# WALA ADVOCATE

WISCONSIN ASSISTED LIVING ASSOCIATION • WINTER 2023 VOL. 28 • NO. 3



• Deer Path Academy: Free Behavioral Health Training

# CHAIRPERSON'S CORNER

By Crystal Miller, WALA Board Chairperson

I had the privilege of attending a conference last week, fully focused on workplace culture. It was refreshing to sit with leaders from across the country and be reminded of why it is important to create a place where team members, particularly caregivers, but really everyone, feel a part of the team. One of the speakers was David Salyers, the original marketing executive for Chick-fil-A – he was there for 37 years! He was a marketing professional, but Chick-fil-A achieved their worldwide success by focusing on company culture that valued people first – they created a place where their team members find purpose in their work, and love what they do – way beyond selling chicken sandwiches! If they can do it, then certainly, we can in an industry that is all about people – not chicken!

Healthy workplace culture is something that has been at the forefront of our "workforce crisis" conversations for over a decade. Last week I was not presented with anything new or innovative, I was simply reminded of simple yet powerful truths, and because I came away renewed, I know that they are truths that bear repeating for our continued success in long-term care.

The most impactful takeaways were the reminders that our work is worth it and when we bring that to life among our team members, we are well on our way to creating a place where team members feel the excitement about the fact "we get to do this!" instead of the weary drudge of "we have to do this". So how do we accomplish this? As leaders in our organization, let's be cheerleaders for four things.

- 1. Love what we do.
- 2. Love who we do it with.
- 3. Love the mission we are on.
- Love who we are becoming in the process.

Let's face it, our workplace challenges would be solved if we could crack the code on these

four things. It's a great starting point yet reminiscent of the time-tested question – "what came first, the chicken or the egg?" Does a great workplace happen when you create a positive environment where people feel these four emotions? Or do these things happen when you create a great workplace? Our mission is clear – each of our organizations bring their own spin on the language but we all care for the most vulnerable of our citizens. With this goal, we can easily figure out how to love what we do and the mission we are on... in the process, we need to offer development opportunities and moments that deepen relationships among our team members. These reminders spurred more energy in me for the fight to make work worth it and I hope they help you find more energy too!

As I wrap up this brief encouragement, I also am considering the wrap up of my time as the WALA Board Chair. It has been a joy to serve, and I am thankful for the opportunity. No matter where you are in your journey in long-term care, getting involved at WALA will be worth it. You will reap benefits far greater than you give in the opportunities for networking, learning, encouragement, and impact. Stay engaged and be a part of our solution in the State of Wisconsin. We get to do great work, and I am thankful for the opportunity to continue to serve our residents and team members alongside all of you!



By Mike Pochowski, WALA President & CEO



Thank you for everything you are doing to provide outstanding care and services to all of your residents. We know this continues to be an unbelievably difficult time as you continue to deal with a workforce crisis. Please know you are doing an amazing job and we are truly thankful for everything you are doing and continue to do.

As we look back on 2023, we have been happy to report a number of advocacy successes:

- Continuation and increased funding (\$38m all funds) into the Direct Care Workforce Funding Initiative.
- Enhancements to the Family Care program such as the upcoming implementation of a rate band/rate setting process.



- Media coverage regarding the long-term care workforce crisis along with other issues impacting the assisted living profession
- Continuous meetings with legislators, the Governor's office, Department of Health

Services (DHS), Division of Medicaid Services (DMS), and the Bureau of Assisted Living (BAL).

• WALA representation on legislative, regulatory, and executive task forces.

Looking ahead to next year, we will continue to advocate on your behalf.

One of the ways you can help is through the

WALA-PAC. The WALA-PAC enables us to support elected officials, both Democrats and Republicans, who understand assisted living and who are in a position to support policies that enhance the lives of assisted living residents. No contribution is too small and every dollar helps ensure that critical priorities are addressed. A more robust WALA-PAC will support these efforts. You can provide a personal contribution (corporate contributions are not allowed) at ewala.org/advocacy.

In addition, the 2024 membership renewal process is underway. Your WALA membership includes access to great benefits such as legal resources, insurance offerings, job board, and membership discounts. We hope you will continue your membership in 2024 and you can find out more at ewala.org.

We are also looking forward to a number of great events next year including WALA's Annual Conference on March 6, 2024 - March 8, 2024 at the Kalahari Resort in the Wisconsin Dells. Also, we are excited to roll out our Management Essentials program which offers management-related courses specific for the assisted living profession.

I hope you and your families have a wonderful holiday season. Thank you for your continued support and membership in WALA, we greatly appreciate it.

# WALA **MISSION STATEMENT**

The Wisconsin Assisted Living Association (WALA) is the largest trade association in Wisconsin representing the assisted living profession. Our mission is to support assisted living communities, staff, and residents through advocacy, education, and service.

# WISCONSIN ASSISTED LIVING ASSOCIATION

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Tim Rinn, Director Senior & Living Communities trinn@1call2build.com | 920.585.4818 THE CALEDGE

The Legal Edge is a regular feature column authored by the Assisted Living and Long Term Care Group at the Reinhart Boerner Van Deuren law firm featuring Bob Lightfoot, RN. Bob Lightfoot can be reached at 608-229-2257 or rlightfoot@reinhartlaw.com.

# KICKING CAREGIVING UP A NOTCH

The Wisconsin Department of Health Services recently announced its Certified Direct Care Professional (CDCP) program. The free program offered through a partnership between DHS and the University of Wisconsin-Green Bay consist of 30 hours of training in twelve essential caregiving skills including, but not limited to communication, professionalism, person-centered practice, evaluation and observation, safety, health and wellness and crisis intervention and prevention.

For those attaining certification, the program offers a \$500 bonus upon successful course completion. Once certified, the individual is placed on the Wisconsin certified direct care professional registry.

Providers can register with the program to attract program graduates. Eligible providers include those that serve HCBS participants and fee-for-service providers that are HCBS participants like AFHs, CBRFs and non-medical in-home care providers. The skills and training obtained by participants in

the CDCP program are transferrable but do not replace the code-specific additional training or orientation requirements for a particular facility type. And through the WisCaregiver Connections portal on the CDCP webpage, providers can post job openings and match and screen candidates.

