

Q & A
PROVIDER MEETING
2/15/08

February '08 Q #1: A complaint was called in by a staff member who had just been terminated because she had not provided care to an assigned resident throughout the duration of the night shift. Following the shift, the resident was observed to have a newly developed dusky red, mushy heel. The DON began an investigation to ensure care was provided (per the plan of care) during the night. The aide then admitted that she had not provided the necessary care. As defense, the aide stated that there was not enough staff to complete necessary care, but this was not found to be the case. Thus, the aide was terminated and the nurse in charge was also counseled for not ensuring the aides were completing their duties as assigned.

Initially, the surveyors stated that there would be a deficiency due to the facility not reporting the incident as neglect, which begs the question as to whether facilities should be directed to notify the state every time an employee is disciplined and/or terminated for failure to perform his/her assigned duties (or performs them incorrectly)? For example, should administrative staff find someone who has been incontinent and likely not toileted in a timely manner, should this be reported as neglect? Should the involved aides be reported to the registry as well? **Please consider clarification as to anticipated facility reporting should employees warrant discipline and/or termination on the basis of care provided (or lack thereof).**

February '08 A. #1: Facilities are required to report allegations of abuse, neglect, or misappropriation of resident property. If the facility disciplines an employee, up to and including terminates, for failing to “provide goods and services necessary to avoid physical harm, mental anguish or mental illness” to a resident, then it should be reported to the ISDH.

February '08 Q. #2 Coding of Pressure Ulcers: The facility was informed by the survey team that it had staged the resulting mushy heel of the above incident incorrectly. The NPUAP staging system is not congruent with the MDS 2.0 (or the 3.0 version that is due to be released soon for use) coding of pressure ulcers. According to the MDS manual, there is no way to code an unstageable wound or a suspected deep tissue injury wound other than to code as a stage IV. This is how it was coded by the facility and how it has always been done and reviewed by EDS. There has always been an unstageable classification per NPUAP, but for MDS coding, an unstageable wound is coded as a stage IV. The facility coded the wound as a IV, as there was obviously underlying tissue damage and believed this to be the appropriate MDS coding.

This dilemma of disparity in coding was addressed by the guest speaker at the recent Leadership Conference. She stated during her presentation that she understood we had to work within the framework of the MDS, even though she felt it unfortunate and hoped the MDS would change. When the survey supervisor was questioned in regard to the aforementioned, she replied that she did not care about the MDS or EDS, that we were to follow the "Wound Care Essentials" book we were provided at the Leadership Conference.

Please provide clarification as to the standard of coding by which the facility will be held.

February '08 A. #2: RAI Version 2.0 Manual, Section M.-- Skin Condition indicates that the NPUAP standards and definitions cannot be used for coding on the MDS. However,

the facility may use NPUAP standards or the AMDA guidance when doing current and accurate clinical assessment and treatment of pressure ulcers.

February '08 Q. #3: Per review of the Interpretive Guidance of **F226**, under “VII Reporting/Response” it is stated:

Have procedures to:

-Report all alleged violations and all substantiated incidents to the state agency and to all other agencies as required, and take all necessary corrective actions depending on the results of the investigation.

As background to discussion, please also review the following two questions/answers previously provided per ISDH roundtable documents:

3-31-2000

Q #15 If a non-interviewable resident (due to diagnosis) makes an unsubstantiated allegation, is this reportable? For example – a resident with a diagnosis of dementia who alleges that the nursing assistant used abusive language or gestures.

A – An investigation is still required to determine if the incident(s) actually occurred. F 225 requires that all alleged violations be reported, investigated, and results reported to the state survey agency. Facilities are encouraged to provide as many facts as possible regarding the situation, such as the resident’s cognitive status, past history, and the facility’s investigation.

5/2006

Q #2 – The reportable unusual occurrence guidance requires the reporting of “allegations” of abuse yet the definition for physical abuse states that resident-to-resident abuse would only be reported if there is injury. Thus, if there is an allegation made by a resident in regard to another resident, but there is no evidence of injury, should the “allegation” still yet be reported as there is no verification of injury?

A – Yes, the new policy effective 4-1-06 indicates the resident to resident physical abuse with or without injury is to be reported.

This is reportable if circumstances indicate one resident intended harm to a particular resident regardless of the resident’s cognitive status.

Slide #26 of the CMS Training for “Accidents & Supervision” Guidance Training for F323 states the following:

Supervision

Resident-to-Resident Altercations

- An incident involving a resident who willfully inflicts injury upon another resident should be reviewed as abuse under the guidance for 42 C.F.R. § 483.13(b) at F223.
- “Willful” means that the individual intended the action itself that he/she knew or should have known could cause physical harm, pain, or mental anguish. Even though a resident

may have a cognitive impairment, he/she could still commit a willful act. However, there are instances when a resident's willful intent cannot be determined. In those cases, a resident-to-resident altercation should be reviewed under this tag, F323.

In that providers are reporting being cited for failure to report an incident, provider questions relative to reporting are as follows:

1. Does this verbiage (addressed by CMS) mean that regardless of cognitive status we report?

February '08 A. Cognitive impairment does not automatically preclude the possibility that the resident could intend to harm the other resident. The facility must look at the facts in the situation and determine if the act was a random, perhaps an unknowing or uncontrollable, or if the resident intended to cause harm.

