



An Official Publication of
**THE SOCIETY
FOR POST-ACUTE AND
LONG-TERM
CARE MEDICINE™**

IN THIS ISSUE

Pictures Worth No Words

Reports about resident photos and videos posted on social media have caused a stir, but do they represent reality? **2**

NPs in PA/LTC

Nurse practitioners bring a vital voice to PA/LTC through the Foundation Futures program. **8**

Rethinking Antipsychotics

Don't assume a transfer patient on an antipsychotic still needs it when he or she comes to the nursing home. **14**

Caring at Home

Consumer-directed personal assistance services let Medicaid beneficiaries receive needed health care at home. **16**



Breaking Bad Behavior

Dealing with disruptive behavior by staff and colleagues isn't just about knowing what to do — it's also about knowing what not to do. **18**

Make This Election Easy for Residents

Joanne Kaldy

With a contentious presidential election approaching, tensions are high and there is much at stake on all sides of the political spectrum. Although post-acute and long-term care facilities traditionally aren't hotbeds of political activity, they should be prepared to support and protect residents' rights regarding voting and participation in election-related activities. This includes having procedures in place to ensure that residents who want to vote have the opportunity to do so. At the same time, staff need to understand what they can and can't say to residents about elections or political issues to prevent exercising undue influence.

The Law Says...

To understand the facility's responsibilities regarding voting, it helps first to understand state and federal laws and regulations. Start with the Federal Voting Accessibility for the Elderly and Handicapped Act, which says that it is Congress's intention to "promote the fundamental right to vote by improving access for handicapped and elderly individuals..." Passed in 1984, the law mandates that for each federal election, states are to ensure that all polling places and a reasonable number of registration facilities are accessible to elderly and disabled individuals. This law has



PA/LTC facilities should have procedures in place that allow residents to vote in the November election, without pressure or influence from staff or election workers.

resulted in many nursing homes becoming polling places, as they are accessible to people with disabilities and therefore appropriate settings for these individuals to vote.

In addition, the Americans with Disabilities Act says that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of

a public entity, or be subjected to such entity." The ADA has been determined to apply to the right to vote in each state.

Although federal nursing home regulations don't specifically address voting, 42 CFR §483.15(d) requires facilities to allow residents to "participate in social, religious and community activities that do not interfere with the rights of other

See **ELECTION** • page 11

Society Launches Quality Prescribing Campaign

Leonard Gelman, MD, CMD

According to The Institute of Medicine, attributes of quality comprise care that is safe, patient-centered, timely, effective, efficient, and equitable. The 2014 Office of Inspector General report, "Adverse Events in Skilled Nursing Facilities: National Incidence Among Medicare Beneficiaries" delineated an important and timely issue that will need to be addressed if we are to begin to

move the needle on quality care in the post-acute and long-term care setting.

The OIG study revealed that an estimated 33% of Medicare beneficiaries experienced adverse events or temporary harm events during their skilled nursing facility stays. Physician reviewers determined that 59% of these adverse events and temporary harm events were clearly or likely preventable. They attributed

much of the preventable harm to substandard treatment, inadequate resident monitoring, and failure or delay of necessary care.

The adverse events were classified into three clinical categories: events related to medication (37%), events related to ongoing resident care (37%), and events

See **PRESCRIBING** • page 12

For educational opportunities including in person events, live and archived webinars, and annual conference recordings visit
www.paltc.org/educational-programs.

Continuing education credits, networking, and top-notch education brought to you by AMDA - The Society for Post-Acute and Long-Term Care Medicine.



THE SOCIETY
FOR POST-ACUTE AND
LONG-TERM
CARE MEDICINE

Election

from page 1

residents in the facility.” Arguably, said health care attorney Alan C. Horowitz, RN, JD, “voting is a covered ‘community activity.’” Another regulation, 42 CFR §483.15(e), outlines the “accommodation of needs.” According to Mr. Horowitz, “Nursing facilities have an affirmative obligation to accommodate residents’ needs, including the right to vote and hear from candidates. If a resident really wants to vote, the facility has an obligation to facilitate that decision, to the extent practicable.”

It is important not to assume that every resident is registered to vote. Those who have relocated to the facility from another state or jurisdiction will have to register with their new address. This can be discussed as part of admission in most communities. If a new resident isn’t registered but wants to vote, the facility should be prepared to assist with registration. Because not all nursing homes or senior communities are polling places, facilities should be prepared to arrange for absentee ballots.

Having a point person on staff for voting and election-related issues

‘Staff assisting residents must remain objective and be sure not to appear to encourage cognitively impaired people to vote one way or another.’

can be helpful. For example, at Lott Residence, an assisted living facility in New York City, activities director Nikki Picariello arranges for a representative from the state Board of Elections to come onsite to help residents register to vote and apply for absentee ballots. “We have an ongoing relationship with our state board, so they usually reach out to us each year. You can always contact your board to establish a relationship and get this process in the works,” she said.

Each state has its own rules and expectations regarding voting and elections in community settings, such as nursing homes and assisted living facilities. For instance, Maryland has a specific process in place for voter registration and absentee ballots. First, the county election board contacts all nursing homes and assisted living facilities in the area before an election. Residents who want to vote via absentee ballot are documented in a list compiled by the facility’s administration or staff. This list goes to the local board of elections, and officials there prepare the voter application forms for each individual who wants to register, and the absentee voter applications for those who want to vote that way. The next step involves a team from the election board — consisting of

one registered Democrat and one registered Republican — going to each facility to register voters and help interested parties apply for absentee ballots.