For more information, you can visit <a href="https://www.dhs.wisconsin.gov/caregiver-career/index.htm">https://www.dhs.wisconsin.gov/caregiver-career/index.htm</a>

What a great way to further professionalize care staff and hopefully make a dent in the staffing crisis.



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# THE LIFE CHANGING MAGIC OF GIVING UP



I started searching for success early - I grew up with parents who were big on achievement. Mom and Dad were very "Work hard!" "Be all you can be!" "Effort makes the difference!"

Despite their encouragement, in third grade I had a problem with procrastination. I wasn't getting my homework done without lots of nagging. One Wednesday afternoon the carpool mom

dropped me off at home, and I realized my dad had come out of the house to greet me... carrying pom poms.

I had no idea what to expect, and yet it was somehow worse than I could have expected. With my friends watching from the backseat of the station wagon, my dad proceeded to cheer. Like a 6 foot 2 inch, 40 year old cheerleader.

Do the hard things first!
The hard things first!
Let's do, let's do
The hard things first!

As he waggled his pom poms in the air he beamed with pride at his anti-procrastination cheer. I. Was. Mortified. I stomped into the house, so mad at him. And I sat down... and did my homework. And I did it every day. And to this day I always hear his voice in my head when it's time to work. Do the hard things first. Get it done, do the work, be successful.

My parents gave me those tools to achieve. Discipline, diligence, persistence. I knew hard work was the key to getting everything I wanted in life...

...right up until I hit the first real roadblock. Because what I didn't know back then is that despite all my effort, sometimes things don't turn out the way you plan.

Have you had an experience like that? Where you realize – no matter how hard you try, it's a dead end. It's not worth it? Maybe a work project that just isn't getting results, a relationship that's not quite right. A path that simply isn't working. What are you supposed to do?

Well our first instinct is to dig deep. Work harder. Make it

turn out the way we planned. But I've tried that. And I've still failed. So I started researching what the heck we're supposed to do to achieve our goals no matter what. And I came across the wise words of philosopher Kenny Rogers, who says "you gotta know when to hold 'em, and know when to fold 'em."

It turns out that to be successful, sometimes you have to give up. I know that goes against all the rules of success. But to change whether or not you succeed, you have to change how you FAIL. You have to be willing to give up on the wrong things to get the right things. Because life is tough, resources are limited, and you can't always get what you want, I believe that the best way to be successful is to sometimes give up on goals that aren't working out... so you can shift your focus to a new plan for success.

So I'm on a mission to rid the world of the toxic positivity, "never give up" mindset. This is a NEW kind of resilience for 2024. Resilience is even more about our willingness to let go of what's not working than it is to "move on" or "bounce back." Sometimes giving up is necessary to succeed, and when I join you this spring I'm going to share more tools for knowing \*what\* to give up, as well as \*how\* and \*when\*. I'm going to teach you the mindset of Productive Persistence, so you can avoid dead end efforts and spend your resources more strategically.

Though he was embarrassing, my dad was a smart guy. He used to warn me about what he called "throwing good money after bad." He knew that sometimes you have to cut your losses. Get out. Give up. Instead of dwelling on what isn't working out, what if we made more room for success? This spring, let's find the courage to give up on what's going \*only okay\* to pursue what could be incredible.

Courtney Clark is a 4-time cancer survivor and founder of Resilience and ReVisonary Thinking. Join Courtney, back by popular demand, at the 2024 WALA Annual Conference in the Wisconsin Dells where she will present the opening keynote address on March 7th.



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# DAVIS CLINICAL CONSULTING SUPPORTS YOUR ASSISTED LIVING FACILITY

Davis Clinical Consulting supports your assisted living facility and its ongoing needs with comprehensive RN services and CBRF training.

Nurse consultants play a crucial role in supporting assisted living facilities by bringing expertise and knowledge to enhance the overall quality of care and resident experience. Utilizing Davis Clinical solutions can assist your facility with creating customized plans of improvement while providing leadership support, keeping staff trained, and RN delegation.

# Make sure your facility has a proactive plan.

Being proactive in filling the gaps in your facility's service will help you avoid citations, fines, costly corrective action, and potential lost business due to a damaged reputation. By working with Davis Clinical you can get the assistance needed to identify problems before they become long-term costly issues while making sure your residents continue to get the best care possible.

# We offer a wide range of services:

- Skilled Nursing Support
- Director of Nursing mentorships in SNF/AL settings
- Mock Survey
- Plans of Correction
- Annual survey/compliant survey
- Infection control program support and compliance checks
- Nurse competencies for a blood draw and IV start
- Wound Care
- RN Delegation
- Home Care
- Training / CBRF

Here are several key aspects to highlighting the importance of nurse consultants in assisted living facilities and how Davis Clinical RNs can be the effective choice:

# **Clinical Expertise:**

Davis Clinical Nurse consultants bring a high level of clinical expertise and experience in healthcare. Our knowledge enables us to assess and address the complex healthcare needs of residents in assisted living facilities.

# **Regulatory Compliance:**

Assisted living facilities are subject to various regulations and standards. Our Nurse consultants can help ensure that your facility is in compliance with local, state and federal regulations which in turn reduces the risk of legal issues and improves the overall quality of care.

#### **Staff Education and Trainings:**

At Davis Clinical we provide ongoing education and training for your facility's staff. This helps to enhance the skills of caregivers and ensures that they are up to date with the latest best practice in healthcare.

## **Quality Improvement Initiatives:**

Davis Clinicals Nurse Consultants can implement and oversee quality improvement initiatives. Assessing the effectiveness of current care practices, identify areas for improvement, and implement evidence-based strategies to enhance the overall quality of care provided to your residents.

# **Individual Care Plans:**

Davis Nurse consultants can assist in the development of individualized care plans for residents. This involves a thorough assessment of each resident's unique healthcare needs and tailoring care plans to ensure they receive personalized comprehensive care.

