

ELDER LAW & LONG TERM CARE

Wroten & Associates, Inc.

Attorneys at Law



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SAVE THE DATE

September 22, 2010

DRI Networking Reception
Presented by Wroten & Associates
Swissôtel Chicago
6:30 p.m.

Visit www.dri.org for details

CONTACT US

If you have questions or
comments, we want to hear
from you.

Please email us at:
nchancellor@wrotenlaw.com

Facility Inspections - Proposed Changes

Community Care Licensing Division Proposed Changes In The Frequency of Inspections of Residential Care Facilities For The Elderly

By Carmen Martin, JD



Prior to January 2004, the Community Care Licensing Division conducted annual inspections of residential care facilities for the elderly. Since then, required visits

have been decreased to a minimum of once every five years pursuant to the current statutory scheme; an annual inspection of 10 percent of these facilities due to a poor compliance history, or because they are federally mandated to receive annual inspections; and an annual random inspection of 30 percent of the remaining facilities.

Community Care Licensing Division proposes to increase the frequency of the mandated inspections to national standards through the implementation of "Health and Safety Compliance Reviews". Beginning January 1, 2011, and upon approval of the Legislature and the Governor, Community Care Licensing Division will begin implementing the following inspection protocol:

- Annual unannounced compliance reviews of all residential care facilities.
- Unannounced, full comprehensive health and safety compliance inspections, of all facilities on probation or on a compliance plan.
- Additional unannounced case management inspections, to be conducted on facilities with a significant history

of noncompliance, as needed to monitor compliance.

- Pre-licensing inspections of all new license applications unless it is determined that an administrative change is occurring and that all other program, staffing and client factors remain the same.
- Elimination of post-licensing inspections within 90 days of acceptance of first resident unless a case management inspection is required to ensure the health and safety of new clients.

No change would occur to the current inspection protocol for all pre-licensing inspections, plan of correction process or complaint investigations and compliance inspections. Community Care Licensing Division will continue to complete full file reviews prior to inspections and plan of correction activities following inspection and will continue to inspect the entire buildings and grounds as well as talk with staff and residents.

For purposes of the new annual compliance inspections, Licensing Program Analysts would focus on the following key indicators (to be known as the six "Zero Tolerance" violations): fire clearance, absence of supervision, access to bodies of water, access to firearms or ammunition, refusing entry to a facility, and the presence of an excluded person in the facility. After review of the facilities performance on these key indicators, and if warranted, the annual compliance inspection would

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“Facility Inspections”

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expand to a comprehensive review (review of all licensing regulations and statutes).

Fee Increases

Application and annual fees would increase by 10 percent. In addition, a \$100.00 re-inspection fee would be assessed to any facility which has been issued a citation and which would require a follow up inspection to verify compliance.

Statutory Changes

Health & Safety Code section 1569.20 would be amended to add the following language:

“Applicants for licensure of a currently or previously licensed facility are exempt from the initial site visit. This does not preclude the Department, when acting

within its discretionary authority, from making an initial site visit.”

Health & Safety Code section 1569.24 would be deleted.

Health & Safety Code Section 1569.33 Would be Amended to Read

(a) Every licensed residential care facility for the elderly shall be subject to unannounced visits by the department. The department shall visit these facilities at least once per year and as often as necessary to ensure the quality of care provided.

(b) The department shall notify the residential care facility for the elderly in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable

length of time for compliance by the facility.

(c) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection.

(d) As part of the department’s evaluation process, the department shall review the plan of operation, training logs, and marketing materials of any residential care facility for the elderly that advertises or promotes special care, special programming, or a special environment for persons with dementia to monitor compliance with Sections 1569.626 and 1569.627. ■



RISK MANAGEMENT CORNER

NEW SECTION

What is Risk Management? Why is it Important to YOU?

By Cynthia Uptmore, RN, JD, CPHRM



WHAT IS RISK MANAGEMENT?

Risk management is inherent in every aspect of healthcare and is everyone’s responsibility. It has been described as “the system designed to prevent and control patient injury, enhance quality, promote safety, and minimize the losses associated with medical malpractice claims.”¹ In essence, risk

management means continually identifying, assessing, and re-evaluating the processes and outcomes of care to identify where opportunities for improvement exist.

The overall goals in healthcare risk management is to minimize the risk of:

- Harm to patients
- Liability exposure
- Financial loss

Most organizations have a risk management program that addresses the strategies to prevent or minimize losses. Risk management programs consist of both proactive and reactive components. Proactive components include activities to prevent adverse occurrences (ex. losses) and reactive components are actions in response to adverse occurrences.

WHY IS RISK MANAGEMENT IMPORTANT TO YOU?

It is everyone’s responsibility to prevent and control patient injury. The first step is proactive risk education. An educated patient can provide the first layer of defense against error. The Joint Commission, together with the Centers for Medicare and Medicaid Services, launched a national campaign to urge patients to take a role in preventing healthcare errors by becoming active with their care in a “Speak Up” campaign. Empowering patients to be proactive in their care by asking questions or concerns, paying attention, educating themselves about their illness, and participating in decisions about their treatment.

