

HOME CARE BRIEFING®

HC B 2018 ISSUE 3

Client Noncompliance: A Checklist to Help Strengthen Communication and Documentation

Client noncompliance may be evidenced in a variety of forms. It often presents as an obstinate unwillingness to adhere to a course of therapy, such as refusing to follow a prescribed diabetic diet, rejecting proper dressing change methods and/or schedules, or continuing to smoke while receiving oxygen therapy, among other potentially harmful actions. If left unaddressed, noncompliance can compromise care, weaken the home healthcare provider-client relationship and create serious liability exposure.

Clear communication and comprehensive and factual documentation are critical to minimizing noncompliance, as well as limiting the impact of recalcitrant client behavior. When impasses arise regarding care needs, providers must know how to communicate with clients in a respectful manner, while balancing their responsibility to provide prescribed care against values, preferences and rights of the clients. The following checklist is offered to help improve provider-client communications, enhance client understanding of and adherence to treatment plans, and strengthen client rapport in the event of persistent noncompliance.

Did someone forward this newsletter to you? If you would like to receive future issues of *Home Care Briefing*® by email, please register for a complimentary subscription at go.cna.com/HCsubscribe.

If left unaddressed, noncompliance can compromise care, weaken the home healthcare provider-client relationship and create serious liability exposure.

RISK CONTROL MEASURES	STATUS: YES/NO	COMMENTS
ENCOURAGING COOPERATION		
1. Are initial screenings conducted to determine underlying factors that may affect client compliance with care instructions, including an inability to purchase ordered medications, unwillingness to adhere to prescribed therapies, and concerns about possible side effects associated with medical and pharmaceutical interventions?		
2. Are barriers to communication assessed and documented in the client care information record, including low health literacy, cognitive impairment, hearing deficits and limited English?		
3. Do client care information records identify the individuals whom clients rely upon to meet their general healthcare needs, such as a significant other, relatives or friends?		

RISK CONTROL MEASURES	STATUS: YES/NO	COMMENTS
EARLY COMMUNICATION		
1. Does each care encounter initiate with a clear description of what the client's responsibilities are in meeting their daily needs? For example, "I am here to help you ambulate to and from the bathroom, but I rely upon you to tell me when you need to do so."		
2. Do home healthcare providers (hereafter "providers") explain to clients what they are going to do prior to taking action? For example, "To avoid pressure-related injuries to your skin, I'm going to pull down the bed covers and reposition you in the bed."		
3. Are providers taught to ask questions in a constructive, problem-solving manner? For example, "I see that you are not taking your evening medications. Is this because you forget to take them or your supplies are limited?"		
4. Are providers aware of the protocol to request additional resources, if barriers to obtaining prescribed medications, therapies or supplies are identified?		
5. Do providers contact primary medical providers for clarification, in the event prescribed medications, treatments or therapies are confusing?		
ESTABLISHING BOUNDARIES		
1. Are providers trained to effectively communicate with hostile, manipulative or otherwise difficult clients, utilizing live workshops and role playing scenarios?		
2. Are written protocols established and implemented for managing difficult clients and families, including documentation requirements for the following issues:		
<ul style="list-style-type: none"> ▪ Unacceptable behavior, such as yelling or cursing at providers? 		
<ul style="list-style-type: none"> ▪ Refusal of care? 		
<ul style="list-style-type: none"> ▪ Neglecting to take medications or perform prescribed therapies? 		
3. Are open-ended questions used to evaluate client resistance to care? For example, "How do you think your life would be different if your glucose levels were controlled?"		
4. Are proficiency levels in communicating with difficult and noncompliant clients objectively documented in providers' personnel files, and are measures taken to address deficiencies?		

