Healthcare

VANTAGE POINT®

A Healthcare Risk Management Resource | 2023 Issue 1

Home Healthcare: Common Exposures and Effective Mitigations

The home healthcare and personal care industry is a rapidly expanding component of the healthcare system.* According to the U.S. Bureau of Labor Statistics, employment in the field is anticipated to grow by 21 percent over the next decade, adding an average of 711,700 jobs annually. This steep rise in home healthcare jobs reflects ongoing changes in demographics and health status within American society. The number of people over 65 continues to climb, reaching an expected total of 84 million by 2050, a figure that represents 21 percent of the population. At the same time, more than two-thirds of American adults live with at least one chronic health condition.

As the population becomes older, the demand rises for skilled nursing and personal care services, both in private homes and congregate settings. The following provider types, among others, offer services designed to meet the needs of individuals who require assistance with activities of daily living:

- **Licensed personal care agencies,** providing assistance with housekeeping, meal preparation, grooming, dressing, eating and toileting, as well as other basic functions.
- **Medicare-certified skilled care agencies,** providing patient care through licensed healthcare staff, or staff who are under the supervision of a skilled or licensed staff member. Services, such as wound care, intravenous therapy and physical therapy, often support patients who are in transition from acute or rehabilitative care to their home residence.
- **Facility-owned home healthcare services programs** and outside contracted agencies, providing personal care as well as Medicare-certified skilled care within aging services settings.

* The term *home healthcare* encompasses skilled care, while *home care* typically refers to non-clinical personal care services, such as housekeeping, meal preparation and companionship. In this article, both types of care will be collectively referred to as "home healthcare."

In this issue…

All provider categories will be affected by the enactment of the 21st Century Cures Act, which reconfigures many aspects of the home healthcare regulatory and reimbursement structure. (See "The Cures Act: Implications for Home Healthcare" on page 4.)

As home healthcare evolves and expands, new exposures have emerged and existing ones have intensified. (See "A Snapshot of Home Healthcare Liability" on page 2.) This edition of *Vantage Point®* offers various risk management suggestions for home healthcare providers, ranging from practice guidelines to hazard assessment procedures to security measures for both patients/residents (hereafter referred to as "patients") and caregivers. Also included are sidebars on patient screening, assessment and care planning, as well as physical therapy exposures. The tips and information contained herein are intended to be useful to both freestanding agencies and home healthcare programs operating within aging services organizations.

Policy Recommendations

Written policies and practice guidelines are an essential quality improvement and risk management tool. By drafting and enforcing practice parameters in the following areas, home healthcare agencies and aging services facilities can help improve care consistency and outcomes, while strengthening legal defensibility:

Job descriptions. As the home healthcare industry grows, new and expanded roles are emerging for licensed professionals (e.g., healthcare providers including nurses, physical therapists and social workers), as well as unlicensed home healthcare and personal care aides. As staff functions evolve, administrators must ensure that job descriptions remain aligned with state scope of practice laws and regulations for licensed personnel, as well as national guidelines for unlicensed assistive personnel. Stated requirements should reflect actual job functions, including general duties and responsibilities, specific tasks, critical knowledge and skills, and physical demands, if applicable. (For additional insights, see CNA *Vantage Point*® 2022-Issue 1: "Scope of Practice Changes: Ten Keys to Safer Delegation.")

Delegation of tasks. To ensure that unlicensed assistive personnel do not attempt to provide clinical care outside their competency or beyond regulatory limits, home healthcare agencies and aging services home healthcare programs should adhere to the following recommendations:

- **Be cognizant of delegees' knowledge and skills,** based upon their experience, training and formal certification.
- **Adhere to state practice acts** regarding limits of delegation.
- **Conduct routine audits of delegated tasks,** including random unannounced supervisory visits to patients' homes, for purposes of observation.
- **Monitor staff members' performance,** including patient responses to their care, and provide ongoing feedback.

