Genesis HealthCare℠

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NIOSH Docket Office
Docket No. 072
NIOSH Mailstop: C-34
Robert A. Taft Lab.
4676 Columbia Parkway
Cincinnati, Ohio 45226

Dear Sir or Madam:

I appreciate the opportunity to provide comments in response to the NIOSH notice entitled, "Draft Document for Public Review and Comment: Safe Patient Handling and Movement Principles NIOSH Docket #072."

I am the Corporate Director of Environmental, Health & Safety for Genesis HealthCare. Genesis HealthCare Corporation is one of the nation's largest long term care providers with over 200 skilled nursing centers and assisted living residences in 12 eastern states. Genesis also supplies contract rehabilitation therapy to over 650 healthcare providers in 21 states and the District of Columbia.

A focus of my role with Genesis is to promote effective occupational safety and health programs and practices within our organization, to facilitate constructive communications between Genesis and government agencies responsible for establishing national occupational safety and health policy, and to advocate responsible industry positions to the regulators. My belief is that providing safe and healthful working conditions is the mutual concern of employers, employees and government agencies.

The Safe Patient Handling and Movement Principles is very nicely done. I am afraid however, that this training presentation like the OSHA nursing home guidelines will eventually be sentenced to obscurity; unless of course, the underlying reasons why the principles contained in the NIOSH presentation haven't long been in practice in long term care, are finally addressed.

While many, if not most nursing homes use some type of lift/transfer equipment; the disparity of its use in general, or in attempts to achieve a no manual lift environment are greatly affected by the Licensure and Survey process of CMS which directly establishes the culture of care and compliance; the funding or reimbursement structure and staff allocation requirements for these nursing homes.

In my experience, CMS does not recognize that the use of lifting, transferring and repositioning equipment as a clinical indicator for "improvement of care" or the reduction of fractures, skin tears, abrasions, bruising, falls and other injuries resulting from manual/improper lifting, transferring or repositioning.

First, The MSD assessment protocols allow for a wide range of manual assistance to achieve the care objectives for nursing home residents. During Licensure surveys for example, and as resident care plans are reviewed, State and Federal Surveyors for the most part, do not address manual assist procedures particularly provided the resident is well despite the injuries to the staff that may have been sustained in the process.

Second, Long term care is a capitated industry largely dependent on federal and state reimbursement funding and census (the filling of the beds) to operate. Since lifting and transferring equipment is not recognized as a primary care intervention; the purchase of lift/transfer equipment is not reimbursable. With fluctuations in census and restrictions on capital purchasing; many nursing homes with focus in varying degrees on other much needed equipment and major building repairs such as beds, mattresses, wheelchairs, wheelchair parts; electrical system upgrades, HVAC, roofs, parking lots and other structural issues.

Third, the LTC industry continues to experience high turnover in personnel, as well as significant shortages of available healthcare workers and declining enrollments in institutional health care programs. The industry's ability to use wage rates as a motivator for recruitment and retention, have been significantly impacted by dramatic reductions in funding under the Center for Medicare/Medicaid Service's (CMS) Prospective Payment System (PPS).

What can be done by NIOSH to influence a positive change for Safe Patient Handling and Movement

If NIOSH intends to influence changes in the culture of caregiving through its Safe Patient Handling and Movement education of nursing school students, then the issue of musculoskeletal disorder reduction should be addressed in an integrated Clinical and Occupational Safety initiative developed in conjunction with, and having the support of, both NIOSH and the CMS. Such a joint NIOSH/CMS initiative would focus not only on the reduction of resident handling injuries to LTC caregivers, but as a clinical indicator for the reduction of fractures, skin tears, abrasions, bruising, falls and other injuries resulting from manual/improper lifting, transferring or repositioning techniques that could be experienced by residents.

In developing the draft nursing home guidelines, OSHA chose not to confer with the Center for Medicaid/Medicare Services, the government agency that plays a very large and important role in how care is provided and how LTC employees will provide that care. As a result, the draft guidelines address musculoskeletal disorder prevention and reduction primarily as an employee safety issue without attempting to influence the underlying regulatory elements and factors that may contribute to them. While it is OSHA's mission to address work-related musculoskeletal disorders, OSHA ignored the integrated clinical factors embedded in the culture of compliance in LTC that are created and regulated, in a sense, by other government agencies. While CMS regulations do not disregard the role of the caregiver, they do not address the impact on caregivers' health or risk factors to which caregivers may be exposed in the care delivery process.

I believe NIOSH should establish a constructive dialogue with CMS to clarify and modify existing requirements regarding ADL assessments in the MDS, Section G, Physical Functionality and Structural Problems. If, for example, a resident is coded as requiring extensive assistance or fully dependent, then the scoring for these ADL's should trigger a RAP (Resident Assessment Protocol) that would establish a hierarchy of specific medical equipment alternatives as a primary intervention to manual assist procedures. If the medical equipment is medically contraindicated, the RAP should indicate that this conclusion be substantiated and documented in the care plan with feasible alternatives. Currently, the RAP for ADL - Functional Rehabilitation Potential states, "The ADL RAP assists staff in setting positive and realistic goals, *weighing the advantages of independence against the risk of safety and self-identity*. In promoting independence staff *must be willing to accept a reasonable degree of risks and active resident participation* in setting treatment objectives." These instructions and others foster conflicts between what is medically necessary to enhance a resident's ADL and mobility and OSHA's mission of reducing employee musculoskeletal disorders by eliminating or reducing resident lifting and manual assistance during the delivery of care. Having the MDS establish a hierarchy of resident handling controls, with some flexibility, would dictate the best care delivery process protecting both the resident and the caregiver, clarifying how restorative needs can be fulfilled, and defining responsible resident's rights including a clearer boundary of where the rights of residents end and the rights of caregivers begin.

Having nursing students introduced to Safe Patient Handling principles as part of a curriculum is certainly a defining moment in the advancement in MSD reduction; and if NIOSH is able to effectuate change, this program and its principle will be catapulted to the forefront of the Safe Patient Handling debate. But without regulatory change to the culture of caregiving, many of the students who receive the gift of this knowledge will become quickly disenchanted when the education does not follow the common practices within their respective health care settings. Soon the NIOSH training program, like the OSHA nursing home guidelines, the VA's Safe Patient Handling program, and so many other wonderful documents will dissipate into a vast and obscure region of worthy efforts.

Your attention and disposition of this matter would be greatly appreciated.

If you would like to discuss this matter further, or have any questions, please do not hesitate to call me at 610/925-4191.

Thank you.

Very truly yours,

Alfa Jackson on behalf of Mark Santoleri

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Environmental, Health & Safety

MTS/mts