# **Emergency Preparedness:**

We can help assisted living facilities to develop and implement emergency preparedness plans. This includes training staff on response protocols for various emergencies, ensuring the safety of residents in the event of unforeseen circumstances.

# Medication Management:

Proper medication management is crucial in assisted living facilities. Davis Clinical Nurse consultants can establish and oversee medication management protocols, reducing the risk of medication errors and ensuring residents receive their medications as prescribed.

#### **Coordination with Healthcare Providers:**

Our consultants can facilitate effective communication and collaboration between the facility and external healthcare providers, ensuring residents receive coordinated healthcare services.

# Residents and Family Education:

Davis Nurses can educate residents and their families about health-related matters, providing them with necessary information to make informed decisions.

# Adaptation to Changing Healthcare Landscapes:

The healthcare landscape is constantly evolving. We can help your facility adapt to the changes in healthcare policies, technologies, and best practices, ensuring that your facility remains at the forefront of providing high-quality care.

# Aging Population 65 or Older in Wisconsin

According to the U.S. Census Bureau for Population Estimates and Projections the aging population of 65 and older will substantially increase to 118% by 2040.

#### Statistics

16% of the population in 2019 20% of the population in 2030 21.6% of the population in 2040

# Summary

Our goal is to be top contributors in significantly improving the success of assisted living facilities in Wisconsin and Northern Illinois by providing our clinical expertise, ensuring regulatory compliance, improving the quality of care, and fostering a culture of continuous improvement. What it means to be a Davis Clinical Consultant is that we always strive to promote the well-being and safety of residents in assisted living settings by providing the most comprehensive care plans possible.

There is the ever-increasing number of residents that require higher acuity and complex medical care in Wisconsin, and within the current healthcare system they heavily rely on assisted living organizations to cater to these evolving needs. We can help facilities be equipped to handle these challenges.

#### **About Davis**

Davis Clinical is a Wisconsin-based Nursing Consulting Agency established in 2017 by Lauren Davis, who has over 15 years of experience in the long-term care industry. Davis Clinical believes in the benefit of their patients and provides quality care and highly trained nursing placement for assisted living and skilled nursing facilities.

For more information: Web: Davisclinical.org Phone: 608-207-3415



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#### **Skilled Nursing**

- Providing industry-leading solutions to SNF/AL facilities.

# **Survey Readiness**

- Keep your facility in compliance and avoid citations by staying survey ready.

# **Plan of Correction**

- Creation and implementation of processes, audition support, and staff education support.

# **RN Delegation**

- Providing a licensed RN to help perform necessary tasks beyond your staff member's (LPN,CNA,RN) traditional role.

#### **Training** \*Special pricing for WALA members

- Virtual and in-person customized training to support your facility and staff.

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# THRIVE



# HOW TO BE RESILIENT WHEN LIFE THROWS YOU A CURVEBALL

Life is full of unexpected twists and turns. Just when we think we have it all figured out, it throws us a curveball that disrupts our plans and challenges our resilience. It is during these moments that we must find the strength within ourselves to keep moving forward, to adapt, and to overcome.

What is a life curveball? A curveball is defined as something which is unexpected, surprising, or disruptive. We all have been thrown our share of curveballs, right? The kinds of curveballs that life can throw us fall into three categories: Minor inconveniences, the ones that knock us off balance, and those that throw us off-balance. Here are just a few: A child gets sick, and you must change your plans. Someone hits your car and causes major damage. A loved one is diagnosed with cancer.

How to deal with life's curveballs. Wouldn't it be nice if we knew the curveballs were coming and could prepare in advance? Unfortunately, just like in baseball, the game of life doesn't work that way. The solution is not to avoid curveballs...they will be thrown. We cannot waste our precious time and energy trying to avoid curveballs; instead, we need to focus on how we will respond when we are at the plate and a curveball takes us by surprise. One of my favorite quotes by Charles Swindoll is so applicable when dealing with situations that threaten to take us out of the game: "Life is 10% of what happens and 90% of how you react to it."

Personally, I have had some major curveballs thrown at me in almost every area of my life the past year: my health, my family, and my friendships. They have not only surprised and shocked me, but they have also threatened to sideline me completely. Have you been there? Are you there today? These curveballs have made me want to walk away and give up on the game altogether. Just like a batter can be humiliated at the plate for swinging at a ball that he never sees coming, we can feel the same way. A batter is exposed at the plate. All eyes are on him as the ball leaves the pitcher's hand and launches at high velocity. The pressure can be overwhelming. And when life throws you a wicked curveball, the experience is full of the same emotion, pressure, and

exposure. Everyone seems to be watching and waiting. I don't know about you, but I do not want to be the player stuck in the dugout because of fear of striking out.

Here are 5 simple steps that you can do when life hands you a curveball:

**C – Call Out the Positive.** Focus on the positive things that you can do. Do not lament over what cannot be changed. Reframe your thoughts in small ways.

**U –Understanding and Wisdom**. Talk about the situation and help plan for how to react. Focus on how to make a direct impact.

**R – Reach Out to Others for Help.** Don't go alone. There are others on your team that want to see you succeed. Sharing doesn't make the situation go away; however, it increases your belonging.

V – View Curveballs as Opportunities to Grow. Building healthy stress management habits will increase your resilience. Therapeutic Lifestyle Changes: Exercise, diet, and mindfulness.

**E -Expect to be Continually Thrown Curveballs.** Remember that change is inevitable. Choose to not let the fear of the outcomes keep you in the dugout or take you out of the game. Everyone will have setbacks.

Resilience is the psychological strength to cope with stress or hardships. Even though life has unexpected twists and turns we can overcome. With practice we can master the skills that will allow us to bounce back in the face of adversity. By using the simple C-U-R-V-E steps, we are able to confidently step into the batter's box absent of fear and full of faith for what the future will bring.

Jennifer Thompson, Executive Director at Eagle Point Senior Living (Appleton, WI) is passionate about overcoming the obstacles life tends to throw at you at the most unexpected times. Join Jennifer at the 2024 WALA Annual Conference where she will lead a discussion about how you can be more resilient and learn to handle those big curveballs.

