveyors are evaluating related to potential deficiencies so they can prepare to refute them during the survey. "Or if the facility is truly good for a deficiency, the staff can quickly start reviewing documentation and clinical records to begin making corrections as quickly as possible," Miltenberger says.