

Overview of New and Updated CMS Guidance: RoP Phase 2 & 3

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September 21, 2022



Learning Objectives

- After listening to this session, participants will be able to:
 - Describe the new or updated guidance
 - Identify key areas of change needing most attention
 - Identify additional resources available to support compliance with new requirements



Background and Overview



CMS Updated State Operating Manual (SOM)

- SOM has not been updated since Nov 2017
- No new regulations
- Updates include
 - New standards of care, stakeholder feedback or corrections
 - Guidance for phase II and III RoPs
 - Updates made through QSO memos since 2017

<https://www.cms.gov/medicareprovider-enrollment-and-certificationsurveycertificationgeninfopolicy-and-memos-states-and/revised-long-term-care-surveyor-guidance-revisions-surveyor-guidance-phases-2-3-arbitration>



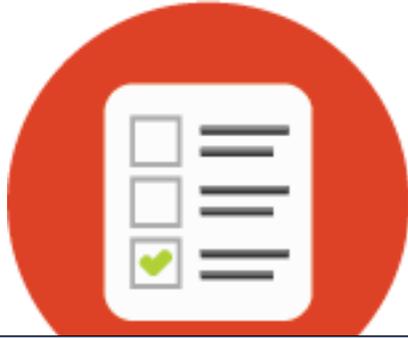
New & Updated CMS Interpretive Guidance

- Resident Rights
- Freedom from Abuse, Neglect, and Exploitation
- Admission, Transfer, & Discharge
- Comprehensive Person-Centered Care Plans
- Quality of Care
- Physician Services
- Nursing Services
- Behavioral Health
- Pharmacy Services
- Food & Nutrition Services
- Administration
- Quality Assurance & Performance Improvement
- Infection Control
- Compliance and Ethics
- Physical Environment
- Training
- Psychosocial Outcome Severity Guide



CMS & Congress worrying about...

- Infection control: SARS-CoV-2, Influenza, MDRO and C. Auris
- Staffing levels and competency
- Chronically poor performing facilities
- CHOW
- Top 10 deficiencies
- Antipsychotic Use
- Abuse and neglect
- Involuntary Discharges
- Opioid use disorder
- Serious Mental Illness (SMI)



Top 10 Deficiencies 2018 to 2022

Tag#	Tag Description	2018		2019		2020		2021		2022 (2/6/22)	
		# Citations	Rank	# Citations	Rank						
F0884	Reporting - National Health Safety Network	0	0	0	0	3,729	2	11,161	1	1614	1
F0880	Infection Prevention & Control	7,105	1	7,151	1	11,982	1	7,340	2	209	2
F0689	Free of Accident Hazards/Supervision/Devices	6,560	2	6,945	2	3,453	3	4,474	3	49	3
F0812	Food Procurement, Store/Prepare/Serve Sanitary	5,643	3	5,945	3	1,995	5	3,286	5	36	4
F0656	Develop/Implement Comprehensive Care Plan	5,345	4	5,315	4	1,895	6	2,334	9	20	12
F0684	Quality of Care	4,906	5	5,095	5	2,435	4	3,499	4	33	6
F0761	Label/Store Drugs and Biologicals	3,675	6	4,182	6	1,420	10	2,588	6	24	9
F0657	Care Plan Timing and Revision	3,471	7	3,406	7	1,131	14	1,409	17	13	21
F0686	Treatment/Svcs to Prevent/Heal Pressure Ulcer	3,023	8	2,920	12	1,538	8	2,453	8	21	11
F0758	Free from Unnec Psychotropic Meds/PRN Use	2,979	9	2,946	11	747	25	1,222	22	5	43
F0677	ADL Care Provided for Dependent Residents	2,910	10	3,136	8	1,427	9	2,531	7	33	5



Themes Across All Deficiencies

- Surveyors
 - inconsistent in scope and severity and
 - how they explain what practices trigger deficiency
- Providers
 - Inconsistent following of P&P, care plan or orders
 - P&P or care plan stated as absolute or go beyond regulations
 - Not recognizing trends in resident's change of status
 - Timely notification of clinician, family, SSA or residents change of status or acute events



Across all Citation, CMS wants to ...

