

WELCOME

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Rx

Asking a question is easy!

- About the topic being presented —
 - ❖ Click on the **Q&A** icon at the bottom of your screen
 - ❖ Type your question & hit Enter
 - ❖ Questions will be answered at the program's end, or offline if time runs out

- About technical issues or CE credit —
 - ❖ Click on the **Chat** icon at the bottom of your screen
 - ❖ Type your question & hit Enter
 - ❖ Our team will reply to your question right away

Housekeeping notes

- ▶ This webinar is being recorded for on-demand access later, after the series' conclusion
- ▶ To earn CE, you must attend the entire session
- ▶ **For those sharing a computer**
 - Complete a manual sign-in sheet before the program ends
 - Go to **Chat** to access the link for the sign-in sheet
 - Each participant must complete an evaluation to obtain CE credit
 - Instructions will also be emailed to the program registrant

Transformation: Key Takeaways from the LeadingAge Illinois Annual Meeting & Expo

July 2021



Risk Management

Risk Management: OSHA & COVID-19

National Emphasis Program (NEP)

Established March 2021

- ▶ Temporary programs to protect employees in high-hazard industries from the hazard of contracting COVID-19
- ▶ Targeted investigations & enforcement toward identified industries with workers who have increased potential exposure to COVID-19 (priority of deaths or multiple hospitalizations)
- ▶ Nursing homes are designated a high-hazard industry

Risk Management: COVID-19 from OSHA's Perspective

Revised enforcement for COVID-19 illness reporting

Updated May 2020

- ▶ COVID-19 illness is reportable if all 3 apply:
 - There is a confirmed case of COVID-19
 - Case is work related
 - Case involves ≥ 1 of the general recording criteria
- ▶ OSHA is exercising enforcement discretion to assess employers' efforts in making work-relatedness determinations

Risk Management: COVID-19 from OSHA's Perspective

Considerations for reasonable determination of work-related illness

- ▶ **Evidence available** to employer at the time of determination
- ▶ Evidence that COVID-19 was contracted at work can include:
 - Whether **multiple cases developed** among workers in close proximity;
 - Whether cases were **contracted shortly after lengthy exposure**;
 - Whether the **case is isolated** & duties do not involve frequent contact with the public
 - **Close association outside of work** with someone who has COVID-19
- ▶ If a causal role for exposure in the workplace cannot be determined, the COVID-19 case does not have to be reported

Risk Management: COVID-19 from OSHA's Perspective

Training recommendations

- ▶ Ensure continued compliance with CDC & IDPH safety guidelines for health care environments
- ▶ Ensure supervisors continue to monitor compliance among staff
- ▶ Ensure continued compliance with OSHA respiratory protection requirements
- ▶ For COVID-19 cases among employees, ensure HR or safety team responsible for OSHA logs conducts the proper investigation into work relatedness to determine recordability

Risk Management: COVID-19 from OSHA's Perspective

Employee COVID-19 vaccination status

- ▶ Employer must maintain confidentiality of employee medical information, such as documentation or other confirmation of COVID-19 vaccination (May 2021)
- ▶ Employer can ask about or request documentation of vaccination status (updated May 2021)
- ▶ Documentation or other confirmation of vaccination provided by employee to the employer is medical information that must be kept confidential (updated May 2021)

Risk Management: COVID-19 from an EEOC/ADA Perspective

Can employers mandate vaccination?

- ▶ Yes, with a few caveats
- ▶ Accommodations must be made for disabilities & sincerely held religious beliefs (employee must request accommodation):
 - ▶ Managers/supervisors should know how to recognize an accommodation request & know where to refer the employee
- ▶ Vaccine not a “medical examination” under the ADA, but pre-screening questionnaires create ADA concerns
- ▶ Check state law

Risk Management: COVID-19 from an EEOC/ADA Perspective

Employer incentives for vaccination

- ▶ May offer an incentive to employees to voluntarily provide documentation or other confirmation of a vaccination received in the community (May 2021)
- ▶ May offer an incentive to employees for voluntarily receiving a vaccination administered by the employer or its agent (May 2021)
 - ▶ If the incentive (both rewards & penalties) is not so substantial as to be coercive
 - ▶ Because vaccinations require employees to answer pre-vaccination disability-related screening questions, a very large incentive could make employees feel pressured to disclose protected medical information

