Final Rule to Reform the Requirements for Long-Term Care Facilities

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Background

• The requirements for Long-Term Care (LTC) Facilities are the health and safety standards that LTC facilities must meet in order to participate in the Medicare or Medicaid Programs.

• The Requirements for Participation are found at 42 CFR 483 Subpart B.

• Additional guidance can be found in the State Operations Manual, Appendix PP.
Changes to LTC Requirements of Participation

• These requirements have not been comprehensively updated since 1991 despite significant changes in the industry.

• The proposed rule received over 9,800 public comments, resulting in a number of revisions to the proposed requirements.

• The finalized provisions reflect advances in the theory and practice of service delivery and safety, and implement sections of the Affordable Care Act (ACA).
Themes of the Final LTC Rule

- Person-Centered Care
- Quality
- Facility Assessment, Competency-Based Approach
- Alignment with HHS priorities
- Comprehensive Review and Modernization
- Implementation of Legislation
Person-Centered Care

*Residents and Representatives: Informed, Involved, and In Control.*

- Existing protections maintained
- Choices
- Care & Discharge Planning
- Prohibition on Pre-dispute Arbitration Agreements, Requirements for Post-Dispute Arbitration Agreements
Quality

Quality of Care and Quality of Life--overarching principles for every service.

Quality of Life and Quality of Care
• Additional special care issues: restraints, pain management, bowel incontinence, dialysis services, and trauma-informed care

Quality Assurance and Performance Improvement
• Based on the pilot
• Resources available - http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/QAPI/nhqapi.html
Facility Assessment and Competency-Base Approach

*Facilities need to know themselves, their staff, and their residents.*

- Not a one-size fits all approach.
- Accounts for and allows for diversity in populations and facilities.
- Focus on each resident achieving their highest practicable physical, mental, and psychosocial well-being.
Align with Current HHS Initiatives

**Advancing cross-cutting priorities**

- Reducing unnecessary hospital readmissions,
- Reducing the incidences of healthcare acquired infections,
- Improving behavioral healthcare, and
- Safeguarding nursing home residents from the use of unnecessary psychotropic (antipsychotic) medications
Comprehensive Review and Modernization

*Bringing it into the twenty-first century*

- Reorganized
- Updated
- Consistent with current health and safety knowledge
Implementation of Legislation

• Section 6102(b) of ACA, compliance and ethics program.

• Section 6102(c) of ACA, quality assurance and performance improvement program (QAPI).

• Section 6703(b)(3) of the ACA (Section 1150B of the Act), requirements for reporting to law enforcement suspicion of crimes.

• Section 6121 of ACA, dementia and abuse training.

• Section 2 of the IMPACT Act (adds 1899B to the Act), discharge planning requirements for SNFs.
Regulation will be implemented in 3 phases.

- Phase 1: Existing requirements, those requirements relatively straightforward to implement, and require minor changes to survey process. *(November 28, 2016)*

- Phase 2: All Phase 1 requirements, and those that providers need more time to develop, foundational elements, new survey process can assess compliance. *(November 28, 2017)*

- Phase 3: All Phase 1 and 2, those requirements that need more time to implement (personnel hiring and training, implementation of systems approaches to quality). *(November 28, 2019)*
## Phased Implementation

<table>
<thead>
<tr>
<th>Phase</th>
<th>Primary Implementation</th>
</tr>
</thead>
</table>
| Phase 1     | • Resident Rights and Facility Responsibilities*  
              • Freedom from Abuse Neglect and Exploitation*  
              • Admission, Transfer and Discharge*  
              • Resident Assessment  
              • Comprehensive, Person-Centered Care Planning*  
              • Quality of Life  
              • Quality of Care*  
              • Physician Services  
              • Nursing Services*  
              • Pharmacy Services*  
              • Laboratory, radiology and other diagnostic services  
              • Dental Services*  
              • Food and Nutrition*  
              • Specialized Rehabilitation  
              • Administration (Facility Assessment – Phase 2)*  
              • Quality Assurance and Performance Improvement* - QAA Committee  
              • Infection Control – Program*  
              • Physical Environment* |

(*this section is partially implemented in Phase 2 and/or 3*)
<table>
<thead>
<tr>
<th>Phase 2</th>
<th>Phase 3</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Behavioral Health Services*</td>
<td>• Quality Assurance and Performance Improvement* - Implementation of QAPI</td>
</tr>
<tr>
<td>• Quality Assurance and Performance Improvement* - QAPI Plan</td>
<td>• Infection Control – Infection Control Preventionist *</td>
</tr>
<tr>
<td>• Infection Control – Facility Assessment and Antibiotic Stewardship **</td>
<td>• Compliance and Ethics*</td>
</tr>
<tr>
<td>• Compliance and Ethics*</td>
<td>• Physical Environment-call lights at resident bedside *</td>
</tr>
<tr>
<td>• Physical Environment- smoking policies *</td>
<td>• Training *</td>
</tr>
</tbody>
</table>