- Wants to see that you have
 - Identified the problem in timely manner
 - Conduct a root cause analysis
 - Make changes to prevent future occurrences
 - Made staff aware of changes
 - Monitor if changes are being followed and/or resolved the problem

Required vs Optional within context

Words that mean required

- Must
- Shall
- Required
- Necessary to

Words that do not mean required

- May
- Should
- Such as
- Generally
- May necessitate



Overview of CMS Priorities



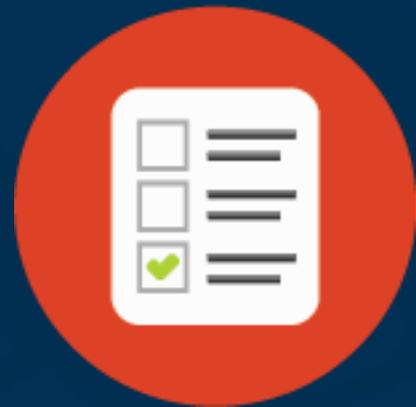
Key Priorities of CMS Reflected in RoP Revisions

- Mental and behavioral health care
 - Including for residents with substance abuse disorders
- Protecting residents from abuse and neglect
- Providing culturally competent and trauma informed care
- Ensuring sufficient staff and staff competencies
- Reducing use of psychotropics not just antipsychotics
- Effective Infection Control programs
 - Facilities are required to have at least a part time infection preventionist



Key Priorities of CMS Reflected in RoP Revisions (cont.)

- Effective, robust and comprehensive Quality Assurance/Performance Improvement (QAPI) program
- Compliance and Ethics program to prevent violations and promote the quality of care
- Effective training programs to ensure staff competencies
- Effective use of the facility assessment to determine care needs and required staffing competencies
- Increased guidance to surveyors on cross tagging (not stacking)



Detailed Changes to Phase 2/3 Requirements

AHCA is Here to Help!





§483.10 Resident Rights

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F557	Respect, Dignity/Right to have Personal Property	<ul style="list-style-type: none"> • Added language related to mental health and substance use disorders throughout guidance
F561	Self Determination	<ul style="list-style-type: none"> • Reinsertion of language which was inadvertently removed. • When a facility wants to change from smoking to non-smoking, they should allow current smoking residents to continue in an area that balances smoking and non-smoking residents. • Residents admitted after the facility changes its policy must be informed of this policy at the time of admission.
F563	Right to Receive/Deny Visitors	<ul style="list-style-type: none"> • Added language related to visitation <ul style="list-style-type: none"> • during infection outbreaks or pandemics; • Suspected substance use
F582	Medicare/Medicaid Coverage/Liability Notice	<ul style="list-style-type: none"> • Revisions based upon new Skilled Nursing Facility Advance Beneficiary Notices (SNFABN)



Caring for Residents with Substance Abuse Issues

- CMS is increasing scrutiny on the care for residents with substance abuse issues
- At F557 and F563, CMS adds the following guidance
 - Facility staff must have consent to search a resident's body or personal possessions
 - Facility staff should have knowledge of signs, symptoms, and triggers of possible substance use
 - If the facility determines illegal substances have been brought into the facility by a visitor, the facility should refer to local law enforcement



Potential Actions

- Examine/update current P&P for staff searches related to a resident's body or personal possessions for illegal substances to include contact of law enforcement when appropriate.
- Examine/update staff training related to signs and symptoms, triggers of possible substance use and searches.
- Examine/update visitation policies to include considerations for residents with substance use.
- Develop a list of community resources for substance use, including law enforcement.



§483.12 Freedom from Abuse, Neglect and Exploitation

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F600	Abuse/Neglect	<ul style="list-style-type: none"> Clarified language on resident-to-resident altercations, modified consent language, added requirements under past noncompliance, added steps to take when citations occur. Included additional guidance related to neglect, including a definition.
F604	Right to be Free from Physical Restraints	<ul style="list-style-type: none"> Clarified when a bed rail is considered to be a physical restraint—it is a restraint when it keeps a resident from voluntarily getting out of bed in a safe manner due to their physical or cognitive inability to lower the bed rail independently.
F607	Develop/Implement Abuse/Neglect Policies	<ul style="list-style-type: none"> Added guidance for coordination with QAPI and provisions from the former F608
F608	Reporting of Reasonable Suspicion of a Crime	<p>Deleted and moved to tag F607 and F609</p> <ul style="list-style-type: none"> Tag F607 citations related to the failure to develop and implement written policies and procedures related to posting of conspicuous notice of employee rights, and prohibiting and preventing retaliation. Tag F609 citations related to the facility’s failure to ensure the reporting of suspected crimes and notifying covered individuals of their reporting responsibilities
F609	Reporting of Alleged Violations	<ul style="list-style-type: none"> Revised definitions and guidance related to the timing of reports, added language related to what facilities must report, added provisions from the former F608



F600 Abuse/Neglect

- All resident-to-resident altercations do not always indicate abuse.
 - Facility needs to report for surveyors to investigate.
- Modified language about sexual activity
 - Removed the language: “Residents without the capacity to consent to sexual activity may not engage in sexual activity.”
 - Added language under Capacity and Consent: “*The facility must take steps to ensure that the resident is protected from abuse. These steps should include evaluating whether the resident has the capacity to consent to sexual activity.*”



What to Do When Cited for Abuse

- When cited for abuse, facility must:
 - ✓ Take steps to prevent further potential abuse;
 - ✓ Report the alleged violation and investigation within required timeframes;
 - ✓ Conduct a thorough investigation of the alleged violation; and
 - ✓ Take appropriate corrective action.
 - ✓ In addition, the resident's care plan must be revised if the resident's needs change as a result of the incident of abuse



