

LTC PROFESSIONAL

NEWS AND VIEWS YOU CAN REALLY USE



THE ADELMAN ADVANTAGE

by Rebecca Adelman

The “F” Word – Litigation and F-Tags

Recently, my industry colleague and collaborator on this article, Ric Henry, at Pendulum, LLC, was gathering information on the F-Tags defended most in nursing home litigation. Identifying and assessing these regulatory claims provides insight to providers about how survey outcomes are used by Plaintiff’s attorneys as objective support for claims of negligence in the high litigation risk areas (falls, infections pressure sores, medication errors etc...). Below are the F-Tags seen most often in litigation along with the claims of negligence.

F514 – Records – Complete/Accurate/Accessible

Allegations: Missing records; inaccurate and incomplete documentation; fraudulent charting; improper late-entries; spoliation of evidence (destruction of evidence).

F272 – F284 – Admission Orders/Resident Assessment/Quarterly Review Assessment/Accuracy of Assessment/Comprehensive Care Plans/Discharge Summary
Allegations: Inaccurate and untimely resident assessments and quarterly review assessments; failure to prepare and update a comprehensive care plan and comply with care plans; incomplete summary of the resident status at the time of discharge.

F 309 – Quality of Care

Allegations: Failure to provide the necessary care and services to obtain or maintain the highest practicable physical, mental and psychosocial well-being in accordance with the comprehensive

assessment and plan of care (see allegations related to **F 272** and **F 279**).

F323 – Accident/Safety

Allegations: Failure to supervise; failure to prevent falls and other accidents; elopements; improper interventions and assistance devices to prevent accidents; failure to maintain a safe environment to prevent accidents.

F314 – Prevention/Treatment Pressure Sores

Allegations: Failure to prevent the development and progression of pressure sores (clinical avoidability); failure to receive necessary treatment to promote the healing, prevent infection and prevent new sores from developing; *see also* **F 315** – Urinary Incontinence, **F 325** – Nutrition, and **F 327** – Hydration.

F325 – Nutrition

Allegations: Failure to maintain ideal body weight; unexplained weight loss; failure to maintain protein levels; failure to receive therapeutic diet consistent with a comprehensive assessment.

F441 – Infection Control

Allegations: Failure to prevent infections (pneumonia, MRSA, e-coli, pseudomonas); failure to establish an infection control program; failure to properly identify the signs and symptoms of infection.

F240 – F241 – Quality of Life and Dignity

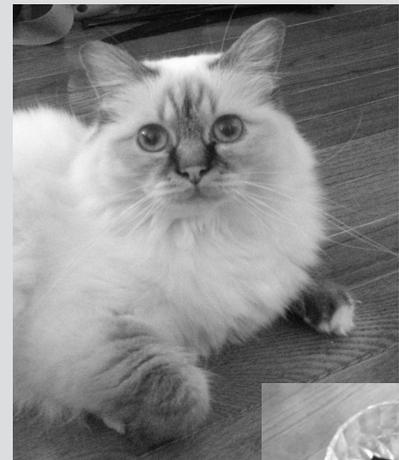
Adelman Advantage continued on page 3

KESSLER’S CORNER

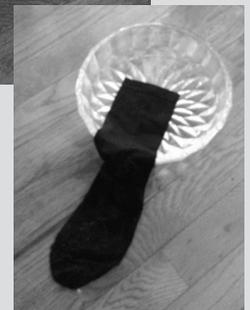


by Chip Kessler,
Investigative Reporter

“Hadasha, a Sock, and Her Water Dish”



Hadasha



The suspect: you see her photo that accompanies this article, my two year old cat Hadasha.

The crime: a never ending procession of socks that wind up in Hadasha’s water dish soaking wet.

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TELEPHONE SKILLS CHEAT SHEET

By Chris Mullins *The Phone Sales Doctor*™

“Criticism Made Me Fearless!”

