10-14-24 Weekly Clinical Update

There has been an uptake in F609 deficiencies related to reporting of potential or alleged ANE to the appropriate agencies. Staff also have lots of questions about what to report and when to report incidents. So here is the actual regulation:

- §483.12(b) The facility must develop and implement written policies and procedures that: §483.12(b)(5) Ensure reporting of crimes occurring in federally-funded long-term care facilities in accordance with section 1150B of the Act. The policies and procedures must include but are not limited to the following elements. (i) Annually notifying covered individuals, as defined at section 1150B(a)(3) of the Act, of that individual's obligation to comply with the following reporting requirements. (A)Each covered individual shall report to the State Agency and one or more law enforcement entities for the political subdivision in which the facility is located any reasonable suspicion of a crime against any individual who is a resident of, or is receiving care from, the facility.
- (B) Each covered individual shall report immediately, but not later than 2 hours after forming the suspicion, if the events that cause the suspicion result in serious bodily injury, or not later than 24 hours if the events that cause the suspicion do not result in serious bodily injury.

Guidance says:

- Alleged violations can be observed or reported by staff, resident, family, visitors, another provider or others
- Allegations of abuse or any serious bodily injury must be reported immediately (within 2 hours after allegation is made)
- Allegations of neglect, exploitation, misappropriation of property, or mistreatment with no serious bodily injury must be reported within 24 hours
- Within 5 working days of incident, must provide report with sufficient information to describe results of investigation & indicate any corrective action taken if allegation is verified
    - Provide as much information as possible, to best of your knowledge
    - Include any updates to information provided in initial report

F609 gives excellent specific guidance on what needs to be reported and what doesn't need to be reported in the State Operations Manual (SOM) of Appendix PP.

<u>Requirements for reporting all alleged abuse, neglect, exploitation or mistreatment:</u>

• Duty: Must report all **<u>alleged</u>** violations of abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property.

• For Whom?: The nursing home.

• When? All alleged violations-Immediately but not later than (1) 2 hours- if the alleged violation involves abuse or results in serious bodily injury (2) 24 hours- if the alleged violation does not involve abuse and does not result in serious bodily injury.

• To Whom?: The facility administrator and to other officials in accordance with State law, including to the SA [survey agency, i.e., Department of Health], local law enforcement, and the adult protective services where state law provides for jurisdiction in long-term care facilities.

Requirements for reporting suspicion of a crime against a nursing home resident include:

• Duty: Must report any "reasonable suspicion" that a crime has been committed against a resident of the facility.

• For Whom?: Any and all of a nursing home's employees, owners, operators, managers, agents and contract workers.

• When? Immediately! Must be within 2-hours if the act or incident suspected to be a crime resulted in physical injury to a resident; otherwise, within 24-hours.

• To Whom?: Local law enforcement and the state survey agency (Dept. of Health).

• Penalty: Failure to report carries state &/or Federal CMPs of up to $221,048; if the failure results in increased harm to the original victim, or harm to another resident, the fine can be up to $331,752.

Some deficiencies occur when staff either don't understand exactly what needs to be reported to a supervisor or a charge nurse or, especially the Administrator, or they see something suspicious but "forget" to report the incident immediately. Here are some examples that could be used in training.

Examples of ANE that require reporting

- Performing a two-person transfer with only one person, knowing that two people are required to be present.
- "I have seen my roommate left lying in the bed for more than one hour with her behind exposed. I feel sorry for my roommate. They treat her so bad. She can't talk or walk".
- "A male nurse grabbed me, slung me on the floor, and threw me into the bed. He was in a bad mood because we were short- staffed, and he had to work two floors".
- You observe a nursing assistant knowingly postponing a resident's incontinent care to take a break.
- A resident spits at a caregiver as she feeds the resident breakfast. In retaliation, the caregiver spits at the resident's face and yells, "Don't you ever spit at me again!"
- A resident refuses to get out of bed when encouraged with a gentle approach by a nurse to attend an activity session. The nurse then forcefully pulls the resident from a reclining to an upright position in his bed, pushes him out of his room, as the resident screams and cries to be left alone.
- After soiling her clothes and bedding, a resident is taken into the shower by a nursing assistant. The resident suffers from dementia and struggles with the assistant. The assistant sprays ice cold water directly into the face of the resident.
- A resident with an altered therapeutic diet is served a regular diet and chokes in the dining room
- A wheelchair bound resident is taken to the bathroom and told by the nursing assistant to call when she is ready to return to her room. The resident rings the call bell and no one answers. Frustrated, the resident tries to get into her wheelchair by herself and falls and fractures her hip.

- A resident repeatedly uses a call bell attempting to get attention. After several trips to the resident's room, the nursing assistant unplugs the call bell so the resident can no longer use it
- You know that a resident has bleeding gums, loose teeth and has had difficulty eating. The resident's dentures were stolen and the resident has not been taken to a dentist.
- A resident tells you that she needs to go to the bathroom as you walk past her. You are on your way to help another resident, so you tell her to hold on. When you walk past her again, she says she needs to go to the bathroom. You are still busy and tell her to hold on and you will help her when you are done. When you finally come back, she has already urinated in her brief. The call bell rings and instead of helping her (because she no longer needs to go to the bathroom) you tell her to hold on while you assist the other resident. She is now sitting in her wheelchair in a soiled brief.
- 2 employees arguing and yelling in the hallway outside of a residents room. The argument is not about the resident that is in the room, however, the resident in the room becomes distressed by all of the shouting. When the residents son comes in later that day, the resident describes the situation. The son complains, stating that his mom has suffered emotional abuse due to the 2 employees arguing.
- "The DON called me and said my mother had woken up with a bump, a red bump, on her forehead. When I got to the facility that morning, I found her horribly bruised on her face and [the backs of her] forearms. She looked as if someone had gone seven rounds with her, except she has advanced Parkinson's. The only movement she can make is to raise her arms like this [indicating she could raise them defensively in front of her face]. The facility said she must have gotten them [the bruises and contusions] falling against her bedrails, but she can't move independently in bed. . . . So then they said they didn't know how it happened".
- You change the brief and clothes of a resident who has had an incontinent episode, however, you leave the draw sheet and bedding in place, even though it is also soiled.
- You are assisting Mr. Jones with his lunch when he tells you that he is done eating (even though he only took 2 bites of his food). You tell Mr. Jones that he needs to eat more food, to which he replies loudly "I told you I was done". You get frustrated with Mr. Jones because you have other residents to assist. You raise your voice, shake your finger at him and say "Do not yell at me Mr. Jones, now you are going to eat some more of your lunch".