F600 Neglect

- Neglect regulation definition not changed:
 - “the failure of the facility, its employees or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish or emotional distress.”
- Neglect occurs when
 - The facility is aware of should be aware services were not provided that has resulted in or may result in harm.
 - Includes when there is indifference or disregard for resident care, comfort or safety, resulting in or may result in harm.
- Noncompliance at Quality of Care F686 or F689 does not automatically result in F600 Neglect citation



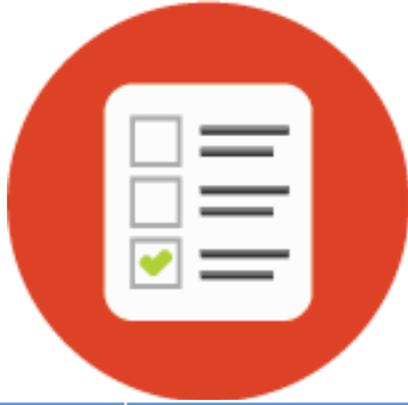
F607 Develop/Implement Abuse/Neglect Policies

- Facilities must develop and implement policies and procedures that include coordination with QAPI



Potential Actions

- Examine current P&P to ensure they include steps to protect residents from abuse to include evaluating whether the resident has the capacity to consent to sexual activity.
- Examine current policies to ensure that when instances of abuse are identified, the P&P includes all the steps to remediate the noncompliance and protect resident from additional abuse.
- Update/implement P&P to ensure they define how staff will communicate and coordinate situations of abuse, neglect, misappropriation of resident property, and exploitation with the QAPI program.
- Evaluate your current education/training related to abuse to determine if your staff understand instances related to abuse, neglect, misappropriation of resident property and exploitation that they are required to report and instances they are not required to report.



§483.15 Admission, Transfer and Discharge

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F622	Transfer and Discharge Requirements	<ul style="list-style-type: none">• Clarified language that admitting a residents equates with agreeing to care for them and they have a right to stay unless the facility initiates discharge per the 6 allowed criteria.• Clarifying steps to take when Part A coverage ends before discharging• Clarifying emergency transfer to the hospital are not discharges but must be allowed to return unless care needs have change
F623	Notice Requirements before Transfer and Discharge	<ul style="list-style-type: none">• Facility must provide specific location to where resident is being transferred or discharged• If change to discharge destination indicates a change to the original basis for discharge, a new notice is required, and additional appeal rights may exist
F626	Permitting Residents to Return to the Facility	<ul style="list-style-type: none">• Clarified that requirement to permit residents to return after hospitalization or therapeutic leave applies regardless of payment source.• Documentation needed to support discharges because facility can no longer meet the resident's needs.



Potential Actions

- ❑ Examine existing P&P on transfer and discharge requirements address new requirements.
- ❑ Evaluate facilities current discharge/transfer notice P&P to ensure it includes the new components.
- ❑ Examine and update as needed current bed hold policies to ensure alignment with requirements.
- ❑ Examine how the facility determines it is unable to meet residents needs when deciding not to allow residents to return to a facility alignment with requirements.



§483.25 Quality of Care

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F686	Pressure Ulcers	<ul style="list-style-type: none">• Pressure ulcer risk assessments should occur quarterly (rather than monthly) or whenever there is a change in condition• Add purpose is to also prevent infection
F687	Foot Care	<ul style="list-style-type: none">• New language on following proper infection prevention practices for foot care equipment
F689	Accidents/Supervision	CMS has added new guidance on: <ul style="list-style-type: none">• Electronic cigarettes• Safety for residents with substance use disorder• Added description about elopement
F690	Bowel/Bladder Incontinence, Catheter, UTI	Any issues related to bowel management, such as constipation or impaction should be referred to F684



§483.25 Quality of Care (cont.)

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F694	Parenteral/IV Fluids	<ul style="list-style-type: none">• Added components on assessing intravenous (IV) therapy sites,• assessing the continued need for an IV, and• components related to professional standards of practice for cleaning
F695	Respiratory/Tracheostomy Care and Suctioning	<ul style="list-style-type: none">• Clarified that mechanical ventilation guidance only applies to facilities who choose to offer this service
F697	Pain Management	<ul style="list-style-type: none">• Added language regarding use of opioids within the current opioid crisis,• recommended resources for use of opioids,• provided guidance on assessment of resident with history of addiction• guidance on opioid side effects and overdose prevention
F699	Trauma Informed Care	<ul style="list-style-type: none">• Added new guidance and requirements related to the provision of trauma informed care
F700	Bedrails	<ul style="list-style-type: none">• Guidance for bedrails has been clarified to include the “use” of bedrails in addition to installation• New links and resources provided



F699 Trauma-Informed Care

- §483.25(m): The facility 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.



