New Regulations, New Challenges

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CMS Focus

- Examine how surveyors identify issues such as abuse, facility staffing levels, and dementia care.

- Clarify expectations re when abuse must be reported.

- Update Nursing Home Compare to make it easier to identify specific instances of non-compliance re abuse or inappropriate antipsychotic medication use.

CMS Focus

- New ways to identify abuse and stop it in its tracks
- Enhance collaboration across CMS regional staff, who work with providers particularly when serious quality issues like abuse are identified
- Explore the possible use of Medicare claims data and associated adverse outcomes or indicators, including use of artificial intelligence and text mining, to inform survey and oversight process, especially for individuals transferred from a nursing home to a hospital
CMS Focus

• More effectively identify workers with a history of abuse

• Strengthen oversight to ensure that survey findings reflect the quality of facilities, regardless of their location
CMS Antipsychotic Medication Initiative (3/1/2019)

• Increase oversight and enforcement of SNFs that have not improved antipsychotic medication utilization rates for long-stay residents since 2011, or “late adopters”

• Impose stricter sanctions like denying payment for new admissions and per-day Civil Money Penalties on late adopters that have a history of noncompliance with chemical restraints, dementia care, and psychotropic drugs, and have been determined in a current survey to be out of substantial compliance with those requirements
Determination of Findings and Potential to Foresee Abuse

“It has been reported that some facilities have identified that they are in compliance with F600 . . . - because they could not foresee that abuse would occur and they have “done everything to prevent abuse,” such as conducted screening of potential employees, assessed residents for behavioral symptoms, monitored visitors, provided training on abuse prevention, suspended or terminated employment of the perpetrator, developed and implemented policies and procedures to prohibit abuse, and met reporting requirements. However, this interpretation would not be consistent with the regulation, which states that “the resident has the right to be free from verbal, sexual, physical, and mental abuse...”
Abuse, Neglect, Exploitation & Misappropriation

- **F607: 483.12(b)(4)** The facility must develop and implement written policies and procedures that:
  - Establish coordination with the QAPI program
- Other related policies & procedures
  - Prevention
  - Investigation
  - Training
Freedom From Abuse, Neglect and Exploitation

- F 600 – Right to be free from abuse, neglect & exploitation
- F602 – Exploitation and misappropriation
- F603 – Involuntary seclusion
- F604 – Physical restraints
- F605 – Chemical restraints
- F606 – Not employ/engage individual who was found guilty by a court or has finding on nurse aid registry; staff includes employees, medical director, consultants, contractors, volunteers, caregivers, students
- F607 – Policies and procedures re prohibiting abuse, neglect and exploitation, investigation, training
- F608 – Elder Justice Act
- F609 – Reporting of alleged violations involving abuse, neglect and exploitation
- F610 – Investigate, prevent and correct
# Abuse Reporting Guidelines

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## What?

- Any reasonable suspicion of a crime against a resident
- 1) All alleged violations of abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property
- 2) The results of all investigations of alleged violations

## Who is required to report?

- Any covered individual, including the owner, operator, employee, manager, agent or contractor of the facility
- The facility

## To whom?

- State Survey Agency (SA) and one or more law enforcement entities for the political subdivision in which the facility is located (i.e., police, sheriffs, detectives, public safety officers; corrections personnel; prosecutors; medical examiners; investigators; and coroners)
- The facility administrator and to other officials in accordance with State law, including to the SA and the adult protective services where state law provides for jurisdiction in long-term care facilities

## When?

- Serious bodily injury- Immediately but not later than 2 hours* after forming the suspicion
- All alleged violations-Immediately but not later than
  - 1) 2 hours- if the alleged violation involves abuse or results in serious bodily injury
  - 2) 24 hours- if the alleged violation does not involve abuse and does not result in serious bodily injury.
- No serious bodily injury-not later than 24* hour
Comprehensive Care Plans

- F659: §483.21(b)(3)
- The services provided or arranged by the facility, as outlined by the comprehensive care plan, must—
  - (iii) Be culturally-competent and trauma–informed.
Trauma Informed Care

- F699: §483.25(m)
- Must ensure that residents who are trauma survivors receive culturally competent, trauma-informed care in accordance with professional standards of practice and accounting for residents’ experiences and preferences in order to eliminate or mitigate triggers that may cause re-traumatization of the resident
Behavioral Health (BH) Services

- F741: 483.40(a)(1)
  - (a) Sufficient, competent staff with skill set
  - (1) As related to residents with a history of trauma and/or post-traumatic stress disorder
    - Expand existing BH processes to include staff assessments/competencies for caring for residents with a history of trauma and/or post-traumatic stress disorder
    - Address in facility assessment
Governing Body & QAPI

