



DQA Perspective on Assisted Living Complaints

FOCUS 2013

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Agenda

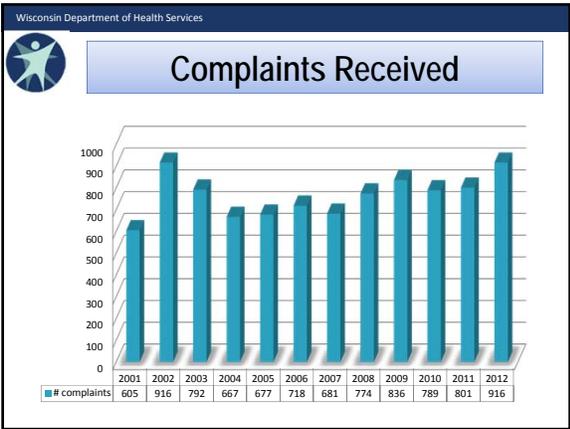
- 2012 Complaint Data
- BAL Complaint procedure
- Top 3 Complaints
- Top 3 Complaint Sources
- Complaint Case Studies
- Disgruntled employee and unhappy/difficult team member complaints
- DQA Suggestions to minimize facility complaints

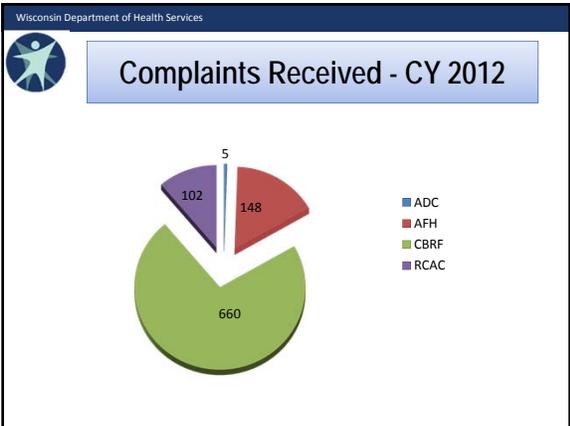


What is a Complaint/Allegation?

- **Complaint** is a formal report that alleges noncompliance with State licensing regulations.
- **Allegation** is an assertion of improper care or treatment that could result in the citation of a deficiency.









BAL Complaint Procedure



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Procedure

1. Intake
2. Review and Assessment
3. Scheduling
4. Investigation
5. Processing

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Intake Procedure

1. Complaints accepted by any DQA staff.
2. Complaint and complainant information recorded on intake form.
3. Complaint forwarded to the supervisor, complaint coordinator, or management staff.



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Review and Scheduling

1. Review complaint.
2. Schedule investigation.
3. Assign complaint to surveyor.



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Investigation



1. Conduct unannounced complaint investigation.
2. Gather information.
3. Complete a complaint investigation summary report and a Statement of Deficiency (SOD), if applicable.

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Outcome

1. Substantiated Complaint
2. Unsubstantiated Complaint



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Processing

1. Surveyor forwards results to supervisor
2. Supervisor review and possible enforcement referral
3. Processing and data entry
4. Acknowledgement letter sent
5. Letter of finding to the complainant



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Ranking - Subject Areas Complaint Investigations

| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|------------------|------|------|------|------|------|------|------|
| Administration | 2 | 2 | 2 | 1 | 1 | 2 | 2 |
| Medications | 3 | 3 | 1 | 3 | 3 | 3 | 3 |
| Resident Rights | 1 | 1 | 3 | 2 | 2 | 1 | 1 |
| Program Services | 4 | 4 | 4 | 4 | 4 | 5 | 4 |
| Nutrition & Food | 6 | 8 | 6 | 6 | 8 | 4 | 6 |
| Staff Adequacy | 7 | 7 | 5 | 8 | 6 | 7 | 5 |
| Supervision | 11 | 6 | 8 | 5 | 5 | 8 | 7 |
| Staff Training | 12 | 11 | 9 | 7 | 7 | 6 | 8 |



Ranking - Subject Areas Complaint Investigations

| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|----------------------------------|------|------|------|------|------|------|------|
| Abuse | 9 | 5 | 7 | 9 | 11 | 12 | 12 |
| Homelike Environment | 10 | 9 | 10 | 10 | 10 | 10 | 9 |
| Physical Plant & Hazards | 8 | 12 | 13 | 11 | 12 | 11 | 10 |
| Res. Behavior/ Facility Practice | 5 | 10 | 11 | 13 | 13 | 13 | 11 |
| Quality of Life | 13 | 13 | 12 | 12 | 9 | 9 | 13 |
| Admission/ Discharge | 14 | 14 | 14 | 14 | 14 | 14 | 14 |
| License Capacity or Class | 15 | 16 | 15 | 15 | 15 | 15 | 15 |
| Restraints | 16 | 15 | 16 | 16 | 16 | 16 | 16 |



Top 3 Subject Areas for Complaint Investigations

- #1 - Resident Rights
- #2 - Administration
- #3- Medications





CBRF- Resident Rights

DHS 83.32. The licensee shall protect the civil rights of the Resident as these rights are defined in the U.S. Constitution, the Wisconsin Constitution, the Civil rights Act of 1964, Title 8 of the Civil Rights Act of 1968, Section 504 of the Rehabilitation act of 1973, The Fair Housing Act Amendments Act of 1988, the American Disabilities Act of 1990, and all other applicable federal and state statutes.