F656 Comprehensive Care Plans

§483.21(b)(3) The services provided or arranged by the facility, as outlined by the comprehensive care plan, must –

(b)(3)(iii) Be culturally-competent and trauma-informed



What is Trauma Informed Care?

Trauma

- Results from an event, series of events, or set of circumstances
- Physically or emotionally harmful or life threatening
- Has lasting adverse effects on an individual's functioning, and mental, physical, social, emotional, or spiritual well-being

Trauma-Informed Care

- An approach to delivering care that involves:
 - Understanding, recognizing and responding to the effects of all types of trauma;
 - Recognizing the widespread impact and signs and symptoms of trauma in residents; and
 - Avoiding re-traumatization



Trauma Survivors include:

- Military veterans
- Survivors of disasters (natural and human- caused)
- Survivors of Abuse (physical, sexual, and/or mental)
- History of homelessness
- History of imprisonment
- Traumatic loss of a loved one



F699-Trauma-informed Care

Triggers and Re-traumatization-

- Facilities must identify triggers which may re- traumatize residents with a history of trauma.
- “A trigger is a psychological stimulus that prompts recall of a previous traumatic event, even if the stimulus itself is not traumatic or frightening.”
- Common triggers (most individualized):
 - Experiencing a lack of privacy or confinement in a crowded or small space
 - Exposure to loud noises, or bright/flashing lights
 - Certain sights, such as objects that are associated with those that used to abuse, and/or
 - Sounds, smells, and even physical touch.



What is Cultural Competency?

Culture

- Conceptual system that structures the way people view the world;
- Set of beliefs, norms, and values

Cultural Competency

- “A developmental process in which individuals or institutions achieve increasing levels of awareness, knowledge, and skills along a cultural competence continuum...”



F699-Trauma-informed Care

- Culture & Cultural Competencies-
 - Identify residents' cultural preferences
 - MDS section A-identify culture and need for further assessment & whether resident wants or needs an interpreter, preferred language
 - Facility Assessment-identify resident population w/ unique cultural characteristics
 - Facilities are required to communicate effectively-verbally and in writing with residents in a language/manner they understand
 - Provide care appropriate to the culture and the individual (appropriate behaviors and attitudes)



Potential Actions

- Identify residents with specific cultural preferences or a history of trauma.
 - ✓ Ensure you have a process to identify this upon admission
- Evaluate care plans for trigger identification and culturally competent and/or trauma-informed approaches.
- Educate staff on cultural competency and trauma-informed care.
 - ✓ Check out AHCA's [trauma informed care training](#) on [educate.ahcancal.org](#).



§483.30 Physician's Services

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F712	Physician Visits-Frequency/ Timeliness/Alternate NPPs	<ul style="list-style-type: none">• The physician must perform the initial comprehensive assessment in a skilled nursing facility within 30 days of admission• A non-physician practitioner can sign orders on subsequent visits• A non-physician practitioner is also permitted to sign Medicare Part A Certifications and re-certifications in accordance with State Laws



Potential Actions

- ❑ Examine existing P&P related to physician and non-physician practitioners to ensure visits, signing of orders and signing Medicare Part A certifications and recertifications are conducted according to regulation.
- ❑ Educate physicians and non-physician practitioners on updated policies or processes as needed.



§483.35 Nursing Services

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F725	Sufficient Staff	<ul style="list-style-type: none">• Added new guidance meeting state minimum staffing does not equate with meeting staffing requirements• May use PBJ data to examine compliance (e.g. 24 hr licensed staff)• Focus on enough staff to meet residents needs (e.g. Care Plan) and supervise others (e.g. aides)<ul style="list-style-type: none">• Added questions to staff and residents about staffing levels
F727	Registered Nurse	<ul style="list-style-type: none">• Use PBJ data to verify 8 consecutive hours of RN per day<ul style="list-style-type: none">• Added probes to verify 8 hrs RN per day• DON can serve as charge nurse if average daily census <60• RN requirement is a minimum and more RN hours may be needed based on acuity level
F729	Registry Verification	<ul style="list-style-type: none">• Added surveyor guidance when to check 5 CNA files if registry verification was done for each state where they worked.
F732	Nurse Staffing Information	<ul style="list-style-type: none">• Added “readily” accessible for posting staffing data• Added probes to verify daily posting of staffing data in clear readable format easily accessible and keep 18 months on file.



