Practical Considerations for the Implementation of Electronic Health Records (EHR)

Much has been written about considerations for the implementation and use of electronic health records (“EHR”) by hospitals and physician practices, but far less attention has been paid to assisting long term care providers with this transition.

EHR systems can bring multiple benefits to long term care patients and caregivers. These systems offer the opportunity to interface more readily with attending physicians and other specialized health care professionals involved in care of the patient. Such systems can improve the efficiency and accuracy of monitoring mechanisms to ease the burden on facility management to review pages and pages of hard copy records.

Once you make the decision to implement an EHR system, there are many issues to be addressed in contracting with a vendor and incorporating the system into daily operations. These include:

- Warranties provided by vendor
- Payment terms
- Timing of vendor’s installation
- What happens if the vendor cannot meet the provider’s reasonable expectations?

Because your relationship with the EHR vendor is likely to last for an extended period of time with ongoing training, maintenance, and periodic upgrades, every effort should be made to develop a good working relationship with the vendor. It is advisable to ask for an extended demonstration of the system by the vendor and to walk through each component of the system as if you are admitting and treating a resident in all situations that may arise. Even if time and legal budgets are limited, a legal review of the contract with the EHR vendor can save significant expense and time later by clarifying and resolving potential issues to the extent feasible.

Implementation of an EHR system will require a complete review of operational policies and procedures, and there will likely need to be amendments to many of them. The policy review should include policies related to HIPAA, record retention, medical record entries, quality assurance, and training of employees.

Like any paper medical record system, there are opportunities for human error with EHR systems, and no system can avoid all risks and errors. Care must be taken to maintain the security of the system as well as to keep the big picture in mind and not rely on the system to think for you.
Introducing *Looking at Long Term Care*

Constant changes make the practice of health care law more dynamic and demanding than ever before, which makes the operation of long term care facilities even more challenging. Our team of skilled and experienced attorneys is dedicated to the betterment and protection of long term care organizations. To that end, Smith Moore Leatherwood’s Long Term Care Team would like to introduce you to *Looking at Long Term Care*, our monthly newsletter that provides a quick update on many of the unique issues currently facing long term care providers. Our goal is to handle legal issues for you so you can focus on caring for your residents.

Our health care group currently serves as counsel for a large number of long term care facilities, hospitals, and hospital systems in several states, as well as a number of physician groups primarily located in the Southeast. We plan to draw on our experience within the broad spectrum of the health care industry to bring you practical pointers that you can put to good use today.

We encourage your thoughts, questions, and comments regarding this newsletter, and invite you to contact us through our website: www.lookingatltc.com, or please feel free to contact our monthly authors.

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**Regulatory and Litigation Matters**

- Assistance during surveys, with plans of correction and early removal of immediate jeopardy findings
- IDR materials
- Survey penalty appeals
- Facility licensure and certification
- Corporate compliance plans
- Medicare and Medicaid overpayment and fraud allegations
- CON counseling and litigation
- Contract disputes and malpractice defense

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**Business Transactions**

- Purchase and financing of facilities
- Real estate and land use issues
- Lease and management agreements
- Contracts with ancillary service providers, vendors, private duty nursing, hospice and home health entities
- Contracts with electronic health record providers
- CCRC disclosure and resident agreements
- Corporate structuring

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**Operational Matters**

- Admission and arbitration agreements
- Medical director agreements
- Policies and procedures
- Powers of attorney and advance directives
- HIPAA and confidentiality issues
- Response to crisis incidents including difficult family circumstances
- Discharge of residents
- Professional licensing and immigration
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Susan has represented long term care providers for over 14 years. She has handled numerous survey enforcement matters and appeals for long term care facilities. She has defended multiple medical malpractice claims against long term care facilities involving piercing of corporate veil claims. She is a former research assistant for Chief Justice Sarah Parker and Justice Louis Meyer on the North Carolina Supreme Court. Susan has spoken to the NCHCFA, the NC Association of Long Term Care Facilities, and the NC Bar Association.

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Harriet has represented long term care providers for more than 11 years. She has been a registered nurse for more than 17 years and a certified neonatal nurse practitioner for 13 years. Harriet was named the Triad Business Journal’s Health Care Hero in 2008. She is the Past President of the North Carolina Association of Women Attorneys, a past member of Moses H. Cone Memorial Hospital Ethics Committee, and a current member of the Moses Cone Wesley Long Community Health Foundation Board of Directors.

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LONG TERM CARE TEAM

Only a team of skilled and experienced attorneys can handle effectively the day-to-day needs of today’s long term care providers. The comprehensive experience of our team has made Smith Moore Leatherwood the firm of choice for long term providers throughout the Southeast and around the country.

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