



# Facility and Provider Compliance Survey Results

**January 15, 2004**

**Minnesota Department of  
Health**



# Results:

- **Received results from all 10 survey teams, OHFC, and management staff**

# STAKEHOLDER'S PRESENTATION

- ✓ 1. **SURVEY PROCESS RELATED CONCERNS**
- ✓ • “Shadowing” of surveyors by administrative staff during observations of care.
- ✓ • Administrative staff attempt to intimidate survey staff such as “I’m on the MAHA committee” or saying they will contact the health commissioner directly with their concerns.

- Provider attempts to delay the survey process by not providing information in a timely manner. "Survey process gets behind when we have to wait up to seven hours to get the matrix." "I entered the facility at 0815 and didn't get sample resident care lists until mid-afternoon."
- Slow response to request for additional information
- Long delay for the administrator/DON to meet the survey team following the entrance to the facility.

- Delay when requesting records or to interview staff (up to 6-7 hours).
- Inaccurate matrix/roster
- Add additional nursing staff after survey begins.

- Administrative/support staff is present hours they don't usually work and monitor and prompt staff to assure that cares are being done. "I've also noticed how many times you have everyone from administration to corporate helping out in the DR (dining room) and you have DONs (director of nursing) and ADON (assistant director of nursing) out toileting and helping out with cares. I don't really think this is the norm." "How does the facility justify having additional staff on duty when we are in the facility. We hear this consistently from both residents and staff."

- Residents complain about long waits before call lights are answered. The facility adds staff or monitors call lights to be sure they are answered promptly when the surveyors are present. Administration may answer call lights themselves or prompt staff to answer them.
- Lack of respect shown toward surveyors.
- During observation of a medication pass, the DON or nurse Manager they whisper to the nurse passing the medication or signal the nurse when they are about to make a mistake.

- The administrator or DON follows the surveyor when cares are being observed and prompt staff during cares.
- “The administrator walked around with a clip board and quizzed staff on answers to give us.”
- Nursing assistants fear retaliation by administration.
- Nursing assistants feel compelled to lie to protect their job if surveyors identify a deficient practice.

- Verify/clarify is very time consuming and provides the surveyor with no additional information.
- Facility staff has provided altered/falsified documents, which has been verified with previous copies obtained by the surveyor and/or interview of staff.
- Facility staff reported, “shredding” incident reports, only to find out later that they really had the incident reports available.

- The draft 2567 is time consuming and not a legal document. Providers perceive it as a near final document and become angry when there are changes.
- POC's contain extraneous information that attacks survey staff or belongs in an IDR.

## 2. SURVEY CONCERNS

- Providers have set up barriers to the process with their attitude and a web site set up by one group of providers. Objectionable comments by providers toward individual surveyors are posted on this web site, “How can any process go smoothly when a confrontational attitude is set up before a survey starts?” “How would providers feel if we were posting similar comments about them on our web site?”

- The OBRA law was a culmination of many years of reports of substandard care in nursing homes. It is a good law because the standards are health care industry standards. We must continuously work to improve how this law is implemented, not work to destroy it. Comments such as, “the survey process is the problem” are only a smokescreen of not achieving continued assurance that these standards are met for consumers.”

- MDH needs more time to gather information and complete each survey. The time allotment is tight.
- Providers fail to positively acknowledge steps MDH has taken to improve the care to residents in the state of Minnesota such as the MDH website, statewide training and informational bulletins on falls and urinary incontinence.
- More training and less regulation have not proven successful such as incontinence care and dementia/behaviors in-services given by MDH.

- “If MDH doesn’t want to maintain the integrity of the survey process as prescribed by CMS, we should cancel our contract and be prepared for ‘Independent Contractors’ to do the job.”
- “Our primary role is to ensure that Minnesotans receive the health care benefits that CMS is paying for. We do not serve the providers; we serve the residents by, ‘protecting and improving the health of Minnesotans’.”

- The state operations manual is 79 pages of the Federal Government's "how to" manual. "It's an open book test." The enforcement process may certainly be considered punitive, but that's the consequences of accepting fees for services that have not been provided! CMS expects that beneficiaries are receiving services for which they are paying.

- “Deficient practices in the areas of dignity, respect, common decency, and poor physical care are evident in some facilities and to think that it does not also affect the heart of at least one surveyor is to presume (buy into) that we are only there to ‘find something/anything’.”
- Providers should become more knowledgeable about the federal regulations and state licensing requirements for long term care facilities.
- Facility staff “coached” to not talk with survey staff.

- Survey results tied to financial gain for administrative staff.
- If providers can't dispute the findings, they attack the surveyors. This is also the slant presented at provider conferences.
- Surveyors are afraid to write deficiencies, not correct on a revisit, or thoroughly investigate an issue, as they know they will be personally attacked.

- Surveyors care about the residents and have cried over deficient practices that were observed related to dignity, respect and poor cares.
- When investigating a situation inconsistent information is sometimes received. If the situation is thoroughly investigated, surveyors are accused of “harassing” or “nagging” staff or they are asked, “are you calling my staff member a liar?”

- The same tags are being issued over and over again to some providers. Systems need to be changed and monitored in order to maintain these changes.
- Providers send additional staff to the areas of the facility where surveyors are present, sometimes taking staff from areas that have no surveyors making observations. You don't get a true representation of the facility when this happens.

- After verification/clarification, the provider will go back to residents or staff and pressure them to change their interviews. They will pressure residents and family members to change what they said about privacy/dignity issues to decrease the impact it may have had on the resident, knowing it may change the severity level of the deficiency.

- Providers will pressure facility staff to sign affidavits negating a surveyors finding such as stating a resident was toileted at a specific time when they weren't.
- Verbal abuse toward surveyors by Administration such as "yelling", entering personal space.

### 3. OTHER CONCERNS

- All levels of facility staff fear retaliation from administration or corporate if they “tell the truth” or are unwilling to alter documentation/facts.
- Residents are afraid of retaliation from facility staff if they complain. “I’ll be labeled a troublemaker and then they’ll never help me.”

- Residents are afraid if they voice a concern their “favorite” staff member will get in trouble or lose their job.
- Facilities will have nursing or nursing assistant students provide resident cares during survey and request surveyors not to observe those residents.

- The federal regulations and state rules are MINIMUM standards for care. The expectation is that providers need to be in compliance all the time, not just during the survey cycle. If providers are accepting Medicare/Medicaid funding, they have entered into an agreement stating they will meet these minimum care standards.
- The quality of care has improved since reviewing the cares and systems, not just paper review.