- F837: 483.70 (d)(3) Governing body responsibility for QAPI program
  - Board must have responsibility and accountability for QAPI
    - “Governing body” refers to individuals such as facility owner(s), Chief Executive Officer(s), or other individuals who are legally responsible to establish and implement policies regarding the management and operations of the facility

- Tip: Get this on Board agenda before November 28, 2019
QAPI

- F865: 483.75(a) Each facility, including a facility that is part of a multiunit chain, must develop, implement, and maintain an effective, comprehensive, data-driven QAPI program that focuses on indicators of the outcomes of care and quality of life
QAPI

• (a)(1) Maintain documentation and demonstrate evidence of ongoing QAPI program
  ▪ Systems and reports demonstrating systematic identification, reporting, investigation, analysis, and prevention of adverse events
  ▪ Documentation demonstrating development, implementation, and evaluation of corrective actions or performance improvement activities
• (a)(3) Present QAPI plan to a State Survey Agency or Federal surveyor at each annual recertification survey and upon request during any other survey and to CMS upon request

• (a)(4) Present documentation and evidence of its ongoing QAPI program's implementation and compliance with requirements to a State Survey Agency, Federal surveyor or CMS upon request
QAPI Design & Scope

- (b)(1) Address all systems of care & management practices
- (b)(2) Include clinical care, quality of life, & resident choice
- (b)(3) Utilize best available evidence to define and measure indicators of quality and facility goals that reflect processes of care and facility operations shown to be predictive of desired outcomes
- (b)(4) Reflect the complexities, unique care, and services that the facility provides [facility assessment]
QAPI Governance & Leadership

- (f) Governing body and/or executive leadership (or organized group or individual who assumes full legal authority and responsibility for operation of the facility) is responsible and accountable for ensuring that:
  - (f)(1) Ongoing program is defined, implemented, maintained and addresses identified priorities
  - (f)(2) Program is sustained during transitions in leadership and staffing
QAPI Governance & Leadership

• (f)(3) Program is adequately resourced, including ensuring staff time, equipment, and technical training as needed

• (f)(4) Program identifies and prioritizes problems and opportunities that reflect organizational process, functions, and services provided to residents based on performance indicator data, resident and staff input, & other information
QAPI Governance & Leadership

• (f)(5) Corrective actions address gaps in systems, and are evaluated for effectiveness;

• (f)(6) Clear expectations are set around safety, quality, rights, choice, and respect
QAPI Feedback, Data Systems & Monitoring

- F866: 483.75(c) Must establish and implement written policies and procedures for feedback, data collections systems, and monitoring, including adverse event monitoring

- (c)(1) Effective systems to obtain and use feedback and input from direct care staff, other staff, residents, and resident representatives, including how such information will be used to identify high risk, high volume, or problem-prone problems, and opportunities for improvement
QAPI Feedback, Data Systems & Monitoring

• (c)(2) Effective systems to identify, collect, and use data and information from all departments, including but not limited to the facility assessment and how such information will be used to develop and monitor performance indicators

• (c)(3) Development, monitoring, and evaluation of performance indicators, including methodology & frequency for such development, monitoring, and evaluation
QAPI Feedback, Data Systems & Monitoring

- (c)(4) Adverse event monitoring, including the methods by which facility will systematically identify, report, track, investigate, analyze and use data and information relating to adverse events in the facility, including how the facility will use the data to develop activities to prevent adverse events
QAPI Program Systematic Analysis And Systemic Action

- F867: 483.75(d)

- (d)(1) The facility must take actions aimed at performance improvement and, after implementing those actions, measure its success, and track performance to ensure that improvements are realized and sustained
QAPI Program Systematic Analysis And Systemic Action

• (d)(2) Develop and implement policies addressing how facility will:
  ▪ (i) Use a systematic approach to determine underlying causes of problems impacting larger systems
  ▪ (ii) Develop corrective actions designed to effect change at the systems level to prevent quality of care, quality of life, or safety problems
  ▪ (iii) Monitor effectiveness of performance improvement activities to ensure that improvements are sustained
QAPI Program Activities

- 483.75(e)(1) Must set priorities for performance improvement activities that:
  - Focus on high-risk, high-volume, or problem-prone areas
  - Consider the incidence, prevalence, and severity of problems in those areas
  - Affect health outcomes, resident safety, resident autonomy, resident choice, and quality of care
QAPI Program Activities

- (e)(2) Performance improvement activities must track medical errors and adverse resident events, analyze their causes, and implement preventive actions and mechanisms that include feedback and learning throughout facility.

