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Pivotal role of compliance education and training in skilled nursing facilities

By April Bernabe, MHA, NHA, RAC-CT, CHC, QCP

April Bernabe (april.bernabe@healthstream.com) is Abaqis Operations Manager, HealthStream, located in Denver, CO.

The quality of care in skilled nursing facilities (SNFs) has been a long-standing issue and often the subject of regulatory enforcement and investigation. Many factors affect the quality of care in SNFs, such as incentive systems for high quality of care, organizational resources, regulatory changes, competitive market, and management and staff motivation.[1] Staff education and training are often seen as one of the key elements to raising the standards and quality of care in SNFs. Perhaps one of the most common indications in support of the role of staff education is the frequency with which SNFs turn to "facility in-services" to remediate deficient practices identified during standard survey inspections.[2] However, staff education and training should not be cyclical; beyond the borders of survey inspections, SNFs should aspire to develop and maintain a qualified workforce and create a culture of competency.[3]

A majority of the workforce in SNFs includes nursing (registered nurses and licensed practical nurse) and non-nursing staff (nursing assistants or nurses' aides). Other healthcare professionals, such as social workers; activity professionals; food and nutrition specialists; therapists (physical, occupational, and speech); housekeeping and maintenance; and administrative professionals, also provide essential services and have a major impact on both the residents' (patients) quality of care and quality of life. The responsibility of providing competent education and training often lies with the staff development office. As pivotal as it seems—considering staff competency is at the core of providing quality care for residents with complex medical needs—resource allocation may be disproportionate when it comes to staff education and training. The surge in cases of COVID-19 in SNFs may have shifted the focus slightly on staff education and training, as SNF participation in the Nursing Home COVID-19 Training is a qualifying requirement to receive funding from the Provider Relief Fund authorized by the Coronavirus Aid, Relief, and Economic Security Act.[4]

Discipline of staff development

In terms of organizational structure, the staff development position is next only to a nursing home administrator and director of nursing services. A typical SNF will allocate a full-time position to the role of staff development coordinator (SDC) or director of staff development (DSD) or nursing professional development; however, it is common for the position to take on additional duties and responsibilities such as infection control and prevention, staffing, or wound care. For a much smaller SNF (less than 99 beds), the responsibility for staff development may even be added to the already long list of duties assigned to the director of nursing. Unlike the position of a nursing home administrator and director of nursing services, the position of an SDC or DSD does not have to meet specific state and federal requirements beyond a licensed nurse; hence, it is common practice for a staff nurse or a charge nurse to transition to the role of staff development based on clinical nursing abilities without consideration for essential skills such as facilitating learning, developing curricula, and implementing effective evaluation methods.

There is a difference between a staff development practitioner in a SNF and a staff development specialist in an acute-care setting. Most hospitals or acute-care settings employ two types of educators: hospital-based staff development specialists and unit-based ones. Depending on available resources, some hospitals may also employ specialty nurse educators who may concentrate on areas such as diabetes management, ostomy and wound care, or cardiac care. Regardless of specialization, hospital-based staff development specialists have, at a minimum, a bachelor of science in nursing. In contrast, SNFs may hire or appoint a licensed practical nurse as a staff development specialist. The duties and responsibilities can include development and coordination of a successful staff orientation program; planning, developing, and teaching the curriculum; providing appropriate training for nursing assistants; providing continuing staff education and in-service training; instructing staff to provide safe and effective care practices and methods (e.g., new equipment use, medication administration, and policy and procedure interpretation); and evaluating competency levels.

Federal and state regulations specific to staff development

SNFs have to meet federal and state regulations related to orientation, annual training, and competency management. While each state has specific requirements for staff development and in-service education programs,[5] federal regulations require that each SNF ensures the competency levels of its workforce.[6] For example, federal tag (F-Tag) 838 requires SNFs to complete a facility assessment annually that not only evaluates the resident population thoroughly and identifies all the resources necessary to care for and provide services to their residents, but also determines the specific staff education and training, as well as competencies needed to provide the level and types of care that have been identified for the resident population. Other federal requirements for SNFs include:

- F-Tag 726 requires SNFs to have "sufficient nursing staff with the appropriate competencies and skills sets to provide nursing and related services to assure resident safety."[7] Proficiency of nurse aides is also a requirement, and SNFs must ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs as identified through resident assessments and described in the plan of care.
- F-Tag 728 requires SNFs to not use nurse aides for more than four months, on a full-time basis, unless the nurse aide "is competent to provide nursing and nursing related services" and "has completed a training and competency evaluation program, or a competency evaluation program approved by the State."
- F-Tag 730 requires SNFs to complete "a performance review of every nurse aide at least once every 12 months, and…provide regular in-service education based on the outcome of these reviews."
- F-Tag 947 requires SNFs to provide in-service training for nurse aides that is sufficient to ensure the continuing competence of nurse aides. Training "must be no less than 12 hours per year" and should include "dementia management training and resident abuse prevention training" and "address areas of weakness as determined in nurse aides' performance reviews and facility assessment."[8]

