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Opportunities for Long-Term Care in Nevada

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Helping people. It's who we are and what we do.

Learning Objectives

1. Long Term Care Ombudsman Program Overview
2. Top 5 Complaints in Skilled Nursing
3. Top 5 Complaints in RFG and HIRC
4. Bill Draft Requests – Personal Needs Allowance
5. Bill Draft Request – Non-Skilled Eviction Process
6. Questions
7. Contact Information
8. Acronyms



Overview of LTCOP

- Authorized under the Older Americans Act
 - Federal law requires each state to have a Long-Term Care Ombudsman Program
- LTCOP receive complaints and conducts investigations
 - Assist resident with concerns related to day-to-day care, health, safety, and personal preferences;
 - Provide information to the community regarding long term care in Nevada;
 - Provide education to residents, families, facility staff and others on a variety of issues related to aging, long term care and resident rights; and
 - Provide in-service training for long term care professionals regarding trends and best practices to improve the quality of care for residents
- Conduct regular unannounced visits to facilities



Facility Types

- Home for Individual Residential Care (HIRC) Home
- Residential Facilities for Groups (RFGs)
 - Also referred to as Assisted Living Facilities
 - Alzheimer Endorsement for Residential Facilities for Groups
 - Mandates one staff member for every six residents
- Skilled Nursing Facility (SNF)

- NRS 449A Care and Rights of Patients



Top 5 Complaints

- Skilled Nursing Facilities
 1. Physical Abuse
 2. Request for Assistance
 3. Dignity and Respect
 4. Discharge
 5. Personal Hygiene
- RFG and HIRC
 1. Billing
 2. Family/Representative
 3. Financial Exploitation
 4. Medications
 5. Discharge



SNF: Physical Abuse

- 157 cases out of 212 total cases (74%) reported within Skilled Nursing Facility settings
- Who is reporting?
 - Residents
 - Families
 - Facility Staff
- Scenarios
 - Resident/Staff
 - Resident/Resident
- How do we address this?



Risk Factors

RISK FACTORS	
Resident Characteristics	Facility Characteristics (environmental and care)
Residents with significant cognitive impairments such as dementia and mental illness.	Inadequate number of staff.
Residents with behavioral symptoms related to dementia or other cognitive impairment that may be disruptive to others (e.g., yelling, repetitive behaviors, calling for help, entering other's rooms).	Lack of staff training about individualized care to support residents' needs, capabilities, and rights (e.g., resident-centered care, abuse prevention, care for those with limited capacity, dementia, and mental health needs).
Residents with a history of aggressive behavior and/or negative interactions with others.	High number of residents with dementia.
	Lack of meaningful activities and engagement.
	Crowded common areas (e.g., too many residents in one room, equipment/obstacles in common areas).
	Excessive noise.

Understand the Importance of Individualized Care in Preventing and Reducing RRM

A 2014 study of resident-to-resident mistreatment found that "a person-centered approach to the management and prevention of these incidents is crucial" and "it is through identifying incidents and documenting them, that patterns of resident's behaviors can be identified, and individual strategies planned, implemented, and assessed." ⁴

Recommendations

Recommendations to Prevent and Reduce Incidents of RRM

Environmental Considerations	Care Practices
Clear common areas of clutter, reduce noise, and overcrowding.	Develop comprehensive care plans. Provide individualized, resident-centered care, and implement best practices for supporting residents with behavioral symptoms related to cognitive impairment.
Provide areas for supervised, unrestricted, safe movement.	LTC facility staff training (including training on person-centered care, dementia and mental illness) and facility policies regarding how to prevent, recognize, respond, report, and document RRM.
Identify environmental influences on behavior and adjust accordingly (e.g., temperature, lighting).	Identify residents with risk factors for RRM, and a history of RRM, and develop care plans to address their needs and monitor closely.
Promote meaningful activities and opportunities for engagement for all residents based on individual needs, interests, and abilities.	Identify root causes of behavioral symptoms and reduce or eliminate those causes (e.g., pain, boredom, loneliness).
	Implement consistent staffing assignments so staff and residents are more comfortable with each other and staff are more familiar with resident needs and changes in behavior.
	Ensure adequate staffing levels to meet resident needs and provide supervision.



