

Health Facilities & Emergency Medical Services Division (HFEMSD)

Occurrence Advisory Committee Minutes – 4/16/13 Submitted by Lesa Boom, Tracy Koller, and Sue Neff

Brought to order at 8:20 AM

Attending: Tracy Flitcraft – ESRD

Millie McParlane - AG Office

(via phone): Donia Anderson – Psychiatric Hospitals

Ryan Burmood – LTC Lisa Foster – ASC April Grimsley – ICFIID Megan Hucke – ALR

Joan Levy – DD Waiver Homes Cynthia Parson – Acute Hospitals

Elizabeth Reul – HHA Cathy Wagner – Hospice

HFEMSD: Lesa Boom

Tracy Koller Sue Neff

Lesa Boom brought the April 2013 Meeting of the Occurrence Advisory Committee (**OAC**) to order at 8:20 a.m.

NEGLECT INTERPRETATION CHANGES

Lesa reported that the Department legal representatives are looking at the neglect part of the occurrence reporting statute and how it should be interpreted by HFD. They will be providing new guidelines; however, there is no official word out to all of the providers yet. Internally, we will be looking at how we are interpreting the statute, and trying to ensure that it captures the data and information that we believe it needs to cover. As soon as this issue is finalized internally, we will send out a notice to all facilities.

The changes we are looking at include looking at the definition of "at-risk" adult – as noted in statute (read by Lesa) 26.3.1 101-4b. Basically, this will almost always apply to DD, ICFIID, and most nursing home residents, but care must be taken to ensure it is appropriately applied to all others. The "at-risk" definition is applied to resident/patient/clients' typical state of being and not a temporary situation such as while under anesthesia. We need to develop guidance for this for all providers.

Lesa reported that she went back to the initial decision date of 2/28/13 and reviewed and deactivated some neglect occurrences based on this new guideline.

If a provider is not sure if an incident is reportable, they should contact Sue Neff or Lesa Boom. From a facility perspective, make sure you document why you didn't report & that you considered it as a possible occurrence.

As we get further guidance, this will be defined in the manual and included in the examples being developed for individual facility/agency types.

Millie stated that the AG's office has serious concerns about this. They have cases all taken from occurrences, involving staff to resident neglect. From criminal justice point of view, neglect is very difficult to prove and they are going to be able to prove all of these cases. She asked, "Why is it so difficult for facilities to report questionable neglect?" April asked if the cases she spoke of would have not fallen under the new guidelines. Millie stated that it is her opinion that they would not. She stated that with the new guidelines they would not even have been reportable. Millie asked those attending if reporting neglect was a big burden to providers. Cynthia stated that 50% of their reporting is under the neglect category. She stated that a lot of what they have been reporting based on the prior interpretation is no longer applicable, so this is a very big deal for the acute care side. Millie remarked that she doesn't recall any neglect occurrences involving patients under anesthesia (now considered transient at-risk state, not covered). Sue pointed out that surgical misadventures will no longer be reportable unless the patient meets the at-risk definition.

Kathy stated that she felt that as a hospice provider, she felt that she was very unaware of, and uninformed about occurrence reporting. Sue stated that historically, many facility types, such as hospice, ESRDs, and ASCs were not reporting occurrences and this was due in part to lack of training on the part of HFD. Surveyors are now doing a great job educating facilities and agencies concerning occurrence reporting and now the numbers of occurrences for all categories are going up for all facility types. While, the Department still does not have the budget and resources to put on large-scale trainings, we would be happy to send an Occurrence team member to meetings/conferences, etc, being put on by the various facility type organizations.

The members wanted to know when we will have clear-cut formal guidance available. Lesa stated that we don't have a good answer for that, hopefully by June 1, or possibly will start with the state's FY, July 1, 2013.

Lesa told the Committee that when surveyors identify incidents that they feel should have been reported they have to discuss them with Lesa before citing. We are trying to increase consistency in the way surveyors are viewing occurrences. If a facility is undergoing a survey and has questions, they should coordinate with the team coordinator, or call Occurrence Team staff and we will discuss with the survey team that is at the facility.

REVIEW OF TIMELINESS

Lesa stated that at the last meeting Judy said that our legal department would review the timeliness issue and see if that could be extended in any way. Lesa said that she thinks that this

review got lost during the neglect occurrence review. We'll see what we can find out about the status of that review.

COMPOSITION OF AND GUIDELINES FOR THE OAC

We discussed some possible discussion bullets for the OAC to consider such as; what is the purpose of the committee, should there be term limits, can a member send someone in their stead, what if a member no longer wants to serve, etc. Lesa will compile a list of these issues and it will be sent to members via email for input and suggestions.

One of the suggestions made for the purpose of the OAC was providing information that we have learned back to the facilities. Lesa said that developing the examples specific to facility types is our main mechanism for educating facilities on what types of incidents are reportable, or if not, why not. We can also use the Portal if we become aware of information that should be disseminated to facilities/agencies.

The OAC members were asked to keep the Occurrence Team in mind for meetings, conferences, and associations that the members are involved with. We do not have the budget or resources to provide any training ourselves, but are available to attend other meetings to provide information and/or training.

OCCURRENCE SECTION AND THE AG'S OFFICE

We work very closely with the AG's Office. Facilities and agencies do not understand the role the AG's office plays in regards to occurrences. Millie stated that she and Joe DeAngelo are both ready and willing to provide training. This might be something that could be done in partnership with the Occurrence Team. Perhaps we could do something via the Portal to explain our partnership with the AG Office.

Millie said there is a lot of concern and confusion about what a facility/agency can, or can't share with them. Facilities and agencies should also understand that they sometimes need to work with another facility/agency. For instance, if one facility believes that an occurrence took place at another facility/agency, they should let the other facility/agency know that there are reportable allegations and work with each other to report the situation appropriately. We all have a common goal, and need to cooperate with one another.

NEXT MEETING

The next meeting will be held on 7/16/13, at 8:15 a.m. in the HFD Training Room.

July Agenda:

- ✓ OAC rules/guidelines?
- ✓ OAC Mission Statement
- ✓ Begin review of the Occurrence Statute Occurrence requirements

The April 2013 OAC meeting was closed at 9:20 a.m.