*This section is partially implemented in other phases*
483.5 Definitions

Added federal definitions

• Clarification of abuse, neglect, exploitation, mistreatment

• Adverse event (QAPI)

• Nurse aide

• Person-centered
483.10 Resident Rights

- Combined section
- Significant existing language
- All Phase 1 changes, except –
- Phase 2 facility providing contact information for certain organizational units (Aging and Disability Resource Center, Medicaid Fraud Control Unit)
483.12 Freedom from Abuse, Neglect, and Exploitation

• Phase 1 - Strengthens existing protections, in addition to review of policies and procedures. Adds language related to resident “right to be free from neglect” and “exploitation.”

• Phase 2 - Regulatory inclusion of 1150B requirements (Reporting reasonable suspicion of a crime). This is an existing requirement under the Statute.

• Phase 3 - QAPI must be involved in review of allegations/incidences of abuse, neglect, and exploitation.
483.15 Admission, Transfer, and Discharge Rights

- Strengthens requirements for discharge planning.
- Phase 1: all sections implemented except:
  - (c)(2) Transfer/Discharge Documentation - Implemented in Phase 2.
483.20 Resident Assessment

• Few changes to resident assessment, but strengthened PASARR section.

• Implemented in Phase 1.
• Many of requirements maintained - implemented in Phase 1 except

• Baseline care plan - Implemented in Phase 2.

• (b)(3)(iii) Trauma informed care - Implemented in Phase 3.
483.24 Quality of Life

• No brand new requirements.
• “Highest Practicable Well-Being” language in this section.
• Implemented Phase 1.
483.25 Quality of Care

- Adds special care issues many of which were previously cited under F309 if there were care issues.
- Specific areas: restraints, pain management, bowel incontinence, dialysis services, and trauma-informed care.
- All of this section implemented in Phase 1 except trauma-informed care (Phase 3).
483.30 Physician Services

• Final removed language in proposed rule regarding physician visit prior to transfer.
• Ability to delegate dietary orders.
• All of this section implemented in Phase 1.
483.35 Nursing Services

• Need both sufficient and competent staffing based on resident population.

• This determination is tied to Facility’s Assessment (Phase 2).

• Otherwise this section contains many existing requirements and will be implemented in Phase 1.
483.40 Behavioral Health Services

- New requirement (incorporates highest practicable well-being, specialized rehabilitation, and medical social services)
- Sufficient, competent staff
- Resident with dementia has treatment and services needed to meet his/her needs
- Implementation on non-pharmacological interventions
- Most in Phase 2. Except- Phase 1: Comprehensive assessment and medically-related social services
  Phase 3: Residents with history of trauma/PTSD
483.45 Pharmacy Services

- Protections continued (freedom from unnecessary medications and medication errors, medication storage) – Phase 1
- Drug regimen review and reporting – Phase 2- review of medical chart
- Phase 2: Definition of psychotropic medication
- PRN usage of psychotropic medication – 14 days – difference between psychotropic and antipsychotic medications
Minor Changes – Primarily Phase 1.

- §483.50 Laboratory, radiology, and other diagnostic services (reduce burden – non-physician practitioners orders).
- §483.55 Dental services. (new requirements for replacing lost dentures – Phase 2).
- §483.65 Specialized rehabilitative services. (strengthen PASRR).
483.60 Food and Nutrition Services

• Primarily Phase 1
• Continues food and nutrition protections
• Qualified Dietary Staff – sufficient and competent
• Updated education requirements (dietitian and food service manager- 5 yr current employee, 1 yr new hire)
• Reasonable efforts to address religious, cultural and ethnic needs
• Snacks
• Policy regarding use and storage of foods
483.70 Administration

• Primarily Phase 1
• Maintains Existing Requirements
• Licensed Nursing Home Administrator
• Facility assessment – Phase 2
• Use of Arbitration (prohibition of pre-dispute, requirements for post-dispute)
• Full time social worker for 120 beds + qualifications
• Incorporates recent regulations (facility closure, hospice, payroll based journal)
483.75 Quality Assurance and Performance Improvement

- Phase 1 - Participation in QAA Committee and maintain existing QAA requirements
- Phase 2 – QAPI Plan – as required by Affordable Care Act
- Phase 3 – Full Implementation of QAPI and integration of Infection Preventionist
483.80 Infection Control

Current Requirements – (Phase 1)
• Infection Control Program
• Linens
• Infection Control Preventionist with Specialized Training (Phase 3)
• Antibiotic Stewardship (Phase 2)
• Flu and Pneumonia Vaccines
Phase 2 and 3 Implementation

- Program must be reasonably capable of reducing the prospect of criminal, civil, and administrative violations under the Act and promoting quality of care and include:
  - Appointing a C&E representative for facility and organization
  - Enforcing operating standards
  - Responding to violations
  - Reviewing annually
483.90 Physical Environment

- Primarily Phase 1
- Maintains many existing protections:
  - Emergency Power
- Two residents to a room for new construction/reconstruction
- Resident call next to the bed – Phase 3
- Smoking policies – Phase 2
483.95 Training Requirements

• Training requirements for all staff, contractors, volunteers – in Phase 3 except...