RISK CONTROL MEASURES	STATUS: YES/NO	COMMENTS
REFUSAL OF CARE		
1. Are providers oriented to the right of the client to refuse care, as well as requirements for documenting refusal of care discussions, including possible consequences of client actions?		
2. Are clients and their primary caregiver(s) educated about the importance of adhering to the treatment plan at the outset of care, and is additional reinforcement education documented when provided?		
3. Do providers document every episode of noncompliance or refusal of care by both clients and/or their primary caregiver(s), regardless of the level of risk associated with the noncompliant behavior?		
4. Do providers counsel clients and/or their primary caregiver(s) when episodes of noncompliance occur, reiterating the potentially harmful physical effects of recalcitrant and obstructive behaviors?		
5. Are providers trained to document client noncompliance in a descriptive manner? For example, <i>"Bed bound client found in a diaper soiled with urine and feces. Client reports that diaper was last changed by personal care provider on previous day. Family member states lack of time to change the diaper."</i>		
6. Are clients asked to sign a "Refusal of Care" form, acknowledging that they have discussed the proposed course of care with their provider and understand that continued refusal to consent can have serious or even life-threatening consequences?		
CLIENT DISCHARGE		
1. Does a written protocol address the decision to unilaterally end a client relationship for cause, and is it compliant with all applicable federal, state and local rules and regulations, including the Medicare Conditions of Participation for Home Health Agencies ?*		
2. Do providers attempt to resolve problems presented by client behaviors or household situations, and do they document their efforts in the client care record?		
3. Is written notice provided to the client, primary caregiver(s), home health physician and primary care practitioner when a discharge for cause is under consideration, after communicating the reasons via a face-to-face discussion with the client?		
4. Do providers ensure that a client's health status is not compromised by the decision to discharge, continuing treatment until the client is medically stable, if necessary?		

RISK CONTROL MEASURES	STATUS: YES/NO	COMMENTS
CLIENT DISCHARGE (CONTINUED)		
5. Are clients and primary caregiver(s) provided reasonable notice of the date of discharge, in order to prevent allegations of abandonment, and satisfy ethical and professional obligations of the provider?		
6. Does the client care information record reflect the decision to discharge, including any relevant discussions and actions taken to communicate the reasons for the decision?		
7. Do providers supply clients with contact information for other home care agencies that may be able to care for them following discharge?		
8. Is a copy of the client care information record sent to a subsequent treating agency after the client has executed a form authorizing release of information?		

* The Conditions permit discharge when a client refuses care or if abusive and/or uncooperative behaviors impede the delivery of care or prevent the home health agency from operating effectively and safely.

Early identification of the signs of noncompliance is essential to reducing risk. Agencies can help minimize liability exposure by ensuring that providers communicate expectations clearly, document impasses as soon as they occur and intervene in a swift manner to limit the consequences of adverse behaviors. If it becomes necessary to discharge a client for noncompliance or refusal of care, the proactive measures listed within the checklist can help prevent disruption of care and avert potential legal action in the home healthcare setting.



If you have any questions about Professional Liability Insurance, please call Lockton Affinity at 800-723-9624 or visit LocktonHomeCare.com.

Published by CNA. For additional information, please contact CNA at 1-866-262-0540. The information, examples and suggestions presented in this material have been developed from sources believed to be reliable, but they should not be construed as legal or other professional advice. CNA accepts no responsibility for the accuracy or completeness of this material and recommends the consultation with competent legal counsel and/or other professional advisors before applying this material in any particular factual situation. Please note that Internet links cited herein are active as of the date of publication, but may be subject to change or discontinuation. This material is for illustrative purposes and is not intended to constitute a contract. Please remember that only the relevant insurance policy can provide the actual terms, coverages, amounts, conditions and exclusions for an insured. All products and services may not be available in all states and may be subject to change without notice. "CNA" is a service mark registered by CNA Financial Corporation with the United States Patent and Trademark Office. Certain CNA Financial Corporation subsidiaries use the "CNA" service mark in connection with insurance underwriting and claims activities. Copyright © 2018 CNA. All rights reserved. Published 9/18. CNA HCB18-3.