

Partnering with outside

Service Providers

As an Assisted Living provider, you may find yourself working with a range of outside providers that offer services to residents, including home health agencies, hospices, home care companies, and private duty caregivers or companions.

by Joel Goldman



The partnerships between Assisted Living staff members and these outside service providers can be beneficial to residents and help maintain a high quality of care within a community. However, it is important that policies are in place to ensure a positive working environment for all caregivers and the safety and care of each resident.

Q What Services Can An Outside Provider Provide To A Resident?

The Department of Social Services takes the position that an RCFE licensee is responsible for providing all basic services to residents. It is the position of DSS that outside providers can augment the care provided by the RCFE itself, but that outside providers may not substitute for the RCFE when it comes to basic services. For instance, DSS has no problem with an RCFE resident receiving insulin injections from a home health nurse, because this service is not a “basic” service that RCFEs are required to provide. Similarly, DSS approves of a private duty aide providing companionship to a resident or taking a resident out shopping. DSS objects, however, to a resident receiving assistance with feeding from a private caregiver.

The Evaluator Manual notes that if a resident requires two showers a week as part of the resident’s care plan, those showers must be given by an RCFE employee, not a private aide. However, the Manual adds that if the resident wishes to have additional showers, the private aide can assist.

It is clear that DSS will hold an RCFE responsible for all the basic services that a resident receives. Thus, if you allow a private caregiver to offer basic services to a resident, you will need to exercise the same degree of control and supervision as you would over an employee. For this reason, many RCFEs specifically prohibit residents from employing outside caregivers to perform functions that the RCFE itself offers. RCFEs are not required to allow outsiders to come in and compete with the RCFE for services it offers, and you may wish to implement a policy that specifically states that outside caregivers may not provide competing services.

Q Is An RCFE Responsible for the Acts or Omissions of Outside Providers?

As noted above, DSS will hold the licensee responsible for providing *basic services* to a resident. If a private attendant takes a resident out

of the RCFE—to a movie, for instance—and the resident wanders away, the RCFE should not be held responsible for that private attendant’s actions (or inactions). However, if the RCFE knows or has reason to know that a private attendant is acting in a manner inconsistent with the resident’s best interests, the RCFE may be held responsible for any harm that befalls the resident. Providers cannot simply turn a blind eye.

Similar considerations pertain to home health care providers. An RCFE will not be held responsible if, for example, a home health nurse makes a mistake by giving an injection improperly. However, an RCFE cannot subsequently ignore the symptoms that result from the bungled injection. The most common problem that arises with home health care pertains to treatment of decubitus ulcers. If a wound progresses to a Stage III, DSS will hold the RCFE responsible for improperly retaining the resident, even if home health fails to notify the RCFE that the wound has progressed. It is therefore imperative for all RCFE providers to maintain constant communication with home health and to document that communication.

Q Do I have to fingerprint private duty personnel?

The RCFE law provides an exception from criminal background checks for third party contractors who contract directly with residents and who do not have contact with residents other than the resident or residents with whom they are contracting. Notwithstanding this exception, as noted above, if a private duty person is assisting the resident with activities of daily living, they must undergo a background check unless they are a Certified Nursing Assistant or a Certified Home Health Aide. Thus, an RCFE does not have to undertake a background check on a private duty aide who does not render personal care services.

However, the RCFE law specifically states that nothing in the law prevents a licensee from requiring a criminal record clearance of any individual who has client contact and is otherwise exempt. As a matter of good practice, many RCFEs require all private duty attendants to undergo criminal clearance whether required by law or not. After all, you have an interest in keeping persons who may present a risk to your residents out of your community. Note that licensed nurses, employees of a licensed home health agency and other members of licensed hospice interdisciplinary teams who have a contract with a client of the facility and who are not employees of an RCFE are also exempt from criminal background check requirements. This exemption does not apply to home care agency, but only licensed home health or hospice agencies.

Q Can a private duty aide administer morphine to a hospice resident?

DSS recently began allowing families and friends of hospice residents to administer medications, including morphine, when certain conditions are met. However, the DSS policy is strictly limited to those who are doing so because of their relationship with the resident, and not for compensation. Therefore, only an outside caregiver who is a licensed nurse can administer medications.

Q Can I ban a private duty attendant from my community?

Yes, you can. And in some cases, you may have an obligation to do so. It is important, however, for you to have a policy in place with your residents and your outside service providers that allows you to do so. Otherwise, if there is an instance in which an outside caregiver has acted inappropriately in an RCFE, legal action may have to be taken to assert the RCFE's right to exclude the problem caregiver.

We believe that it is important to have a comprehensive policy pertaining to outside caregivers so that your residents and the persons they hire have a clear understanding of your community's rules and regulations. Having an effective policy in place can help to diffuse any disputes that may arise and encourage positive working relationships. ■

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