SNF: Request for Assistance

- 91 cases out of 124 total cases (73%) reported within Skilled Nursing Facility settings
- Who is reporting?
 - Residents
 - Families
 - Facility Staff
- Scenarios
 - Call lights not answered
 - Briefs not changed
 - Transfer out of bed
- How do we address this?





SNF: Dignity and Respect

- 93 cases out of 129 total cases (72%) reported within Skilled Nursing Facility settings
- Who is reporting?
 - Residents
 - Families
 - Facility Staff
- Scenarios
 - Disrespectful when interacting: Cursing, degrading
 - Not addressing the person
- How do we address this?



SNF: Personal Hygiene

- 157 cases out of 212 total cases (74%) reported within Skilled Nursing Facility settings
- Who is reporting?
 - Residents
 - Families
 - Facility Staff
- Scenarios
 - Adult diapers are not changed frequently enough
 - Bedding, bathrooms, kitchen, and common areas are not clean
 - Bedsores appear
 - Giving unsafe food or water to nursing home residents
 - Not properly bathing a resident or washing their clothes
- How do we address this?



SNF: Discharge

- 200 cases out of 323 total cases (62%) reported within Skilled Nursing Facility settings
- Who is reporting?
 - Residents
 - Families/Representatives
 - Facility Staff
- Scenarios
 - Locations – LOA with hospitals for lower level of care
 - Non-Payment
 - Harm to self and others
- How do we address this?

Sample Discharge Letter

- **SAMPLE DISCHARGE LETTER**

- Dear _____:

- Due to the circumstances noted below you will be discharged from our facility **effective thirty days** after the date of this notice, on _____. The name (if applicable) and address of the proposed **location** to which you will be discharged to is _____.

- Under federal law (42 U.S.C 1396r(c)(2)(A); 42 CFR 483.15), you may only be transferred or discharged from this nursing facility for one of the following **reasons**:

- It is necessary for your welfare and your needs cannot be met in this facility;
- Your health has improved sufficiently so that you no longer need the services provided by this facility;
- The safety of individuals in this facility is endangered;
- The health of individuals in this facility would otherwise be endangered;
- You have failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at this facility; or
- The facility ceases to operate.

- **THE REASON FOR THIS NOTICE OF YOUR TRANSFER/DISCHARGE IS:**

- You have the **RIGHT TO APPEAL** this transfer/discharge to the Division of Health Care Financing and Policy (DHCFP) office. A request for a Fair Hearing must be made in writing and signed by the recipient or the recipient's authorized representative. The request for hearing must contain the recipient's name, address, telephone number and Medicaid number as well as the name, telephone number and address of the authorized representative, if applicable.

- **Nevada State Medicaid**
- **Supervisor of Hearings and Policy Development**
- 1100 Williams St. Ste 101
- Carson City, NV 89701
- 775-684-3604

- You may wish to contact your **LONG-TERM CARE OMBUDSMAN** for help in mediation with the facility or for assistance in obtaining free legal services, if qualified. The contact information for the ombudsman:

- **Long Term Care Ombudsman**
- 9670 Gateway Drive, Suite 200
- Reno, NV 89521
- 1-888-282-1155

- If you have a **mental illness or are developmentally disabled**, you or your family member or legal representative may wish to contact:

- **Nevada Disability Advocacy & Law Center**
- 1875 Plumas Street #1
- Reno, NV 89509
- (775) 333-7878

- Sincerely,





RFG/HIRC: Billing

- 157 cases out of 212 total cases (74%) reported within Skilled Nursing Facility settings
- Who is reporting?
 - Residents
 - Families
 - Facility Staff
- Scenarios
 - Timely assistance needed for Medicaid applications
 - Patient liability education
 - Referrals to Adult Protective Services
- How do we address this?