# TOGETHER WE DEFINE! TEAM, TEAMING AND TEAM BUILDING



At a young age we are put into situations where we find ourselves on a team. Sometimes we get to choose what team we are joining and other times we don't. Those young experiences are the beginning of how we think of teams, how we define teams, how we choose to join or not join, ultimately, how we choose to stay or go.

When we join the workforce,

how we think of teams not only stems from our youth but also is defined by the other jobs we have had, the positive experiences and the unfortunate ones. The need for a strong, effective team becomes more important every day. We are faced with unique problems, complex situations and uncertain needs for the business which requires us to interact and collaborate at a whole different level. Teaming is defined as the act of forming a team, participating in a team, and achieving goals as a team.

So, as a leader, how can we do this better? How can we inspire our teams to collaborate at new levels, how do we get a pulse of where the team is highly functioning and where there may be some misses? Teaming for success enables people to develop team skills, apply new knowledge, and simultaneously get things done while

learning to do it better. The 6 phases we will dig into are:

**Launching:** How we define who we are in the organization and become grounded in our purpose.

**Aligning:** Understanding the team structure, the role we each play and the goals that will help the team move forward.

**Trusting:** Allows us to look at the morale, individual behaviors, and team communication.

**Achieving:** Focus on obtaining, sustaining, and celebrating results

**Renewing:** Forward movement of the team as they manage and navigate changing times.

In our day-to-day job we move on and off teams often, depending on what our focus is in the moment. Teaming is teamwork on the fly. It involves coordinating and collaborating without the benefit of stable team structures. Many organizations require a level of staffing flexibility that makes stable team composition rare. With the right tools you can help your team structure, morale and build trust.

If you are interested in a fun and engaging workshop where we learn strategies and skills to help us build strong teams, keep them engaged and encourage everyone to have a hand in teaming, come join Kelly Mundth at the 2024 WALA Annual Conference pre-event on March 6th. This is an interactive, collaborative experience that will leave you with tips, tricks and activities that can be used within your everyday teaming!

# WALA's 83.15 CBRF ADMINISTRATOR COURSE



WALA is pleased to announce dates for our 2024 83.15 Administrator's Course.

# **2024 COURSE DATES:**

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Registration is limited so <u>visit us online</u> to learn more and to apply for your spot today!



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"...I found the class so engaging and the speakers very inspiring."

# **DEER PATH ACADEMY**

By Erica Falk-Huzar, PsyD, EdS, MBA, HS-BCP, Deer Path Integrated Living, Inc.

Assisted living facilities are dedicated to serving adults with chronic mental illnesses, developmental disabilities, substance use disorders, dementia, physical disabilities, and many others. As state-licensed facilities, certain educational requirements include initial training and continuing education. In 2010, state regulations in Wisconsin for assisted living facilities, particularly community-based residential facilities, were revisited extensively and subsequently revised. Pursuant to these regulations came the need for additional education requirements. The state licensure requirements for assisted living facilities underwent rigorous changes, especially in training. Ongoing employee training and development is a key strategy for retaining staff members, delivering quality care to residents, and maintaining compliance with state regulations.

At the local level, assisted living facilities have a great responsibility. They must provide for vulnerable individuals' care, safety, and welfare. These individuals, no matter their diagnosis, need an advocate. Proper training and education are the first steps in achieving this needed advocacy. In assisted living and the bigger picture, this theory refers to resident well-being because it relates to how well caregivers are taught to provide the necessary care.

Based on regulations and quality assurance standards, it is evident that staff training is an important topic to consider. Assisted living facilities are designed to provide residents with a home-like environment while providing autonomy, privacy, and independence. To provide residents with a diversified level of care, assisted living providers must ensure that their staff members are trained effectively and efficiently. Although the assisted living sector is strictly governed by rules and regulations that establish a basis for initial and continuing education, the standards may not suffice compared to industry standards or resident satisfaction for populations such as mental illness and substance use disorders (Maas & Buckwalter, 2006). For example, based on results from a national survey of assisted living facilities, "a significant number of staff members were poorly informed about antipsychotic drugs related to the care of individuals" (Hawes, Phillips, & Rose, 2000, p. 6).

From a micro perspective, assisted living providers must imagine a system that considers the needs of all residents. As providers, we would be remiss if we didn't do just that. While assisted living facilities are often known for serving the elderly and individuals with developmental disabilities, more and more facilities are also providing care for individuals with chronic mental illness and substance use disorder. Unfortunately, mental health is often overlooked and left

in hindsight when we think of assisted living. Caregivers are disadvantaged when working with this population when inadequately trained, leading to a disservice to the individuals they're serving and an increased burnout rate. Staff providing services to such individuals should be afforded the opportunity to receive training applicable to this population.

Standards of care are fundamental in assisted living. Although there are many ways to implement standards of care in assisted living, there are also many ways to negate standards of care. Inadequately trained staff, as a prime example, can result in a poor standard of care. Assisted living training does not often account for many important resident-specific factors when considering resident satisfaction, autonomy, safety, and welfare. The chief concern is training and staff education that will meet the needs of all residents in assisted living, which is why a team of professionals has developed a training program targeted to the specific needs of the behavioral health population. This pilot program provides necessary training in areas that are often overlooked, such as co-occurring disorders, trauma concepts, psychotropic medications, and recovery concepts. The training, created by Deer Path Academy, will be piloted at no cost in February

About the Deer Path Academy Program: This program focuses on co-occurring disorders, trauma concepts, recovery concepts, behavioral health documentation, and more. Our program was created by a team of experts in mental health including a Recovery Coach, Peer Support Specialist, Trauma Specialist, and a Doctor of Psychology.

The pilot program is scheduled to launch in February 2024. The educational program, offered solely online, will be available free of charge to individuals working or interested in residential care (assisted living). Individuals who successfully complete the program have the potential to earn recognition as a Certified-Behavior Support Professional (C-RSP)

Hawes, C., Phillips, C. D., & Rose, M. (2000). High service or high privacy assisted living facilities, their residents and staff: Results from a national survey. Washington, DC: U.S. Department of Health and Human Services.