Resident Rights: Chapter 50 - Uniform Licensure

50.09 - Every resident in a nursing home or community-based residential facility shall, except as provided in sub. (5),





AFH Rights 88.10(3)

88.10(3) Rights of residents.

Individuals, except for correctional residents, have basic rights which they do not lose when they enter an adult family home.





RCAC - Resident Rights Chapter 89.34

Rights of tenants. A tenant of a residential care apartment complex shall have all the rights listed in this section. These rights in no way limit or restrict any other rights of the individual under the U.S. Constitution, civil rights legislation or any other applicable statute, rule or regulation.



Administration CBRF

DHS 83.15(3)(a)

The administrator shall supervise the daily operation of the CBRF.





AFH Administration

DHS 88.03 Licensing administration.

DHS 88.03(1)(1) Requirement. No person may operate an adult family home unless a licensing agency determines that the home is in compliance with all requirements of s. **50.033**, Stats., and this chapter, and issues a license to that person.

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RCAC – Service Manager

Administration citations are coded as 89.23(4)(b).

Service Manager - 4th Overall Highest RCAC Cite 2012

Each residential care apartment complex shall have a designated service manager who shall be responsible for day-to-day operations.



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CBRF Medications

“Medication administration” means the direct injection, ingestion or other application of a prescription or over-the-counter drug or device to a resident by a practitioner, the practitioner’s authorized agent, CBRF employees or the resident, at the direction of the practitioner. Medication administration does not include reminders to take medication.



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Medications - AFH Prescription Medications 88.07(3)(a-e)

(rights) To receive all prescribed medications in the dosage and at the intervals prescribed by the resident's physician, and to refuse medication unless there has been a court order under s. 51.61 (1) (g), Stats., with a court finding of incompetency.



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RCAC - Medications Medications Cited as Tenant Rights 89.34(16)

89.34(16) *Medications.* Except as provided for in the service agreement or risk agreement, to have the facility not interfere with the tenant's ability to manage his or her own medications or, when the facility is managing the medications, to receive all prescribed medications in the dosage and at the intervals prescribed by the tenant's physician and to refuse a medication unless there is a court order.



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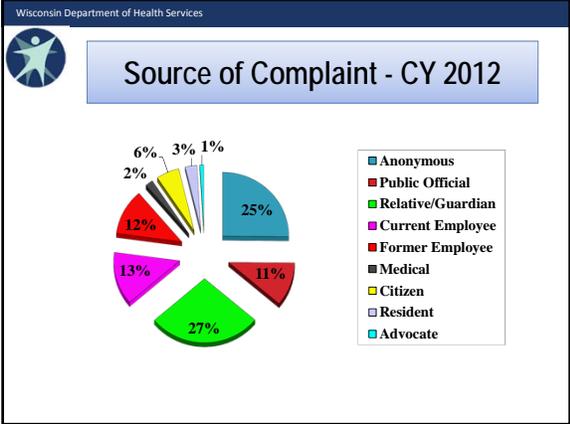
RCAC - Medications (cont.)

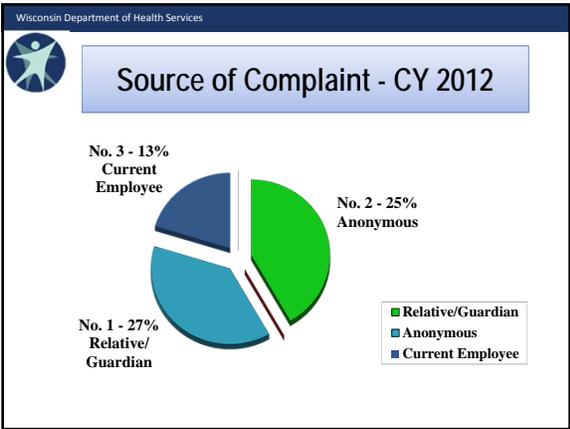
... and as Provider Qualifications 89.23(4)(a)2:

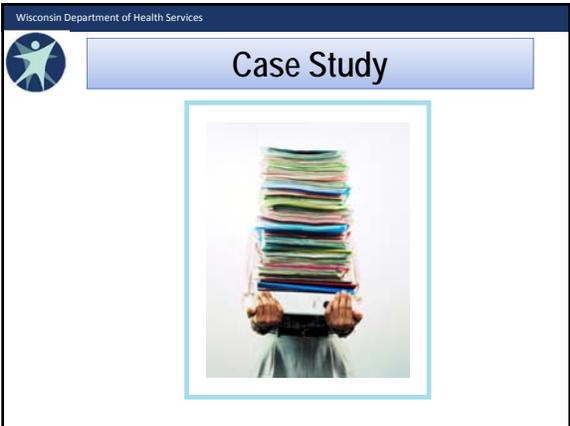
89.23(4)(a)2 Service Providers. 2.

