Long-Term Care Survey Alert

Transition Care: Rethink Physician Roles to Ensure Compliance, Capture Market Share

Avoid readmissions with these tips.

Long-term care providers who want to survive and thrive under the Affordable Care Act will do well to consider the roles physicians and "non-physician practitioners" play in providing residents' care, experts say.

Pay-off: Devising a plan to optimize the physician's contribution to care in your facility is likely to pay in two important ways: (1) you will fare well on the compliance front, staving off costly citations at survey time and ensuring payment for care provided, and (2) you will be poised to capture the attention of local hospitals with the power to send new admissions your way.

In March, the **Centers for Medicare and Medicaid Services** clarified the rules governing the roles of physicians and non-physician practitioners (NPPs) in nursing homes. The March 8 communication (Survey & Certification Memorandum 13-15-NH) replaces a memo that was issued back in 2003 (S&C-04-08).

Important change: The memorandum implements Section 3108 of the Affordable Care Act (ACA), which stipulates that physician assistants are now on the list of practitioners who can perform skilled nursing facility level of care certifications and re-certifications.

In addition, S&C 13-15 revises the earlier guidance, clarifying physician delegation of certain tasks in skilled nursing facilities (SNFs) and nursing facilities (NFs) to non-physician practitioners (that is, nurse practitioners, physician assistants, and clinical nurse specialists). Third, the memo clarifies the agency's policy on co-signing orders in SNFs and NFs.

New tool: In April, CMS released a related MLN Matters "Special Edition" (SE-1308) to outline the changes for physicians, NPPs, and providers. You can access the article at www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/index.html?redirect=/mlnmattersarticles/. See "Compliance Cues for Regs Related to Physician Delegation of Tasks," below, for highlights.

Determining the setting SNF vs. NF is the key to compliance, advises **Todd J. Selby,** attorney with **Hall Render, Killian, Heath, and Lyman, PC,** in Indianapolis, Indiana. If a resident is receiving care covered by Medicare Part A, the setting of record is a SNF. If a resident is receiving care covered by Medicaid, the setting of record is a NF.

One change not to miss is a loosening of regulations as they affect Nursing Facility care. Section 483.40(f) provides that, "At the option of the State, any required physician task in a NF (including tasks which the regulations specify must be performed personally by the physician) may also be satisfied when performed by a nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is not an employee of the facility but who is working in collaboration with a physician."

Translation: Two conditions must be met in order for a NPP to perform the initial comprehensive visit: the NPP cannot be employed by the NF and he or she must have a direct relationship with a physician. The same two conditions pertain to NPPs' ability to stand in for a physician for other required physician visits or other "medically necessary" visits in the NF setting.

The call to renewed attention to the role of physicians and non-physician practitioners in long-term care comes at an opportune time, suggests **Joseph Bianculli,** a health care attorney based in Arlington, Virginia.

"With so much pressure on facilities to reduce hospital re-admissions, it is critical that assessments on the residents are performed timely and accurately," says Selby. "Non-physician practitioners can be an enormous aide to facilities and physicians in this regard."

Everyone benefits when a new resident is assessed promptly, stresses Bianculli. At a time when CMS and other payers are scrutinizing outcomes and efficiencies of care, it can pay in many ways to ensure that the initial assessment is thorough and quick. From a medical standpoint, it is optimum for the resident, but it's also of value legally in case something goes wrong and from the standpoint of reducing hospital readmissions.

Bianculli reports a trend toward nursing facilities having a full-time physiatrist or other physician on staff someone charged with initial assessments and subsequent visits as required by medical necessity and regulation.

In large part, the staffing move in SNFs and NFs is designed to help facilities dramatically reduce their 30-day hospital readmission rates a move that makes providers more competitive in the Affordable Care Act climate.

Beat this: One major chain has numerous facilities that now boast "an extraordinarily low" readmission rate of 3 percent, reports Bianculli.

Pay-off: Letting a hospital know that you can offer that level of care is sure to bring referrals your way.

Rethinking the physician's ideal role is part of a change in culture designed to fundamentally reposition providers for the future, says **Loretta J. Kaes, RN B-C, C-AL, LHNA, CALA,** director of quality improvement and clinical services for the **Health Care Association of New Jersey** and a presenter at the National Center for Assisted Living spring meeting. Specifically, proper staffing and planning can help facilities contend with these common road blocks to stellar, low readmission rates: (1) failure to recognize a resident's decline or prevent a complication, (2) poor transitions of care, (3) lack of advance directives, and (4) lack of ability to meet the needs of a resident, whether those needs are perceived or real.

In addition to opening doors to new models of staffing, the CMS guidance should make it easier for facilities to gain the most from NPPs.

Remember: In the SNF setting, NPPs can perform other medically necessary visits prior to (and after) the physician's initial comprehensive visit. If you aren't staffed to have a physician knock out every new resident's comprehensive assessment in the first few days, consider scheduling an earlier visit by an NPP. Such visits can help ease care transitions and catch costly problems that, left undetected, could lead to hospital readmission.

In the NF setting, federal requirements restrict NPPs who are employed by the NF from performing a required visit, but this restriction does not apply to other medically necessary visits.

Bottom line: The new guidance from CMS reflects what's already, in effect, "a new standard of practice," notes Bianculli. Be sure you are not only in compliance but on the leading edge of staffing innovations for smooth transitions in care.