

# **Oversight to Ensure Patients' Rights**

## **A Case Study on Psychiatric Hospital Surveys**

### **Background**

About 6 million adults experience severe mental illness each year—with about 240,000 requiring inpatient treatment in psychiatric hospitals, residential treatment centers, or group homes. The Centers for Medicare and Medicaid Services (CMS) is responsible for overseeing certified psychiatric hospitals that participate in the Medicare program.

CMS accomplishes these oversight responsibilities through Federal surveys of psychiatric hospitals. It has developed interpretive guidelines and survey procedures and set national policy for conducting surveys for the State Survey Agencies (SSAs) and for its Regional Offices (ROs).

SSAs are responsible for surveying psychiatric hospitals, but many are not staffed with the expertise necessary to determine the degree of compliance with the two special Conditions of Participation (CoPs) for psychiatric hospitals that ensure the provision of active treatment: 42 CFR 482.61, Special Medical Record Requirements for Psychiatric Hospitals; and 42 CFR 482.62, Special Staff Requirements for Psychiatric Hospitals. There are 60 individual standards subsumed under the two CoPs; they address the maintenance of clinical records sufficient to determine the degree and intensity of patient treatment and the staffing requirements necessary for carrying out an active treatment program for each patient.

### **The Issue**

A major challenge for CMS is allegations of abuse and substandard care that are periodically reported despite the best attempts of CMS and the states to monitor and improve quality. Although CMS, State agencies, patient advocates and others have worked diligently to improve the quality of care within psychiatric hospitals,

the public, media, and Congress continue to be concerned about the need to ensure basic protections for patient health and safety. Recently, *The Sacramento Bee*, a California newspaper, in its March 21, 2008 issue, reported the death of a patient in a local psychiatric hospital after the patient was inappropriately restrained by staff. The death was discovered while state Medicaid staff were on site at the hospital investigating reports of medication errors. In another example, *The Atlanta Journal-Constitution* on April 28, 2008 reported at least 115 questionable deaths within Georgia's state psychiatric hospitals during the past five years. These, and similar reports, have heightened public awareness of this issue. The Patients' Rights CoP and the Protection and Advocacy for Individuals with Mental Illness Act have continued to be useful in addressing these long-standing concerns.

### **The Solution**

To accomplish its oversight mission, CMS has contracted with Ascillon to conduct monitoring surveys of freestanding psychiatric hospitals in the United States and Puerto Rico. Having a national contracted staff under a single management structure assists CMS in addressing the inconsistent application of Federal laws, regulations and policies.

Ascillon enables CMS to increase its presence in psychiatric hospitals and to obtain more data with which to ensure quality of care. Ascillon accomplishes CMS' primary objective by deploying teams composed of psychiatrists, psychiatric nurses and psychiatric social workers to complete unannounced psychiatric hospital surveys.

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#### **The Method**

There are three specific requirements for certifying psychiatric hospitals participating in Medicare and Medicaid. They are:

1. Medical Records
2. Staffing
3. Health and Safety

Based on the survey findings, Ascellon develops recommendations to assist CMS in refocusing survey training needs and revising survey and certification policy.

Surveys have three possible outcomes:

1. No findings of deficient practices,
2. A finding that standards are not met, or
3. A finding that the facility's deficient practices are so severe that one or both of the CoPs are not met. The failure to meet a CoP requires that the facility submit a Plan of Correction (POC) and a follow-up survey.

***For More Information about Ascellon's Services provided for Psychiatric Hospital Survey, Contact:***

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