OHCA
OHIO HEALTH CARE ASSOCIATION

9200 Worthington Road
Suite 110
Westerville, OH 43082
P: 614.436.4154 / F: 614.436.0939
www.ohca.org

IMPORTANT BULLETIN
Real and Present Danger Issues
Second Quarter 2024

PLEASE BE SURE THAT RCF STAFF READ THIS

The Ohio Health Care Association (OHCA) compiled data on Real and Present Danger (RPD) citations for all residential care facilities surveyed in the first quarter of 2024. Key findings include:

- **Total RPD Citations:** 17
- **Surveys with Associated Death:** 5

Monthly Breakdown of Citations:
- **April:** 6 citations
- **May:** 3 citations
- **June:** 8 citations

Citations by Regulation Code:
- **R390 (Change in Condition):** 2 citations
- **R562 (Choking):** 2 citations
- **R710 (Elopement):** 4 citations
- **R710 (Supervision Failure):** 2 citations
- **R711 (Sexual Abuse):** 3 citations
- **R712 (Neglect):** 4 citations

This data highlights the areas of concern within residential care facilities, with particular emphasis on elopement/bed rail entrapment and abuse, which were cited multiple times. It underscores the need for improved oversight and preventative measures in these critical areas.

If an adverse occurrence happens in your facility, OHCA recommends immediately investigating and reviewing the incident thoroughly by the QA Committee. The facility should implement a QAPI plan even if there is no evidence of noncompliance and all policies and procedures have been followed. If a survey team disagrees with the facility's conclusion or identifies noncompliance, implementing an appropriate and thorough action plan can limit the time frame of noncompliance. A timely and comprehensive action plan can demonstrate that the alleged noncompliance has been fully corrected before the survey and serve as evidence of past noncompliance in a Real and Present Danger situation, which may be taken into consideration by ODH if a fine is imposed.

Facilities should continue to emphasize staff training, proper documentation, and proactive interventions to reduce the occurrence of RPD situations.

Summaries of these citations are listed below, along with comments and recommendations.

April

Facility A – Exit 04/04/2024 *Regulation Code: R710 – Elopement*

The facility failed to provide adequate supervision for a resident who had alcohol-induced dementia and a history of exit-seeking behavior. The resident eloped from the facility, taking a public bus to a vacant house. The Real and

Present Danger was abated by implementing enhanced monitoring, safety checks, and staff re-education on elopement procedures.

Facility B – Exit 04/02/2024 *Regulation Code: R711 – Sexual Abuse*

The facility failed to protect a resident from sexual abuse by another resident. Both cognitively impaired individuals reside in a secured memory care unit. The facility has implemented one-to-one supervision, updated staff training, and revised service plans to address the issue.

Facility C – Exit 04/16/2024 *Regulation Code: R712 – Neglect*

The facility failed to provide adequate care for an entirely dependent resident, resulting in severe neglect. Corrective actions included staff terminations, audits of care plans, and additional training on proper care techniques.

Facility D – Exit 04/17/2024 *Regulation Code: R562 – Choking*

The facility failed to prevent a choking incident involving a resident requiring a specialized diet. The incident led to the resident's death. Corrective measures included dietary reviews, staff training on supervision during meals, and enhanced communication protocols for dietary needs.

Facility E – Exit 04/22/2024 *Regulation Code: R390 – Change in Condition*

The facility failed to identify and address an acute change in a resident's condition, leading to delayed medical care and subsequent death. Corrective actions included revising the change-in-condition protocol, training on recognizing medical emergencies and improving documentation practices.

Facility F – Exit 04/24/2024 *Regulation Code: R0710 – Supervision Failure*

The facility failed to adequately supervise a resident with a history of aggressive behavior, which resulted in an altercation with another resident. Corrective actions included increased staffing, staff training on supervision techniques, and regular safety assessments.

May

Facility G – Exit 05/08/2024 *Regulation Code: R711 – Sexual Abuse*

The facility failed to prevent repeated incidents of sexual abuse involving a cognitively impaired resident. Corrective measures included one-to-one supervision, staff re-education on abuse prevention, and updating service plans for all affected residents.

Facility H – Exit 05/29/2024 *Regulation Code: R710 – Elopement*

A resident with dementia exited the facility unsupervised, resulting in a Real and Present Danger situation. The facility implemented corrective actions such as door alarms, staff training on elopement prevention, and resident reassessment for elopement risk.

