Preventing Malpractice Claims in Senior Living

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This session will provide you with the knowledge to:

1. Understand the causes and contributing factors to resident injury and malpractice claims in senior living.
2. Use the risk management process and tools to identify potential risks for resident injury.
3. Implement strategies to reduce the risk of resident injury and malpractice claims.
Preventing malpractice claims in senior living

1. Malpractice claims
2. Risk management process
3. Risk strategies

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A moment’s inattention
Your Turn
Negligence
Malpractice
Lawsuit
Malpractice

Professional negligence
Standard of care

Skill and care ordinarily used

Well-qualified professional

Similar circumstances
Elements of a malpractice claim

Plaintiff must prove:
- Duty
- Applicable standard of care
- Departure from that standard
- Departure was a direct cause of injury
Where will the claim arise?
Senior living claims

Top Major Allegations

- Failure to ensure resident safety: 53% cases, 50% costs
- Improper management of treatment course: 11% cases, 13% costs
- Failure to monitor resident physiological status: 3% cases, 8% costs

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Senior living claims

**Injury Severity**
Skilled Nursing Facilities

- Low: 10%
- Medium: 42%
- High: 48%

**Injury Severity**
Assisted Living Facilities

- Low: 16%
- Medium: 63%
- High: 21%
Top malpractice allegations

1. Failure to ensure resident safety – preventing falls
Failure to ensure resident safety - falls

Top contributing factors:
1. Errors in clinical judgment related to fall prevention - 81%
2. Policy not followed or absent - 28%
3. Lack of staff training and education - 22%
Top malpractice allegations

2 Improper management of treatment course
Improper management of treatment course

Top contributing factors:
1. Breakdowns in communication among the health care team - 70%
2. Errors in clinical judgment related to monitoring physiologic status - 70%
3. Errors in clinical judgment related to assessment - 40%
Top malpractice allegations

3

Failure to monitor resident physiological status
Failure to monitor physiological status

Top contributing factors:
1. Errors in clinical judgment monitoring resident physiological status - 83%
2. Resident behavior factors - 50%
3. Inconsistent or lack of documentation - 50%
Did you know?

Many of the top contributing factors in these claims involve errors in clinical judgment and failure to follow organizational policies.
Top malpractice allegations
&
Wandering and Elopement
Elopement versus Wandering

• Elopement
  – Unsupervised wandering
  – Resident leaves the facility

• Wandering
  – Move around the facility without an appreciation of personal safety
Elements of an Elopement Case

- Failing to properly supervise residents
- Failing to ensure the safety and security of residents
Some statistics

• Estimates of 11% - 24% of those with Alzheimer’s Dementia wander
• 10% of nursing home lawsuits deal with elopement
• 70% of these lawsuits deal concern resident death
• 45% occurred with the first 48 hours of admission

• Source: http://www.providermagazine.com/archives/2013_Archives/Pages/0513/Elopement-Assessment-And-Safety-Essentials.aspx
Risk management
Risk management process

Risk Identification

Risk Evaluation

Risk Analysis

Risk Intervention
Risk identification – the first step

Identify potential risks

Detect adverse events
Your Turn
Risk identification

Culture of Safety Survey

• How safe is your culture?
Nursing Home Survey on Patient Safety Culture

In response to nursing homes interested in a survey that focuses on patient safety culture in their facilities, AHRQ sponsored the development of the Nursing Home Survey on Patient Safety Culture. This new survey is designed specifically for nursing home providers and staff and asks for their opinions about the culture of patient safety in their nursing home. It is not designed for use in assisted living facilities, community care facilities, or independent living facilities.

Nursing Home Survey Toolkit | Comparative Database | Data Entry and Analysis Tool | Nursing Home Patient Safety Improvement Resources | Technical Assistance Conference Calls | International Users | Technical Assistance

Nursing Home Survey Toolkit

Frequently Asked Questions

Survey Form

- Nursing Home Survey—Spanish (PDF Version, 165 KB; PDF Help: Word® Version, 190 KB) (Updated July 2010 to correct an error to item B4, which duplicated the text of item B3).

Survey Items and Dimensions

- Nursing Home Survey Items and Dimensions—Spanish and Description of Translation Process (PDF Version, 50 KB [PDF Help]: Word® Version, 78 KB) (Updated July 2010 to correct an error to item B4, which duplicated the text of item B3).

