

*The Deposition of
Dr. J. Lett:
Medical Director,
Carmichael, Calif.*

Florida Medical Directors
Association

Saturday, October 19, 2002

The Case – J.G.

- 76-yo s/p CVA with immobility, PEG tube, & lethargic. Admitted with stage III P/S
- Ultimately re-admitted to hospital for pneumonia and sent to another SNF
- A stage IV found in hospital and attributed to my facility followed by a lawsuit against the SNF – not PCP or M/D
- I had seen JG twice on “Skin rounds”

The Deposition

- Duration: Two hours
- Attendees: Plaintiff atty, SNF atty, Regional VP for the NF chain, Dr. J. Lett
- Location: Conference room at the SNF atty office

The Lessons Learned

1. Ensure the presence of coverage for administrative acts
 - Specifically noted in the contract
 - Copy of the letter of coverage
2. Have a working knowledge of the NF policies & procedures
 - Read the ones important to you
 - Scan the rest: Seek the impossible & the ridiculous

Lessons Learned (cont.)

3. Do not get caught up in opinions of disciplines and protocols outside your scope of expertise
 - Assurance of clinical integrity is M/D role
4. Always remember who is getting sued...and that you can get others entangled, including yourself

Lessons Learned (cont.)

5. Be informed of complaints and take them seriously
 - Often fact-finding for attorneys
 - Suits arise from anger, not poor care
 - May avoid litigation
6. Know the results of your survey
7. Know the facility monthly & quarterly QI's

Lessons Learned (cont.)

8. Have protocols for your NF activities
 - Type & timing of the activity
 - Helpful for the facility as well
9. Script the M/D activity to attain consistency
 - How do you decide who to see?
 - Do you make notes in the chart?
 - Do you write orders in the chart?

Lessons Learned (cont.)

9. (Continued)

- How are recommendations given to the attending physician?
- What if the attending physician refuses/ disagrees with the recommendation?
- Do you have proof that you made rounds?

Lessons Learned (cont.)

10. Monitor access to the facility
 - “Private” vs. “Public” areas
 - Sign-in sheets
11. Stage P/S appropriately

The Authorities Are Here—Now What?

- What can the medical director do to prepare?:
 - Raise the issue
 - Be notified of unusual events
 - Public vs. private areas of the NF
 - Medical director contract issues

The Authorities Are Here - 2

- What can the medical director do to prepare (cont.):
 - Create protocols
 - Who to notify (be sure *you* are one!)?
 - What to initially say?
 - When to notify an attorney?
 - Get the knowledge to the right people!

*Agencies Authorized
to Investigate
Nursing Facilities*

Coming Soon to a Facility Near You

Federal Agencies

- U.S. Attorney General Office
- Office of the Inspector General (OIG)
 - Most govt agencies have one
 - We deal with the OIG of CMS, an agency of HHS
 - Created as *agency* watchdogs
 - Only Medicare-approved NF authority

State Agencies

- Surveyors
- State Attorney General Office
 - Operation Guardian
- Licensing boards for health care professionals

Local Agencies

- City police
- County sheriff
- State police

Public/Private Entities

- Local private attorney
- Patient advocate
- Ombudsman