

## Long-Term Care Survey Alert

### Survey Management Tip: Jettison F Tags at the Exit Conference or Before

Hint: The activities documentation may be the ticket for preventing a citation.

You know that sinking feeling when you see surveyors poring over charts and hovering outside a couple of residents' rooms. But rather than just hope you're imagining things, seize the moment to make a case for why the facility is in compliance, if that's the case.

"We counsel clients that if a particular survey appears to be going badly, the facility administrators should ask surveyors pointed questions" about their concerns, says attorney **Neville Bilimoria** with Duane Morris LLP in Chicago, Ill. Then "look for and provide evidence of compliance to the surveyors while they are there."

Example: Provide clinical documentation that's not in the medical record, advises attorney **Chris Lucas** in Mechanicsburg, Pa. Suppose that surveyors note that a physician order directed staff to provide a resident fluids twice a day in addition to mealtimes, he says. But the nursing notes or flow sheets indicate that staff hasn't consistently followed through with that order.

"The activities documentation or flow sheets may show that the resident regularly participated in activities where they drank Italian ices or attended regular tea times where documentation shows they drank tea or other beverages, etc.," Lucas says.

#### Make the Most of the Exit Conference

The exit conference provides your last chance before surveyors leave the building to convince them that you're in compliance -- or that an isolated deficiency doesn't constitute actual harm or IJ. And you need to present your case in a convincing way without alienating surveyors, advises Bilimoria.

What not to do: Bilimoria advises against having an attorney at an exit conference. "You don't want to make it confrontational, and thereby invite the agency to have its own attorney present at the exit conference," he says. On the other hand, "having a consultant there to help challenge surveyors as they present you with their findings can be effective."

Using that tack allows the outside consultant "to be the bad guy. Sometimes facilities are afraid to challenge surveyors because they want to maintain a good relationship with them."

Bilimoria finds that making a case for why the facility is in compliance can also be helpful for informal dispute resolution (IDR) and subsequent hearings. "You can tell the IDR folks or judges that we presented this evidence during the exit and surveyors ignored it." You may be able to show "a pattern of surveyors having deaf ears or being unwilling to change deficiencies in the light of overwhelming evidence," he says.