Facility I – Exit 05/30/2024 *Regulation Code: R712 – Neglect*

The facility failed to provide adequate incontinence care for a resident, resulting in skin breakdown and hospitalization. Corrective actions included staff training, enhanced monitoring, and audits of care documentation.

June

Facility J – Exit 06/05/2024 *Regulation Code: R710 – Elopement*

A resident with a history of elopement exited the facility without staff knowledge. Corrective actions included installing additional security cameras, updating the elopement policy, and conducting staff training on elopement prevention.

Facility K – 2053R – Exit 06/05/2024 *Regulation Code: R711 – Sexual Abuse*

The facility failed to prevent a cognitively impaired resident from sexually abusing another resident. Corrective actions included one-to-one supervision, staff re-education, and collaboration with mental health professionals for behavior management.

Facility L – Exit 06/06/2024 *Regulation Code: R712 – Neglect*

The facility failed to reposition a bedridden resident as required, leading to the development of pressure ulcers. Corrective actions included staff training, increased supervision, and regular audits of care practices.

Facility M – Exit 06/10/2024 *Regulation Code: R0710 – Supervision Failure*

The facility failed to provide adequate supervision for residents during a group activity, resulting in a physical altercation. Corrective measures included increased staffing during activities, staff training on conflict resolution, and revising activity protocols.

Facility N – Exit 06/17/2024 *Regulation Code: R562 – Choking*

The facility failed to provide the correct diet to a resident with swallowing difficulties, resulting in a choking incident. Corrective actions included dietary staff retraining, enhanced communication between dietary and nursing staff, and regular dietary audits.

Facility O – Exit 06/25/2024 *Regulation Code: R712 – Neglect*

The facility failed to provide timely assistance to a resident with mobility issues, resulting in a fall and subsequent hospitalization. Corrective actions included staff re-education, increased high-risk resident monitoring, and implementing fall prevention protocols.

Facility P – Exit 06/25/2024 *Regulation Code: R390 – Change in Condition*

The facility failed to respond to an acute change in a resident's condition, leading to delayed care. Corrective actions included updating change-in-condition protocols and staff training on early identification of health changes.

Facility Q – Exit 06/25/2024 *Regulation Code: R712 – Neglect*

The facility failed to provide proper repositioning care for a resident, resulting in the development of pressure ulcers. Corrective actions included additional staff training, monitoring of care practices, and increased supervision to ensure compliance.

OHCA Recommendations for Handling Real and Present Danger Citations

When a facility becomes aware that surveyors are considering or recommending a Real and Present Danger citation, it is crucial to take immediate and strategic action to mitigate the situation. Here are the recommended steps and resources to effectively handle this critical scenario:

Immediate Actions and Resources

1. **Call for Assistance**:
    - **Long-term Care Specialty Law Firm**: Engage legal professionals with expertise in long-term care regulations to navigate the complexities of the citation process.
    - **Long-term Care Regulatory Consultants**: Consult with experts who specialize in regulatory compliance and can provide guidance on best practices and immediate actions.
    - **Association's Regulatory Contact**: Contact OHCA's regulatory contact for support and advice tailored to your specific circumstances.

Staff Training and Interview Management

- **Training on Handling Surveyor Interviews**:
    - **Management-Level Staff**: Ensure they are well-prepared to handle interviews with surveyors. Training should cover how to respond accurately and professionally without providing unintended verifications.
    - **Direct Care Staff**: Equip them with the knowledge and confidence to interact with surveyors appropriately, focusing on honesty and clarity.
- **Presence of a Witness and Documentation**:
    - **Witness During Interviews**: Always try to have another staff member present as a witness during surveyor interviews with management-level staff. This additional person can help ensure that the conversation is accurately recorded.
    - **Detailed Notetaking**: Take comprehensive notes during these interviews to document the discussion precisely. This practice helps verify what was communicated and prevents misinterpretations or unintended confirmations.

Strategic Goals

- **Forestalling the Citation**: Aim to prevent the Real and Present Danger citations from being issued by demonstrating compliance and addressing any immediate concerns the surveyors raise.
- **Minimizing Time Frame**: If the citation is inevitable, work to keep the time frame as short as possible by promptly addressing the issues and demonstrating corrective actions.

Summary

Facilities can better manage the risk of receiving a Real and Present Danger citation by calling for expert assistance, thoroughly training staff, and ensuring accurate documentation during surveyor interviews. These proactive measures are essential to maintaining compliance and ensuring the facility's continued operation without severe regulatory repercussions.