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Protecting Your Facility From Responsibility For Unavoidable Pressure Ulcers

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The scenario is a familiar one. An elderly patient is either transferred from the hospital to a skilled nursing facility or assisted living facility following an injury or illness, or transferred from the long-term care facility to the hospital after a change in condition. Upon arrival, the receiving facility documents areas of skin breakdown which the transferring facility either failed to describe or described inaccurately. The patient's family demands answers, and both the hospital and nursing home become defensive.

Many times the pressure ulcer is truly an unavoidable complication of the patient's underlying illness or injury. With a prompt and thorough documented assessment, liability for pressure ulcers with questionable etiology can be avoided. Complicating this is the position taken by the Centers for Medicaid and Medicare Services that Stage III and IV pressure ulcers are avoidable and a "never event." How then to best document the care provided to the patient and the unavoidable nature of many pressure ulcers or deep tissue injuries is the challenge for the clinician.

When transferring or receiving a patient, describe in detail any areas of skin breakdown or concern that may exist. A description of what is present at transfer or found upon admission is often more helpful than strict adherence to the International NPUAP-EPUAP Pressure Ulcer Classification System. Clinicians can differ in opinion as to whether a wound is a Stage II or Stage III, but a detailed description of the wound can assist in determining the etiology and whether the skin breakdown was avoidable.

Consider the following when describing a wound:
- Color—pink, red, purple, maroon, black, yellow
- Blanchable?
- Location
- Shape
- Firm, soft, mushy, or boggy
- Warmer or cooler than the adjacent tissue
- Partial or full thickness
- What does the wound bed look like?
- Presence of tunneling or undermining
- Presence of slough or eschar
- Drainage
- Odor
- Could it be an arterial ulcer or a venous ulcer as opposed to a pressure ulcer?

Whether to photograph areas of skin change, breakdown, or wounds remains a controversial topic. Opinions are varied, and there is no consensus. Photographs may fail to accurately depict the condition of the skin despite the photographer's best efforts, or they may be used against the hospital or facility in a subsequent lawsuit. However, a photograph taken upon admission which documents the condition of any skin breakdown or wound can be a powerful tool in defending against a claim that the skin breakdown was acquired in your facility. When photographing a wound, it is best to take at least two photographs – one close up of the wound and a second that places the size and position of the wound in perspective. Disposable measuring tools are helpful to accurately size a wound since the manner in which a wound is measured can vary.

Having the skin reviewed upon admission or discharge by more than one person is helpful as it allows for corroboration of the accuracy of the observations. It is more difficult to discredit multiple clinicians who assess and document skin breakdown.
Finally, many pressure ulcers are unavoidable. A pressure ulcer is unavoidable when the patient developed the pressure ulcer even though the facility had evaluated the patient's clinical condition and risk factors; defined and implemented interventions that are consistent with the patient's needs, goals and recognized standards of practice; monitored and evaluated the impact of the interventions; and revised the approaches as appropriate. (Guidance to Surveyors for Long Term Care Facilities, F-Tag 314) However, the failure to record these factors contemporaneously with the care provided, add to the challenge of defending a pressure ulcer claim.

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