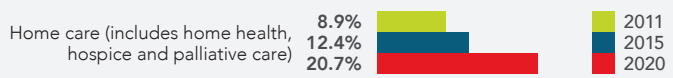
Documentation of care. Objective and concise documentation is essential for continuity of patient care and is critical for the defense of a potential malpractice claim. To promote coordinated care and minimize professional liability exposure, patient assessments, observations, communications and actions taken must be documented in the healthcare information record in an accurate, clear, timely and objective manner. (For more information, see "Patient Screening, Assessment and Care Planning: Essential Steps Toward Positive Outcomes" on page 7.) Written protocols should address common documentation deficiencies, including but not limited to, failure to record patient education sessions, reexaminations, and noncompliance with clinical and environmental safety recommendations. (See the CNA/NSO publication, "Nurse Spotlight: Healthcare Documentation.")

A Snapshot of Home Healthcare Liability

The following figures are excerpted from the *CNA NSO Nurse Professional Liability Exposure Claim Report: 4th Edition*, which utilizes a dataset of 455 nursing-related professional liability claims that closed between January 1, 2015 and December 31, 2019.

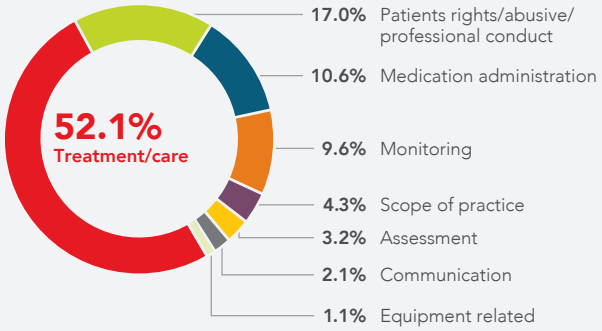
Comparison of Closed Claims from 2011, 2015 and 2020

Closed claims involving nurses who work in home healthcare have increased from 12.4 percent of the total claim count in 2015 to 20.7 percent in 2020. The shift reflects an overall trend within the healthcare industry to care for patients in non-acute settings whenever possible, and does not, in and of itself, signal greater liability for nurses working in the home healthcare specialty.



Home Care Closed Claims by Allegation

More than half (52.1 percent) of closed claims involving nurses working in home health, hospice and palliative care relate to treatment/care management. The underlying allegations – such as improper management of treatment, resulting in pressure injuries – involve failure to fulfill core nursing responsibilities, duties and expectations.



Clinical Actions to Help Mitigate Common Liability Exposures

Patient Selection

Support level-of-care decisions using selection screens designed to identify a patient's strengths, limitations, preferences and health status. (See page 7 for screening criteria.)

Match service and care plans to patient needs as determined by initial assessment. (See infographic on page 7.)

Incorporate counseling and family input into the selection process.

Proactively manage expectations of both patient and family.

Medication Administration

Know the rationale for medications, as well as potential interactions, adverse reactions and side effects.

Identify drugs that require serial lab testing (such as Warfarin), track results and report findings to providers.

Train staff to minimize potential distractions and interruptions when administering medications.

Assess the cognitive status of patients who self-administer medications in order to prevent potential errors.

Verify patient compliance in regard to taking medications.

High-acuity Patients

Adhere to evidence-based clinical pathways for medically complex patients.

Select caregivers who have experience with mechanical ventilation, tracheostomy tubes, central venous lines, complex wound care and other high risk tasks.

Promote interdisciplinary communication and a team approach that includes families and parents.

Continuously monitor patient acuity and take action if patient needs exceed agency capabilities.

Infusion Therapy

Include specialized nursing education and skills assessment in the infusion therapy program, as well as evidence-based care protocols and outcome monitoring.

Ensure that patient homes have sufficient storage and refrigeration space, as well as reliable power and telephone service.

Educate patients and caregivers on aseptic administration techniques, as well as on how to identify signs of an infection or adverse reaction, program electronic infusion pumps, change administration sets and care for a venous access device.

Assess patients' and family members' ability to safely administer infusions, and check proficiency via documented return demonstrations.

Falls

Utilize a fall assessment tool to identify extrinsic (environmental) and intrinsic (patient-based) risk factors.

Reinforce fall mitigation strategies, documenting measures implemented and discussions with patients and family members.

Adjust the fall mitigation care plan as needed to reflect changes in condition.

Document noncompliance with recommendations in the appropriate healthcare information record.