2. What does "should have known" mean?

February '08 A. "Should have known" means that the act committed was one that would normally be intended to cause someone harm like kicking, pummeling with fists, throwing a heavy object, using a cane, etc. vs. the accidental flailing of arms, a pat on the head or arm, etc.

3. What do the last two sentences mean? (i.e., "However, there are instances when a resident's willful intent cannot be determined. In those cases, a resident-to-resident altercation should be reviewed under this tag.")

February '08 A. If, after thorough investigation, the facts about the situation do not demonstrate willful intent to harm another, i.e. absence of anger; multiple and random "targets" or "victims;" reaction to stimulus, etc. In those circumstances, the surveyors need to look at whether or not the facility failed to adequately supervise the residents thus allowing the situation to occur.

4. Recently, a facility had a severely cognitively impaired resident (Most recent MMSE was 6/30 last summer. She has declined and can no longer answer questions-just smile and nod inappropriately). She kicked at another resident as he walked by. She did not hurt him and staff immediately intervened. The facility did not report because it believed that the resident could not process "willful intent" given her mental status. Is the facility in error for not reporting?

February '08 A. The facility may be correct. However, if the resident was angry, targeted a particular resident, or otherwise demonstrated an intent to cause the other resident harm, then it could be reportable.

February '08 Q. #4: IAHSAs support the use of Silverchair Learning for facilities interested in computer based training. The training effectiveness is measured and the training modules are ANCC and NAB certified. Here is the concern: Some nurses and others may be able to complete the modules in fewer minutes than the training is rated. Are facilities able to credit that training by the minutes certified by the company? Example: Everyone who completed the

first one-hour dementia training would be credited for one hour even if it only took 51 minutes but they successfully completed the entire module and post-test. Does the ISDH agree that the training rated at one hour would be credited as one hour?

February '08 A. Yes, we would agree. Likewise, if it took the employee 90 minutes to complete the training, that employee would only be credited for one hour.

Questions/Answers

ISDH/Provider Meeting 3/14/08

1.) Is the recently released CPR policy applicable to licensed Residential facilities?

The CPR policy is based on an appropriate facility policy which, in turn, would require appropriate assessment of the resident. That would be a physician or nursing assessment of whether the criteria were met. Residential care facilities are not necessarily required to have nursing staff on site at all times [410 IAC 16.2-5-1.4(b)]. If the facility does not have nursing staff on site, there will not be a qualified individual to assess the resident pursuant to this policy. In that case, the facility is obligated to initiate CPR unless there is a "do not resuscitate" order. If there is a nurse on site who can make the necessary assessments (as per facility policy), the policy would be applicable to licensed residential care facilities.

2.) Can a CNA apply a barrier cream (e.g., zinc oxide, A & D ointment) to the intact skin of a resident as a preventative measure?

Please review Standard 14 of the NA curriculum which states the following:

STANDARD 14: NURSE AIDE SCOPE OF PRACTICE

The nurse aide will perform only the tasks in the course standards and *Resident Care Procedures* manual, unless trained appropriately by licensed staff of the facility with policies and procedures and a system for ongoing monitoring to assure compliance with the task, i.e., (see supplements for examples). This additional training would only apply for tasks, which are not prohibited by paragraphs 2 and 3 of this section and by current rule, which prohibits the giving of injections.

The nurse aide will not perform any invasive procedures, including enemas and rectal temperatures, checking for and/or removing fecal impactions, instillation of any fluids, through any tubing, administering vaginal or rectal installations.

The nurse aide will not administer any medications, perform treatment or apply or remove any dressings. Exception to the above would be the application of creams/ointments to intact skin, such as moisture barrier cream.

Note: The specific question was posed as to whether zinc oxide would be included in the category of moisture barrier creams acceptable to be applied by a CNA and the response provided was "yes."

3.) Are refrigerators, microwaves and other such small appliances allowed in resident rooms?

Resident refrigerators and other such small appliances are allowed in long term care facilities in Indiana in accordance with facility policy. The facility policy should address at a minimum: Appliance safety prior to use and on-going preventive maintenance, cleaning and monitoring of the refrigerator, add monitoring of the resident's ability to safely operate the device and use and storage of the device without risk of injury to confused residents. The facility must maintain a

balance of "homelike environment" and safety.

Providers are advised to encourage the use of thermos/carafe coffeemakers in lieu of hotplate-type models and to monitor the use of any microwave (in the resident room or otherwise) due to opening bags of popcorn (which can be extremely hot), etc..

Additional information addressing Life Safety Code compliance will be forthcoming.

4.) RE: Siderails

There recently was a tragic death of a resident in an Indiana nursing home involving bed rail entrapment. Facilities need to be checking the bed rails being used for residents. Please be especially observant of the rails on any of the beds in the facility that have more than 4 3/4 inches between the bars. Please review the guidance provided from CMS on F323 and from the FDA website for information about entrapment in hospital bed rails. While the entrapment zones are listed as "recommendations" for appropriate measurements, they are considered by the FDA as somewhat of best practices, hence facilities should be aware of these recommendations when determining facility practice and assessing facility compliance.