Sufficient Nurse Staffing

- CMS is increasingly focused on ensuring appropriate staffing standards
- CMS will be using PBJ data to ensure facilities are meeting the RN staffing standards (F727) and licensed nursing staff (F725)
- Staff must also have enough time to provide services to residents and assist and monitor all aids (F725)



F725-Sufficient Nursing Staff Surveyor Probes

- New guidance for probes:
 - Are the numbers of licensed staff sufficient? Do staff members have enough time to provide direct services to residents and assist and monitor all of the aides they are responsible for supervising?
 - Indications of inappropriate use of devices or practices to manage residents' behaviors or activities-practices to compensate for lack of sufficient staff?
 - Does the facility have adequate staff to monitor residents at risk for wandering?
 - Does the facility have licensed nursing staff 24 hours a day? (*may result in staff interviews if concerns identified*)



F727-Registered Nurse Surveyor Probes

- Probes:
 - Daily staffing posted?
 - RN on duty at least 8 consecutive hours a day, 7 days a week?
 - RN to serve as the DON on a full-time basis?
 - Ensure that the DON serves as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents?
 - Interviews as determined by no RN coverage.



Potential Actions

- ❑ Ensure that PBJ data is submitted timely and is accurate.
- ❑ Review CASPER Reports for PBJ
 - ✓ Facility must have RN on site at least 8 consecutive hours a day, 7 days a week
 - ✓ Facility must have licensed nursing staffing 24 hours a day
 - ✓ Maintain adequate staffing throughout the course of the week, including weekends
- ❑ Prepare DON, unit managers and other staff for questions from surveyors:
 - ✓ Don't coach on what to say.
- ❑ Ask residents and representatives about staffing
 - ✓ Consider adopting hallway ambassador program (<https://www.providermagazine.com/Topics/Guest-Columns/Pages/2022/Creative-Solutions-for-the-Staffing-Crisis-in-Long-Term-Care.aspx>)



Potential Actions

- ❑ Ensure that on a daily basis the following information is posted in a visible location:
 - ✓ Facility Name
 - ✓ Current Date
 - ✓ The total number and actual hours worked by the following categories of licensed and unlicensed nursing staff directly responsible for resident care per shift: registered nurses, licensed practical nurses or licensed vocational nurses, and certified nurse aides.
 - ✓ Resident Census
 - ✓ When call-in's happen, the census sheet needs to be updated to reflect actual hours.



§483.40 Behavioral Health Services

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F740	Behavioral Health Services	<ul style="list-style-type: none">• Added reference to Preadmission Screening and Resident Review (PASARR) requirements• Discussed use of behavioral contracts• Added information on depression, schizophrenia and bipolar disorder• Added behavioral health care and services resources
F741	Sufficient /Competent Staff-Behavioral Health Needs	<ul style="list-style-type: none">• Added references to and definitions of:<ul style="list-style-type: none">• history of trauma• post- traumatic stress disorder• diagnosed mental health• substance use disorder• Use of facility assessment for behavioral health care needs• Examples of non-pharmacological interventions



Behavioral Health Services

- CMS is focused on facilities providing adequate behavioral health services
- Care for individuals with a history of trauma, diagnosed mental health and substance abuse are examples of behavioral health services
- Facilities must identify the behavioral services they are able to provide in their facility assessment, and have sufficient and licensed staff to provide that care



Potential Actions

- Identify residents with diagnosis of behavioral, mental health, or substance use disorders and ensure interventions match diagnosis.
- Examine processes to assess residents for trauma and/or post-traumatic stress disorder, mental health diagnosis or substance use disorder.
- Provide ongoing education to staff on best practices for working with residents with behavioral, mental health, or substance use disorders.
- Identify current local, state, and national resources for behavioral and mental health.



§483.45 Pharmacy Services

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F755	Pharmacy Services	Clarified language related to disposal of Fentanyl patches Borrowing meds from another resident not drug diversion
F757	Drug Regimen is Free from Unnecessary Drugs	Consider F881 related to antibiotic stewardship if inappropriate antibiotic prescribing is identified
F758	Free from Unnecessary Psychotropic Medications/ PRN Use	<ul style="list-style-type: none">• Added language to look for substitution of other psychotropics when antipsychotics are stopped• Clarified other classes of drugs that meet definition of psychotropic and apply to F758• added language on checking for potential misdiagnosis, such as schizophrenia to support use of antipsychotics• Focus on multiple psychotropic medication use• Added language to look for psychosocial harm• Expect QAPI/QAA to track psychotropic use



F758- Free from Unnecessary Psychotropic Meds/PRN Use

- In 2017, CMS expanded the category of antipsychotic medications to the new category of psychotropic medications
 - Psychotropic medication = any drug that affects brain activities associated with mental processes and behavior
 - Psychotropic medication examples: anti-psychotics, anti-depressants, anti-anxiety medications, and hypnotics
- New guidance indicates that “other” medications are subject to same requirements if use appears to be a substitution for another psychotropic medication
 - Example: seizure medication for a resident with no history of seizures



Potential Actions

- ❑ Identify residents currently receiving other medications (antihistamines, anticholinergic medications, and central nervous system agents) to ensure they are not prescribed as a substitute for an anti-psychotic, anti-depressant, anti-anxiety, or hypnotic. If identified for off label use, follow guidelines for psychotropic medication requirements.
- ❑ Review all residents who have a diagnosis of schizophrenia to ensure the medical record includes detailed evaluations by appropriate practitioners and relevant history consistent with professional standards.