The second layer of defense against error is proactive risk education to all employees. This means all employees, including housekeeping, CNA’s, LVN’s, RN’s, physical therapy, dietary, etc. should understand that they play a role in safe patient care and protecting the organization. Shared responsibility leads to shared ownership; if the staff buys into the concept of system wide goals, everyone becomes involved. The team approach to risk management will help achieve top performance and minimize risk. ■

¹ Risk Management Handbook for Health Care Organizations, The Essentials, Risk Management Metrics, pg. 155, Napier, Judieth & Trista Johnson.

Managing Stress

By Marilynn Allemann, LCSW, CPC

Executive and Personal Coach



There is one thing that we all have in common, STRESS, whether it is in the work place or in our personal lives.

Have you ever noticed that while you are feeling completely stressed out someone else in the

same situation is reacting very differently? Stress can be different things to different people.

WHAT IS STRESS?

It is the anxiety we experience as we adjust to our continually changing environment. Stress is the “wear and tear” our bodies experience. It causes intellectual, physical, emotional and behavioral effects and can create positive or negative thoughts, feelings and reactions. It is important to note that it isn’t so much the events that determine whether we’re stressed or not, it is our reactions to them.

Stress can help or hinder us depending on how we react to it. In a positive way stress can compel us to action. It can result in a new awareness and an exciting new perspective on a particular event or situation. From a negative standpoint stress can result in feelings of distrust, rejection, anger, and depression. These feelings can lead to a number of health problems such as, headaches, upset stomach, rashes, and insomnia, to name only a few.

WHAT CAUSES YOU TO EXPERIENCE STRESS SYMPTOMS?

Take some time to think about the things that cause you stress. There may be a variety of situations that cause you to experience stress symptoms. Your stress may be linked to external and internal factors such as: the state of the world, the country, or any community to which you belong, unpredictable events, the environment in which you live or work, work itself, family and relationships. Stress can also come from your own irresponsible

behavior, negative attitudes and feelings, unrealistic expectations and perfectionism. Work related stress may include: unclear role specifications, role conflict, unrealistic high self-expectations, and frequent clashes with superiors, isolation from colleagues’ support, poor communication, inadequate leadership, inability to finish a job and insufficient training.

WHAT ARE THE SIGNS & SYMPTOMS OF STRESS?

The signs and symptoms of stress can affect you in many ways. From an intellectual standpoint you may experience problems with memory, have difficulty making decisions and generalized confusion. You may experience a misunderstanding of what others tell you because of the inability to concentrate and a loss of objectivity. Other physical symptoms caused by stress can include headaches and digestive issues as mentioned above, as well as, increased perspiration, sleep disturbances, fatigue, and weight gain or loss. Stress can make you feel, moody, uneasy, frustrated and angry and these are only a sample of emotional symptoms. As you can see there are numerous symptoms that can surface as a result of stress. It can be a contributor to very serious physical and psychological conditions and that is why it is extremely important to learn how to manage your stress.

TIPS ON MANAGING STRESS

Just as there are many sources of stress, there are many possibilities for its management. Here are some helpful tips on how to manage stress:

1. Become aware of what your stressors are and your emotional and physical reaction to those stressors. Don’t ignore them. Don’t minimize your problems.
2. Recognize what you can change. Can you change your stressors by avoiding or eliminating them completely? Can you

reduce their intensity by managing them over a period of time instead of on a daily or weekly basis?

3. Reduce the intensity of your emotional reactions to stress. The stress reaction is triggered by your perception of physical and emotional danger. Are you viewing your stressor in an exaggerated way? Work at adopting more moderate views and try to see the stress as something you can cope with rather than something that overpowers you. Put the situation in perspective.

4. Learn to moderate your physical reaction to stress and build your physical reserves. Brisk exercise is an amazing way of lowering your stress symptoms. Getting enough sleep on a consistent basis will also help reduce your overreaction to stressful situations. Relaxation techniques can reduce muscle tension, for example, slow, deep breathing will help to bring your heart rate down and respiration back to normal.

5. Plan something rewarding for the end of your stressful day. It doesn’t have to be big; it could be a relaxing bath or half an hour with a good book. Put aside work, housekeeping or family concerns for a brief period before bedtime and allow yourself to fully relax. Don’t spend this time planning tomorrow’s schedule or doing chores you didn’t get around to during the day. Remember that you need time to recharge and energize yourself. You’ll be much better prepared to face another stressful day.

So when you find yourself feeling overwhelmed, tense and about to explode, STOP take a few slow, deep breaths, slow down and practice some of these positive ways to manage stress. Remember, stress affects all of us. In today’s world it is relatively impossible to avoid it in both our personal and professional lives; the difference is in how we manage it. ■

FIRM NEWS



Wroten and Associates' Second Annual "Long Term Healthcare Conference" was held on May 13, 2010. The conference was held

at the Grand Californian at the Disneyland Resort in Anaheim, California. The conference was attended by members of the long term industry ranging from facility owners and operators, to administrators and facility staff.

As Wroten and Associates continues to serve as an advocate for the long term care industry, and consistent with its mission to educate industry members, the conference, including breakfast and lunch, was offered free of charge to attendees. Con-

tinuing educational units were also offered.

Wroten and Associates looks forward to presenting its Third Annual conference next year. Please look for updates in future editions of our newsletter. ■



Wroten & Associates, Inc.

Attorneys at Law

20 Pacifica • Suite 1100
Irvine, CA 92618