Survey User’s Guide
Culture of Safety Survey Goals

- Raise awareness
- Assess current culture
- Identify strengths and weaknesses
- Examine trends in culture over time
Risk identification tools

• Self-assessment

**MMIC LONG-TERM CARE RISK MANAGEMENT SELF-ASSESSMENT**

How to Use this Assessment:

1. Be honest, objective, and self-critical. The assessment is designed to help you identify and begin correcting resident safety and risk management weaknesses in your facility's systems, policies, and procedures. It will be only as effective as you allow it to be. Analyze your systems carefully and respond accurately.

2. Many facilities discover that although there are policies in place, compliance is low. If you are unsure whether an established policy is effective, check with staff members most directly responsible for its implementation.
Risk identification

Resident and family satisfaction surveys
Risk identification

Resident and family complaints
Risk identification

Adverse event reporting system
Risk identification

- Equipment inspection
- Environment inspection
Risk analysis – step two

- Frequency
- Severity
## Risk matrix

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<tr>
<th>Impact severity</th>
<th>Severe</th>
<th>Medium</th>
<th>High</th>
<th>Critical</th>
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<td>Serious</td>
<td>Low</td>
<td>Low</td>
<td>Medium</td>
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<tr>
<td>Moderate</td>
<td>Remote</td>
<td>Possible</td>
<td>Probable</td>
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Risk analysis tools

RCA

FMEA
Root cause analysis

- Multi-disciplinary
- Step-by-step investigation chronology
- Retrospective analysis
- Root cause(s) identified
- Prevention strategies
Root cause analysis

• What happened in this situation?
• What usually happens – norm?
• What should happen – policy?
Root cause analysis

• Why did it happen?
• How do we prevent it?
• How will we know we got better?
Failure mode and effect analysis - FMEA

- Prospective analysis
- Focused review of specific process
- Potential failures and impact of failures identified

<table>
<thead>
<tr>
<th>Steps in the process</th>
<th>Failure mode</th>
<th>Failure causes</th>
<th>Failure effects</th>
<th>Likelihood of occurrence (1-10)</th>
<th>Likelihood of detection (1-10)</th>
<th>Severity (1-10)</th>
<th>Risk profile number (1-10)</th>
<th>Actions to reduce occurrence of failure</th>
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FMEA

• What could go wrong?
• Why would failure happen?
• What are the consequences?
Risk and resident safety strategies
Risk and resident safety strategies

1. Educate your team
2. Assess and analyze
3. Implement safer processes
Educate your team

• The causes and contributing factors to resident injury
• Fall prevention, recognizing change in condition, monitoring skills, and documentation standards
• Critical thinking skills
• Teamwork skills
Your Turn
1 Fall prevention

Educate your team

• Incidence of falls
• Fall risk factors
• How and when to use risk assessment tools
• Fall prevention strategies
  – Person-centered
  – Universal
  – Environmental
• Incident reporting
• Hazard reporting
• Fall response plan
• Fall investigation process
1 Wandering & Elopement

Educate your team

- Elopement risk factors
- Artificial barriers
- Visual indicators
- Triggers
Assess and analyze

- Culture of safety survey
- Risk self-assessment
- Evaluate team member clinical skills, competency in equipment use and documentation compliance
- Review adverse events using a root cause analysis
- Evaluate high risk processes with a FMEA
Assess and analyze

- Recognize at risk residents
  - History
  - New admissions
  - Physical / communication limitations
Implement safer care processes

- Fall prevention program
- Shared-decision making communication with residents and family
- Communication triggers
- Clinical decision support tools
- Recognizing change in condition
Implement safer care processes

- Communication process and tools
  - Identification of at risk patients
  - SBAR
  - Bedside handoffs
  - Huddles
  - White boards
  - Electronic alerts
  - Transfer forms

- Communication of fall risk
- Communication of care plan
3

Wandering / Elopement

Implement safer care processes

• Conduct drills for elopement response
• Hands-on training with safety mechanisms
• Review assessment practices
• Monitor effectiveness of polices and procedures
• When possible, remove triggers
3 Wandering / Elopement

Implement safer care processes

• Identify at risk behaviors
• Engage residents in activities
• Redirection attempts
• Periodic locations checks
• Up-to-date resident photos
• Implement visual deterrents
Contact us

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