

Long-Term Care Survey Alert

Survey News To Use

-Don't count on state nurse aide registries to identify CNAs who have substantiated findings of abuse, neglect or misappropriation of property. A recent **HHS Office of Inspector General** inspection report found that states aren't keeping pace in updating their nurse aide registries to identify CNAs who may pose a danger to nursing home residents.

Two examples of substantiated abusive behaviors that didn't make it into the state registries and, thus, left the CNAs seemingly eligible to work in nursing homes:

1. A nurse aide poured milk on a resident's head, grabbed his arms, pushed him back into the wheelchair, and hit him on the head, causing multiple skin tears and bruises (from the Texas investigative agency).
2. A nurse aide struck a resident in the face, fracturing his nose and breaking his glasses (from the Alaska investigative agency).

Federal regulations require that states update the nurse aide registry records within 10 working days of substantiating an adverse finding, says the OIG. The records should generally remain on the registry indefinitely during the individual's lifetime.

Yet the OIG found that at least 24 of 38 states analyzed did not meet the federal regulations for updating registry records within 10 days. And records of one in four nurse aides (450/1,978) with recent substantiated findings were still not updated after that deadline.

Three months later, 236 out of that 450 were still not updated to reflect the substantiated findings of abuse, neglect or misappropriation of property, the report cautions.

The **Centers for Medicare & Medicaid Services** plans to provide additional guidance and improvement projects in states with the most serious registry problems. CMS stopped short of endorsing the OIG's call for legislative changes to create a national nurse registry.

Nurse registries will improve as a direct result of the newly created Automated Complaint Tracking System (ACTS), which logs, manages and tracks investigations into resident complaints, CMS said.

CMS also says that if the upcoming background check demonstration for facilities spreads nationwide, "the environment of the nurse aide registry would change dramatically."

What nursing homes can do: The inability to rely on the state nurse aide registries places more of a burden on nursing facilities doing background checks on CNAs, comments **Marsha Greenfield**, senior attorney with the **American Association of Homes & Services for the Aging**.

Facilities might consider following these steps, Greenfield advises:

3. In addition to performing a criminal background check, contact references and look for resume gaps. "Call the nursing homes listed as places of employment to validate dates of employment," she says.

4. Ask nursing home employment references outright if the applicant was ever reported to the state survey agency or another government agency for abuse, neglect or misappropriation of property, suggests Greenfield.
5. Document whom you talked to in checking references, and keep a list of questions you asked and the answers.

The problems raised in the OIG's report highlight the need for a national registry, in AAHSA's view, says Greenfield.

-Comparing Nursing Home Compare data to your facility's surveys is a good idea. The **HHS Office of Inspector General** found some significant discrepancies between facilities' survey records and what's posted on the Web site, according to a presentation at a recent **American Health Lawyers Association** conference in San Diego. "If you see something on the [site] that's not on your survey, contact CMS and the state survey agency," advised **Anne Hall, JD**, with the **HHS Office of the General Counsel** in a presentation. One reason for the discrepancies may be that facilities' IDR and departmental appeals board findings aren't making their way into data on the site, according to Hall.

"So make sure the facility's IDR and DAB rulings [changing the survey outcome] are showing up," Hall advised conference attendees.

-The MDS 3.0 is coming ... really. The new assessment tool is slated for national testing in the spring of 2006. That's the latest word from the **Centers for Medicare & Medicaid Services** during a special extended SNF/Long-Term Care Open Door Forum (ODF) on Mar. 4.

"We're looking at national testing in the spring of 2006," reported **Debra Saliba, MD, PhD**, who leads the project for the **RAND Corp.** RAND has contracted with CMS to test the assessment tool that drives payment, quality indicators and quality measures and a facility's survey.

CMS is working with RAND to make the MDS more reliable - and relevant -clinically, as well as easier to do. For example, CMS may move longer assessment sections to the RAPs.

Sections targeted for the biggest refinements, according to the ODF, include the following:

6. Pain
7. Falls
8. Mood
9. Behavior
10. Symptoms
11. Diagnosis coding and
12. Delirium.

For updates - and to view the draft MDS 3.0, which was released in Apr. 2003, go to www.cms.hhs.gov/quality/mds30/.
[Providers may submit comments on the draft to mds30comments@cms.hhs.gov.](mailto:mds30comments@cms.hhs.gov)