

The Long Term Care Regulatory Locomotive



Advice for Physicians on How to Stay Off the Tracks

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In the midst of demented minds, fractured hips, pneumonic lungs and failing hearts, physicians practicing in today's nursing homes can also expect government scrutiny to a degree found in no other healthcare setting. Hundreds of state and federal regulations create a landscape that physicians must successfully navigate or risk generating for the nursing home a vast array of unpleasant sanctions. Despite their volume, regulations generally reflect minimal standards of care rather than best practice initiatives. And to the extent that our aged and infirmed receive less than minimal standards of care, it is clearly the role of government to advocate for them.

Below are some suggestions that may help physicians in meeting their regulatory obligations. This list is not meant to be exhaustive but rather is based on behaviors that frequently generate deficiencies.

1. Examine residents when their condition requires it. While there are explicit requirements for periodic visits by physicians (generally once a month), all regulations are based on the needs of the resident. When the condition of a resident deteriorates, managing the resident via

the phone may prove to be problematic for the facility, physician and most importantly the resident.

2. Write progress notes that will allow staff to understand what your treatment goals and priorities are; both for the short and long term. Remember that these notes represent your thinking (or lack there of) about your resident. The length of the note is not important; rather it is the substance that matters.
3. If you decide, after consulting with the resident and/or family, not to pursue or treat a condition because you feel treatment would be medically ineffective or not appropriate for other reasons, write a note that briefly explains your thinking. It will be a great help to staff in the facility who are trying to understand what you are (or are not) doing.
4. Never obtain diagnostic tests without a clear idea of why you are ordering them, and what you might do with abnormal results. Resist the temptation to order tests simply based on the dietician's, pharmacist's, speech therapist's, etc recommendation if such a test has limited value.
5. Take the time to talk to the resident and the family. A good relationship will gain you information and respect. A bad relationship could result in the Office of Health Care Quality receiving a phone call, with resultant problems for you.
6. Remember that all drugs have side effects, especially drugs used for anticoagulation, seizure control and treatment of various psychiatric problems, such as depression, schizophrenia or dementia. Surveyors are always looking for prescribing practices in which the therapeutic benefit pales in comparison to the risk of using the drug. Be sure that you know the indication for every drug you prescribed and that the resident is closely monitored for the development of adverse effects.
7. Never write derogatory comments to or about anyone in a medical record. Nothing so catches the eye of a surveyor like a feud between

the attending physician and other staff members, especially when it plays out like a soap opera in a resident's medical record.

8. Remember that when you sign off on a plan of care, you are stating that you have reviewed it and agree with its parts. If you have not read it, and problems that could have been foreseen arise, you may well be considered part of the problem.
9. Take the time to read and understand documents related to advance directives. And if a resident has given instructions that place limits on certain interventions, honor them, even over the objections of the resident's family members. Remember that family members cannot "trump" clear and unambiguous instructions given by a resident. An excellent resource regarding a physician's responsibilities in regards to advance healthcare planning can be found at:
<http://www.oag.state.md.us/Healthpol/index.htm>
10. Never make changes to a resident's treatment plan simply because the surveyor has questions concerning it. Appallingly, physicians have ordered tests, discontinued medication and even hospitalized residents in an effort to "treat" the surveyor rather than the resident. Providing care based on the needs of the resident is the most direct route to regulatory compliance.
11. Recognize that surveyors at times may need to discuss potential regulatory concerns related to your residents directly with you. View these interactions not as governmental intrusion into your practice but rather an effort to understand your rationale and thinking on a particular issue. Clear communication between clinicians and surveyors frequently results in fewer deficiencies being cited and always leads to a dramatic improvement in the survey process.

Questions or comments concerning the above may be directed to either:

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