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legal alert



Surveyors to Immediately Begin Reviewing Nursing Homes' Social Media Policies

Recently news agencies have publicized reports of nursing home staff using smart phones and other electronic devices to record residents in demeaning or humiliating situations, and posting those recordings on social media platforms such as Facebook, Snapchat or Instagram. In response, the Centers for Medicare and Medicaid Services (CMS) issued a Memorandum to State Survey Agency Directors requiring immediate action.

On August 5, 2016, CMS advised Surveyors to immediately begin requesting and reviewing nursing home policies and procedures prohibiting staff from taking or using photographs or recordings of any type that would demean or humiliate a resident.

In order to be in compliance, a nursing home must do the following:

1. Include in its written policies and procedures a prohibition of nursing home staff taking or using photographs or recordings of any type that would demean or humiliate a resident;
2. Provide training on the prohibition of staff using any type of equipment to take, keep or distribute photographs and recordings of residents that are demeaning or humiliating, including educating staff on reporting responsibilities; and
3. Ensure that these policies and procedures are implemented as written by providing ongoing oversight and supervision of the nursing home staff.

Nursing homes should immediately review and revise their policies and procedures to comply with the attached CMS Memorandum.

If you have questions concerning this Legal Alert, please contact your Underberg & Kessler attorney.