Report falls to a supervisor, treating provider and family, and document incidents in the patient healthcare information record.

Pressure Injuries (PIs)

Perform PI risk assessments using a standard tool.

Conduct whole body skin assessments upon admission (preferably with another staff member) and ongoing skin inspections to detect early signs of PIs.

Document assessment findings, as well as measures taken to minimize PI risk factors, communications with patient and family, and instances of noncompliance with recommended interventions.

Adhere to evidence-based PI guidelines for wound evaluation and treatment.

Communicate all PI findings to primary care providers and facility management, if applicable.

More than half (52.1 percent) of closed claims involving nurses working in home health, hospice and palliative care **relate to treatment/care management**.

Communication with patients. Open, ongoing communication with patients and family members represents the best means of preventing misunderstandings and defending against allegations of delayed treatment. All communications with patients and family regarding care should be documented. Instances of patient noncompliance also should be detailed in the record of care.

Communication with providers. Coordination of care can become a challenge when multiple agencies are working with a single patient, as is often the case. Sound collaboration requires consensual decision-making among providers, patients and family members, as well as deliberate, ongoing communication between agencies regarding care issues and changes in patient condition or care plan. (For recommendations on enhancing teamwork and interagency communication, see "Patient Screening, Assessment and Care Planning: Essential Steps Toward Positive Outcomes" on page 7.)

The Cures Act: Implications for Home Healthcare

The Cures Act (the "Act") includes the following home healthcare-related provisions:

- **Certification of services.** The Act directs Medicare to permit non-physician medical providers, such as nurse practitioners and physician assistants, to certify and oversee home healthcare cases.
- **Medicare and Medicaid fraud reduction.** The Act establishes new requirements for electronically verifying home healthcare and personal care services, in order to ensure that billed services have actually been delivered.
- **Healthcare information access.** The Act is intended to improve care coordination by encouraging the interoperability of electronic health records and expanding patient access to healthcare information.
- **Remote patient monitoring (RPM).** Changes to the Centers for Medicare & Medicaid Services rules permit home healthcare providers to enter RPM on Medicare cost report forms, encouraging greater use of "wearables" and other wireless technology designed to remotely collect health data.
- **Home infusion therapy.** The Act creates a new reimbursement model for various types of home infusion therapies, requiring home healthcare providers to train patients or caregivers to self-administer drugs, educate them on the goals and potential side effects of therapy, and visit them periodically to assess the infusion site.

For more information on the Cures Act, see the final rule, which is posted on the official website of the Office of the National Coordinator for Health Information Technology.

In addition to interagency communication requirements, open lines of communication must be maintained between caregivers and administrators *within* agencies and facilities. Organizational protocols should mandate timely communication between the following individuals and entities:

- **Home caregivers and medical providers** when changes in condition require new physician orders.
- **The home healthcare agency and the aging services facility** when the agency is maintaining a separate record of care, in order to ensure that the facility receives a copy of all patient encounter notes enabling coordination of care. Notably, as the facility is ultimately responsible for resident care, it is also accountable for patient-related documentation and communication.
- **The agency/facility and patients/families,** especially regarding changes in therapeutic orders, the occurrence of falls or other accidents, and noncompliant or disruptive behavior.

Management of expectations. During the admissions process, agencies and facilities should apprise patients and family members of the scope, frequency and duration of available services. By doing so, and by documenting these exchanges in the healthcare information record, home healthcare providers can avoid misunderstandings and better manage expectations. This protocol may help minimize exposure to allegations of inadequate care.

Prevention of sexual misconduct and elder abuse. Abuse is more likely to occur and fail to be detected when agencies or aging services facilities lack a formal abuse prevention program. Unstructured environments, such as patient homes, also can give rise to the occurrence of abuse. A successful prevention program includes ongoing staff training and a culture of safety, which empowers staff members to report perceived incidents of abuse without fear of reprisal. A formal policy statement on abuse should include the following elements, among others:

- **A pledge that incidents of suspected abuse will be reported** in a prompt, transparent manner.
- **Definitions and examples of elder abuse,** including boundary issues, verbal abuse, neglect, sexual misconduct and financial exploitation.
- **Protocols for staff to follow** when responding to suspicions or patient accusations of abuse, neglect or sexual misconduct.
- **Formats and time frames for reporting incidents** to protective service agencies, state licensing boards, local law enforcement and insurers.
- **A guarantee of confidentiality** and protection against retaliation for staff members who report incidents.
- **Required follow-up** with the primary complainant, as well as the drafting of a post-incident action plan.