Probably one of the most difficult changes I ask my clients to go through is accepting and even requesting criticism. Criticism is the most difficult part (especially in front of your peers) of my Phone Success Make-Over Programs; however, it's the best and fastest way to learn and grow. I've had trouble with criticism over the years, both personally and professionally, but I had a switch in my thinking once my confidence grew and I realized the criticism isn't personal.

The absolute best strategy I used to help me through getting criticism was to start asking for it. This helped me to look at criticism as a lesson, a way to grow, something new to learn, because we always keep learning and growing. I don't have to know how to do *everything* right. For example, if I was speaking from the platform in front of a large audience, I would seek out a competitor or a colleague and ask for a critique.

The second way I overcame my fear of criticism was I developed a much thicker skin by pushing myself to do difficult things way outside my comfort zone. Putting myself in difficult situations has helped me tremendously, although it was painful at first. I'm a large woman and don't have the body of an athlete at all, but I like to run and cycle. A long time ago I registered for some races—5Ks, 10Ks, half-marathons and in September 2010, a full marathon. I've also done triathlons, three in one year.

I used to register for races and not show, or not finish, or spend the entire time trying to think up ways to tell family and friends at the finish line why I didn't finish; I got lost, twisted my ankle, etc. (I never actually did that, but was consumed with it.) Now I'm the “last winner,” and it's O.K. I'm an athlete, and I compete with myself. Forcing myself to do difficult things and putting myself in difficult situations is the secret to my success. I do the same in business.

So, I understand fully the difficulty of being critiqued—especially in front of your peers. I remember when I was riding my bicycle 87 miles in one day, with several family members at the finish line waiting for me. I was so scared because at mile 50 I didn't feel like I could continue. I was worried what other people would think about me. I was all alone out there, with 3,000 cyclists somewhere

in front of me, nowhere to be seen. I wondered what I would look like coming into the finish line, being the largest person there, with all the spectators watching. Then I thought to myself, hey, I'm not competing with everyone else, only myself, and I've come a long way, baby—87 miles in one day with a group of professional cyclists. I used my weight as a tool to become stronger.

What tool do you have that you never knew you had? What can you do to welcome criticism and not take it *personally*? Critiquing isn't personal, and if you have a supportive team from the top down and a good teacher, you'll get through it and become a stronger person, not just in the office but outside the office as well.

Chris Mullins is just one of the many marketing/census building experts featured in *The Census Building Academy* program, a step-by-step cutting-edge presentation designed to get more new residents and families through your doors! For more information, please visit www.MyExpectations.com or call toll-free 1-800-807-4553.

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Allegations: Failure to maintain or enhance the quality of life for the resident; the resident suffered injury to dignity and individuality.

F223 – Abuse (Staff treatment of residents – **F 224, F 225** and **F 226**)

Allegations: Failure to develop and implement written policies and procedures prohibiting neglect and abuse of residents; mistreatment, neglect and abuse of residents.

F332-333 – Medication Errors

Allegations: Failure to comply with physician's orders for the administration of medications; overmedication.

Quality of Life F Tags – Since CMS released the new guidance in 2009 focusing on quality of life provided to nursing home residents (**F172** Access and Visitation Rights; **F175** Married Couples; **F241** Dignity; **F242** Self-Determination and Participation; **F246** Accommodation of Needs; **F247** Notice Before Room or Roommate Change; **F252** Safe, Clean, Comfortable and Homelike Environment; **F256** Adequate and Comfortable Lighting; **F371** Sanitary Conditions; **F461** Resident Rooms; **F463** Resident Call System), defense counsel have seen more lawsuits including claims for failure to provide quality of life and citing these various F Tags.

Pendulum recommends facilities set up a “Survey Watch” program where facility staff maintains a keen awareness of their own compliance with a set of key tags. The tags often associated with litigation and insurance underwriter angst such as **F314** Pressure Ulcers or **F323** Accidents and others listed within this article are good candidates for a facility program. Staff members can be assigned to specific tags and charged with the responsibility to monitor and report to administration their opinion of the facility's compliance with the assigned tag. Facilities can empower staff to have a meaningful role and authority to act to ensure facility practices are in line with compliance to these key tags through challenges, competitions and other fun activities.