RFG/HIRC: Family Conflict

- 157 cases out of 212 total cases (74%) reported within Skilled Nursing Facility settings
- Who is reporting?
 - Residents
 - Families
 - Facility Staff
- Scenarios
 - Families getting upset at the facility
 - Resident/family conflict which can be connected to financial exploitation
 - Families/POA interfering with care
- How do we address this?



RFG/HIRC: Financial Exploitation

- 157 cases out of 212 total cases (74%) reported within Skilled Nursing Facility settings
- Who is reporting?
 - Residents
 - Families
 - Facility Staff
- Scenarios
 - Resident funds being taken either knowingly or unknowingly
 - Does the resident have cognitive impairment and being taken advantage of?
 - Review of records by Social Services and confirmation of questionable spending
- How do we address this?



RFG/HIRC: Medications

- 157 cases out of 212 total cases (74%) reported within Skilled Nursing Facility settings
- Who is reporting?
 - Residents
 - Families
 - Facility Staff
- Scenarios
 - Resident lack of education on medication orders in facilities
 - Staff error in medication administration
 - Medications not ordered timely
 - Overmedicating/use of antipsychotic medication used as a restraint
- How do we address this?

RFG/HIRC: Evictions

- 157 cases out of 212 total cases (74%) reported within Skilled Nursing Facility settings
- Who is reporting?
 - Residents
 - Families
 - Network Providers
 - Hospitals
 - Homeless Shelter
- Scenarios
 - Resident sent to homeless shelter for non-payment
 - Hospital Contracts ending and cannot be maintained
- How do we address this?



Hot Topics

- Discharges from facilities
 - Residents sent out for acute issues and not permitted to return to the facility usually due to undesirable behaviors.
 - Letter of agreement contracts between group homes and hospitals. Hospitals pay for resident's care for a designated period and group homes discharge residents when they cannot continue to pay.
- Discharge/ "Eviction" Rights for long term care settings that do not fall under the Nursing Home Reform Act (NHRA)
 - Federal Home and Community Based Services (HCBS) Settings Rule

Settings Rule and Resident Rights

- Applies to Home and Community Based Waiver (HCBS) recipients
 - Meet minimum standards for integration, access to community life, choice, autonomy, and other important consumer protections
 - Ensure that people with disabilities living in the community have access to the same kind of choice and control over their own lives as those not receiving Medicaid HCBS funding.
- HCBS Settings Rule and “provider-owned or controlled residential setting”
 - Have privacy in their unit, including lockable doors, choice of roommates and freedom to furnish or decorate the unit;
 - Have the right to control his/her own schedule including access to food at any time;
 - Have the right to visitors at any time; and
 - Have a setting that is physically accessible.
 - Have a lease or other legally enforceable agreement providing similar protections;

Compliance with Federal Regulations

- (A) The unit or dwelling is a specific physical place that can be owned, rented or occupied under a legally enforceable agreement by the individual receiving services, and the individual has, at a minimum, the same responsibilities and protections from eviction that tenants have under the landlord tenant law of the State, county, city or other designated entity. *For settings in which landlord tenant laws do not apply, **the State must ensure** that a lease, residency agreement or other form of written agreement will be in for each participant and that the document provides protections that **address eviction processes and appeals comparable to those provided under the jurisdiction's landlord tenant law.***

- [42 CFR § 441.530](#)

Bill Draft Request 40-301



Community-Based Care (CBC) Programs

The CBC Unit authorizes home and community-based services to keep older adults and individuals with physical disabilities in their homes and avoid long-term care placement for as long as possible.

