

Long-Term Care Survey Alert

Survey Strategies: What's Your IQ? Boost Your "Investigative Quotient" To Avoid Costly Citations and Sanctions

Creating a comprehensive record can save the day when surveyors show up.

The news isn't good: A resident has suddenly suffered a fracture. But an even greater tragedy can spring from a nursing home's failure to face -- and ferret out -- the facts in such bad-news scenarios.

Taking action fast by launching a root cause investigation can be your best defense in staving off future legal action, survey strikes, and blows to your facility's reputation, says **Melanie Kohler, RN**, director of nursing services at Landmark Care Center in Yakima, Washington. Done right, such an investigation is a surefire way to protect residents and improve care.

RCA 101

Put simply, root cause analysis (RCA) is a structured way to bring to light the mistakes and missteps that can lead to a negative outcome. With RCA, the focus is less on finding an individual to blame and more on identifying an underlying problem that's likely to lead to continued errors in the future.

It's important to realize that with RCA, your analysis of what went wrong will focus on two types of errors: active errors, which link back to individuals working within a system, and latent errors, the hidden problems within health care systems that can contribute to adverse events (see Tool on page 4 to get a better sense for latent factors).

Any savvy nursing home administrator or nursing director is likely to be familiar with RCA, but there are new reasons to revisit your facility's protocols. Earlier this year, the Centers for Medicare and Medicaid Services issued a new guidance on reporting "reasonable suspicion" of crimes in long-term care facilities.

The new guidance, issued in response to provisions in the Elder Justice Act, came in the form an update to Survey & Certification Memo 11-30-NH.

Related: CMS stresses in the memo that nursing facilities must not only notify the state survey agency but also one or more law enforcement entities for the city, county, township, village, or local unit of government. In part, the added requirement is meant to add urgency to the need for reporting. Reporting an incident that happens on a Friday night, for example, can be reported promptly to local authorities, even though the state office won't receive word until Monday morning, explains **Jeannie Adams**, an attorney with Hancock, Daniel, Johnson & Nagel, P.C., in Glen Allen, VA.

Resource: To access the CMS update, go to https://cms.gov/surveycertificationinfo/downloads/SCLetter11_30.pdf.

The Right Start

With the obligation to report, of course, comes the obligation to investigate. Take ownership of that investigation, urges Kohler -- and don't delay. Let the short deadlines in place for reporting incidents be your guide for when to launch your fact-finding mission: For an injury of unknown cause, for example, you may have as little as 24 hours to report to your state and law enforcement agencies (remember: state requirements trump federal regulations, if they are stricter).

Be sure that data collection is at the heart of your RCA protocol -- starting with the collection of written statements from all parties involved. Next, interview key players or "witnesses" to gain perspective on what happened. In the case of the sudden fracture, gleaning information about how a transfer was handled earlier in the day could be valuable, for example. A thorough record review is also part of the process.

Next steps. Kohler carefully types each interview and then gives a copy to the person interviewed for review. That person is free to clarify or correct as necessary, and then the document is dated, signed, and entered into the RCA record for the case.

Benefit: That way, the witness report can't be called into question later.

Reality Versus Perception

Don't let preconceptions get in the way of the truth. To avoid that trap, Kohler reconstructs events when necessary.

Case in point: A nursing assistant's description in words of how she handled a transfer may not capture the subtleties of what happened. But when Kohler plays the role of a frail resident in bed and says to the caregiver, "Show me what you did," there's less room for error.

Accounts of reconstructed events are also typed, dated, and signed to validate the RCA report.

After Data Collection

Essential to a successful root cause analysis, is, well, careful analysis of the information collected. Meet as a multidisciplinary team to discuss the events related to the error. The goal is to identify how the event occurred by honing in on "active" errors as well as why the event occurred (system shortfalls, or "latent" errors).

Case Closed

With personal injury law suits still on the rise, there's more need than ever for nursing homes to have systems in place that offer a measure of protection for residents and for the facility's business interests.

"It's really essential to have proactive systems and training in place," says Arlington, VA-based healthcare attorney **Joseph Bianculli**.

Kohler agrees. As each investigation draws to a close, she finds herself holding a valuable tool: a comprehensive record that supports the facts in a given case and that helps refute false accusations later.

When the surveyor shows up to conduct her investigation, Kohler can provide ample evidence that the facility has responded to an incident promptly and in a way that shows a commitment to transparency and improved safety. The report that results from a solid root cause investigation is likely to set a surveyor at ease by consolidating relevant information about the case in a way that keeps the person from digging into irrelevant records that may be confuse matters.

The investigation can also identify areas for quality improvement, Kohler notes. Look for opportunities to "re-inserve" your staff, she coaches.

Lesson learned: Do your detective work well, and, if the surveyor does come to investigate, he's likely to be out the door in no time.