

LNHA Agency Liaison Meeting | MINUTES

November 7, 2019 | 1:30 p.m. | LNHA Office

Committee members present: Jamie Shelton (Central Management), Marcus Naquin (Hammond Nursing Home), Lannie Richardson (CCI), Tanya Procell (Provider Professional Services), Wayne Plaisance (Archdiocese of New Orleans), Mike Scanlan (Pathway Management)

Staff members:
Mark Berger, Wes Hataway, Karen Miller

Louisiana Department of Health (LDH) Guest:
Cecile Castello

Guests present: Bill Bauder (Priority Management), KaraLe Causey (Haven Nursing Center)

Call to order

Committee Chairman Jamie Shelton called the meeting to order and discussed the following topics with the Louisiana Department of Health (LDH).

LEIE Registry

LNHA questioned whether the Office of Inspector General's List of Excluded Individuals/Entities (LEIE) and the Louisiana State Adverse Actions, Direct Service Worker (DSW) Registry and Certified Nurse Aide (CNA) Registry should all continue to be utilized when checking new and current unlicensed employees. LDH said only LEIE and the Louisiana State Adverse Actions website should be used as the DSW and CNA registries are now included in the Louisiana State Adverse Actions search. It is recommended that each is to be checked upon hire and every six months after hire. A statement will be added to the website to emphasize this point. A point was made that Medicaid Standards of Payment may require monthly checks for current unlicensed employees. Mrs. Castello said she would check and provide additional information.

Retraining Staff After Immediate Jeopardy

Mrs. Castello noted that retraining the staff members who the immediate jeopardy (IJ) impacted is required for the removal of any IJ. No regulation states that every facility staff member should be trained unless there is a reason that the IJ impacted all staff members. Mrs. Castello encouraged providers to contact her office if there are concerns regarding a survey issue and reminded providers that they can always IDR a finding. A member suggested including in the plan of correction for the removal of an IJ a statement reading "no employees will be allowed to _____ until they have been properly trained."

Number of surveyors in a facility during a survey

LDH noted that there is no limit to the number of surveyors which may be present in a facility during a survey. Statistically, it depends on what is being done with the recertification survey activity. Without surveyors in training, facilities can expect four to six surveyors in the building. If the facility is having a follow-up survey, the facility may see additional surveyors working. LDH will meet with their leadership team to discuss the concern of a large number of surveyors impacting the facility's ability to operate. An average of five laptops should be provided to surveyors if possible.

In response to a question regarding off-hour surveys, LDH stated they are mandated to require 10% of surveys to be off-hour. At least 50% of all off-hour surveys must be completed on weekends and must be completed from a list of facilities with potential staffing issues provided by CMS. The survey team must also spend at least six hours onsite starting on a Saturday or Sunday.

Dialysis contracts

A dialysis contract is not mandated for providers; however, there should always be documentation that the resident was presented an opportunity to choose the provider.

In response to a question, LDH stated that a reasonableness standard is considered regarding the time and distance required to transport the resident to the dialysis center of their choosing.

Dietary Manager certification

An issue was raised regarding a dietary manager's ability to meet the new Requirements of Participation (ROP). A person designated to serve as dietary manager **prior** to November 28, 2016, must meet the requirements no later than five years after November 28, 2016, or no later than one year **after** for designations after November 28, 2016.

One of the requirements that must be met is to become a "certified dietary manager" or "certified food service manager." Most, if not all, courses take more than one year to complete which impairs an existing manager's ability to meet the requirement. Mrs. Castello said she understands the issue and will discuss the concern with CMS. She suggested LNHA echo these sentiments to CMS. A comment was also made during the discussion that suggested changes in Phase III of the ROP may address this issue.

A committee member noted that as the five-year window approaches, some dietary managers may have no interest in seeking additional education or training and will retire. The group agreed that vocational-technical schools could teach this curriculum. LNHA Legal and Policy Director Wes Hataway will mention this idea to the workforce committee. LDH will work to get more information on this topic.