§483.60 Food and Nutrition Services

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F812	Food Procurement, Store/Prepare/Serve-Sanitary	<ul style="list-style-type: none">• Guidance reorganized for clarification and provided links to FDA, CDC about food safety;• added language related to<ul style="list-style-type: none">• Covering food during transportation to room or dining• Use of hair nets when cooking, preparing or assembling food but not transporting or assisting with eating• Use of gloves are necessary when touching ready to eat food or serving resident on TBP<ul style="list-style-type: none">• Not needed when distributing food or assisting residents to dine unless touching ready to eat food• Temperature control during transportation• Staff washing their hands before food distribution or serving



Potential Actions

- ❑ Examine current P&P to:
 - ✓ Ensure food is covered when required
 - ✓ Ensure hair restraints are worn when required: cooking, preparing, or assembling food, such as stirring pots or assembling the ingredients of a salad.
 - ✓ Ensure staff are wearing gloves when necessary to include when touching ready-to-eat foods or when serving residents who are on transmission-based precautions.
 - ✓ Ensure staff are washing their hands when staff are distributing meals and serving food to residents after collecting soiled plates and food waste.
- ❑ Train/educate staff on proper food and nutrition preparation.



§483.70 Detailed Changes to Administration

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F847	Entering into Binding Arbitration Agreements	Added the new F-tag (F847) Added all new guidance outlining requirements for F847 rights of residents to enter or not enter an agreement
F848	Select Arbitrator/ Venue, Retention of Agreements	Added the new F-tag (F848) Added all new guidance outlining requirements when <ul style="list-style-type: none">• selecting an arbitrator and venue; and• retention requirements of agreements
F851	Mandatory submission of staffing information based on PBJ in uniform format	Updated guidance to reflect surveyors can <ul style="list-style-type: none">• obtain PBJ data from CASPER to verify compliance with data submissions (missing data on CASPER report trigger F851)• Data can be used for F725 & F727 sufficient staff



F847- Entering into Binding Arbitration Agreements

- 5 key components that the facility must comply with if they offer binding arbitration on or after September 16, 2019:
 1. Cannot require the resident/representative to sign the agreement as a condition of admission or requirement to continue receiving care.
 2. The facility must explain the agreement so the resident/representative can understand. The resident/representative must acknowledge that they understand the agreement.
 3. The agreement must clearly state that the resident/representative has the right to rescind the agreement within 30 days.
 4. The agreement must clearly state that the resident/representative is not required to sign the agreement as a condition of admission or as a requirement to continue receiving care.
 5. The agreement may not contain any language to prohibit or discourage anyone including the resident/representative to communicate with federal, state or local officials including Ombudsman.



F848- Select Arbitrator/ Venue, Retention of Agreements

- Two key components
 - The agreement must provide for the selection of a neutral arbitrator agreed upon by the facility and the resident or his or her representative and the selection of a venue that is convenient to both parties.
 - The facility must retain a copy of the signed agreement for binding arbitration and the arbitrator's final decision for 5 years after the facility and the resident or his or her representative resolved a dispute through arbitration.



Potential Actions

- ❑ For facilities that continued to use arbitration agreements, they should examine existing P&P to ensure:
 - ✓ Compliance with record keeping requirements.
 - ✓ They include all 5 key components for when entering into binding arbitration agreements.
 - ✓ They include the 2 required key components for selecting an arbitrator/venue and retention of agreements.



§483.75 Quality Assurance and Performance Improvement

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F865	QAPI Program/Plan, Disclosure/Good Faith Attempt	<ul style="list-style-type: none">Expanded upon intent,added definitions, new guidance, added to investigative procedure and key elements of non-compliance
F866	QAPI/QAA Data Collection and Monitoring	<ul style="list-style-type: none">Regulatory requirements §483.75(c) and §483.75(c)(1)-(4) have been relocated to F867
F867	QAPI/QAA Data Collection/Monitoring/Analysis/Improvement	<ul style="list-style-type: none">§483.75(c) and §483.75(c)(1)-(4) moved over from F866-feedback, data systems and monitoring.Added intent added, new definitions, new guidance, updated investigative procedure, key elements of non-compliance and deficiency categorization update
F868	QAA Committee	<ul style="list-style-type: none">Added infection preventionist to QAA rosterReporting activities to governing body (if administrator this is accomplished at the QAA committee)



QAPI Program Basics

- Ongoing and comprehensive
- Utilize best available data
- Incorporate feedback from staff at all levels
- Resourced
- Focus and priorities reflective of facility assessment
- Effective use of root cause analysis and PIP teams



QAPI Program Basics (cont.)

- QAPI or QAA committee that meets quarterly and includes:
 - DON
 - medical director
 - infection preventionist
 - administrator
 - two members of facility staff
- Connection to your facility assessment and staffing competencies
- Document, document, document!