OIG recommendations on staff education and training

In 2000[9] and 2008,[10] the Office of Inspector General (OIG) published voluntary guidance for SNFs to consider when developing a compliance program. One of the basic program elements outlined in the guidance for developing an effective compliance program is the "development and implementation of regular, effective education and training programs for all affected employees."[11] According to OIG, the "training programs should include sessions summarizing the organization's compliance program, fraud and abuse laws, and Federal

health care program and private payor requirements."[12] OIG also recommended providing "specific training on issues such as claims development and submission processes, residents' rights, and marketing practices." In describing the training programs, OIG stated: "training and educational programs for nursing facilities should be detailed, comprehensive and at the same time targeted to address the needs of specific employees based on their responsibilities within the facility. Existing in-service training programs can be expanded to address general compliance issues, as well as the risk areas identified in that part of nursing home operations."[13] Other recommendations by the OIG included taking steps to effectively communicate the organization's standards and procedures to all affected employees; training new employees soon after they have started working; training temporary employees before they are assigned responsibility for resident care; requiring employees to have a minimum number of educational hours per year, as appropriate, as part of their employment responsibilities; making participation in training programs a condition of continued employment and that failure to comply with training requirements should result in disciplinary action when such failure is serious; making adherence to the training requirements a factor in the annual evaluation of the employee; and retaining of adequate records of employee training, including attendance logs and materials distributed at training sessions.[14]

Striking the right balance in building staff education and training

SNFs that are mandated under a corporate integrity agreement (CIA) with the Department of Health & Human Services' OIG are required to provide at least annual training regarding the CIA and compliance program.[15] Ongoing training is required regarding policies and procedures, the coordinated interdisciplinary approach to providing care and related communication between the disciplines, training on the personal obligations of each employee involved in resident care to ensure that care is appropriate and meets professionally recognized standards of care, examples of proper and improper care, and reporting requirements and legal sanctions for violations of the federal healthcare program requirements. The CIA also requires the provision of training that addresses the quality of care problems identified by the compliance committee. In determining what training should be performed, the compliance committee must review the complaints received by the SNF through its confidential disclosure program (e.g., a hotline); satisfaction survey; staff turnover data; any state or federal surveys, including those performed by the Centers for Medicare & Medicaid Services (CMS) and its agents, such as the Joint Commission; any internal surveys; CMS quality indicators; and findings, reports, and recommendations of the external quality monitoring organization.

OIG recognized that the significant commitment of time and allocation of resources to implement an effective compliance program are investments that advance the goals of the SNF, the solvency of the federal healthcare programs, and the quality of care provided to the SNF residents.[16] While non-CIA–bound SNFs do not have to implement the required compliance education and training recommended by OIG and/or mandated under a CIA, prudent SNF operators may consider many of the education and training elements and balance these with requirements. Some examples are listed below.

- **General orientation and training**. SNFs are required by state and/or federal requirements to provide orientation and initial training designed to instruct all employees in the requirements of the law as well as rules, policies, and procedures pertaining to the employees' respective duties and responsibilities. OIG and/or CIAs recommend the general orientation and training to include the SNF's compliance program, fraud and abuse laws, and federal healthcare program and private payer requirements. Where SNF providers can find the balance is in making sure the general orientation covers an understanding of the requirements of participation in Medicare and Medicaid programs, since it is an essential starting point for training to support the SNF's commitment to compliance with these regulations and the goal of creating a culture of compliance. Training the care providers, managers, administrative staff, officers, and directors

on the requirements of participation will help the SNFs ensure that they are fulfilling their obligation to provide quality healthcare.

- **Adequate and appropriate training of nursing assistants**. Not all states have specific regulations that identify the content for nurse's aide training and competency. Since the beginning of the COVID-19 pandemic, CMS has issued temporary regulatory waivers to allow some flexibilities in the healthcare system and respond to the public health emergency. For example, CMS waived the requirements at 42 C.F.R. § 483.35(d) , which require that a SNF and nursing facility "may not employ anyone for longer than four months unless they met the training and certification requirements" to assist in potential staffing shortages seen with the COVID-19 pandemic.[17] To ensure the health and safety of the SNF residents, CMS did not waive the requirement at 42 C.F.R. § 483.35(c) , which requires facilities to ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to provide residents care as determined in the resident assessments and described in the plans of care. Providing SNF residents with qualified and skilled caregivers is consistent with the OIG recommendations and should be immutable, considering nursing assistants are thoroughly involved in providing direct resident care and assist the residents with activities of daily living. Nursing assistants also spend the most time with the residents daily, compared to other members of the healthcare team, offering the most opportunities to detect changes in the residents and relaying the information to the licensed nurses and/or other members of the team.