Environmental Assessment

Comprehensive environmental safety assessments should be performed at the outset of care, so that agencies and facilities can detect deficiencies in need of correction. The following strategies can help identify environmental hazards and ensure that the home setting is properly equipped:

Visual inspection. The home or facility setting should be examined to confirm cleanliness and overall habitability. The documented inspection should focus on the following safety issues, among others:

- **Proper illumination** of bedrooms, kitchens, bathrooms and other living areas, as well as hallways, doorways, foyers, and front and rear steps.
- **Well-maintained walkways,** with sturdy handrails and nonslip treads or mats.
- **Adaptive features for wheelchair-bound patients,** such as raised seats and ramps.
- **Assistive devices in bathrooms,** including nonskid strips, shower chairs, grab bars and handheld showerheads.
- **Adjustable beds** designed to accommodate necessary changes in height.
- **Safe kitchen spaces,** including well-organized cupboards and assistive devices – such as an arm extension aide – to help secure hard-to-reach items.
- **Clear pathways for ambulation,** void of scatter rugs and clutter.

Hazards assessment. The home or facility also should be examined for fire risks and the following three major types of environmental hazards:

- **Biological,** including infectious diseases due to generally unhygienic conditions, lack of potable water, mold and mildew, pest infestations and animal waste, as well as extreme temperature variances and noncompliance with universal precautions and needle safety directives.
- **Chemical,** including burns, inhalation injuries and inadvertent poisoning due to careless handling of dangerous drugs, improper storage of cleaning and sterilizing agents, and lack of safeguards relating to oxygen therapy and canister filling and storage.
- **Physical,** including bone fractures, head trauma, muscle strain and other bodily injuries due to falls in cluttered living spaces with poor lighting.

Equipment check. Ensure that the patient home or aging services setting is equipped with accessible, well-maintained safety devices, and that staff, patients and family members are trained to correctly utilize Hoyer lifts and other durable medical equipment.

Patient interview. The purpose of the patient interview is threefold: to complement and reinforce the visual and hazards assessments, document perceptions of the home environment and educate the patient on significant findings. Prior to the interview, have patients complete a healthy home checklist to help identify areas in need of remedial action. Following the assessment, caregivers should discuss their observations and recommended preventive measures with patients, document the actions taken to reduce hazards and notify supervisors of any lingering concerns.

Safety and Security Considerations

To protect patients and minimize potential liability, home healthcare providers should implement a comprehensive risk control program encompassing the following areas of concern, among others:

Transportation-related risks. A formal vehicle safety program should be established, which includes sound driver selection criteria, adoption of prudent rules and policies, and ongoing driver training, among other elements. (For CNA Risk Control resources on fleet safety and how to mitigate exposures related to personal vehicle use by employees, click here and here.)

Violence and aggression. Violence prevention programs typically focus on training caregivers to recognize potentially violent situations and how to avoid their occurrence. Organizations also should establish a policy designed to flag the healthcare information records of patients prone to aggression and adjust staffing levels and/or security measures, as necessary, to ensure safety.

Caregiver protective measures. For their own safety, home healthcare providers need constant access to a charged, working cell phone and an escape plan in the event of danger. In addition, a reporting system should be implemented for violent incidents and related hazards, such as the discovery of unsecured weapons in the home or signs of drug/alcohol abuse or criminal activities.

Emergency communications. Formal reporting protocols should be created and implemented, delineating when caregivers should call 911, contact the patient's physician and family, and/or notify management of a security threat or concern. Also, staff members should be instructed to communicate their schedules to employers prior to patient visits and to be especially vigilant in high crime areas.

Injury prevention. Annual staff training sessions should address such topics as basic ergonomics, safe patient-handling techniques, and appropriate use of assistive devices to lift and transfer patients. Other important safety measures include a formal patient transfer assessment process, inclusion of detailed handling requirements in patient care plans, and staff instructions on how to clarify ambiguous assignments and decline tasks for which they lack training or competence.

