

Long-Term Care Survey Alert

SURVEY MANAGEMENT: Use A Risk Management Approach To Address Residents' Sexuality

Following the right policies and procedures can stave off a survey disaster.

Does your facility have a well thought-out approach to address residents' sexuality? If not, you're leaving the door open to a potential media uproar and an immediate jeopardy citation or residents' rights violations.

One of the most dangerous things you can do is address the issue of resident sexuality on an ad hoc basis, warned nurse attorney **Janet Feldkamp** in a co-presentation with medical director **Duncan MacLean, CMD**, at the **March American Medical Directors Association** annual conference in Dallas.

Walk the survey tightrope: You have an obligation to protect a resident too confused or mentally ill to consent to sex with another resident. But residents capable of making safe decisions have the right to engage in consensual sex.

Develop a Systematic Assessment Approach

To address resident sexuality in an open and proactive way, develop "a standardized process by which you address the issue," Feldkamp advises. Consider following these key steps:

1. Ask residents about their sexual and social history as a part of the admissions assessment process, suggests **Joseph Bianculli**, an attorney in private practice in Arlington, VA.

"Including questions about sexuality and sexual health ... conveys that you recognize that people continue to be sexual beings and interested in sex as they age," observes **Barbara Malat, CRNP**, a nurse practitioner at **Olmmed Medical Center** in Rochester, MD, who sees patients in nursing homes.

During the assessment interview, ask the person if he or she has a special relationship or sexual relationship in the community or facility, advises Malat.

MacLean uses the intake process to identify residents at high risk for sexually transmitted diseases and offer STD screening.

2. Teach staff to be on the lookout for sexual interactions or signs of romantic attachments between residents and report them to management. The staff should be aware of what's going on in their units, emphasizes Feldkamp. "If they see two people with dementia unable to make safe choices engaging in sexual activity," they need to separate those residents, she says.

Don't confuse affectionate touching with sexual behavior: Residents with dementia may hold hands or hug--"and that's not sexual touching," says Feldkamp. "People have a need for [physical] contact, and that kind of contact is friendship-based."

3. Ascertain whether resident behavior is really sexual in nature. Sometimes a resident behaves in ways that staff might misinterpret as having sexual connotations unless they investigate further. In such cases, "look for the underlying cause for the behavior," suggests Feldkamp.

Example: One younger resident kept taking off her shirt in an agitated way, Feldkamp told AMDA conferees. Turns out

the person had a painful sunburn on the back of her neck. "So the behavior wasn't sexual--it was [a response to] pain." Residents with dementia may engage in "disinhibited behaviors" where they disrobe or masturbate in public. Or a resident with dementia may misidentify another resident as his or her spouse, noted MacLean.

Go for the goal: The goal for dealing with disinhibited behavior due to dementia is to maintain the "psychosocial function, safety and dignity of the resident and others," according to the presentation.

4. Determine residents' capacity to consent to sex. Your goal is to "affirm a resident's sexual identity and rights" if he has the ability to consent to sex, says Feldkamp. The capacity for sexual consent doesn't carry as strict a legal standard as consent for treatment, which requires "full appreciation of risks and benefits," according to the AMDA presentation.

"Just because someone is coded on the MDS as having some impairment in decision making or short-term memory loss doesn't necessarily mean the person can't identify that another resident is special and they want to engage in sexual touching or intercourse," says Feldkamp. (For details on determining whether someone can make a safe choice to engage in consensual sex, see the next story.)

As part of the "comprehensive multi-disciplinary assessment, the team should also consider whether the resident has a diagnosis of depression, psychosis, or other chronic mental illness--and factor that assessment into care planning for sexual issues," MacLean says.

5. Educate residents about safe sex practices. If you determine that both residents who want to be involved sexually have the ability to consent to the activity, then educate them about safe sexual practices--and provide discreet access to condoms, suggests Feldkamp.

The facility can offer STD screening, as well. But keep in mind that the residents "can choose not to use safe sexual practices, just as people in the community can," Feldkamp adds.

6. Ensure resident privacy for sexual activity. If you assess two people as capable of providing permission for consensual sex, the staff should accommodate their privacy needs, advises Feldkamp.

Keep in mind that failure to meet privacy needs can result in an F164 tag (right to privacy).