Data Required to be reviewed by QAA

- Adverse Event Monitoring
 - Abuse, neglect & misappropriate of property allegations
 - Consider all FRIs
- Drug Regime Review
 - GDR including physician's response
- Antibiotic Stewardship
- Medication error rates

- Infection control
 - Hand washing
 - Use of PPE
- Widespread QOC issues
 - Mobility, ROM
 - Diet and weight-loss
 - Pressure ulcers
 - Unnecessary medications
- Resident Grievances



Potential Actions

- ❑ Have a Quality Assessment and Assurance (QAA) committee in place with the following members:
 - ✓ Director of Nursing
 - ✓ Medical Director or Designee
 - ✓ Infection Preventionist
 - ✓ At least three other members of the facility's staff, at least one of who must be the administrator, owner, a board member or other individual in a leadership role
- ❑ Have at least one person trained as a QAPI Certified Professional (QCP)
 - ✓ AHCA partnered with AAPACN to offer this training at discounted member rate: <https://www.aapacn.org/education/qcp/>



Potential Actions

- ❑ Maintain documentation and provide evidence of its ongoing QAPI program. Ensure that the program:
 - ✓ Addresses all systems of care and management practices;
 - ✓ Includes clinical care, quality of life and resident choice;
 - ✓ Utilizes the best available evidence to define measure indicators of quality and facility
 - ✓ Has goals that reflect processes of care and facility operations that have been shown to be predictive of desired outcomes for residents; and
 - ✓ Reflects the complexities, unique care and services that the facility provides.
- ❑ Ensure that the facilities governing body, leadership, and staff are aware of the QAPI program and its goals.



§483.80 Infection Control

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F880	Infection Prevention and Control	<ul style="list-style-type: none"> • Added reporting of diseases to IPC plan • Defined staff for IPC as not just employees • Standard and TBC must be defined and when to use in IPC plan • Added definitions for C-diff, Legionellosis, and MDROs • Passive screening of visitors for symptoms allowed • Examples of environmental cleaning/disinfection. • Water management section updated and routine water testing for legionella not required • MDRO colonization and infection section. • Cleaning blood glucose monitoring devices updated
F881	Antibiotic Stewardship Program	<ul style="list-style-type: none"> • Monitor/review response to ATBs, lab results, to determine if ATB is still indicated or adjustments should be made. • Feedback to prescribers to improve prescribing practices. Indication, dose, duration to ATB orders.
F882	Infection Preventionist Qualifications/Role	<ul style="list-style-type: none"> • New section of SOM; no new requirements some updated guidance • Part-time IP who meet all regulatory requirements • IPs responsible for assessing, developing, implementing, monitoring, and managing IPCP and ATB stewardship program & F882 may be cited with F880. • must be onsite, not part of corporate office or affiliated short term acute care facility; have enough time devoted to IP activities
F883	Influenza and Pneumococcal Immunizations	<ul style="list-style-type: none"> • Facilities should follow CDC/ACIP recommendations for vaccines. <ul style="list-style-type: none"> • Removed guidance for old 13 valent PPV • For up-to-date information on indications and timing of pneumococcal vaccines, refer to CDC's ACIP Vaccine Recommendations and Guidelines website located at www.cdc.gov/vaccines.



F882- Infection Preventionist

- The IP is responsible for assessing, developing, implementing, monitoring, and managing the IPCP
- The IP Must:
 - Have primary professional training in nursing, medical technology, microbiology, epidemiology, or other related field;
 - Be qualified by education, training, experience or certification;
 - Work at least part-time at the facility
 - Have completed specialized training in infection prevention and control



Potential Actions

- Examine existing P&P on the IPC program, facility assessment, and process for updating program and training of staff.
- Consider adopting Shift Coaches to monitor and coach consistent and appropriate use of IPC practices.
- Identify at least one IP, but highly recommended two IPs.
- Ensure IP they have appropriate education and specialized training.



Potential Actions

- Review existing water management program to ensure it includes assessment, monitoring, and interventions when control limits are not met and update where needed.
- Educate staff on Enhanced Barrier Precautions and when to use them.
- Evaluate current Antibiotic Stewardship Program to ensure through use of infection assessment tools, monitoring of antibiotic use, and feedback and education to prescribers that unnecessary antibiotic use is not taking place.
- Review immunization policy/procedures and check for compliance with CDCs ACIP recommendations and process for updating practices.