Nursing services and supervision of delegated nursing services shall be provided consistent with the standards contained in the Wisconsin nurse practice act. Medication administration and medication management shall be performed by or, as a delegated task, under the supervision of a nurse or pharmacist.

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Case Study No. 1

Allegation: Misappropriation

Narcotic pain medications were left at the facility after the death of a resident, the licensee allegedly sold them. Additional allegation of missing money.

Complainant: Anonymous



Referral to Law Enforcement

Allegation was reported to Sheriff's department. DHS investigates the facility's response to the allegation, whether regulatory violations occurred.





Investigation

- Surveyor conducted, onsite investigation consisting of:
1. Review of documents
 2. Staff Interviews
 3. On-site observations





Post Investigation Conclusions

1. Complainant had made similar complaints to the Health Department (unsubstantiated).
2. Provider had conducted an investigation into the allegations; investigation documentation was available onsite.
3. Facility policies and procedures were followed regarding investigation of allegations and reporting.

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Outcome

Facility was able to show the following:

1. Investigation completed and documented compliance with rules.
2. Established policies and procedures.
3. Transparency.



Complaint Unsubstantiated

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Case Study No. 2

Allegation: Abuse

A female resident was tricked into exposing herself in front of staff members.

Complainant: Mother/Guardian and Advocacy agency

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Referred from County Adult Protective Services (APS)



BAL can receive referrals from other agencies when the complaint affects residents living in Assisted Living facilities.





Investigation

Surveyor conducted onsite investigation consisting of:

- 1. Review of records
- 2. Staff/Resident/Administration Interviews
- 3. Onsite facility observations



Post Investigation Conclusions

- 1. Resident was a reliable reporter.
- 2. Internal investigation was completed, however the investigation was clearly biased in favor of the staff.
- 3. Belief that the staff team members couldn't do something so bad.
- 4. Admission of guilt made by accused staff member.
- 5. Another staff member was accused of witnessing the event. Investigation revealed that this was not true and second staff member was exonerated.





Outcome

Facility Staff and Administration failed to protect the Resident in this case. Facility failed to complete an effective investigation into the allegations. Facility's complaint response was ineffective.

Complaint Substantiated

- Statement of Deficiency with Enforcement issued.
- Referral to Office of Caregiver Quality made for Staff member.

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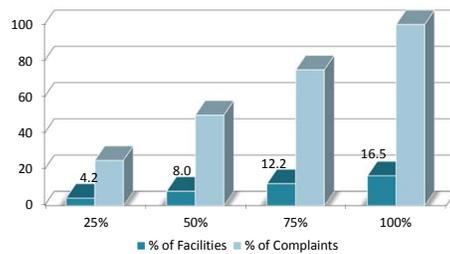


Source of Complaint vs. Substantiation CY 2012

| Source | % Rec'd & Invest. | % Substantiated |
|-------------------|-------------------|-----------------|
| Anonymous | 21 | 30 |
| Public Official | 16 | 55 |
| Relative/Guardian | 28 | 51 |
| Current Employee | 13 | 40 |
| Former Employee | 12 | 42 |
| Advocate | 01 | 67 |
| Citizen | 02 | 33 |
| Medical | 04 | 71 |
| Resident | 03 | 17 |
| | 100% | 44% |



Percentage of Facilities Making Up Percentage of Complaints CY 2012





What To Do?

Should a provider contact the Regional office if they are working with a difficult family/team member who is unhappy and has made threats to contact the Department to complain?

Should a provider contact the Regional office if a disgruntled employee has threatened to contact the Department as retribution for an employment action?





Recommendations to Decrease the Number of Complaints to DQA

1. Maintain compliance with regulations..
2. Develop a detailed description of the process that tells all residents and family members how to pursue resolution of a concern and a time frame as to when they can expect a response.
3. Respond to complaints in a timely manner.
4. Transparency- decision making is made public and open to discussion for both staff and team members.
5. Keep meeting minutes and agendas for meetings with team members and staff members.



Recommendations to Decrease the Number of Complaints to DQA (cont.)

6. Complete all pre-admission assessments for each new resident.
7. Explain all facility policies and procedures thoroughly prior to admitting each new resident.
8. Be a good listener to residents/guardians/families who have concerns; sometimes they just want to be heard/validated.
9. Help the resident and family members embrace realistic expectations of care; staff and management can avoid many complaints based on unrealistic expectations.
10. Look at a complaint as an opportunity for improvement. "Seek to improve" rather than "seek to blame."



Recommendations to Decrease the Number of Complaints to DQA (cont.)

11. Seek frontline staff input for complaint resolution. Often, staff experience and knowledge can introduce several viable solutions to problems.
12. Create a follow-up process that verifies that the concern has been resolved to the resident's and family's satisfaction.
13. Ensure that staff fully understand and implement the complaint process.
14. Include a discussion of different cultural approaches to personal interactions. As you encounter staff and residents of varied backgrounds and heritages, it becomes important to raise the consciousness of staff about how cultural differences can affect personal behavior.
15. A strong commitment by management and staff to continuously improve the quality of service delivered to residents and families.

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