
PROMISING PRACTICES IN STATE SURVEY AGENCIES

Issue Brief: Training to Strengthen Surveyor Skills and Knowledge Related to Legal Aspects of the Survey Process

Introduction

Substantial federal and state resources are dedicated to training surveyors so that they may effectively conduct survey tasks and responsibilities. Surveyors' core competencies must go beyond clinical aspects of long-term care into regulatory and legal issues that underpin the survey. Adequate training in all job responsibilities is not only critical to job effectiveness but also significantly contributes to job satisfaction (1-3), a key factor in staff retention.

Because the majority of surveyors typically are hired with clinical, public health, or social work backgrounds (4), surveyor training programs must prepare surveyors to effectively and confidently perform in the potentially adversarial regulatory environment; teach them the regulatory language; and strengthen the skills they need to identify, document, and defend findings that may face legal scrutiny, from the informal dispute resolution (IDR) process to hearings. Surveyors who are well trained in the legal aspects of the survey process will enhance investigation and documentation, which will not only contribute to the surveyor's job satisfaction but also increase the likelihood of realizing appropriate enforcement.

Summary of State Examples

This report describes training approaches and programs utilized in the state survey agencies in Florida, Texas, and Wisconsin to strengthen surveyor skills and knowledge on the legal aspects of the survey process. The information presented is based on interviews with agency management and training staff and review of selected training materials.

The key features of the three agencies' legal training components, their impact, and lessons learned from the agencies' experiences are described in this section. Detailed information

on each training practice is presented in state-specific descriptions.

Key Features

In all three agencies, training to strengthen surveyor knowledge and skills related to legal aspects of the survey process is integrated throughout many of the courses in the surveyor orientation programs and is the specific focus of a subset of required orientation courses. In Texas and Wisconsin, education on legal aspects also is delivered through training sessions held throughout the year for new and experienced surveyors. In Florida, teaching materials from orientation courses are available for surveyor reference on an ongoing basis. The training components at all three agencies include courses intended to strengthen surveyors' investigational, decision-making, and documentation skills. The focus of additional legal-related courses at the three agencies varies and includes courses that prepare surveyors to manage situations of abuse and neglect, identify immediate jeopardy conditions, and maintain the confidentiality of public records. Other courses provide information on the federal regulations and legal process. Surveyors in Florida receive additional training to help prepare for effective participation in depositions and hearings.

In each of the three states, the majority of the training on legal aspects of the survey process is developed and implemented by expert staff dedicated to surveyor education and training. Training staff collaborate with agency attorneys to produce courses that incorporate case studies and interactive exercises often based on actual survey, IDR, deposition, and hearing experiences.

Impact

Management and training staff at the featured agencies believe that their training components

focused on skills and knowledge related to legal aspects of the survey process have contributed to enhanced surveyor confidence, investigational skills, and ability to provide supportable documentation.

Evaluation input from surveyors supports the effectiveness of the courses and perceived relevance to surveyor job performance and preparedness. The three agencies have consistently met Standard 2 (Documentation of Survey Results) of the CMS State Performance Measures for the past several years.

Each of the three agencies invests considerable resources to support dedicated staff who lead curriculum development and training for surveyors on all topic areas. Skills and knowledge related to legal aspects of the survey process constitute just one area of focus under the surveyor training programs. The financial costs of developing and implementing training specific to legal topics are largely subsumed under the resources that support the established training infrastructure in place at each agency.

Lessons Learned

Agency management and training staff emphasize the value of utilizing interactive exercises and case studies, particularly those based on real survey issues and experiences in IDR or other legal proceedings. This approach

allows surveyors to more readily adapt classroom learning to practice.

Dedicated staff for curriculum development and training has been a valuable resource for the featured agencies. Agencies without dedicated curriculum design experts, however, could adapt course content and materials from other states to create a similar series of courses without substantial time investment. It is beneficial to collaborate with agency attorneys to instruct surveyors on such topics as investigational skills and preparing for depositions and hearings.

Conclusion

Based on the experiences of the three featured agencies, it appears that the implementation of surveyor training on skills and knowledge related to legal aspects of the survey process contributes to surveyors' ability to effectively investigate facility performance and substantiate and defend findings. These skills are integral to effective surveyor performance. The rigorous training programs at the three agencies are driven by the support of dedicated curriculum design and/or training staff, a model that has been implemented differently in each agency. The teaching materials utilized by the three agencies can facilitate other agencies' efforts to offer courses similar to those provided under the described training programs.

References

- 1 – Walshe K & C Harrington, 2002. Regulation of nursing facilities in the United States: An analysis of resources and performance of state survey agencies. *The Gerontologist*, 42(4):475-486.
- 2 – National Academy of Public Administration (Human Resources Management Panel), 2001. *A Work Experience Second to None: Impelling the Best to Serve*. September 2001.
- 3 – Shields MA & ME Ward, 2001. Improving nurse retention in the National Health Service in England: The impact of job satisfaction on intentions to quit. *Journal of Health Economics*, 20(5):637-70.
- 4 – Watson-Wyatt, 2005. Health care organizations struggle to attract and retain workers. March 30. www.watsonwyatt.com/news/press.asp?ID=14482. Retrieved February 2006.

This document is part of an issue brief on training programs used in state survey agencies to strengthen surveyor skills and knowledge related to legal aspects of the survey process. The issue brief is one of a series by the Division of Health Care Policy and Research, University of Colorado Health Sciences Center, for the U.S. Centers for Medicare & Medicaid Services (CMS) highlighting promising practices in state survey agencies. The entire series is available online at CMS' Website, <http://www.cms.hhs.gov/SurvCertPromPractProj>. The issue briefs are intended to share information about practices used in state survey agencies and are not an endorsement of any practice.