Risk Management: COVID-19 from an EEOC/ADA Perspective

Vaccination recommendations

- ▶ Review process for vaccination confirmation
- ▶ Maintain proof of vaccinations in confidential medical folder consistent with ADA requirements
- ▶ Review policies & procedures on accommodation requests, train managers on their role and responsibilities in process and role of HR
- ▶ Proactive programming for employees for addressing stress and anxiety

Risk Management: COVID-19 from an EEOC/ADA Perspective

Vaccine considerations

- ▶ Utilize a pharmacy or other third-party health care provider to avoid ADA implications associated with any pre-screening vaccination questions
- ▶ Educate and train managers/supervisors to respond to accommodation requests
- ▶ Carefully consider privacy laws surrounding receipt & maintenance of employee medical information

Risk Management: COVID-19 Liability

Risks

- ▶ Allowing known symptomatic workers to work
- ▶ Failure to consistently screen
- ▶ Failure to cohort
- ▶ Failure to have adequate PPE

Mitigation strategies

- ▶ Isolate your memory care unit as much as possible
- ▶ Consider increased testing for the unit
- ▶ Stringent visitor policies
- ▶ Diligent symptoms screening / temperature checks

Risk Management: COVID-19 Liability

Infection control recommendations

- ▶ Document hand hygiene for residents
- ▶ Document your attempts at redirection / PPE
- ▶ Reach out to physicians/clinicians for assistance
- ▶ Document staff training/discussions about how to improve infection control
- ▶ Make a paper trail that shows you were doing everything you could

AND . . . Make sure staff wear masks correctly at all times!

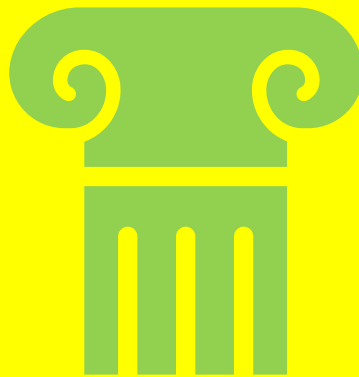
Risk Management: Anything Not Related to COVID?

The same old common liability risks

- ▶ Abuse
- ▶ Elopement
- ▶ Wounds
- ▶ Medication errors
- ▶ **Falls**



Falls: One of the 5 Pillars of Risk



Fall Prevention

Requirements for long-term care facilities

- ▶ Comprehensive person-centered care planning
- ▶ Facility assessment
- ▶ Quality assurance & performance improvement (QAPI)
- ▶ Training requirements

Fall Prevention

▶ Risk assessments

- ▶ Identify, address & prevent gaps in care
- ▶ Establish a timeline for implementing interventions according to identified risks

▶ Facility assessments

- ▶ Facility-based and community-based risk assessment, utilizing an all-hazards approach
- ▶ Plan care delivery during ordinary & extra ordinary circumstances
- ▶ Identify direct care staff needs, skills, capabilities, available resources

Fall Prevention

Evaluate risk

- ▶ Falls indicate functional decline & other serious conditions, such as:
 - ▶ Delirium
 - ▶ Dehydration
 - ▶ Infections

- ▶ Consider external risk factors, including:
 - ▶ Medication side effects
 - ▶ Use of appliances
 - ▶ Restraints
 - ▶ Environmental conditions

Fall Prevention: On-Time Prevention

Self-assessment helps you understand current practices

Self-assessment sections

**Section 1:
Risk**

**Section 2:
Falls Prevention Plan**

**Section 3:
Communication
Practices**

**Section 4:
Investigations/Root
Cause Analysis of
Resident Falls**

How do you currently...