Adverse incident response. An incident report should be filed with the agency and/or facility whenever an unexpected event occurs, including an injury or near-miss involving a patient, family member or caregiver. Reporting protocols should specify the information to be included and emphasize that incident reports should not be filed in the patient healthcare information record. Rather, they should be retained by the facility risk manager or agency administrator, where they can be tracked and trended on an ongoing basis as part of the risk management and quality improvement process.

Maintenance of professional boundaries. Home healthcare agencies and facilities should implement a comprehensive hiring and orientation process designed to ensure that employees are trustworthy, aware of ethical norms and committed to maintaining healthy boundaries. Behavioral expectations, privacy and confidentiality policies and reporting procedures should be explained to staff members upon hiring. Newly hired staff should be asked to sign statements acknowledging that they accept established rules and understand that certain actions – including accepting tips or costly gifts from patients, or forming inappropriate relationships with them – are potential grounds for termination.

The recent enactment of the 21st Century Cures Act signals a shift in the legal and regulatory context of the home healthcare industry. In light of these changes, administrators should examine their vulnerabilities and corresponding risk management strategies. By establishing comprehensive practice guidelines, implementing a sound patient and home environment assessment process, and training caregivers in safety and security awareness, home healthcare agencies and other providers of personal care services may significantly minimize the likelihood of patient injury and consequent claims.

Physical Therapy Exposures in the Home Setting

According to the CNA and Healthcare Providers Service Organization (HPSO) *Physical Therapy Professional Liability Exposure Claim Report: 4th Edition*, of the physical therapy (PT) closed claims with a paid indemnity of $10,000 or more, 5.1 percent occurred in the patient's home, with an average total incurred (i.e., paid indemnity plus associated expenses) of $128,558.

For *all healthcare service locations* in the 2020 PT claim dataset, including the home setting, falls comprise 30.6 percent of combined claims. The majority of falls were due to the failure of the therapist – who often had an established relationship with the patient – to monitor the patient during therapy and to provide more than minimal assistance. Fractures, exacerbation of injury or symptoms, and burns are the three most common patient injuries, representing more than 60 percent of the total.

Clearly, these PT-related incidents and injuries constitute significant risks in patients' homes, as well as in other settings. The following actions, among others, can help protect patients treated at home from harm, while minimizing liability exposure for physical therapists and healthcare organizations:

Falls

- **Closely observe patients as they utilize exercise equipment,** especially when mounting and dismounting, and also monitor patients when they are ambulating independently.
- **Design individualized fall mitigation plans,** incorporating such measures as use of enabling devices and elimination of environmental hazards in the home.
- **Include balance training in the care plan,** as well as strength-building exercises.
- **Educate patients** about the clinical risk factors associated with falls in the home.
- **Maintain PT-related equipment in safe operating condition,** and schedule routine documented inspections.

Exacerbation of Injuries

- **Do not push patients too hard,** ceasing treatment at the first sign of excessive or unexpected pain.
- **Exercise caution when using resistance bands,** which can break and cause bodily injury.
- **Supervise and monitor patients post-therapy** to help ensure that worsening injuries are detected and treated.

Burns

- **Before applying a hot or cold pack, assess the patient's skin integrity** and sensitivity to pain or discomfort.
- **Properly monitor patients with documented neurological deficits when using heating elements** or applying a biophysical agent, such as during electrotherapy or iontophoresis.

(For more risk management recommendations, see HPSO *Physical Therapy Case Study: TENS Unit Burn* and *Physical Therapy Spotlight: Falls*.)

Patient Screening, Assessment and Care Planning: Essential Steps Toward Positive Outcomes

1. Screen
Identify essential needs.

Determine the following:

- **Basic medical and nonmedical needs,** including skilled nursing care and assistance with the activities of daily living.
- **Medical and cognitive status,** including presence of dementia/Alzheimer's disease, recent surgeries and hospitalizations, presence of indwelling devices, existence and level of pain, and standing physician orders.
- **Fall risk and history,** including near falls and falls that did not result in injury.
- **Physical limitations,** including bowel and bladder incontinence, mobility issues, assistive devices used, and deficits in hearing, vision or speech.
- **Medications,** including current drug regimen, self-administration abilities and limitations, and monitoring requirements.
- **Skin integrity,** including presence of wounds or other skin-related issues, as well as wound care needs.
- **Nutritional requirements,** including special diets, feeding abilities, presence of feeding tubes and meal planning directives.

