MDS Alert

COMPLIANCE: Don't Let 'Phantom Orders' Come Back to Haunt Your Professional License or Facility

An AMDA survey identifies orders being written without physician authorization -- here's how to avoid that scenario.

To give your facility's medical records a quick compliance checkup, take a look to see if staff, including nurses, therapists, and dietitians, are writing orders for patient care without the physician's knowledge in some cases.

A big problem: "At times, the physician order sheet is being used to practice medicine without a license," says **Steven Levenson, MD, CMD,** a multi-facility medical director of nursing homes and past president of the American Medical Directors Association (AMDA). He calls these orders "phantom orders" because staff members write them and sign the physician's name "without having a conversation with the physician about the patient."

An AMDA survey of physician members uncovered the following examples, according to Levenson:

• dietitians ordering specific lab tests;

• therapists writing orders that patients should not be allowed to eat or drink;

• licensed nurses (not nurse practitioners) writing orders for urine cultures for residents with changes in behavior;

• staff writing orders for psych consultants.

Red flag: "If a licensed practitioner (nurse, therapist, dietitian, etc.) does something outside of their scope of practice, such as writing a medical order, the facility can get cited under professional services," cautions **Robin Bleier, RN, LHRMFACDONA,** principal of RB Health Partners Inc. in Tarpon Springs, Fla. "And the practitioner can be subject to disciplinary action by their board," she adds.

Therapists should not write orders to discontinue therapy, notes **Shehla Rooney,** a physical therapist and principal of Premier Therapy Solutions LLC in Cookeville, Tenn.

"The therapist can communicate to the physician or the nurse why therapy services are no longer indicated" and request an order from the physician, she says.

But the physician must order therapy services to be discontinued, Rooney adds.

Also: Rooney doesn't agree with "facilities that add therapy evaluation orders on all new Medicare Part A admissions, regardless of whether the transfer sheets indicated therapy orders were present."

Telephone Order Forms Can Provide an Efficient Alternative

Bleier has seen some interdisciplinary team members use a "small telephone order form" which usually has triplicate copies to write recommendations for the physician to consider as orders for a resident. Some facilities do this to follow through on recommendations that come out of risk management meetings, she says -- for example, a dietitian may make a number of suggestions. "Typically, the unit nurse manager calls the physician or their extender to review [the recommendations] -- and the doctor agrees or not," says Bleier.

If the physician agrees, the nurse writes the order in the chart, indicating it's a phone order, and the physician then signs off on it, as required. If the physician declines to provide an order, the nurse writes a note in the chart to that effect to show the physician addressed the recommendations. (The team member making the recommendations also documents

them in the medical record.)

In some facilities, if the physician declines to implement the recommendations, the unit nurse manager takes a colored copy of the telephone order request form and gives it to the team member who wrote the recommendations, Bleier says. That person can then document the follow-up in her clinical notes in the resident's medical record.

Use of a telephone order sheet can help prevent therapists from "overstepping their bounds" because the physician can decline a recommendation or request, notes consultant **Elisa Bovee, OTR/L,** in Topsfield, Mass.

Develop Other Systems to Get Physician Input

Facilities can also obtain physician input for the care planning meeting by using videoconferencing or having "more detailed" conversation with the physician about patients if the physician isn't going to be present, says Levenson.

"Staff should work individually with the physician to find out how best to communicate with the person," advises Bleier. "Does the physician want to be phoned, faxed, e-mailed, called at a certain time of day for non-emergencies? What can you do to facilitate the physicianpractitioner relationship so the facility can get the physician's input?"

Resource: The recent AMDA/American Health Care Association white paper, prompted in part by the "phantom order" phenomenon, provides best practice tips for physician orders, including verbal and preauthorized orders:

www.ahcancal.org/facility_operations/clinical_practice/Documents/AHCAAMDAPhysicianOrdersWhitePaper.pdf.