ADVANCE DIRECTIVES
THE RIGHTS

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THE MISSION

- The Division of Nursing Homes and ICF/IID will ensure residents of NYS nursing homes and ICF/IID facilities are protected from harm through:
  - Close surveillance monitoring to ensure facilities meet applicable federal and state health standards; and
  - Fostering of continuous improvements through collaboration with the long term care community.
THE EVOLUTION

- 1991 Patient Self Determination Act
- 1999 DOH guidance regarding Non Hospital DNR
- 2007 DOH DAL: Advance Directives and Basic Life Support
- 2010 NYS Family Health Care Decisions Act
- 2010 MOLST (2012, 2013)
- Laws of 2010: Palliative Care Act (February 2011)
THE HISTORY

- Immediate Jeopardy identified in CPR/DNR: began to increase during the later part of 2005 and continued to 2006 and 2007.
- Immediate Jeopardy regulatory tags cited in either:
  - F155 – failure to identify or know resident wishes
  - F309 – failure to act correctly
- IJ cited in both standard and complaint surveys
State regulations (10 NYCRR § 400.21) and, where applicable, federal regulations (42 CFR § 483.10; Part 489, Subpart I) require nursing homes to maintain written policies and procedures addressing advance directives, such as health care proxies, orders not to resuscitate, Medical Orders for Life Sustaining Treatment (MOLST) forms and living wills.

Also, under 10 NYCRR §§ 415.13, 415.26(c)(1)(iii)(a)(4) and 415.26(f)(3), nursing homes must have sufficient personnel to provide services, including CPR, to all residents on a 24-hour basis and must train all staff regarding resident emergency procedures and carry out staff drills.
The Department expects that nursing facilities will have in place systems, policies and procedures that ensure that resident advance directives regarding basic life support will be identified, known, and honored.

The DAL went on to list items that were required.

The Department plan is to update the Advance Directive DAL in the very near future.
THE PROBLEM

- IJ findings in CPR/DNR or Advance Directives decreased initially
- The improvement was not maintained
- Over the past three FFY, Advance Directives IJ’s have been increasing, consistently being in the top 5.
- For the current FFY 2014, it is the second highest IJ finding.
SURVEY EVOLUTION

- MDS 3.0: the new and expanded resident assessment tool
- QIS: the computer based survey process. The integration of data; including MDS 3.0 and Stage I data is used to determine the care areas to be investigated during Stage II.
- Advance Directives are assessed during Stage II of the QIS survey for all residents
F155 REGULATORY CHANGES 2013

- The resident/representative is given the right to determine advance directive wishes.
- The wishes are documented correctly.
- The issue is not the number of identifiers used and whether they are correct.
- It is where does the staff look to verify the resident’s wishes.
- Be familiar with the regulation and the CMS and NYS guidance material available.
WHAT SURVEYORS LOOK FOR

- a written policy and procedure regarding advance directives
- Each resident has an identified decision maker, when they can no longer make their own decisions
- Residents and resident representatives are provided with Advance Directive education (both verbal and written) and are being provided with the right to formulate an advance directive choice. This should be done as soon as possible following admission.
STILL LOOKING

- A physician's order is obtained and is the same as the resident’s chosen advance directive.
- The advance directive is documented and communicated to staff.
- Periodic review of the resident and the existing care plan instructions.
- The facility staff know how to access the resident advance directive information in routine and/or urgent situations.
AND LOOKING

- The facility has trained staff on all shifts
- The facility staff follows the advance directive
- The facility staff react appropriately and deliver care as directed by the advance directive
THE FINDINGS

- Systems that are convoluted and confusing
- Systems that are not known by all staff
- Orders that are not in one consistent location
- Lists that are not current or consistent
- Lack of a notification system
- Staff that do not know the guidance regarding CPR
- Staff that do not document correctly
COMPLICATIONS

- Change in condition or status
- Family disagreement
- Family or resident change in decision about directives
BEST PRACTICE

- Obtain Advance Directive directives and CPR/DNR status as soon as possible
- Always check the medical record for the current orders
- When in doubt start CPR
- Contact 911
DOH INITIATIVES

The Department is currently participating in a medication work group in an effort to decrease the number of medication omissions and/or delays with new orders.

We plan to organize a similar work group in the near future to discuss the issues with Advance Directives.
THANK YOU

Nursing Home Quality Bureau

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