- (e)(3) Must conduct distinct performance improvement projects. The number and frequency of improvement projects must reflect the scope and complexity of services and available resources, as reflected in the facility.
QAPI Program Activities

- (e)(3) Improvement projects must include at least annually a project that focuses on high risk or problem-prone areas identified through the data collection and analysis described in paragraphs (c) and (d) of this section.
QAA Committee

- 483.75(g)(2) QAA committee reports to the facility's governing body, or designated person(s) functioning as a governing body regarding its activities, including implementation of the QAPI Committee must:
  - (ii) Develop & implement appropriate plans of action to correct identified quality deficiencies;
  - (iii) Regularly review & analyze data, including data collected under the QAPI program and data resulting from drug regimen reviews, & act on available data to make improvements.
QAA Committee

F868: 483.75(g)(1) QAA committee must consist of:

- (i) DON
- (ii) Medical Director or designee
- (iii) At least 3 other members of staff, at least one of whom must be NHA, owner, board member or other person in a leadership role
- (iv) Infection preventionist (IP) [Phase 3]

Tip: Do not forget Infection Control Committee and community representative.
Infection Preventionist (IP)

- F882: 483.80(b) Must designate one or more individual(s) as IP responsible for Infection Control & Prevention Program (IPCP). IP must:
  - (b)(1) Have primary professional training in nursing, medical technology, microbiology, epidemiology, or other related field
  - (b)(2) Be qualified by education, training, experience or certification;
  - (b)(3) Work at least part-time at the facility
  - (b)(4) Have completed specialized training in infection prevention and control
IP Role on QAA Committee

- 483.80(c) IP, or at least one of the individuals if there is more than one IP, must be a member of the QAA committee and report to the committee on the IPCP on a regular basis

  TIP: Put the IP report on the IPCP as a standing agenda item for the QAA
Compliance and Ethics Program (CEP) Definitions

- F895: 483.85

- CEP, with respect to a facility, is a program of the operating organization that has been reasonably designed, implemented, and enforced so that it is likely to be effective in preventing and detecting criminal, civil, and administrative violations and in promoting quality of care; and includes, at a minimum, the required components
CEP: Definitions

• High-level personnel: individual(s) who have substantial control over the operating organization or who have a substantial role in the making of policy within the operating organization

• Operating organization: means individual(s) or entity that operates a facility

• Additional requirements for operating organizations with five or more facilities
CEP Components Generally

- Written CEP standards, policies, and procedures capable of reducing the prospect of criminal, civil, and administrative violations and promoting quality of care

- Assignment of specific high-level personnel with responsibility to oversee compliance

- Sufficient resources and authority to the individual responsible to oversee the compliance and ethics program
CEP Components Generally

• Effective communication of the standards, policies and procedures to entire staff, individuals providing services under a contractual arrangement, and volunteers, consistent with their expected roles

• Auditing and/or monitoring and an anonymous reporting mechanism
CEP Components Generally

- Enforcement through appropriate discipline

- Take all reasonable steps to respond appropriately to violations and to prevent future violations

- Conduct annual review of CEP and revise as needed to reflect changes in all applicable laws or regulations to improve performance in deterring, reducing, and detecting violations and in promoting quality of care
CEP Components: 5 or More SNFs

- Mandatory annual staff training

- Designated compliance officer who reports to governing body and is not subordinate to general counsel, chief financial officer, or chief operating officer

- Designated compliance liaison at each facility
Physical Environment: Call System

- F 919: 483.90
  - (g)(1) Call system from each resident’s bedside
    - Allow residents to call for staff assistance through a communication system which relays the call directly to staff member or to a centralized staff work area from the resident’s bedside, toilet and bathing facility
Training

- F940: 483.95 Develop, implement, and maintain an effective training program for all new and existing staff; individuals providing services under a contractual arrangement; and volunteers, consistent with their expected roles

  - Determine the amount and types of training necessary based on a facility assessment
Training Topics

• F941: 483.95(a) Communication: effective communications for direct care personnel (mandatory)

• F941: 483.95(b) Resident Rights and Facility Responsibilities

• F944: 483.95(d) QAPI: mandatory training that outlines and informs staff of the elements and goals of the facility's QAPI program
Training Topics

- F945: 483.95(e) Infection control--mandatory training that includes the written standards, policies, and procedures for the IPCP

- F946: CEP: effective way to communicate the program's standards, policies, and procedures through a training program or in another practical manner which explains the CEP
  - Annual training if the operating organization operates five or more SNFs
Training Topics

- F947: 483.95(g)(3) Required in-service training for nurse aides:
  - Address areas of weakness as determined in nurse aides' performance reviews and facility assessment and the special needs of residents as determined by the facility staff

- F949: Behavioral health training consistent with the requirements at §483.40 and as determined by the facility assessment
Phase 3 of the ROPs: Training