Maas, M. L., & Buckwalter, K. C. (2006). Providing quality care in assisted living facilities: Recommendations for enhanced staffing and staff training. Journal of Gerontological Nursing, 32(11), 14–22. https://doi.org/10.3928/00989134-20061101-04

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"He's (Gary, Pharmacy Manager) just a good guy, we can call with questions on admissions and he will talk it out with us."

Ann Kehoss, Director of Nursing Congregational Home

For more information contact:

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# FREE BEHAVIORAL HEALTH TRAINING

Behavioral health training for Wisconsin residential providers was limited... **UNTIL NOW!** 

This program provides online training and education for direct care staff of residential and assisted living facilities who serve consumers with behavioral health needs (such as those with mental illness and substance use disorders). The program targets areas such as person-centered care, trauma-informed care, recovery concepts, and so much more. Spots in the pilot program are limited.

# FEEDBACK BONUS UPON COMPLETION





# 10TH ANNUAL HEALTHCARE DEFENSE SYMPOSIUM: KEY TAKEAWAYS

By Talia Pletcher, Risk Manager and Marleah Keuler Grahek, Risk Manager

M3 hosted the 10th Annual Healthcare Defense Symposium on September 14, 2023, in Madison, WI. Providers, attorneys, and insurance carriers came together with the overall goal of sharing experiences and education to further aid in defense strategies for senior living and social services providers.

This year's focus was a "Deep Dive into Liability Claims". Attendees were able to hear from panelists who did a deep dive into an actual provider claim, current litigation trends, and the newly trending topic of Environmental, Social, and Governance.

#### PANEL: PERSPECTIVES OF A CLAIM

Claims can happen to any provider, and they can happen to the best in the senior living industry. Our audience was given the opportunity to hear from a panel which included a provider and defense counsel who shared with the group their experiences working together on two separate claims in the skilled nursing setting and the assisted living setting.

- Turnover in key leadership or supervisors can be a vulnerable time for lapses in adhering to policies and procedures. Consider alternative ways to monitor documentation and adherence to policy and procedure in the transitioning of leaders and supervisors.
- Plaintiffs' attorneys will most often encourage families and residents to make complaints to the Department of Health. If citations arise due to the complaint investigation, plaintiffs' attorneys will request these survey records and use them to their advantage to "prove" that the facility was deficient in practice.
  - Informal Dispute Resolutions (IDR)—Although the IDR process can be daunting, it is important to pursue the IDR process and challenge the state survey citations if you believe that your process met the standards and regulatory requirements. The IDR process can continue regardless of where a claim stands.
- Settlements vs. Jury Trials—Some cases are better off being settled and some cases are worth going to trial. The carrier will review the medical records, depositions, expert witness reviews, and other circumstances around the incident and determine which course of action should be taken.
- Mediation vs. Arbitration
  - Mediation occurs between both parties as an expedited way to negotiate a settlement. The

- mediator does not have any control over the outcome. Early Mediation between the Plaintiff and Defense attorneys is best practice.
- Arbitration is a more formal process used typically when both parties do not come to an agreement on settlement terms. The arbitrator decides the final outcome.
- Building the Provider Framework for Defense
  - Administrators, DONs, and other leadership positions should be the "right fit" for the organization and company culture.
  - Manage expectations with families/responsible parties and residents. Communicate what they can realistically expect in regards to care, and utilize the admission agreement to formalize (i.e. residents are not directly supervised 24/7).
  - Leadership should address concerns and grievances immediately –do not avoid those who complain often.
  - Documentation—Assessments, care plans, individual service plans, and progress notes should be complete and accurate, and implement processes to audit and monitor on a consistent basis.
  - Monitoring and Auditing—The organization's internal audit and quality improvement process should be instrumental in ensuring processes are followed and corrective actions and process improvement are taken if gaps are identified. Track and trend incidents and bring to the facility's quality assurance
  - Training and Education Efforts to train staff and demonstrate competencies regarding the resident population being cared for and organization policies and procedures is vital to strengthening the defense.

#### **CURRENT TRENDS IN LITIGATED CLAIMS**

Pat Sullivan and Ellison Hitt of Seisenopp & Sullivan, LLP, reviewed current trends in litigation within the industry.

#### **Arbitration Agreements**

Arbitration Agreements can be a great litigation management tool but are commonly contested by plaintiff attorneys. If utilizing arbitration agreements, providers need to invest resources to aid in the enforceability of the agreements,

including having an experienced attorney draft the agreement, educating employees who go through the agreement with residents & families, and monitoring the acceptance rate.

- Staff who are responsible for delivering the arbitration agreement should be trained on what the arbitration agreement means and how to properly explain to a resident/client or legal responsible party.
- ower of Attorney vs. Resident/Client—Resident/Client should be deemed cognitively able to sign Arbitration Agreements. Power of Attorney documentation must be clear as to duties and responsibilities, including authority to sign arbitration agreements on behalf of a resident/client. Staff should be trained to identify the correct type of legal responsible party responsible for signing the arbitration agreement. They should also be aware if a resident is or is not cognitively able to sign their own arbitration agreement.

# **Third Party Investigations**

- If a facility receives any requests from the Department of Justice (DOJ) and/or if the police are actively involved, this may be a criminal investigation. Consider retaining a criminal attorney to assist with the appropriate response to DOJ and police.
- If the police request resident/client medical records, you
  do not have to offer this information right away—consider
  consulting with your attorney prior to the release of
  records. If you are issued a subpoena however, you are
  required by law to turn over records.
- Police Body Cameras—Train staff on how to speak to
  police officers and what to say to police when they enter
  the facility, as body camera footage is used as evidence.
  Resident conversations and statements taken on body
  cameras are also used as evidence to ensure other
  residents are not present during police investigations or
  visits to a facility as a result of an incident.

