



Iowa Health Care Association  
Iowa Center for Assisted Living  
Iowa Center for Home Care

## **Understanding the Employee Role in the Survey Process**

*IHCA's Regulatory & Legal Team Work Group  
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## **UNDERSTANDING THE EMPLOYEE ROLE IN THE SURVEY PROCESS**

The Iowa Department of Inspections and Appeals (DIA) is charged with inspecting health care entities (i.e. nursing facilities, assisted living and home health agencies) to ensure they are meeting state licensure and/or federal conditions of participation in the Medicare and Medicaid programs. These inspections are referred to as the “survey process.” Sometimes this process is very amicable; at other times the process can be very stressful or adversarial. Regardless of how the survey is proceeding, it is important for you to know your rights and responsibilities as well as the obligations of the health care organization.

Pursuant to both state and federal requirements, health care organization management must cooperate and make any and all employees available to be interviewed by the surveyors if requested. At no time can management instruct employees not to talk to or decline to cooperate with the state surveyors as this may be considered impeding the survey process. Employees, however, do deserve to be informed about their rights and options during the survey process.

### **The Iowa Health Care Association’s Regulatory and Legal Team offers the following guidance on interacting with a surveyor:**

- Always tell the truth. No matter what the circumstances, it is always the wisest choice to tell the truth.
- Always be professional and courteous.
- Understand that there is never “off the record” discussion with surveyors. Anything you say will likely be recorded in the surveyor’s records and may be used against you or your organization.
- You have the right to fully hear and understand the question. Listen carefully to the question and if you do not understand the question being asked, ask the interviewer to rephrase the question. Do not answer any question you do not understand.
- Do not anticipate where the question is going and quickly answer; take your time to fully understand the question and to contemplate your answer.
- It is perfectly fine to say, “I don’t know,” if you do not know or cannot recall.
- Do not speculate and be careful of hypothetical questions. Speculation is not credible evidence and is not appropriate fact gathering. Each situation is factually specific, and it is not appropriate to give answers that are speculative. You can decline to answer a question that is hypothetical.
  - An example of a hypothetical question that a surveyor might ask an employee: “If a staff member had been present while the resident was in the bathroom, could the fall have been prevented?” A correct response would be, “I’m sorry but that question is speculative, and I cannot answer it.”

- If you are being asked about a document (an incident report, for example), you have the right to review the document to refresh your recollection. Likewise, if you are being asked about an incident for which documentation exists, you have the right to review such documentation to refresh your recollection.
- You have the right to take a break at any time to catch your composure or use the restroom.
- You have the right to request a witness be present during the interview, however the surveyor may decline your request. Surveyors are expected to respect this request during recertification surveys. However, they have the right to decline a request for a witness if they believe that allowing another person in the room would jeopardize the investigatory process.
- Any person under investigation for dependent adult abuse shall be afforded the right to have another person present during the interview. The representative could be a co-worker, an organizational representative, union representative or legal counsel (hired at own expense).
- If during a recertification survey you feel intimidated, harassed or threatened by anyone during the interview, you have the right to end the interview.
- If you are asked to write a statement or sign a document prepared by someone else, you have the right to do so free of intimidation or coercion. Further, you have the right to take a reasonable amount of time to contemplate the content of any such statement and to keep a copy of your statement prior to giving it to anyone. If you are asked to sign a written document, you have the right to take some time to review it to determine whether it accurately states what you said or everything you intend to say. If you think that the document is not accurate or is incomplete, you have the right to correct the errors and make additions to the statement.
- If you are called by the state when you are off duty, you have the right to request the surveyor meet you at the workplace or home health office at a time convenient for you so that you may clock in and be paid for your time.
- You have the right to seek legal representation at your own expense at any time during the survey process.
- Finally, don't get shaken. If you hear the question more than once and you believe your original answer continues to be accurate, stick to it. Don't get rattled and stay confident.

## QUESTIONS

For questions, contact IHCA at 515.978.2204.