- QAPI & Infection Control: written standards, policies, and procedures for each program

- Compliance and Ethics: operating organization for each SNF must include training as a part of their compliance and ethics program
  - *Annual training* if the operating organization operates five or more facilities
Phase 3 of the ROPs: Training

- Behavioral Health Training: training of entire staff based on facility assessment

- Applies to new and existing staff, contractors and volunteers
Free Nursing Home Infection Preventionist Training

- 23 modules and submodules including an overview of the IPC program and role of the IP, infection surveillance and outbreak management, infection prevention practices such as hand hygiene, and antibiotic stewardship

- Total time to complete course approx. 20 hours

- Certification available
  https://www.train.org/cdctrain/training_plan/3814
CMS Hand in Hand: A Training Series for Nursing Homes

- Focuses on caring for residents with dementia and preventing abuse

- Five modules
  - Four on dementia
  - One on preventing and responding to abuse

https://surveyortraining.cms.hhs.gov/pubs/ClassInformation.aspx?cid=0CMSHandinHand_DL

https://surveyortraining.cms.hhs.gov/pubs/ClassInformation.aspx?cid=0CMSHIH_ONL
CMS Resources

- **QAPI**

- **Dementia care**
CMS Nursing Home Staff Competency Assessment Toolkit

• Certified Nursing Assistants (CNA)/Certified Medication Technicians (CMT)

• Licensed Practical/Vocational Nurses (LVN/LPN) and Registered Nurses (RN)

• Assistant directors of nursing (ADON), directors of nursing (DON) and administrators

CMS Nursing Home Employee Satisfaction Survey Toolkit

- CMS help to recruit, motivate and retain staff
- Free, anonymous survey offers facility employees an opportunity to share their perceptions about the nursing home workplace

Federal Regulatory Groups for Long Term Care Facilities

* Substandard quality of care = one or more deficiencies with s/s levels of F, H, I, J, K, or L in Red

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- F835 Administration
- F836 License/Compliance w/Fed/State/Local Law/Prof Std
- F837 Governing Body
- F838 Facility Assessment
- F839 Staff Qualifications
- F840 Use of Outside Resources
- F841 Responsibilities of Medical Director
- F842 Resident Records - Identifiable Information
- F843 Transfer Agreement
- F844 Disclosure of Ownership Requirements
- F845 Facility Closure-Administrator
- F846 Facility Closure
- F847 Hospice Services
- F850 *Qualifications of Social Worker >120 Beds
- F851 Payroll Based Journal

### 483.75 Quality Assurance and Performance Improvement
- F865 QAPI Program/Plan. Disclosure/Good Faith Attemot
- F866 (PHASE-3) QAPI/OAA Data Collection and Monitoring
- F867 QAPI/OAA Improvement Activities
- F868 QAA Committee

### 483.80 Infection Control
- F880 Infection Prevention & Control
- F881 Antibiotic Stewardship Program
- F882 (PHASE-3) Infection Preventionist Qualifications/Role
- F883 *Influenza and Pneumococcal Immunizations

### 483.85 (PHASE-3) Compliance and Ethics Program
- F895 Compliance and Ethics Program

### 483.90 Physical Environment
- F906 Emergency Electrical Power System
- F907 Space and Equipment
- F908 Essential Equipment, Safe Operating Condition
- F909 Resident Bed
- F910 Resident Room
- F911 Bedroom Number of Residents
- F912 Bedrooms Measure at Least 80 Square Ft/Resident
- F913 Bedrooms Have Direct Access to Exit Corridor
- F914 Bedrooms Assure Full Visual Privacy
- F915 Resident Room Window
- F916 Resident Room Floor Above Grade
- F917 Resident Room Bed/Furniture/Closet
- F919 Resident Call System
- F920 Requirements for Dininng and Activity Rooms
- F921 Safe/Functional/Sanitary/Comfortable Environment
- F922 Procedures to Ensure Water Availability
- F923 Ventilation
- F924 Corridors Have Firmly Secured Handrails
- F925 Maintains Effective Pest Control Program
- F926 Smoking Policies

### 483.95 Training Requirements
- F940 (PHASE-3) Training Requirements - General
- F941 (PHASE-3) Communication Training
- F942 (PHASE-3) Resident's Rights Training
- F943 Abuse, Neglect, and Exploitation Training
- F944 (PHASE-3) QAPI Training
- F945 (PHASE-3) Infection Control Training
- F946 (PHASE-3) Compliance and Ethics Training
- F947 Required In-Service Training for Nurse Aides
- F948 Training for Feeding Assistants
- F949 (PHASE-3) Behavioral Health Training
Questions

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