

Health Facilities & Emergency Medical Services Division (HFEMSD)

OCCURRENCE ADVISORY COMMITTEE MINUTES – 7/16/13 Submitted by Lesa Boom and Tracy Koller

The meeting was brought to order by Lesa Boom at 8:15 a.m.

Attending: Tracy Flitcraft, ESRD - member

Ryan Burmood, LTC - member

Tamara Warneck, ESRD (DaVita) - guest Vicki Foram, ESRD (DaVita) - guest April Grimsley, ICFDD/ID - member Shelley Hitt, Ombudsman - member

Donia Andersons, Psychiatric Hospitals - member

Via phone: Joan Levy, DD Group Homes - member

HFEMSD: Judy Hughes, Acute & Community Programs Section Chief

Lesa Boom, Occurrence Program Manger Tracy Koller, Occurrence Investigator

REVIEW OF APRIL 2013 MINUTES

Comment from Judy Hughes that, although there may be concerns regarding the neglect statement, the purpose of the Division's clarification is to return the regulatory process back to the intent and definition of the occurrence statute.

There were no corrections to the April 2013 Minutes.

NEGLECT

Lesa Boom reported that the Occurrence section of the Division has already been internally reviewing and applying this new guidance regarding the category of neglect, however, review and input from the Occurrence Advisory Committee (OAC) was desired. Additionally, input was requested regarding the reporting timeframe and reporting based on allegations.

The OAC reviewed the occurrence statute and rule.

Concerns were presented regarding diluting the statute as some facilities already have poor history of reporting and this may lessen the efficacy of patient/resident/individual advocacy. The reporting timeframe was discussed and, in particular, how this is difficult in DD Group Homes. Judy Hughes commented that a recent study at the Division found that resident to resident abuse rarely resulted in harm. A suggestion of abuse reporting in those instances was when a pattern of an individual or pattern of events occurs. Multiple OAC members agreed that an extended reporting timeframe of 2 days would be helpful to facilities. The concept of pain was discussed, noting that this is difficult for anyone to define. Additionally, intent is a similar concept which often changes depending on if asking the perpetrator, victim, or staff. It was noted that there are several different legal definitions regarding intent. Lesa Boom commented that when facilities are unable to determine if there was intention or not, the Division should be consulted. Question was raised regarding when patients/residents/individuals are under the care of another facility or organization, should an occurrence that happens during that time be reportable? Judy Hughes confirmed that was not under control of the facility but that this is a difficult area in many facility types, especially home health.

The issue of law enforcement notification was addressed. Smaller communities and improved communication generally lend to better relationships with law enforcement, although reporting minor abuse incidents is still challenging for facilities. Lesa Boom clarified that the decision regarding the event is determined by law enforcement, not the facility. Judy Hughes stated she would discuss the issue with the Division's legal department. Judy Hughes also described the new process for occurrence reporting of incidents found on survey, which includes the surveyor discussing the incident with Lesa Boom prior to citation.

The conversation was directed towards OAC members from other facilities. It was expressed that much of the reporting, such as equipment malfunction, is actually duplicate reporting for facilities (FDA, PSO, internal corporate management). Judy Hughes confirmed that the process of evaluating the events prior to reporting was appropriate, however, that many facilities have not historically reported and so this new occurrence process seems more challenging to them in particular. Judy Hughes also focused attention on the statue, which was implemented 20 years ago prior to vast changes in the medical community. She questioned OAC members if the statute was still serving its purpose.

MISSION

The OAC reviewed its mission, which was developed from the first paragraph of the occurrence statute.

FACILITY TYPE MANUALS

Desire was expressed to have the different manuals for each facility type. Lesa Boom stated that, because of the clarification and possible change regarding the occurrence interpretation,

the manuals would be on "hold" until resolution. It was requested and agreed upon that the OAC members would be provided with a modifiable version of the occurrence manual in order to add input.

OAC COMMITTEE "HOMEWORK"

Judy Hughes proposed tasks for OAC members to conduct:

- Discuss with your facility and other like facility types to assess the reporting periods
- Discuss with your facility and other like facility types to assess when it is appropriate to report, whether upon the allegation or the confirmation
- Return those responses to Lesa Boom in September via email
- Reconvene in October for the OAC meeting to determine a final stance which may addressed further within the Division and CDPHE
- Consider and formulate thoughts and a stance regarding the mission of the OAC and what its future should entail

NEXT MEETING

The next meeting will be held on October 15th, 8:15 a.m. in the HFD training room.

October Agenda:

- Assessment of reporting periods
- Whether allegations should be reportable
- Mission and future of the OAC

The July 2013 OAC meeting was adjourned by Lesa Boom at 9:30 a.m.