

Long-Term Care Survey Alert

Survey Management: Sidestep This Survey Disaster

These strategies can help save the survey day.

"You still see lots of appeals that are essentially based on trying to fix what an employee said during the survey," cautions attorney **Joseph Bianculli**.

Example: Bianculli recently wrote a brief for an immediate jeopardy case "where a nurse fell apart during the survey and told surveyors that she was over-worked, hadn't had training -- and had 43 wounds to deal with. All of these comments appeared on the statement of deficiencies."

Reality check: "When you go through the documents, however, there weren't 43 wounds -- there were nine pressure ulcers and the rest were abrasions and what not," adds Bianculli, in Arlington, Va. And "the nurse had a long list of certifications, including courses she had completed the month before the survey. But by this time, the facility is fighting a defensive battle."

The facility is "reduced to arguing in an appeal that had they known what the nurse was saying, they could have corrected it," Bianculli continues. "At this point, the nurse is long gone, so the surveyor will be repeating her statements as gospel -- and the judge may treat them as 'admissions.'"

Lesson learned: "Facility staff always should try to accompany surveyors (except when they are doing confidential interviews with residents) -- if only to know whom they spoke with and what information they have and need, etc.," Bianculli advises. "Of course, that is not always feasible. But administrators have to be alert to staff errors, demeanor, etc."

Joy Morrow, RN, PhD, says she has "seen people due to situational stress overload" break down when speaking with surveyors. "It doesn't happen often but when it does, it's horrible. You don't want someone to blather on in fear."

"I have found that some surveyors like to get someone in the corner and 'get the dirt' -- and I think they even look for people who look vulnerable," adds Morrow, senior clinical consultant for Hansen, Hunter, & Co. in Beaverton, Ore. "I have also seen surveyors ... who tell the facility management that they think they have talked to a disgruntled employee based on an interview that doesn't seem to" be accurate.

Cover These Bases

"Surveyors can be belligerent and power hungry in some cases," says nurse attorney **Kathy Hurst**, owner and chief regulatory consultant for Hurst Consulting Group in Chino Hills, Calif. And "the DON and management have to empower nurses to stand up to surveyors," Hurst counsels. "A lot of nurses working in long-term care these days come from cultures where they were taught to be submissive. And they don't have the skills to know what to do when they feel berated or hounded; so they will admit to something when confronted with that behavior from surveyors," Hurst adds.

Remedies: "You have to drive home the point that they are smart people. If staff members feel frustrated with what surveyors are asking them or how they are acting, they need to get the DON involved and work with the surveyor as a team. That's what the DON is there for -- to run interference," says Hurst.

Also: "Survey preparation should include telling nurses that it's OK not to have every answer," says Hurst. "Nurses think they have to know all of the information," she adds. But "they can tell the surveyor, 'I don't know but I will find out for you.' Or the nurse can make up an excuse about needing to do something and go look up the answer."

"One thing I do during the survey window," says Morrow, "is assess who might come unglued when surveyors came in

where they would say irrational things."

"Leadership should encourage staff to come forward if they feel overwhelmed and don't have the skills, resources or support they need to do their jobs appropriately," advises attorney **Mary Malone**, with Hancock, Daniel, Johnson & Nagle PC in Glen Allen, Va. For example, "If a staff person feels like there isn't enough nursing staff on a shift, that person should let the nurse manager or DON know -- and that management level nurse should get someone to come in," she adds. The facility "should have back-up resources and if that fails, as a last ditch measure, the DON should come in and work on the floor if necessary to relieve the strain on staff."

Tip: "I send out periodic needs assessment and tell staff what training the facility is offering and ask them if they have additional training they'd like," Hurst relays. "If you're not asking nurses about that, you're missing the whole point," she adds. "Also, when you do that, the staff can't say that the facility didn't give them training. You can show that you asked what people wanted."