**Determine which
residents are at high
risk for falls?**

**Develop
interventions to
prevent falls?**

**Discuss at-risk
residents and
formulate changes in
care plans?**

**Carry out investigations,
including root cause
analysis, when an
injurious fall occurs?**

Fall Prevention: Free Safety Program From AHRQ

On-Time Prevention

- ▶ Identify residents at risk for avoidable falls (+ hospitalizations, pressure ulcers/injury, and pressure ulcers/injuries that are not healing)
- ▶ Weekly electronic clinical reports identify clinical changes & increasing risks
- ▶ Access clinical info to conduct Root Cause Analysis & adjust care plans timely
- ▶ Implementation materials to integrate with care planning process
- ▶ Training for On-Time facilitators

Resident		Within 90 Days										Within 7 Days										ADL Decline and Other Clinical Information													
Name	Room	High-Risk Existing Conditions										High-Risk Change in Condition										New Contributing Risk Factors													
		Mental/Unsafe Behaviors	Mental/Cognitive Impairment	Gait and Balance Instability	Fall: 6-30 Days	Fall: 31-180 Days	Psychotropic Medications	Other High-Risk Medications	Acute Mental Status Change	Behavior: New Unsafe	New Gait/Balance or Device Order	New Fall	Med: New Med or Dose Change	Orthostatic Hypotension/Dehydration	Vertigo/Dizziness	Syncope/Fainting	Hypoglycemia	Possible Infection	New Seizure Activity	New Admission	Pain: New or Uncontrolled Chronic	Urinary Incont: New or Increased	Mobility: More Independent	Room Change	Bed Mobility	Transfer	Toileting	Depression Score Increase	Monthly BMI <22 kg/m ²	Significant Weight Change	Vitamin D Order	Osteoporosis	Diabetes	Visual Impairment	
Resident A	122	X		X									X				X		X																
Resident B	114				X	X								X																					
Resident C	103	X	X							X		X																21							
Resident D	142			X																X														X	
Resident E	112								X																										
Resident F	133	X	X																				X												X
Total		3	1	2	2	1	1	1	1	1		1	1	1				2		3		1	1	1			2		1	2		1	2		

* If current score higher than prior score, then display score and asterisk (*).

Person-Centered Fall Prevention

Address the 4 Ps during systematic, proactive rounding

- ▶ **P**otty: Attend to toileting needs
- ▶ **P**ain: Assess status
- ▶ **P**ositioning: Relieve pressure
- ▶ **P**ersonal Items: Ensure ease of access

Post-Fall Process

After each fall

- ▶ Document investigation
- ▶ Root Cause Analysis
- ▶ New interventions to prevent similar fall
- ▶ Anticipate future falls and address in the care plan
- ▶ Consider clinical issues
- ▶ Update the care plan & train staff on the update

Fall Prevention Programs

Summary: Maintain processes during an emergency

- ▶ **Know your systems**
 - ▶ Flow chart processes
- ▶ **Know your data**
 - ▶ Select an evidenced-based risk assessment tool
 - ▶ Explore EMR capabilities
- ▶ **Practice QAPI & train all staff**
 - ▶ Chart Performance Improvement Project (PIP) for all facility-acquired falls with injury
 - ▶ Train all staff on proper use of tool and documentation process
- ▶ **Live your policies & procedures**
- ▶ **4 Ps rounding supports fall prevention**

Fall Prevention Resources

Topic	URL
Scale for Identifying Fall Risk Factors (STRATIFY)	https://www.ahrq.gov/patient-safety/settings/hospital/fall-prevention/toolkit/stratify-scale.html
Stopping Elderly Accidents, Deaths, and Injuries (STEADI)	https://www.cdc.gov/steady/
Morse Fall Scale for Identifying Fall Risk Factors	https://www.ahrq.gov/patient-safety/settings/hospital/fall-prevention/toolkit/morse-fall-scale.html
Using Fall Risk Assessment Tools in Care Planning	https://www.ahrq.gov/sites/default/files/wysiwyg/professionals/systems/hospital/fallprevention-training/webinars/webinar4_falls_usingriskassttools.pdf
Change Package: All Cause Harm Prevention in Nursing Homes	https://qioprogram.org/sites/default/files/editors/141/C2_Change_Package_20181226_FNL_508.pdf
Requirements for Long-Term Care Facilities	https://www.ecfr.gov/cgi-bin/text-idx?SID=f64b6edcc2b2ee52bf5de8e19a340569&mc=true&node=sp42.5.483.b&rqn=div6#se42.5.483_121

Surveys & Survey Success

A+

A Legal Perspective

Survey Success: A Law Firm's Perspective

When should you be ready for survey?



