

October 31, 2012

Contributors:

- Laura Essay
- Michael Khalili
- Jeanelle Lust
- Kevin McManaman
- Tammy Schroeder
- Shirley Williams

Inside this issue:

What to Do When an Em- ployee Reports an Injury	1
Immediate Jeop- ardy Triggers	1
Norovirus Out- breaks Related to Nurse Staffing	2
QAPI All About Training	2
Gaps Exist in Nursing Home Emergency Pre- paredness	3

For More
Information
Call Us at:
800-714-3439

Long-Term Care Newsletter

What to Do When an Employee Reports an Injury By Shirley Williams

Just about every employer will at some time need to deal with a worker's compensation injury. Workers' compensation applies when the employee claims to have had an injury which occurred within the course and scope of the employment. The employee is under a statutory duty to give notice of any claimed injury "as soon as practicable." What constitutes "notice" is very broadly inter-

preted, so if there is any potential that a condition of an employee could be work related, it makes sense for the employer to inquire further.

The following are suggestions for employers when handling workers' compensation claims:

1. It is wise to have either one, or a very limited number of, people designated as the individual who supervisors or employees should notify

if there is any claimed injury. There are various documents to fill out and it is difficult for employees who rarely handle such matters, to make sure all the documentation is completed.

2. The person designated to receive this type of notification should ascertain whether any immediate medical care is needed and obtain such if necessary. Once that is done, they should talk to

Immediate Jeopardy Triggers By Laura Essay

Immediate Jeopardy is a situation in which the nursing home's non-compliance with one or more requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident. According to experts, Immediate Jeopardy triggers can be used as quality assessment tools.

Joan Redden, the vice president of regulatory and consumer affairs at Skilled Healthcare stated,

"Using the triggers can help you figure out things." Appendix Q of the Center for Medicare & Medicaid's State Operations Manual, for example, discusses criteria for Immediate Jeopardy that includes failure to protect from psychological harm, failure to protect from undue adverse medications and failure to protect from abuse. Long-term care facilities can use the guidelines to develop and improve their

quality assurance plans.

When Immediate Jeopardy exists, the state can recommend the state Medicaid agency or regional office impose remedies, and assess a per-day or per-instance civil monetary penalty. A per-instance remedy can be \$1,000 to \$10,000, and a per-day remedy can range from \$3,050 to \$10,000.



We Help You
Deal With It

**"THERE ARE
ALWAYS FLOW-
ERS FOR THOSE
THAT WANT TO
SEE THEM"**

HENRI MATISSE



Norovirus Outbreaks Related to Nurse Staffing By Jeanelle R. Lust

A recent study of norovirus outbreaks in nursing homes in Oregon, Pennsylvania and Wisconsin found an increase in mortality and hospitalizations due to norovirus in homes with higher average age rates and RN hours of less than .75 per bed. The abstract of the study was recently presented <https://idsa.confex.com/idsa/2012/webprogram/Paper35319.html> and will be published in the Jour-

nal of the American Medical Association in the October 24/31, 2012 issue. According to the abstract, "Norovirus outbreaks are common in nursing homes in the U.S. and affect vulnerable, elderly populations." The study found that "Homes with older resident populations and lower RN hours-to-bed ratios may be the most at risk for increased mortality during norovirus outbreaks."



QAPI All About Training By Tammy Schroeder

In 2013, the final rule for Quality Assurance Performance Improvement (QAPI) is due from CMS and a year later, nursing homes must have their QAPI set up. The facility's QAPI plan should have these five elements:

1. Design and Scope;
2. Governance and Leadership;
3. Feedback, Data Systems and Monitoring;
4. Performance Improvement Projects; and
5. Systematic

Analysis and Systemic Action.

Tamar Abdell, President of Care2Learn/Upstairs Solutions stated that the QAPI is all about systems. She states that providers, in addition to having the data must be able to explain it as well. The provider should be able to do a root-cause analysis so that they can understand what is resulting in a problem.

Abdell recommends that when a provider is developing their QAPI they choose two areas

that need attention, one a clinical issue and another, such as house-keeping or laundry, that can involve the entire staff and that focuses on a cultural change. Abdell states that a critical part of the plan is to look at how you are training and how you are tracking that training.

QAPI allows nursing homes to develop comprehensive and proactive performance improvement programs which are suited to their own needs and programs.

What to Do? (continued from pg. 1)

(continued on pg. 3)
the employee and find out what happened, when it happened, the names of all witnesses, the precise symptoms and the area of the body involved. Finding out and documenting the area of the body involved is important since workers' compensation claims are compensated differently based on this fact.

3. An accident report should be filled out after talking to the injured employee and such should be signed by the injured employee.

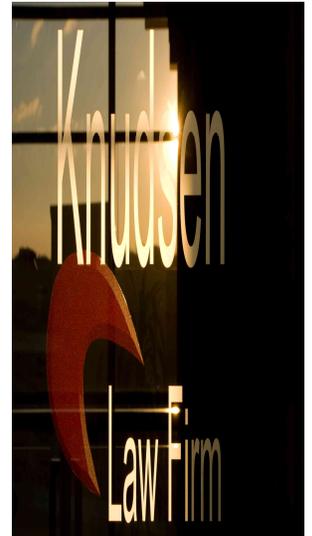
4. A Rule 50 Choice of Physician form needs to be presented to the employee before any medical treatment is sought if that is possible. Depending on the severity of the injuries, this may need to wait until after treatment is first received. In any event, it should be

presented as soon as the nature of the injuries allow. If this Rule 50 Choice of Physician form is not given to the employee, then the employee is free to choose any physician they want to see whether or not they have ever seen that doctor before.

5. Notice of the injury and claim should be given to the employer's workers' compensation insurer in accordance with the particular insurance policy. The insurer most likely has a standard procedure as to who should fill out the re-

quired First Report of Alleged Occupational Injury or Illness, which must be filed with the Workers' Compensation Court within 10 days of the date of the notice of injury.

6. Once the insurance company is involved, promptly providing any information requested by it, and communicating fully with it regarding all information known to the employer, will be of a great benefit in handling the claim.



Gaps Continue to Exist in Nursing Home Emergency Preparedness and Response During Disasters By Jeanelle Lust

In a recent study, the Office of the Inspector General concluded that:

- Emergency plans lacked relevant information—including only about half of the tasks on the CMS checklist. Nursing homes faced challenges with unreliable transportation contracts, lack of collaboration with local emergency management, and residents who de-

veloped health problems. LTC ombudsmen were often unable to support nursing home residents during disasters; most had no contact with residents until after the disasters.

While the study recognized that most nursing homes were complying with the federal regulations to develop a plan, the OIG was still concerned about these implementation problems.



The Knudsen Law Firm would like to wish all of you a wonderful Holiday Season!

Knudsen, Berkheimer, Richardson

& Endacott, LLP

3800 VerMaas Place, Suite 200

Lincoln, NE 68502-4453

THIS IS AN ADVERTISEMENT



Knudsen, Berkheimer, Richardson &
Endacott, LLP
3800 VerMaas Place, Suite 200
Lincoln, NE 68502

Toll Free: 800-714-3439
Phone: 402-475-7011
Fax: 402-475-8912
E-mail: tschroeder@knudsenlaw.com

