

VIDEO SURVEILLANCE IN SENIOR LIVING

Facilities in the healthcare industry have been utilizing video surveillance for many years. Many of these facilities began using video surveillance only for security purposes, typically having a security team or front desk staff monitor the cameras. Over time, use of video surveillance has also transitioned to a way for management to monitor staff (particularly in medication room settings) and help deter abuse and substandard care; and, to help staff monitor patient activity and track wandering patients. Many of those in the healthcare field also see video camera surveillance as a way of maintaining a family's confidence in residential care settings because they provide instant access to real-time and/or recent footage.

While video surveillance provides multiple benefits in the senior living setting, there are concerns about the use of this technology. This bulletin provides some risk management strategies to consider when utilizing surveillance cameras in your facility.

Many facilities are now installing cameras as part of their fall management programs. This allows for better surveillance of agitated or restless residents who may try to get out of bed or a chair without needed assistance from the healthcare staff. The goal, as described in an article published in McKnight's Senior Living (Hartzell, 2017), is to use the surveillance to prevent falls resulting in serious injury, and also lead to swifter responses from the staff should a fall occur.

Some opponents of increased video surveillance say it impinges on staff privacy and makes it more likely they will be constantly critiqued and challenged by a resident's family. However, the ability to videotape is now as easy as picking up one's phone, so it is a technology that cannot be ignored.

RISK MANAGEMENT STRATEGIES

When properly installed and utilized, video surveillance systems can lead to a safer, more secure environment for those working in a senior living community and the residents and families they serve. Here are some risk management strategies to consider:

- Be familiar with current or pending legislation in your State on video surveillance in senior living.
- Obtain and document consent whenever videotaping is utilized for a specific resident or purpose.
- Develop policies and procedures on the use of video surveillance in your facility.
- Educate staff, residents, and family members on videotaping and photography as they relate to confidentiality and privacy laws, as well as prohibitions related to posting on social media.



- As part of incident review and follow-up, review video footage that is available, and preserve any relevant footage as potential evidence.

LEGISLATION

Over the years, videos surfacing of elder abuse or theft of patient property have influenced the families of patients to take protection into their own hands with camera monitoring. Family members and advocacy groups have prompted legislation that seeks to increase accountability and protection for vulnerable adults. More and more states are implementing laws that allow video surveillance within assisted living and skilled nursing settings. Some states only allow or seek the installation of cameras in assisted living communities on residents' requests, as proposed by Utah's House Bill 124 (2016) for example. New Jersey's Safe Care Cam program (2017), on the other hand, provides cameras to N.J. residents who suspect their loved ones are being mistreated or neglected by an in-home caregiver, enabling families to secretly record the care of their loved ones. It is imperative to know and understand the current

laws and pending legislation in your particular State regarding video surveillance in senior living.

CONSENT

Most of the laws and pending legislation that have been introduced to date only allow cameras if residents or their families request and consent to them. Therefore, cameras are only installed and utilized if residents or families want them. Whenever utilizing video monitoring for a specific resident or purpose, it is critical to obtain and document consent. Notify residents and their loved ones of video monitoring and obtain written consent upon admission. Obtain written consent any time a camera is used in a resident's room. If it is a shared room, consent should be obtained from both roommates. Additionally, post signage in common areas to inform residents and visitors that the area is being monitored.

POLICIES AND PROCEDURES

Not all states regulate surveillance camera use. Even still, it is critical for all senior living facilities to implement policies and procedures regarding their use of video surveillance. It is important to involve all parties—caregivers, residents, and residents' loved ones—in policies and procedures. Policies and procedures should address consent, confidentiality, and privacy concerns, among other items.

PRIVACY

The definition of protected health information (PHI) under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) includes images or other types of recordings of patients. Healthcare organizations must now protect video and

audio recordings according to the Security Rule and Privacy Rule under the Health Information Technology for Economic and Clinical Health (HITECH, 2009) extensions of HIPAA. It is important that senior living facilities have comprehensive information security and privacy policies in place. In addition, it's crucial they have effective, regular training and ongoing awareness communications. This can help ensure employees know and understand what they need to do to protect patient privacy. Another privacy concern is that of caregivers and staff. Be transparent with employees by explaining to them what is being recorded, who has access to the recordings, and the benefits of the monitoring. Make sure video and audio recordings are only available to authorized individuals and are only viewed in restricted areas. Furthermore, ensure your policies and procedures address sharing recordings, especially when it comes to social media.

PRESERVATION OF VIDEOTAPE EVIDENCE

Video surveillance can also be useful in the follow up of a resident incident, such as a fall that resulted in a fracture or other injury, or physical incidents between residents. Digital or videotape evidence may help to reduce unnecessary and groundless litigation or mitigate the damages. If video surveillance is somehow destroyed, or overlooked as part of the incident investigation, it may look as though the organization was attempting to cover up wrongdoing on their part or the part of the staff. It is important to review any video footage that might be available in the location of a resident related incident and to preserve it as part of the incident review and follow up.

SUMMARY

Video surveillance in senior living facilities is a controversial topic. This technology may help improve patient safety and security but also raises concerns about resident and staff privacy. Senior living facilities can help mitigate the perceived intrusiveness and potential impact on privacy by implementing risk management strategies that address the use of video surveillance in their facilities.

REFERENCES

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