CMS Dashboard compares Louisiana's citing of tags to other states

The CMS Dashboard compares Louisiana's citing of tags to other states. LNHA asked what the impact of this Dashboard may be. LDH noted sharing and comparing state information has occurred for decades. CMS is always looking for patterns of tags written.

Updates on Phase III of the Requirements of Participation and any recent CMS guidance regarding same

LDH said there are no new updates regarding Phase III of the ROP but hope to receive information from CMS soon. LDH advised providers to be prepared.

Electronic Monitoring

LNHA asked if a resident's camera does not meet the requirement specifically with the date and time not being displayed, does the facility have the right to remove the camera? LDH noted that is a question for an attorney unless the facility's policy states that this is not permitted. LDH suggested asking the individual not to use the camera as it doesn't meet the requirements needed to validate an issue or concern and to attempt to work with the resident and the family to resolve the issue. Not having access to all of the footage with time and date creates an issue when conducting an internal investigation if needed.

LNHA asked if it is permissible to have more than one monitoring device in a resident's room. LDH suggested to put it in the facility's policy that a resident can have only one monitoring device for other residents' privacy.

Durable medical equipment

LDH clarified that the Louisiana Office of State Fire Marshal (LOFSM) does inspect durable medical equipment on a routine basis. Some examples mentioned were nebulizers, oxygen concentrators and CPAP machines. LDH, on behalf of the LOSFM, reminded facilities to perform preventative maintenance on the equipment, follow the manufacturer's guidelines, monitor the equipment, etc. The LOSFM mentioned that federal surveyors in their look-behind surveys have been focusing on this area.

Use of telehealth in a long-term care facility

LDH mentioned a recent request from an LNHA member for more information regarding telehealth in long term care. LDH encouraged the member to discuss with LNHA as the association may have resources to share.

Criminal background checks

The requirement to conduct criminal background checks through the Louisiana State Police is for non-licensed providers at the time of hire. There is no continuing obligation to perform such checks after hire.

Medication Attendant Certified Program

There is a public hearing on November 29, 2019, for the notice of intent regarding new rules for the Medication Attendant Certified Program. LDH encouraged providers to submit a public comment regarding the MAC program once the time to provide comment is open.

New nursing aide training curriculum

Committee members noted that nursing aide training programs are being sent to LDH for approval as the current textbook has a new fifth edition.

Testing fees paid by high schools

Mr. Berger noted that he recently met with a representative of the Louisiana Department of Education to provide feedback for their career and technical education program, Jump Start 2.0. He asked LDH who pays the student's testing fee for tests such as the nurse aide certification test. Mrs. Castello noted that high schools pay a majority of the testing fees in many cases.

Meeting handout

Mr. Berger provided a list of recently cited deficiencies by the federal surveyors during "look-behind" surveys of the LOSFM for members to review. Once cited by CMS, the LOSFM has no choice but to cite providers if they are in violation of these tags. See the list below.

K321 Soiled linen room/hopper room in the attic did not vent to the outside.

K324 Failed to provide instructional placard for the Class K fire extinguisher in the kitchen and failed to maintain light fixtures (light cover was broken and bulb was missing) in the kitchen exhaust hood.

K353 Facility failed to have documentation 5 year internal sprinkler pipe test had been performed.

K372 Attic gas fired mechanical unit did not have partitions to resist the passage of smoke.

K521 Facility unable to provide documentation of testing and inspection of smoke dampers in the four years prior to the survey.

K918 Facility failed to properly inspect and maintain the emergency generator, monthly load test documentation did not include percentage of nameplate kilowatt rating achieved during load test. The column for "AMPS" had not been filled out in the log. Failed to perform load bank test due to not meeting kilowatt requirement.

K920 Daisy chain power strips (power strips back to back).

K921 Failed to provide documentation of completion of all of the required testing of patient care related equipment used in patient care rooms.

K914 Failed to perform and document annual retention test on non-hospital grade receptacles in resident areas throughout the building.