

A Long Term Care and Senior Housing Law Update

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OIG and HCCA Issue Government-Industry Roundtable Report: “Driving for Quality in Long-Term Care: A Board of Directors Dashboard”

On January 31, 2008, the U.S. Department of Health and Human Services’ Office of Inspector General (“OIG”) and the Health Care Compliance Association (“HCCA”) released a [report](http://oig.hhs.gov/fraud/docs/complianceguidance/Roundtable013007.pdf) (<http://oig.hhs.gov/fraud/docs/complianceguidance/Roundtable013007.pdf>) entitled, “Driving for Quality in Long-Term Care: A Board of Directors Dashboard.” The OIG’s focus is preserving governmental health programs and operations by “protecting them against fraud, waste, and abuse” through a nationwide network of audits, investigations and inspections. Accordingly, when the OIG issues a report involving the long-term care industry, facilities should take notice.

Boards of directors at long term care facilities face challenging issues maintaining quality of care and compliance with fraud and abuse laws and regulations. These challenges can be compounded by the high expectations of the governmental regulatory and enforcement community. To openly discuss these issues and potential management tools for improvement, the OIG and HCCA convened a roundtable discussion for industry representatives and enforcement officials on December 6, 2007. While the report, which summarizes these discussions, falls short of being official government “guidance,” its publication by the OIG should be viewed as a reflection of the agency’s enthusiasm for the roundtable discussion process and its results.

The roundtable broke into four subgroups: (1) commitment to quality; (2) processes related to monitoring and improving quality of care; (3) outcome measures for quality of care; and (4) challenges and opportunities in using a management tool (called “Quality of Care Dashboard”). For each subgroup, the report summarized the discussions and outlined areas of general consensus. For example, the “Commitment to Quality” group determined that boards of directors should devise processes and structures to ensure active engagement in, rather than passive observance of, the oversight of quality of care. The report concluded with the following “Key Takeaways” from each subgroup:

Commitment

Boards of directors can evaluate and demonstrate their commitment, and their organizations’ commitment, to providing quality resident care by asking the following questions:

- Does the board receive regular reports on quality?
- Do the board members understand the reports they receive?

- Are board members receiving training on quality?
- Is quality part of strategic and capital planning?
- Are adequate resources devoted to staff training and retention?

Process

Key structural processes refer to ways to help boards of directors operate in practice to address identified risks and understand the tracking and measuring of quality, and to involve the board in quality improvement, include the following:

- Regular reports to the board of directors on quality data and issues;
- Frequent and focused board-level discussions of the organization's quality reports;
- A coordinated response, with board oversight, to identified quality problems; and
- Investment in staff retention, training and competency.

Outcomes

There are key outcome categories that have proven to be valuable and effective in assisting boards of directors with meeting their oversight responsibilities. The following questions can help boards of directors use these key categories of outcome information to develop measures and assess the actual performance of the organization on identified quality of care standards:

- How does the management measure whether the residents are having good-quality outcomes, and is this tracking being consistently reported to the board in a useful way?
- How are the facilities doing on state surveys? Consider comparing and contrasting trend data. Is it better or worse than previous years?
- Develop measures to determine whether resident outcomes and care delivery in key quality measure areas are better or worse this year than last year. Why or why not?
- What do families and residents report about their experience with the organization?
- What is the staff turnover rate? Is it better or worse than previous years? Why or why not?

Challenges and Opportunities for Boards

The implementation of a "Quality of Care Dashboard" (a management tool identified in the report) presents both legal considerations and opportunities for boards of directors. Such considerations and opportunities include the following:

- Ensuring the board has enough information, but not so much that it is overwhelmed;
- Balancing the risk of potential legal liability that results from informing the board on quality issues with the risk of possible legal liability of keeping the board in the dark;
- Empowering the board to establish quality as a priority;

- Understanding that quality of care is tied to every aspect of operations: good quality of care ultimately leads to improved financial bottom line through improved staff retention and morale and increased census; and
- Providing a tool for a board to assess the actual performance of the organization on identified quality of care issues.

Facilities would be well served to analyze these “takeaways,” together with the more substantive recommendations outlined in the report and compare them to their own management structure and processes. Facilities should also consider implementing applicable recommendations, not only to improve quality of care, but also to demonstrate compliance knowledge and good faith diligence should the OIG auditors ever appear at the door.

Future reports of this type can be expected from the OIG. As HHS Inspector General Daniel R. Levinson stated, “Our roundtable discussions shed new light on how the Government and long-term care industry can work together to protect the integrity of the long-term care system and improve the quality of care provided to Federal health care program beneficiaries.”

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