2. Ask
Verify home care suitability.

- **Have there been more falls than usual** in recent months?
- **Is there extensive skin breakdown** or other skin issues?
- **Is there pronounced weakness** in the extremities?
- **Have there been recent changes in behavior or demeanor,** indicating a need for more intensive supervision?
- **Is the patient refusing to take prescribed medications** or follow indicated therapies?
- **Have these and any other concerns been documented on the screening report** and communicated to the ordering provider/facility?

3. Visit
Focus on readiness.

- **Conduct a face-to-face home visit,** confirming medical and nonmedical needs.
- **Evaluate the patient's linguistic and cognitive skills,** including the ability to comprehend information and instructions.
- **Include translators in the conversation, when necessary,** and document their presence on the assessment record.
- **Assess home safety plans,** including fire prevention and response, as well as fall risk detection and action plans.
- **Identify and document any modifications made** to the safety plan and home environment.
- **Document the presence of other occupants in the home** and note whether they are care providers.

4. Assess
Confirm needs.

- **Compile and document all assessment information,** including home visit findings.
- **Document home environment limitations** and any concerns related to patient safety and wellness.
- **Obtain patient/family input** to round out the interdisciplinary care plan.
- **Note the name of the individual in charge of the assessment process,** as well as others involved in compiling information.

5. Collaborate
Ensure input.

- **Create a multidisciplinary team** to establish a communication plan, coordinate care/services, share assessment information, harmonize service plans and facilitate continuity of care. Include patient and family, as appropriate.
- **Designate a single point of contact** with family, the facility and other agencies.

6. Plan
Delineate treatment goals.

Document, sign and date the following information:

- **Diagnoses and medical status,** as well as goals and objectives developed in collaboration with the patient and family.
- **Services to be provided** and intended interventions.
- **Safety measures implemented** to protect against injury.
- **Patient monitoring guidelines,** including start-of-care date and frequency of visits.
- **Educational efforts** delivered to patients and family members, including return proficiency demonstrations.
- **Name and contact information** for person(s) designated by the patient to assist with healthcare decision-making.
- **Conduct routine meetings** to review assessments, treatment plans and care plans.

...Positive Outcomes (continued)

7. Communicate
Share knowledge.

- **Establish a process for notifying patient/family of revised staff assignments** and other changes.
- **Maintain a contact list of patient friends and relatives,** as well as key individuals at each agency.
- **Coordinate communication during patient transitions** between settings and care providers.
- **Share any changes made to service plans** with all caregivers, as well as patients and family.

8. Reassess
Adjust goals.

- **Ensure that reassessments are properly signed and dated** by an approved provider.
- **Verify that billed charges reflect actual interventions performed,** in accordance with payer requirements.
- **Keep patient and family informed about changes in care** and progress in meeting goals.

9. Review
Consider acuity changes.

- **Have there been recent hospitalizations** for chronic medical conditions, falls, pressure injuries or mental deficits?
- **Has there been a change in the patient's medical condition** or a new diagnosis?
- **Have there been family discussions** regarding such issues and the need for transfer to another setting, or for palliative or end-of-life care?

Quick Links to relevant issues of CNA *Home Care Briefing*®:

- 2019-Issue 1: "Home Care Documentation: A Checklist of Essentials"
- 2018-Issue 4: "Fire Safety: Strategies to Protect Clients and Reduce Exposure"
- 2018-Issue 3: "Client Noncompliance: A Checklist to Help Strengthen Communication and Documentation"
- 2018-Issue 2: "Home Healthcare Hazards: Reducing Exposure to Common Health and Safety Threats"
- 2018-Issue 1: "Client Selection: Comprehensive Screening and Assessment Can Help Optimize Home Care, Limit Risk"

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