These teams must ensure that each person registering to vote isn’t receiving benefits such as Medicaid from another county. If a resident has moved to the facility from another county, he or she must apply to receive Medicaid from the new place of residence. As for absentee voting applicants, the team meets with the residents to assist them with filling out the forms, to obtain their signatures on completed forms, and to discuss the procedure for completing and submitting their ballots. If the election board team helps someone complete a form, this must be documented accordingly. Also, facility staff are cautioned not to express their own views or candidate preferences, even if residents seek their opinions.

Facilities would be wise to have their own policies and procedures for voting and elections, said Mr. Horowitz. These will help protect the organization as well as the residents. He suggested establishing policies that detail how voter registration and absentee ballots will be handled and by whom, how communications about elections will be managed, and what staff can and can’t say and do regarding politics and elections. “It is important to make a distinction between facilities owned by governmental entities such as a state or county, and those that are non-profit and for-profit. Employees of the state or county may be prohibited from wearing political buttons or t-shirts, and there may be strict rules for government employees about political speech and on-site campaigning,” he said.

For example, the Hatch Act of 1939 precludes federal employees from participating in certain types of political activity while in the workplace, and states and municipalities that receive federal funds may be subject to similar restrictions, according to Mr. Horowitz. Most facilities have policies that prohibit staff from promoting specific candidates or political parties, and from talking to residents about the candidate they support in any election. “It is best to make these conversations off limits,” he said. However, “It is good to have policies that promote neutral, unbiased content, especially where cognitively impaired residents may be involved,” he said. “The last thing a facility wants is to be accused of coercing a cognitively impaired resident to vote in a certain manner.”

It is acceptable, he said, to let a candidate or campaign worker in for a tour or photo opportunity. However, the facility should give the opposition the same opportunity. If a resident or family

member requests a visit by a specific candidate, Mr. Horowitz suggested that the resident or family counsel should also be involved in this decision to ensure inclusiveness of all opinions.

“It is important to allow residents access to information about elections and candidates,” Mr. Horowitz said. “But the facility should also remain as fair and objective as possible.”

Many states, as well as the District of Columbia, have laws that prohibit individuals found incompetent by a court from registering to vote. However, there is nothing to prevent cognitively impaired individuals from voting so long as they complete the ballot themselves or communicate their choices to someone assisting them. One study, by Jason Karlawish, MD, and colleagues suggested that people with severe Alzheimer’s disease are “likely not competent to vote,” whereas individuals with very mild to mild AD likely are competent to handle this task. Depending on the individual, those with moderate AD may or may not be competent. However, the authors concluded, “In the absence of incapacity the fundamental nature of voting rights suggests that such person should be regarded as eligible to cast a ballot.” Mr. Horowitz said, however, that “staff assisting residents must remain objective and be sure not to appear to encourage cognitively impaired people to vote one way or another.”

Voting is a resident-driven decision, said Kenneth Brubaker, MD, CMD, medical director of Masonic Village in Elizabethtown, PA. “We have many residents with some level of cognitive impairment, but if they want to vote, that is their right. It’s a personal choice.”

Ramifications and Beyond

Facilities that don’t ensure that residents have the ability to exercise their voting rights may be subject to penalties or citations. After the 2012 election, some facilities were cited for violating these rights. At one facility, the staff were cited for failing to provide several residents with the opportunity to vote. At a Missouri-based facility, nine residents claimed they were not informed of their right to vote in a presidential primary.

It is important to stress, however, that although staff can assist residents in their voting efforts, they cannot do the work for them. One lawsuit filed in 1998 alleged that staff and others — and not the residents themselves — were filling out ballots. The court determined that the plaintiffs did not prove that any residents’ ballots had been improperly completed, but the case highlighted several issues with voting-related policies and procedures in senior living settings.

If a nursing or assisted living facility is a polling place, political parties, candidates, or civic organizations may send in poll watchers to observe voting. These individuals don’t watch ballots

being marked; rather, they watch activities to ensure that individuals are not being influenced or pressured by others who are present.

Personalize Your Policies

For Ms. Picariello and Lott Residence, her voting-related activities are varied and extensive. “We put up flyers with elections dates and deadlines for completing absentee ballots. We talk about elections and mention dates and deadlines at resident council meeting,” she said. “I offer residents the opportunity to discuss elections and talk about the issues via regular meetings. We don’t just talk about politics; we address what’s going on in the world. These are very positive and enlightening for everyone involved.”

Managing voting isn’t a full-time job, but it does require some effort and commitment. However, staff don’t have to take on this burden themselves. They can get support and help from community organizations or an ombudsman. The National Long-Term Care Ombudsman Resource Center conducted a study in 2008 and found that for 47% of state and local long-term ombudsman programs, the most common activities were helping residents obtain and complete voter registration forms, helping residents request absentee ballots, and training facility staff on issues related to the residents’ right to vote.

Of course, every facility must establish its own policies and procedures based on its own needs, abilities, and limitations. For example, Dr. Brubaker said that every new resident gets a packet of information that includes details about voting. He said that the decision to vote is left completely to the resident, and staff is not allowed to help them in any way. Instead, family is encouraged to assist with this activity.

Dr. Brubaker noted that the Masonic Village campus is an official polling place, which makes it easier for mobile and independent living residents to vote. However, he noted, “We encourage residents for whom mobility is difficult to use absentee ballots.”

Ensuring that residents can vote is a key component of resident rights. “Our residents see voting as a privilege, and we need to honor that. Dr. Brubaker said. “But we also have an obligation to serve all our residents, so we need to address voting and elections in a way that is impartial and objective.”

Senior contributing writer Joanne Kaldy is a freelance writer in Harrisburg, PA, and a communications consultant for the Society and other organizations.



Alan Horowitz

Craig Huey Photography



Kenneth Brubaker

Craig Huey Photography