- ▶ Are you in your annual window?
- ▶ Have you recently submitted an incident report to a State survey agency?
- ▶ Have you recently had an incident or confrontation with a resident's family?
- ▶ Have you recently terminated or disciplined a problematic or disgruntled employee?

Survey Success: A Law Firm's Perspective

What should be ready?

- ▶ Compliance review for at least the last year, if not last 3 – 5 years
- ▶ All prior Plans of Correction were completed
- ▶ Have routine tasks been done & documented?
 - ▶ Staff licenses & certifications up to date?
 - ▶ In-services completed?
 - ▶ Physical plant & maintenance records easily accessible?
- ▶ Supporting docs for incident report (Progress Notes, ISP, evaluations & assessments, behavioral programs, POS, etc)?



Survey Success: A Law Firm's Perspective

During the survey

- ▶ Command Central
- ▶ Escorts (monitor surveyors as closely as possible)
- ▶ Runners
- ▶ Copy everything
- ▶ Correct misunderstandings & provide documents
- ▶ Document discussions & get statements from staff



Survey Success: A Law Firm's Perspective

Requirements for the plan of correction

- ▶ Measures to address resident(s) specifically identified in survey
- ▶ Identify other resident(s) having the potential to be affected by the same alleged deficient practice
- ▶ Measures the facility will take or systems the facility will alter to ensure that the alleged problem will not recur (& specifically, who is responsible?)
- ▶ QA plan to monitor facility performance & ensure corrections are achieved and are permanent (include duration of monitoring)
- ▶ Completion date

Survey Success: A Law Firm's Perspective

The “NOs”

- ▶ *“We’ve never been cited for this before”*
- ▶ *“But the surveyor said”*
- ▶ *“Another facility had a far worse problem and State didn’t do anything to them”*
- ▶ *“We are a good facility with good staff”*
- ▶ *“Look at how quickly we addressed it”*
- ▶ *“It was the fault of rogue staff”*

Survey Success: A Law Firm's Perspective

Plan of Correction

Introduction/Disclaimer:

This Plan of Correction also represents the [Facility's] allegations of compliance. The following Combined Plan of Correction and Allegations of Compliance is submitted solely because it is required by law and is not an admission to any of the alleged deficiencies or violations. Furthermore, none of the actions taken in this Plan of Correction are an admission that additional steps should have or could have been taken by [Facility] to prevent the alleged deficiency. These steps are only included because a Plan of Correction is required by law. [Facility] was in compliance with all licensure and certification requirements at the time of the survey and disputes that any alleged deficiency or violation existed.

Survey Success: A Law Firm's Perspective

State licensure vs Federal surveys

- ▶ The same survey can be the basis for both:
 - ▶ Federal certification action
 - ▶ State licensure violations & sanctions by State survey agency
- ▶ Taking care of one does NOT automatically take care of the other
- ▶ Look at all correspondence
- ▶ Watch for deadlines
- ▶ Make sure to respond to both Federal & State issues
- ▶ Correct once – get credit for twice!

A Former Surveyor's Perspective

Survey Success: A Former Surveyor's Perspective

Problematic operations can't be "fixed" for survey

- ▶ QA activity can mitigate damage
- ▶ Leadership must set the appropriate tone
- ▶ Survey prep (training or communications) should include everyone:
 - ▶ Vendors, consultants, volunteers
 - ▶ Residents & families

Survey Success: A Former Surveyor's Perspective

Documentation is important, but one-dimensional

- ▶ SOM directs surveyors to talk (and listen) to facility staff, residents, families, ombudsman, etc)
- ▶ Surveyors will also use other sources of data to investigate incidents (911 tape, ER record, autopsy report, controlled drug record)
- ▶ Never alter a medical record to prevent a deficiency – credibility is everything and hard to regain

Survey Success: A Former Surveyor's Perspective

“If it isn't written, it didn't happen” ... but what if it's written?

