

BEGINNING THE JOURNEY INTO THE INVESTIGATION.

Once I receive the complaint or report of an incident, I will contact the client, patient or victim for additional information or clarification on the information received.

There are many directions to take from here. I find that it is beneficial to review the documentation before interviewing the witness. It gives me a baseline to work from when interviewing and in the preparation of my questions.

I begin with the section of the chart that is most pertinent to the issue I am addressing. For example it could be over 'lack of medical care'. I would look first to the Physicians' Progress Notes or Physicians Orders. The Nursing Care / Treatment Care plan is another place or Physical Profile. In reviewing these areas I will probably be cross-referenced to other areas of the chart. Meanwhile I would be looking for consistency or inconsistency with the documentation, care plans and how or if they were administered.

If I have the time, I like to review the entire chart. I often find bits of information that I might not know exist or that was a misfile. By doing this I can find others who have had input into the care of the client and may prove useful to interview.

With this information gathered I can structure my interview questions to check for consistency and cross-referencing. (Using the documents to structure your interview questions gives you a reference point. You can set up your questions to bring out the inconsistencies that you have identified in the chart or other documents that you are using.)

Once all my information is gathered from all sources, I can analyze the facts identified and then compare the standards and practices. With this done, I will be able to draw conclusions about the incident. Was it a violation of law or regulations, was any one person responsible or was it a systems error. Do policies need to be addressed or is it a supervisory issue with one employee.

REVIEWING THE MEDICAL RECORDS OR DOCUMENTATION

Documentation Review is a comprehensive assessment of records for what is documented or not documented and a comparison of these records with other available information and standards.

Standards = Laws, regulations, policies, professional guidelines, protocols or anything that is expected / routine, common sense, best practice criteria, reference guidelines- Physician's desk reference, case law, etc.

It is important to know the organizational structure of a facility. This will assist you in getting the information you need and in understanding their 'Chain of Command'. When you have questions on actions taken or not taken, you will know who is held accountable. Knowing the applicable policies, procedures and practices will assist you when it is time to analyze the incident.

Familiarize yourself with the forms used. Find out if they are State, Facility, Program, or Unit forms. This will shed some light on the authority of the forms used and the practices that apply. This may also assist you in analyzing the daily routines of the unit. When are the forms used? How or who uses them? Should I find this form in every chart or at particular times?

DOCUMENTATION REVIEW

- ❑ Remember most of what you are reviewing is CONFIDENTIAL, treat it that way.
- ❑ Never write on an original document. Always keep a 'working copy' for your use.
- ❑ Legibility is often a problem. Ask someone to decipher it for you. People who work with it on a daily basis often can read it.
- ❑ Familiarize yourself with abbreviations. Ask for a list of them. Most facilities have a breakdown.

- ❑ All documents should have a date, source or author. If it is not actually listed on the document, try to determine them by cross-referencing.
- ❑ Compare and contrast documentation that was generated during the same time period. Look for consistency or inconsistency.
- ❑ Look for what is 'missing'. Blanks on forms, incomplete follow through on documentation.
- ❑ Match up page numbers, writing styles from staffing, content and 'out of place statements'.
- ❑ Look for 'patterns'. Are similar incidents occurring around the same time, place, with the same staffing or other clients?
- ❑ Look for a break in patterns as well, these too can be telling.
- ❑ Organize your information in a way that works for you. You should avoid handling the same document repeatedly.

GOAL OF AN INTERVIEW...FACT FINDING

Interviewing in general refers to the questioning of persons, who may possess desired information or who may contribute information of evidentiary nature.

INTERVIEW PREPARATION

Be aware of your surroundings when conducting an interview. The time, place and atmosphere affect your interview. Often removing a witness or victim from the work area will allow them to relax and speak freely.

Consider the functional level of the person(s) you are about to interview.

Prepare a list of questions in advance. Use your 'complaint', policies, practices and documentation to formulate your questions.

Initial questions or 'ice breakers'

The first few questions asked should be designed to establish rapport and to determine:

- ❑ If the person is going to be cooperative
- ❑ If they possess information that may be useful
- ❑ If they have ulterior motives
- ❑ If they appear to be generally honest and reliable

If these questions and response indicate there is value in the continuing of your interview, then your next set of questions should be directed at establishing facts of the 'incident' or 'complaint'.

NOTE TAKING AND RECORDINGS

When choosing your method, keep in mind your goal is to:

- ❑ Maintain a record of the interview
- ❑ Aid to recall the interview
- ❑ Assist in the prevention of misinterpretations of statements
- ❑ Notes of exact words or phrases used.

These may also prove useful later in a court matter and may prevent an individual from changing their story.

When taking 'notes' remember to:

- ❑ Listen then write
- ❑ Repeat back the information then make corrections --- additions or deletions
- ❑ Repeat back

This will allow for the interviewee to hear what they've said and clarify their statements.