# **Licensing Board Inquiry**

- Nursing Licensing Board complaints are the #1 complaint for licensing boards. Nursing Home Administrator complaints are on the rise.
- Consider consulting with an attorney experienced with licensing boards if you are ever issued a complaint.

#### **Medical Examiners**

- There seems to be an uptick in Medical Examiner investigations and requests for resident records and documentation
- Facilities do need to comply with Medical Examiner requests for records, and review policy and procedures to ensure that this is outlined.

# Fraudulent Representations WI Statute 100.18

• Plaintiffs' lawyers may start adding this statute to their cases as a way to collect attorney's fees.

- This statute addresses advertising and marketing—ensure that advertising and marketing materials are accurate and representative of the services offered to residents.
  - Key phrases to stay away from: "fully-trained staff";
     "5-Star boutique resort"; "committed to helping keep you and your loved ones safe".
  - Plaintiffs will ask for publications, marketing materials
  - Consider having a regular review of marketing materials internally or consulting with an attorney.

# **Cooperation Between the Facility and Defense Attorney**

Cooperation between the facility and the defense attorney team is the key to ensuring a smooth process. Defense counsel is there to represent your best interest.

- Speedy record request retrieval is recommended and highly appreciated by defense attorneys.
- Documentation practices—ensure that staff are trained on proper documentation practices so that records are complete and accurate to aid in defense strategy.
- Employee attitudes and candor when being deposed or interviewed by defense attorneys also matter and further help move the claim along. Train staff on what to expect and how to interact with the defense team.

#### **Top Causes of Loss**

Amy Scholl, Attorney with Coyne, Schultz, Becker & Bauer, S.C., shared the top causes of loss for providers and discussed strategies to help with preventing claims.

Falls—Leading Cause of Claims

- Fall Risk Assessments—avoid the use of "low fall risk"-either fall risk or high fall risk.
- Documentation of interventions and plan of care updatesmonitoring this is completed.
- Negotiated Risk Agreements—Use as another form of documentation; supports defense of facility.

# **Pressure Injuries**

- Clearly define the maximum level of care that your health care setting can support.
- Ensure staff are competent and trained appropriately to the standards of care and policies and procedures.

#### **Elopements**

- Implement appropriate elopement training and drills for employees. Employees may be subject to "alarm fatigue" and become desensitized to the sounds of alarms.
- Create a checklist for Elopements/Missing Persons and include completing a head count of all residents as part of the checklist when an alarm is sounding and/or when a resident is missing.

#### Choking

 Consider reviewing to ensure training is completed for all staff who are involved with implementing and executing a

- resident's plan of care for diets (i.e. Nursing, Culinary Staff, Registered Dietitians).
- Audit orders and collaborate with Primary Care Physician and Speech Therapy to ensure the resident has the correct order and interventions in place.
- Consider reviewing facility policies and procedures regarding standards of care for supervision during meal times.

## **Assault and Battery**

- Review organization Abuse Prevention and Prohibition policies and procedures to ensure all forms of abuse are prohibited (including resident to resident abuse).
- Investigate thoroughly any allegations of abuse and injuries of unknown origin.
- Review organizational policies to ensure caregivers have background checks cleared and in the employee file prior
- Ensure staff are trained on abuse (identifying, reporting, prohibiting) and de-escalation training for behavioral health is completed upon hire, annually, and on an asneeded basis.

#### **Lack of Documentation**

- Lack of documentation or failure to document appropriately about the resident's condition or changes in condition do not support the defense strategies.
- Others
- Ensure all necessary assessments are fully completed upon admission and ongoing per standard of practice is completed thoroughly. Ensure policies and procedures identify that residents/clients should be reassessed after changes in condition.
- Care plans, individual service plans, and progress notes all should be completed thoroughly as well.
- Negotiated Risk Agreements are a good intervention to show that the facility has addressed concerns with the resident and family, however, these do not necessarily bar a lawsuit or claim against a facility.
- Train required staff on how to assess, investigate incidents, and document appropriately.

# Environmental, Social, and Governance (ESG) in Defensibility

- Terry Leahy, President and CEO of MyPath, Blaine Thomas, Vice President Industry Leader for Aging Services at CNA Insurance, and Talia Pletcher, Risk Manager at M3 Insurance introduced the concept of ESG to the audience and discussed how ESG initiatives can potentially assist with defense strategies.
- MyPath has made ESG part of the organizational culture and strategic planning. Terry and his leadership team have committed to making this a part of their mission.
  - 100% employee-owned, hired an ESG Director and Director of DEI as part of leadership.
  - Invest in ESG initiatives as an organization—ensure this is made a priority in the budgets and ensure boards of directors understand why it is important to the mission, vision, and values.

MyPath has tackled Fleet Costs and Emissions as well as Energy Costs (E); reduced turnover and increased retention, decreased hotline reports, and increased diversity amongst management (S); Committed to Board Diversity (G).

As a carrier, CNA Insurance is beginning to recognize an intersection between ESG initiatives implemented in organizations and how it affects the claims process and defense strategies.

- Organizations that invest in their employees and residents/ clients can lend to changing public perception of senior living and social services organizations.
- Reputation of an organization matters, especially for jury trials. Social inflation is affecting the outcome to trials as jury perception is heavily influenced by many factors (social media, employee treatment, government perception of industry).

M3 Insurance continues to work with clients to better understand how ESG can benefit their operations, including aiding in overall defensibility.

- Supply Chain Management—work with vendors and hold them accountable to ensure that they are providing your organization with ethically produced products as well as reducing waste.
- Employee Resource Groups are a great starting point to build a positive company culture and become more in tune with the community at large.
- Change the narrative of how potential jurors and the public views the organization. Employees are powerful when it comes to the reputation of an organization.
- Implementing various ESG initiatives can potentially have a positive impact on an organization's overall brand, culture, and impacts on the community—all of which can come into play, especially during a claim that results in a jury trial.

# Common Themes of the Day

Documentation Practices—Documentation matters in many ways for an organization. Staff training on how and when to assess a resident/client and continuous audit of documentation will make big differences in the long-run. Read more in this related article, Resident Record Documentation Do's and Don'ts.