What Was Written	What Actually Happened
“Food intake = 75%, normal BM x1, slept soundly”	Resident died the evening before note written
“Turn & reposition Q2H” signed off on TAR x 4 days	Resident was hospitalized the entire time
Medications signed off on MAR as administered QD at 12 noon	Resident out to Dialysis QOD

***The medical record is accurate until proven otherwise
(weights, fluid intake, VS, etc)***

Survey Success: A Former Surveyor's Perspective

The value of discussion

- ▶ View discussions with surveyors as a positive
- ▶ Reinforce the perspective with staff
- ▶ Best answer to a question:
“Let me look into this & I will get back to you”
- ▶ Expect to be quoted in the 2567
- ▶ Discussion is the best method to supplement “weak” documentation
 - ▶ Never sacrifice credibility

Survey Success: A Former Surveyor's Perspective

The value of a Consultant's perspective

- ▶ Subject matter expert
 - ▶ Standard of care
 - ▶ Knowledge on current / evolving research
 - ▶ Articulate risk/benefit analysis
- ▶ Viewed as not directly under the facility's control & therefore more "credible"
- ▶ Example: Consultant Pharmacist

Survey Success: A Former Surveyor's Perspective

About medications

- ▶ Medications should be monitored for effectiveness as well as adverse reactions
- ▶ Failing to follow this geriatric principle puts facility & resident at risk:

“Any symptom in an elderly patient should be considered a drug side effect until proven otherwise.”

J. Gurwitz et al. Brown University Long-Term Care Quality Letter, 1995.

Survey Success: A Former Surveyor's Perspective

About CPR

- ▶ Unless defined by facility policy, use of terms such as “no heroics” and “comfort care only” is problematic
- ▶ Deficiencies related to providing or withholding often involve sanctions:
 - ▶ Poor outcome statistics
 - ▶ Informed consent?
 - ▶ Facility process



Survey Success: A Former Surveyor's Perspective

Regulatory pearls

- ▶ Poor communication is the basis for many deficiencies
 - ▶ Transitions of care
- ▶ A documented allergy is accurate until proven otherwise
- ▶ Promptly address dramatic weight change over a short period (= fluid)

Survey Success: A Former Surveyor's Perspective

Words of wisdom

- ▶ Timeliness of many interventions is not defined in the regs — it is based on the needs of the resident
- ▶ The best way to avoid being “second guessed” on clinical decisions is to document a thoughtful risk/benefit analysis (or be able to articulate it)
- ▶ When the facts are clear, consider agreeing with the surveyor – or at least remain silent