BASIC GUIDELINES IN INTERVIEWING

- ◆ Get names, titles, and work locations of everyone you talk to.
- ◆ Start with the line staff. Then work your way up. Keep in mind the chain of command and who has the power or authority in an 'incident' or 'complaint' or in the procedures it involved.
- ◆ Be patient, firm and persistent. If you are put off quickly, don't be afraid to approach the person at another time or place. Try a different approach.
- ◆ Be calm, polite and professional. Most people put a lot of credibility in a person who possesses these traits. Should your interviewee become rude, defensive or sarcastic during your questions don't follow their lead. You stay calm and polite. If you can't, then continue your questions or interview at another time. Remember you need to maintain a productive environment.
- ◆ Ask for clarification. If an interviewee gives you a conclusion or a 'neat and tidy' reason for the 'complaint or incident', ask them for the basis of their conclusion. Many people assume they know what happened because it is their policy or practice to 'do it that way'. Ask them to verify what they said 'happened' or didn't happen. Don't accept someone else's conclusion or assumption.
- ◆ Use interviews for 'discovery'. Talk to anyone who is willing to talk to you. Learn as many facts from them as possible. Ask for details about the general practices of that office / unit or about action taken on that particular 'incident'. The information may not seem important at the moment but may serve useful later or for cross-reference.
- ◆ Play dumb. This can be an effective way of getting information. By presenting yourself as ignorant or 'in need of educating' on a subject, you may put the other person at ease. They may feel that they have the opportunity to teach you 'their way', thus, you find out their thinking and practices. This also makes it easier for you to go back over missed points or ask for clarification. Remember that

this is an approach. *Don't rely on this as a method of operation.* This approach is useful if you are trying to put the other person at ease. Or bring their defenses down and bring out a 'nurturing' quality in them.

- ◆ Accountability and responsibility. When working with an administrator seek their acknowledgement that they are ultimately responsible for the actions taken or not taken by their employees. Enlist their support or assistance in addressing or correcting the issue or complaint. If they refuse, you may have to initiate formal proceedings. Don't use this as a threat. You are advocating on behalf of another. You must approach this as a 'matter of fact'.
- ◆ Get it in writing. If the administrator or department head reaches a point of agreement during the process-favorable, then get it in writing. This works just as well when things are not favorable. If the final decision is not favorable to you or your position, then ask for it in writing. Often reconsideration is given to their position when they are asked to put their words into writing. Should you pursue outside or formal process, you will need the final decision in writing. You too may be asked to put your requests in writing.
- ◆ Follow up on commitments or 'promises'. Once you get a promise or commitment, pin down a date when it will be in effect. Then set a follow up plan for yourself. Have a plan ready in case the 'promise' wasn't met.

INFORMATION NECESSARY TO AN INVESTIGATION

- ◆ Complainant (If other than the Patient)
 - ◆ Name / Address / Phone Number
 - ◆ Relationship to Victim (Patient)
- ◆ Victim (Patient)
 - ◆ Name / Commitment – Hold Status
 - ◆ Age / Sex / ethnicity
 - ◆ Address / Facility / unit
 - ◆ Phone Number

- ◆ Location where incident occurred
 - ◆ Address / Facility Name
 - ◆ Name of Unit or area
 - ◆ Time of Day or Shift

- ◆ Description of Incident
 - ◆ **What** happened – sequence of events
 - ◆ **Who** was involved
 - ◆ **When** the incident occurred
 - ◆ **Where** the incident occurred – specifically, what room or area
 - ◆ **How** and **Why** – factors contributing to the occurrence

- ◆ Direct witnesses
 - ◆ Name / Work Area / Phone Number
 - ◆ Title / Relationship to Victim
 - ◆ Synopsis of what witness states they observed

- ◆ Others with relevant knowledge regarding the circumstances surrounding the incident
 - ◆ Name / Work Area / Phone Number
 - ◆ Title / Relationship to Victim
 - ◆ Synopsis of relevant information

- ◆ Documentation / Evidence
 - ◆ Patients' Entire Medical Record
 - ◆ Facility Documents
 - ◆ Relevant Policies and Procedures
 - ◆ Staffing Logs, Shift Report
 - ◆ Incident Reports
 - ◆ Police or Investigation Reports
 - ◆ Health Services Licensing / JCAHO / DMH Reports

REPORT FORMAT:

Introduction-

Include the legal or contractual authority of the investigation. How it came to be - - - How you became involved in this investigation.

Background-

1) Briefly describe the victim (Patient); 2) Briefly describe the facility.

Sequence of events-

Take the reader through the events that took place. Include quotes from records, interviews, etc.

Steps of Investigation-

Chronological order of people interviewed, documentation review, and other sources of information.

Findings and Conclusions-

This is where you state the observations gained from your investigation.

Recommendations-

Your input into a plan of correction or address changes that need to be made to prevent the issue from repeating.

REMEMBER:

- ❑ Be sure to obtain proper authorization or the release of information from your client or their legal representative.
- ❑ When preparing to investigate, identify a focal point. From there you can brainstorm what kinds of documents are relevant to the issues and make a list.
- ❑ Once you have a list, determine what records are pertinent and the source from which you will request them.
- ❑ Know how to assert your statutory access without resorting to threats. If you are told 'no' don't give up. Ask for the reason of the denial in writing.
- ❑ When all else is not going well...get imaginative...exhaust alternative ways of getting the items you need. Use your contacts... and NEGOTIATE.