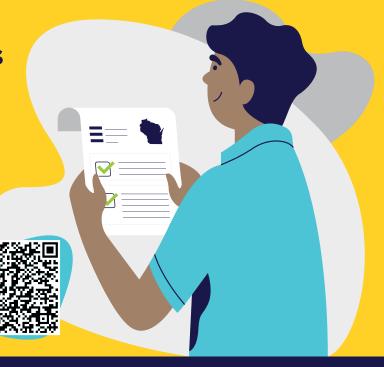
Training leadership to manage expectations with residents/ clients, families, and employees and having proper procedures in place to manage adverse events can assist with defense strategies and claims management.

Changing the narrative on how the public, including potential jury pools, perceive senior living and social services organizations matter in outcomes on claims and jury trials. The way an organization invests and advocates for employees, residents, and the community at large can positively impact their reputation.

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# JUST IN TIME FOR THE SILVER TSUNAMI!

Placement as a Resource for Seniors, Families, and the Assisted Living Industry

Of course, you have heard the phrase "Silver Tsunami". This describes the demographic trend of 74.1 million individuals born between 1946-1964 now reaching retirement age. According to the National Institute on Aging (NIA), on average, 4,000 people turn 85 years old every day equating to 1.4 million every year! Current data indicates 27 million seniors will need care by 2050 and two million housing facilities will be needed for senior residents for adequate living space by 2040. As a part of the assisted living industry, you are aware of this, but more importantly, you may be part of an extended circle of caregivers who one day will be forced to reckon with the change in care needs of an aging loved one. You are the sons and daughters and caregiver spouses who will face these times of a "transition of care". But just in time, there is support available to navigate these challenging and stressful seasons to determine safe, appropriate, and affordable care and housing solutions for your loved one!

While the silver tsunami has been growing, there has also been an emerging and growing senior placement industry. CarePatrol is the industry pioneer and leader, launched in 1993 with a "social work model" providing patient and person-centered care solutions. The proprietary Care Discovery thoroughly evaluates the present acuity of a client as well as the financial resources for care options provided. This assessment also considers existing care support, lifestyle, values, preferences, geographical considerations, and other such social determinants of health. CarePatrol's teams of Senior Care Advisors are subject matter experts within their geographical areas and make appropriate recommendations that support the client's present needs and also consideration for the community's license level and policies to support future changes in care due to the progression of a diagnosis or disease. Professional case management exists to provide comprehensive oversight for a senior on a fee for service basis; however, CarePatrol is able to provide a no-cost service to the senior and their family as their Advisors are paid when

a pregualified and appropriate new resident moves in to a vetted and recommended assisted living community.

But as an assisted living professional, is it "good business" to incur an additional operational expense by paying a fee for placement? It is important to leverage a lead list and existing marketing channels for maximum move-ins; however, a CarePatrol client has been thoroughly vetted for their appropriateness to an assisted living community in consideration of care level, financial ability, values, and preferences. CarePatrol is an extension of a community's marketing budget and offers an ROI of \$22 for every dollar spent. The national average length of a stay in an assisted living facility is 22 months and the average monthly cost in Wisconsin is \$4,880, or \$58,560; this results in the average annual value of a resident move-in to be \$107,360. At a maximum placement fee of 100% first-month board and care the resultant expense equates to only 4.5%.

Time is money. A tour on Monday could be a move-in by the end of the week, if not sooner! CarePatrol provides an expedited method to move in as compared to the average sales cycle for over 40% of senior living leads which take 3-6 months to make a decision, as reported in a 2019 survey conducted by Senior Care Growth. A consumer reviews an average of 14 communities online and CarePatrol eliminates the confusion by generally recommending the top three most appropriate communities and schedules and accompanies the client on tours. A senior's transition of care can be stressful and CarePatrol does not waste the time of the client or marketer by presenting multiple communities with disregard for the appropriateness of those options. Based on the value of a move-in, there is also a converse commensurate lost revenue opportunity for every empty room night, or lost revenue per resident day (PRD). With an average of 30.4 days per month, the average lost revenue PRD equates to \$1,124 per week or \$160.53 per day. Working a lead list from a web-

based lead generator is an important part of maintaining community occupancy, however, CarePatrol does not provide "leads" but prequalified new residents that quickly translate to move-ins and positive cash flow. Finally, CarePatrol Senior Care Advisors facilitate communications between a client, community, and healthcare professionals for a seamless, ontime move in. As an extension of a community's marketing team, Advisors also act as a liaison for post-placement follow-up to potentially troubleshoot problem areas and ensure the satisfaction of the new resident and their family.

Senior Placement has emerged as an essential service to seniors who are in a crisis as they face a change in their care needs and have no prior information about appropriate solutions. For thirty years, CarePatrol has pioneered an industry that both supports seniors and their families but also supplements the marketing efforts of the assisted living industry. Whether for a few days or months, the service of CarePatrol will always be at no cost to the client or their family. As a son or daughter, isn't it reassuring that a CarePatrol senior care professional is available to help navigate a challenging time and educate and advocate on behalf of your loved one? And, as a senior living professional,

the cost-benefit analysis makes it clear that working with placement professionals provides a resource for pregualified move-ins to supplement a community's marketing efforts.

Since 1993, CarePatrol has set the bar for the placement industry as the nation's oldest and largest senior care solutions organization with over 170 offices nationwide and six across Wisconsin. The Senior Care Advisor staff includes credentialed Certified Senior Advisors\* (CSA) and National Placement and Referral Specialists\* (NPRS). CarePatrol has over 3,000 outstanding online reviews and a Listen360 NPS score of 93. While the growing silver tsunami has continued to swell, CarePatrol has also emerged as a valuable resource to support the assisted living industry – and seniors and their families facing challenging transitions of care.

Kim M Seidl, CPRS, Owner and Executive Director, CarePatrol of Greater Milwaukee & SE Wisconsin (2022, 2021, 2021 Top CarePatrol Office, Franchisee of the Year) Kim and her husband Todd have owned successful senior home care and placement businesses since 2007. She is an NPRA Certified Placement and Referral Specialist.