Home and Community-Based Services (HCBS) Waivers:

- Frail Elderly (FE):
- Eligibility criteria: individuals must be age 65 years and older and qualify for Nevada Medicaid based on the higher financial limits established within the 1915(c) Waiver
 - Applicant must meet and maintain a Nursing Facility Level of Care (LOC)
 - Services Include: Case Management, Adult Companion, Homemaker, Chore, Personal Emergency Response System (PERS), Respite, Social Adult Day Care, and Augmented Personal Care (Residential services)
- Persons with Physical Disabilities (PD):
 - Eligibility criteria: individuals must have a documented physical disability and qualify for Nevada Medicaid based on the higher financial limits established within the 1915(c) Waiver
 - Applicant must meet and maintain a Nursing Facility LOC
 - Services Include: Case Management, Assisted Living, Attendant Care, Chore, Environmental Accessibility Adaptations, Homemaker, Home Delivered Meals, PERS, Respite, and Specialized Medical Equipment and Supplies
- All services are based on need and determined by a social health assessment



Personal Needs Allowance

- Resident's monthly income must be spent on care, medical bills, prescriptions and other health related costs. A resident who qualifies for Medicaid may retain \$35 from their personal income that can be used for clothing, personal items, and incidentals.
- This rate has not changed since 1991.
- The Federal Benefit Rate (FBR) increases annually in January. While there is no set federal rule on how often a state should increase the personal needs allowance, many states update it annually.
 - Arizona allowance is set at 15% of the FBR and is currently at \$126.15,
 - Colorado updates annually and is currently at \$93.17
- Recommend Nevada establish an annual increase.
- Bill Draft Request 38-295

*Data from the American Council on Aging, March 2022 [Medicaid's Personal Needs Allowance for Nursing Home Residents \(medicaidplanningassistance.org\)](https://www.medicaidplanningassistance.org/)

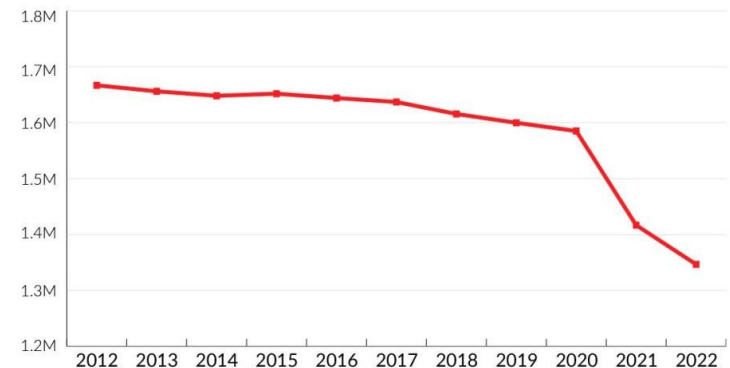


Caregiver Support Services

- Challenges
 - Increased demand for services
 - Identifying caregivers
 - Workforce shortages
 - Narrow view of what respite should be (i.e. PCA level of service)

Workforce Challenges

- Ongoing pandemic recovery
- Nursing home industry has shed roughly 235,000 jobs since March 2020, according to [an analysis of U.S. Bureau of Labor Statistics data](#).
 - According to an article from AARP dangerous working conditions, poor pay and benefits, limited advancement, and burnout are all factors.
- [National Consumer Voice for Quality Long-Term Care](#) looked at CMS reporting data and found that bedsores, weight loss, depression, and the use of antipsychotic medication all rose during the pandemic



Source: Analysis by Federal Reserve Bank of St. Louis, data from U.S. Bureau of Labor Statistics
Note: numbers taken from January 1st of each year



Quote to remember ...

The true measure of any society can be found in how it treats its most vulnerable members.

- Mahatma Gandhi



Questions?





Contact Information

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Acronyms

- ADSD – Aging and Disability Services Division
- CBC – Community Based Care
- COPE - Community Service Options Program for the Elderly
- FE – Frail Elderly
- HCBS – Home and Community Based Services
- HIRC – Home for Individual Residential Care
- LTCO – Long Term Care Ombudsman
- OAA – Older American’s Act
- PAC - Planning, Advocacy and Community Services Unit
- PAS - Personal Assistance Services
- PD - Persons with Physical Disabilities
- RFGs – Residential Facilities for Groups
- RRM – Resident to Resident maltreatment
- SNF – Skilled Nursing Facility