- **Management of continuing in-service education**. SNFs must provide sufficient in-service education to meet the requirements of continuously developing and educating employees and ensure the competency of the employees on a regular basis. OIG recommends more than an initial employee training and orientation on the SNF's obligations to provide quality healthcare, since the requirement to deliver quality healthcare is a continuing obligation for SNFs.[18] As regulation and/or policy changes, so should the training. SNFs under the CIA are required to provide in-service education and training that addresses quality of care problems identified by the compliance committee/quality assessment and assurance committee. Although SNFs are required to provide mandatory in-services on topics such as abuse prevention and reporting requirements, resident rights, dementia care, fire safety, the Health Insurance Portability and Accountability Act, and infection control and prevention, continuous education and training should be based on outcomes identified through the SNF's internal audit systems, including direct observations of care delivery. Trends identified through the SNF's survey and regulatory compliance, resident satisfaction survey, and resident grievances should also be used to plan the staff education and training program.

- **Platform for learning**. The majority of SNFs use a combination of in-person training, where education is provided in a classroom and allows interaction between the trainer and the employees, and web-based training, where employees can access the training courses online. OIG recommends using a "variety of teaching methods, such as interactive training [and use of qualified training instructors from outside or inside the organization] and, where a nursing facility has a culturally diverse staff, [to provide] training in different languages."[19] Regardless of the platform for training, what SNFs need is to aspire to provide their employees not just with knowledge-based education gained through formal training, but competency-based education that can only be acquired if employees are able to use and demonstrate their knowledge and skills on areas that were the subject of training. Competency-based education translates into behavior changes, and behavior changes translate into improved quality of care.

Role of leadership in staff education and training

All things considered, the possibility of continuously developing and educating employees lies in the SNF having

a systematic plan in place that assesses, evaluates, and monitors the competencies of the employees on a continual basis. The systematic plan has to be supported by leadership if the SNF is to be successful in making staff competency an ongoing, integral part of the SNF's culture and values. For example, the board of directors has a fiduciary responsibility to steer the SNF as a healthcare organization to adopt ethical and legal governance, as well as sound financial management, to ensure availability of adequate resources to advance the SNF's mission and vision. When it comes to staff education and training, the board of directors has a duty of care to exercise when making decisions about allocating sufficient resources in support of the SNF's education program. Resources allocated to the SNF should take into consideration continuous education of the individuals primarily responsible for providing the staff education and training to be assured of their competency levels, adequate and updated materials and supplies that can be used for teaching, and access to nationally recognized organizations to stay abreast of the standards of practice. The board should also have oversight of the SNF's educational programs to ensure the programs are effectively implemented to meet standards of practice and regulatory requirements. If standards are not met, the board of directors should question whether there was a systematic process for analyzing educational needs.

Facility leadership should also have a vested interest in ensuring that employees at all levels become familiar with state and federal regulations governing long-term care.[20] Staff education and development should be a responsibility of all leadership, and not solely of the SDC or DSD. As the OIG had recommended, staff's participation in the training programs should be made a condition of continued employment.[21] Department managers should have accountability when their staff do not show up for scheduled in-service training. On days when in-service training is scheduled, leadership should assist the SDC or DSD in ensuring adequate staff support so that staff are not pulled from the training to provide resident care. During monthly general employee meetings, the nursing home administrator, director of nursing services, and other department managers should meet with employees on all shifts and share information about the SNF's efforts to improve care and delivery of services. Facility leadership should encourage exchange of information during these meetings, promote shared governance, and allow employees to take active roles in determining what educational training will be provided.

Conclusion

SNFs have seen considerable changes in the healthcare landscape. The advances in clinical practice have placed the focus on evidence-based practices, and more stringent regulations continue to put the emphasis on safety and quality of care. Global events—such as the current coronavirus pandemic—escalated, to the highest level, the importance of ensuring employees have the knowledge, skills, and confidence to implement best-practice safety measures to protect residents and themselves. While it is sensible to say that the SNF's answer to improving quality of care is to provide staff education and training that balances regulatory requirements with OIG recommendations on compliance, SNFs have other factors to consider, such as leadership buy-in, high turnover rates, threats of dwindling fiscal resources, and other unforeseeable environmental forces.

Takeaways

- The development of staff to ensure competencies has never been so important, because of the growing complexity of federal regulations and increased acuity of residents.
- Skilled nursing facilities should have internal mechanisms for translating performance weaknesses into educational activities and subsequent competency evaluation.
- The implementation of regular, effective education and training programs for all employees is one of the basic program elements outlined in the Office of Inspector General guidance for developing an effective compliance program.

- Leadership support of the skilled nursing facility's plan to assess, evaluate, and monitor the competencies of the employees on a continual basis is crucial in making staff competency an ongoing, integral part of the facility's culture and values.
- The requirement to deliver quality healthcare is a continuing obligation for skilled nursing facilities and should be addressed in both the initial employee training and orientation and ongoing staff in-service education.

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