American Health Care Association & the National Center for Assisted Living (AHCANCAL), "Facts & Figures." Accessed 4/28/21

Genworth, "Cost of Care Survey: Ranked State Data Tables" Accessed 4/28/21; "The Silver Tsunami Represents an Incredible Opportunity", Senior Living Foresight, Anthony KaDarrell Thigpen 2/18/2020.





# **Transforming Census Challenges Into Placement Solutions**

CarePatrol supplements your marketing efforts by touring pre-qualified new residents – never "leads" – to meet your operational and community life goals.

Since 1993, CarePatrol has served seniors and their families by finding safe and appropriate senior living options based on care level, financial ability, geography, values and preferences.

Six Wisconsin offices are locally owned and operated, serving Dane County, Sheboygan and surrounding counties, Fox Cities, Green Bay, Milwaukee, and Southeastern Wisconsin.



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# DIAMOND SPOTLIGHT

Erin Boutan, Senior Director of Quality Improvement and Communications



Two new accredited communities have recently joined the growing list of organizations that have gone through the Diamond Accreditation process. Samaritan Home on 43rd and Samaritan Home on 7th (Manitowoc, WI) are family owned and operated CBRFs that focus on serving members of the community who have developmental disabilities, mental illness, advanced age and dementia. Samaritan Home's vision is to provide a physical, social and spiritual environment which recognizes their core values of delivering high quality, personcentered care in the least restrictive, cost-effective setting.

The team at Samaritan Homes shares their experience with the accreditation process below. Congratulations to these outstanding communities on this amazing achievement!

# What is special or unique about your community?

Samaritan Home is unique in that it is a private, family owned and operated organization that provides residency and services for up to 32 residents of Manitowoc County.

Our mission is quite simple and straightforward; our core values are established by our family's strong Christian Faith, which inspires us to provide the highest quality of care in the most cost-effective manner, which is person-centered, delivered in the least restrictive setting, while preserving the resident's independence and dignity.

Our vision is to provide affordable, comfortable, and accessible housing, links to public services, and highly trained support staff to assist our residents in his / her daily activities, decision making, and actualization of personal choices and goals.

# Why does quality improvement matter to your community?

A genuine commitment to continuous quality improvement is what really sets our organization apart from our competitors. The Diamond Accreditation Program has been an asset to our organization. It has provided us with the tools that were needed to help guide our organization in modeling what an exemplary Quality Initiative Program looks like, equipped with highly engaged team members who all share a commitment to continuous quality improvement and the success of our organization long-term.

Defining quality improvement measures is necessary when assessing overall performance. For example, our organization has found that developing standardized operating policies and procedures reduces variability, achieves more predictable results, and improves organizational and resident / tenant outcomes. In addition, it promotes safety awareness, improves efficiency, and ensures that the delivery of care is timely, and resident centered.

What is the first thing you would recommend for someone who might be interested in quality improvement but doesn't know where to start?

My advice to anyone



The Samaritan Home team is a testament to the strength of a family owned and operated assisted living community, led by Alexis, Tina, Caitlin, and Lindsey.

interested in taking on a quality improvement project would be to first take some time to assemble your Quality Initiative Team. Be selective, choose individuals who are open to different perspectives and who have different areas of expertise. Team members must be able to work independently as well as collaboratively. Individuals who are best suited for this type of role are individuals who are also goal driven, reliable, and a self-starter.

# Why did you choose to apply for accreditation?

Honestly, I finally chose to apply for accreditation because I came to the realization that our communities have put so much time and effort into our Quality Initiative Programs that it was time to showcase our achievements and take credit for our accomplishments.

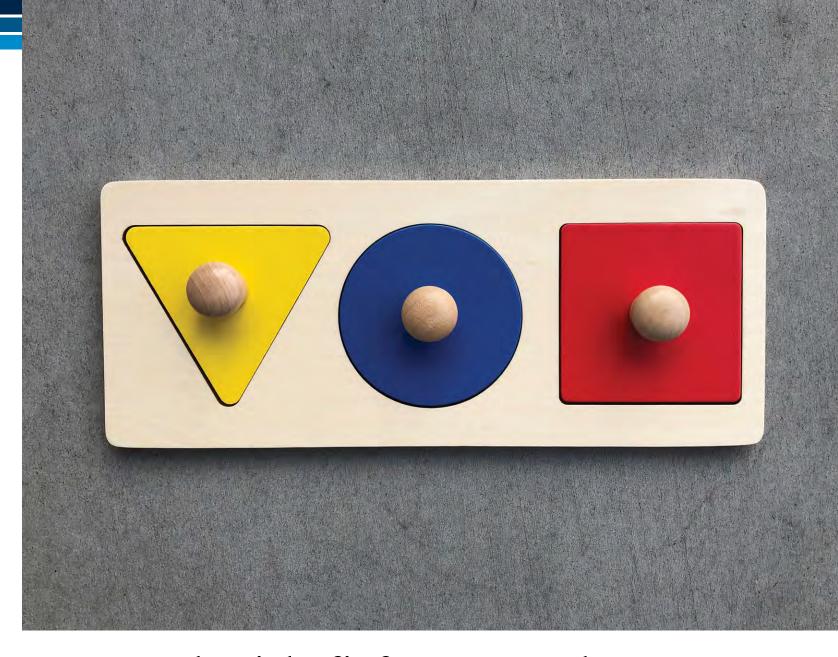
Erin Boutan, the Senior Director of Quality Improvement and Communications for Wisconsin Assisted Living Association (WALA) was an absolute pleasure to work with throughout the accreditation process. Erin walked us through the entire process from start to finish and she answered any questions we had along the way.

For any communities who are considering applying for their Diamond Accreditation, I would highly recommend it and encourage you to do so!

#### What goals have you set for the future?

Our organization plans to work toward accrediting two more facilities in 2024.

If you're interested in learning more about WALA's Diamond Accreditation Program or accrediting your assisted living community, please contact Erin or call (608) 663-9901.



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