• Incorporates training requirements previously found elsewhere – (required training for nurse aides, prohibition of abuse and neglect) – Phase 1

• Adds in requirements from Affordable Care Act – dementia care training – Phase 1
How are we going to implement?
## Implementation Timelines

<table>
<thead>
<tr>
<th>Estimated Implementation Date</th>
<th>Type of Change</th>
<th>Details of Change</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Phase 1:</strong> November 28, 2016</td>
<td>Effective date of Nursing Home Requirements for Participation</td>
<td>New Regulatory Language will be uploaded to ASPEN under current F Tags</td>
</tr>
<tr>
<td><strong>Phase 2:</strong> November 28, 2017</td>
<td>• F Tag numbering • Interpretive Guidance (IG) Implement new survey process</td>
<td>New F Tag numbers IG Changes Begin surveying with the new survey process</td>
</tr>
</tbody>
</table>
What Exactly Does This Mean?

For example:

42 CFR §483.999 The facility must provide purple attire for all residents to wear on Sundays.

(Disclaimer: This is not a real requirement.)
F156 (Closest fit in terms of regulatory intent.)

§483.10(b)(1) -- The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility...

§483.999 The facility must provide purple attire for all residents to wear on Sundays.

****************
Intent/Interpretive Guidance/Survey Process doesn’t change...
F980 (Formerly F156)

§483.XXXXX -- The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility...

*****************************************

Intent/Interpretive Guidance/Survey Process may change...
F981

§483.999 The facility must provide purple attire for all residents to wear on Sundays.

Intent/Interpretive Guidance - what indicates compliance (New guidance)

Survey Process changes - How will surveyors be interviewing residents and making observations? (New process)
Survey Process Changes

Quality Indicator Survey

Traditional

Data/ Study/ Test

Regulatory Changes

New Survey Process
New Survey Protocol

• Computer-based
• Two parts
  • Sample Selection
    • Offsite 70%
    • Onsite 30%
  • Investigation
Survey Process

• New Survey Process starting in Phase 2 - November 28, 2017
• Incorporates New Requirements
• New F-tags Coding System- F540 +
483.75 Quality Assurance and Performance Improvement

- Phase 1 - Participation in QAA Committee and maintain existing QAA requirements
- Phase 2 – QAPI Plan – as required by Affordable Care Act
- Phase 3 – Full Implementation of QAPI and integration of Infection Preventionist
What Training Will Be Available for Providers?

Phase 1: Recorded Webinar – highlighting Phase 1 changes
Tools – Which tags have new language added – mid-November.

Phase 2: Webinar and National Provider Calls
New Tags, Interpretive Guidance, Survey Process
Submit Questions / Comments

NHSurveyDevelopment@cms.hhs.gov
Question & Answer Session
### Acronyms in this Presentation

<table>
<thead>
<tr>
<th>Acronym / Phrase</th>
<th>Term</th>
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</thead>
<tbody>
<tr>
<td>LTC</td>
<td>Long Term Care</td>
</tr>
<tr>
<td>CFR</td>
<td>Code of Federal Regulations</td>
</tr>
<tr>
<td>QAPI</td>
<td>Quality Assurance Process Improvement</td>
</tr>
<tr>
<td>SNF</td>
<td>Skilled Nursing Facility</td>
</tr>
<tr>
<td>The Act</td>
<td>Social Security Act</td>
</tr>
<tr>
<td>PASARR</td>
<td>Preadmission Screening And Resident Review</td>
</tr>
<tr>
<td>PTSD</td>
<td>Post Traumatic Stress Disorder</td>
</tr>
<tr>
<td>C &amp; E</td>
<td>Compliance and Ethics</td>
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<tr>
<td>ACA</td>
<td>Affordable Care Act</td>
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<td>HHS</td>
<td>Health &amp; Human Services</td>
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<tr>
<td>IMPACT</td>
<td>Improving Medicare Post Acute Care Transformations</td>
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<tr>
<td>QAA</td>
<td>Quality Assessment and Assurance</td>
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<tr>
<td>ASPEN</td>
<td>Automated Survey Processing Environment</td>
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<tr>
<td>IG</td>
<td>Investigative Guidance</td>
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• To complete the evaluation, visit http://npc.blhtech.com and select the title for today’s call.
Thank You

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