ALF Updates from IDPH

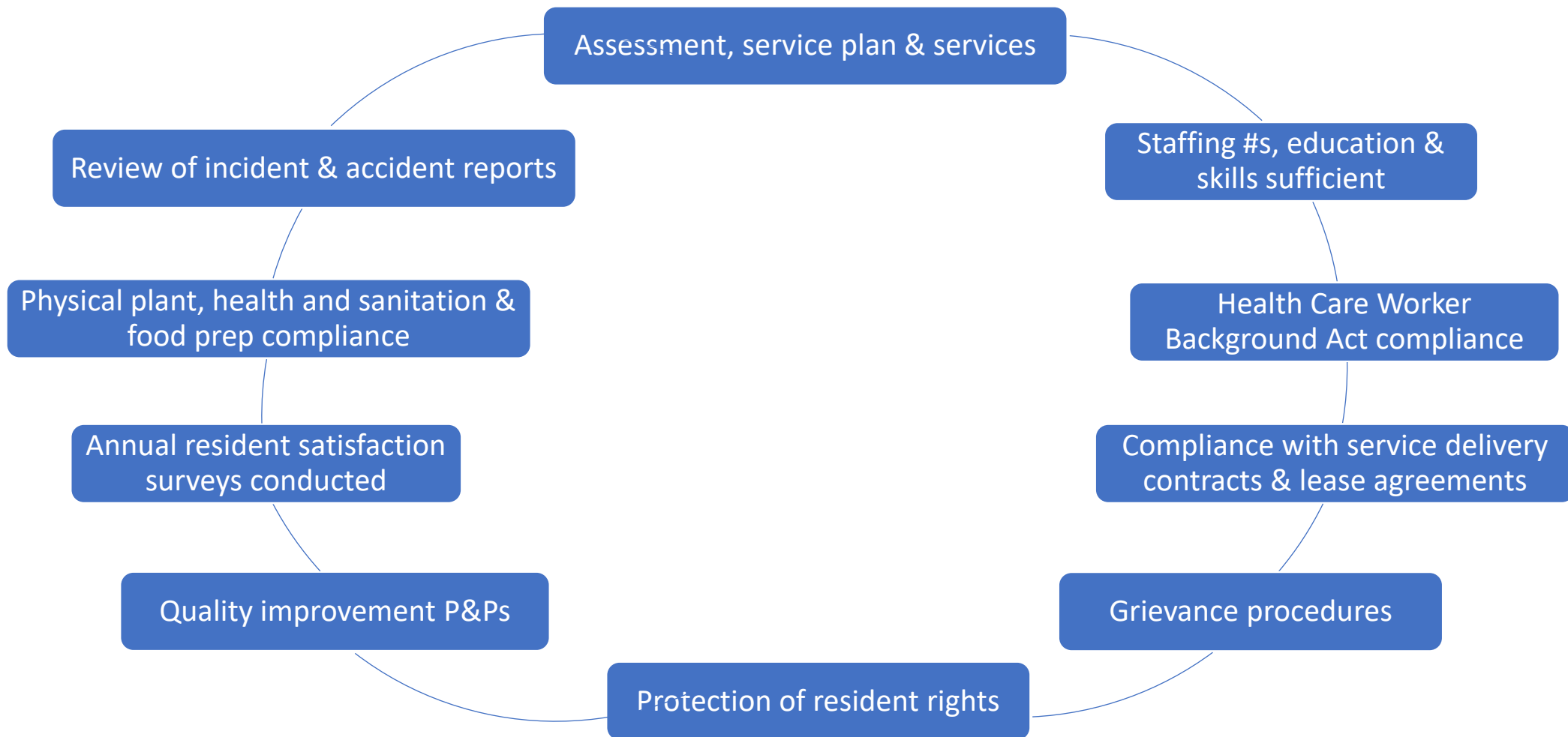
Survey Success: Assisted Living Updates from IDPH

What's new

- ▶ CMS COVID-19 training requirements were extended through 10/13/2021
- ▶ All LTC & ALF facilities should sign up for SIREN:
 - ▶ Web-based, secure, State messaging/alert system: dph.siren@illinois.gov
- ▶ New IDPH Administration will restructure AL org chart
 - ▶ **More surveyors!**
 - ▶ Will work with all ALFs to get questions answered & correct interpretation of regulations

Survey Success: Assisted Living Updates from IDPH

Scope of ALF surveys



Survey Success: Assisted Living Updates from IDPH

Complaints

- ▶ Continuing to receive many complaints
- ▶ New IDPH Administration looking at complaint data + backlog & facility-reported incidents
- ▶ Complaints will be triaged in the Central Complaint Registry 24/7
- ▶ Department is staffing up

Survey Success: Assisted Living Updates from IDPH

Complaint categories

Nursing care	Physical/mental abuse
Nursing services	Dietary services
Resident rights	Environmental
Quality of care/treatment	Communicable disease
Resident injury	Administration/personnel

About CE credit

Administrator credit

This program has been approved for one hour of continuing education by the National Continuing Education Review Services (NCERS) of the National Association of Long-Term Care Administrator Boards (NAB) – Approval # 20220731-1-A766417-DL.

Nursing credit

This program has been approved for one clock hour of continuing education credit by The Illinois Board of Nursing, an approved sponsor of continuing education by the Illinois Department of Professional Regulation.

Obtaining CE credit

- ▶ Complete the evaluation at the conclusion of this program:
 - In your web browser
 - Also emailed immediately following this program
- ▶ Sharing a computer to view the webinar?
 - Submit your sign-in sheet to the email address listed on the form
 - Each participant will then be emailed a link to the evaluation
 - Each person must complete an evaluation to receive CE credit
- ▶ Certificates should be emailed in about **30 days**

Want more CE after this?

ForumPharmacy.com

Look for our upcoming webinars:

Aug: *A Fireside Chat with Senior Care Pharmacy Coalition on Initiatives Supporting Long-Term Care*

THANK YOU!