Most commonly seen and litigated, regulatory citations are found by personal injury attorneys in the facility surveys. It is a practice for these attorneys to advertise survey violations as evidence of nursing home neglect and abuse as recently seen in the Southeast both on television and in newspapers. As licensed nursing home operators, owners and care providers, you know that regulations do not define the standard of care, nor do regulatory citations evidence deviations from the standard of care. The legal system, however, places some weight on these F Tags and experts who testify against nursing homes can rely on the survey citations to support their opinions. Developing proactive risk management strategies through quality improvement programs will remove weapons from the arsenals of personal injury attorney that are used against the nursing home industry.

Rebecca Adelman, Esq. – Ms. Adelman is the Principal of Adelman Law Firm, PLLC in Memphis, Tennessee and has concentrated her practice in healthcare, and nursing home and medical malpractice defense litigation for the past 22 years. She also provides medico-legal consulting services and educational programming to the healthcare industry. She is licensed in Tennessee, Mississippi, Arkansas and Illinois. rebecca@adelmanfirm.com.

Ric Henry is an owner and managing partner of Pendulum, LLC; with more than 30 years in the healthcare sector. Pendulum is a full service risk management company providing consulting services and training to healthcare providers, as well as liability risk assessments, on-site consultation, software applications, web-based tools and training materials. Risk management specialists assess a facility's risk and offer practical, proven methods to manage that risk and strengthen defensibility. Ric.henry@wearependulum.com

When I leave my house, the water dish is there with nothing around it, yet when I return there's a sock hanging around on most days. I try to keep my socks put away and yet somehow one seems to appear, and when it appears always in the same general location.

What am I supposed to think? I've seen Hadasha play with her toys and sometimes place one in her mouth and carry it around (she especially likes to do this with her little mouse toy). As a result, I've got to believe she's the guilty party in the sock/water dish matter, especially since I have no reason to think that a sock can somehow, on its own, get in a water dish.

Why am I making Hadasha's habit of dunking socks in her water dish public to readers of *LTC Professional*? It's not like she'll see this story, become ashamed of her blatant disregard of dry socks, and suddenly change her ways. However little Hadasha's actions demonstrate how easy it is to fall into bad habits sometimes that can affect others in a negative way. It's easy to do, despite our best of intentions. One day you are performing a task for your nursing home or assisted living center's residents in a certain fashion; the next day you carry out the same exact function differently- and here not for the better! The following days see this slight slippage in service continue. Why? There are several possible answers, chief of which can very well be that in all of our jobs, (whether you work in the healthcare sector or not), involve a certain amount of “routine” duties. It doesn't matter if you're a facility administrator, executive director, work as a nurse, CNA, in admissions, social services, marketing, business office, or any of the building's other departments. More than likely you are going to be doing some (or many) of the same things on a daily basis. As a result, it's easy to fall into being on “auto-pilot” so-to-speak and just about go through the motions.

How to combat this? It's important that your building has a solid system in place that focuses on the keys to delivering outstanding customer service to your residents and families. Believe me when I say the benefits here are many, the most important of which is greatly improved relationships with residents and families that make your job much easier to do because the people you serve now have a greater respect and trust for what you do! Sound good? Now if I can get Hadasha to just stay away from socks!

Chip Kessler is the creator, developer, and producer of two cutting-edge healthcare specific customer service programs, “Great Customer Service for Assisted Living Professionals” as well as “The Nursing Facility Customer Service Survival Kit.” Each has received wonderful reviews from facilities nationwide because of these programs' attention to detail, expert direction, and excellent advice and education.

Please visit www.extendedcareproducts.com for more information or call toll-free 1-800-807-4553.

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