

INVESTIGATIONS INTO SERIOUS INCIDENTS – PART I

NARPA

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INVESTIGATIONS INTO SERIOUS INCIDENTS

- EVERYTHING CAN BE CONSIDERED AN INVESTIGATION
- Variance
 - Type of evidence collected and analyzed
 - Entity responsible for the primary investigation
 - Regulations governing the program/setting



PRIMARY VS SECONDARY

What's the difference?

Primary:

- Performed by entity with statutory authority
- 1st on site
- Primary role in collecting & preserving evidence



PRIMARY VS SECONDARY INVESTIGATIONS

Stakeholders are generally interested in:

- Allegations involving rights
- Abuse/neglect including restraint/seclusion
- Deaths



SECONDARY INVESTIGATIONS

Typically is a review of a primary investigation

- Focus on quality of investigation
- Compliance with regulations/standards
- Compliance with training



SECONDARY INVESTIGATIONS

- Check thoroughness of the investigation
- Check analysis of evidence
 - (pictures, diagrams, statements)
- Agree with determination rendered?



WHY PERFORM SECONDARY INVESTIGATIONS?

QUALITY ASSURANCE

- Identification of trends & patterns
- Identification of compliance issues
- Identification of policy/training issues



TOOLS TO EVALUATE PRIMARY INVESTIGATIONS

KNOW THE:

LAWS & REGULATIONS

- Governing rights, medication, restraint & abuse investigations of the setting or service.

COP for hospitals: Restraint =

any manual method, physical or mechanical device, material or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body or head freely;

or a drug or medication when it is used as a restriction to manage the patient's behavior or restrict the person's freedom of movement and is not a standard treatment or dosage for the patient's condition.

TRAINING

- familiarity with the investigatory training
- familiarity with the de-escalation and physical techniques used by the entity

INITIATION

- Operationalize what is meant by **initiation of the investigation**
- Is it at the time of the report?
- Is it when evidence is collected?



SECURING THE SCENE

- When initiated?
- By whom?
- Injuries addressed? (emotional/physical)
- Relocation of alleged perpetrator?



WITNESSES

How identified?

- Use of building plan or diagram of the scene?
- Are only caregivers interviewed?



WITNESS STATEMENTS

The devil is in the details!!!!



There is a difference between taking a statement and conducting an interview!!!

DISPOSITION

- Was a disposition reached?

Possible dispositions:

Confirmed

Unconfirmed

Inconclusive

Unfounded

- Inconclusive does not mean it didn't happen!



VIOLATIONS MOST LIKELY INVOLVE COMPLIANCE ISSUES

- Did the behavior meet the definition of behavioral emergency???
- Imminent harm to self or others
and
- Restraint or seclusion authorized as last resort
(less restrictive measures were ineffective)



TYPICAL COMPLIANCE ISSUES

- Use of restraint or seclusion -least restrictive alternative.
Cannot be used for discipline, retaliation or punishment!
- Orders specify behaviors that were of risk of harm
Could others back away and be safe?
- Seclusion- Is it ever justified?
Certainly can never be justified for self injury!!!!



POTENTIAL COMPLIANCE ISSUES

- Care - safety, bathroom and water
(generally seclusion or mechanical restraint)
- Release criteria
as soon as the threat is removed
unconscious or asleep
- Debriefing - Did it occur? With whom?



TECHNIQUES TO AVOID USE OF RESTRAINT

CAREGIVERS - how are they communicating?

Its not what you say, its how you say it.

Lets eat grandma

vs Let's eat, grandma

Woman without her man is nothing!

Woman, without her, man is nothing!

TECHNIQUES TO AVOIDING USE OF RESTRAINT

ROLE MODEL APPROPRIATE BEHAVIORS

ELEMENTS: body language, space, tone of voice

DO NOT INCITE

BACK OFF AND SHUT UP!

ALTERNATIVES TO R/S

- DEVELOP A CULTURE OF SAFETY & TRUST
- PROVIDE TRAUMA INFORMED SERVICES
- SUPPORT THE DEVELOPMENT & USE OF A

DE-ESCALATION PREFERENCE TOOL

www.mass.gov/eohhs/docs/dmh/rsi/safety-tool-for-kids

USE OF RESOURCES

- Limited resources require a screening of cases and determination when issues are identified, how should they be addressed?
- Prioritize how to handle issues that fail to rise to the level of litigation.

RESOLUTIONS

- You will find compliance issues in many cases.
Is the issue sufficient for litigation?
- Identifying patterns in practice issues
have resulted in changes in policies and
development of best practices.



CORRECTIVE ACTION

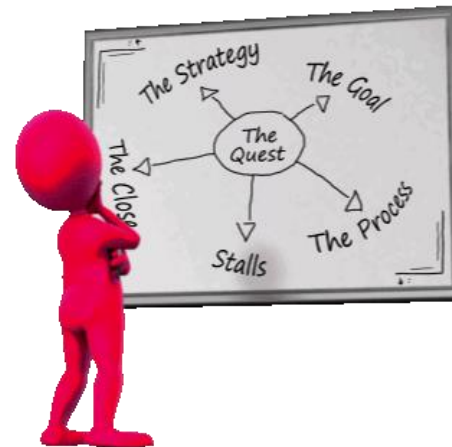
NOT EVERY ISSUE WILL RESULT IN LITIGATION

- Disciplinary action
- Restitution
- Training
- Policy changes
- Programmatic changes
- Referral to law enforcement, licensure entities
- Media attention



THERAPEUTIC MILIEU

- Does this comply with the “therapeutic milieu” that the Joint Commission recommends?
- Is it possible to re-establish trust?



INVESTIGATIONS INTO SERIOUS INCIDENTS

- THANK YOU FOR YOUR PARTICIPATION
- PLEASE RETURN FOR PART II OF THIS PRESENTATION
- THE CONCEPTS TAUGHT IN PART I OF THIS PRESENTATION WILL BE APPLIED TO AN ACTUAL CASE.