§483.85 Compliance and Ethics

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F895	Compliance and Ethics Program	<ul style="list-style-type: none">• No new regulations but new section to SOM• Mostly reiterate regulatory language



Eight Required Components

1. Establish written compliance and ethics standards, policies and procedures “reasonably capable of” reducing the prospect of criminal, civil and administrative violations and promote quality of care. This includes:
 - Designating an appropriate contact to whom individuals may report suspected violations.
 - Establishing an alternate method of reporting suspected violations anonymously without fear of retribution.
 - Disciplinary standards that set out the consequences for committing violations for the entire staff, individuals providing services under a contractual arrangement, and volunteers, consistent with the volunteers' expected roles
2. Assignment of “high level” individual(s) (e.g., Chief Executive Officer (“CEO”), Board Member, Division Director, etc.) with the overall responsibility to oversee compliance with the C&E Program’s standards, policies and procedures.
3. Provide sufficient resources and authority to individual(s) overseeing the program to “reasonably assure compliance” with standards, policies and procedures.
4. Due care not to delegate substantial discretionary authority to individuals who the operating organization knew, or should have known through due diligence, had a propensity to engage in criminal, civil, and administrative violations under the Social Security Act.



Eight Required Components

5. Effective communication of program standards, policies and procedures to the “entire staff”
 - Requirements include, but are not limited to, mandatory participation in training as set forth at §483.95(f) or orientation programs or disseminating information that explains in a practical manner what is required under the program.
6. Reasonable steps to achieve compliance with the program’s standards, policies and procedures, including auditing and monitoring systems, as well as reporting mechanisms and a non-retaliation policy.
7. Consistent enforcement of the program standards, policies and procedures through appropriate disciplinary mechanisms including, as appropriate, discipline for individual’(s) failure to detect and report a violation to the program contact.
8. Ensuring all “reasonable steps” are taken to “respond appropriately” to a violation and to “prevent further similar violations” including any necessary modification to the program.



Three Components for Operating Orgs with 5+ Facilities

1. Conducting annual and mandatory program training that meets the requirements set forth in § 483.95(f)
2. Designating a compliance officer whose “major responsibility” is to oversee the program, and who reports to the “governing body.”
Note: The compliance officer cannot be “subordinate to the general counsel, chief financial officer or chief operating officer.”
3. Designating a compliance liaison at each of the organization’s facilities.



Annual Review

The operating organization must also complete an annual review of the compliance and ethics program. The review must reflect changes in all applicable laws or regulations and within the operating organization and its facilities to improve its performance in deterring, reducing and detecting violations under the Act and in improving quality of care. Facilities should make sure to document the annual review, even if no changes or revisions are made.



Training Requirements

- Compliance and ethics. The operating organization for each facility must include as part of its compliance and ethics program, as set forth at §483.85—
 - An effective way to communicate the program's standards, policies, and procedures through a training program or in another practical manner which explains the requirements under the program.
 - Annual training if the operating organization operates five or more facilities.



Potential Actions

- Review the 8 (or 11) components outlined by CMS to ensure your compliance and ethics program meets these requirements
- Take your facility assessment into account while evaluating program needs, including identifying risk areas, developing and maintaining the program and determining resources
- Integrate the QAPI program with your compliance and ethics program
- Ensure staff are aware of and can speak to the compliance and ethics program



483.90 Physical Environment

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F919	Resident Call System	Updated guidance to reflect accessibility of call system



Potential Actions

- Develop a process to routinely ensure the call system for residents is operational.
- Review the process to ensure that during a loss of power the resident call system will be operational or ensure there is an alternate means of communicating with the staff in place.
- Examine functionality of call system to ensure it is accessible to a resident lying on the floor.
- Educate staff on importance of always ensuring resident has access to call system.



§483.95 Training Requirements

Ftag	Tag Subject	Key Changes to Regulation and/or Interpretive Guidance
F940	Training Requirements	Added new guidance for this stem requirement for all training tags
F941	Communication Training	Added new guidance for communication
F942	Resident Rights Training	Added new guidance for training related to Resident Rights/ Facility Responsibility
F944	QAPI Program	QAPI program mandatory training
F945	Infection Control Training	Added new guidance for training related to Infection Control
F946	Compliance and Ethics	Added training requirement for organizations with 5 or more facilities
F947	In-service Training for Nurse Aides	Added new guidance for training related to Nurse Aides
F949	Behavioral Health Training	Added new guidance for training related to Behavioral Health



Potential Actions

- Examine existing policy and/or process staff training programs to ensure communication, resident rights, QAPI program, infection control, compliance and ethics, in-service training, and behavioral health training are incorporated.
- Review the facility assessment and update training programs as needed based on the facility assessment.
- Review nurse aide performance reviews to identify areas of weakness or opportunities for improvement and tailor training to meet staff needs.



Resources



AHCA Resources

- All RoP Resources available at: <https://educate.ahcancal.org/RoP>.
- Resources include:
 - Complete summaries of changes to each Ftags
 - Water management training
 - Compliance and ethics implementation guide
 - QAPI resources
 - Infection Preventionist specialized training
- Additional resources available include:
 - Trauma Informed Care Training: <https://educate.ahcancal.org/trauma-informed-care>
 - QAPI Certified Professional Training: <https://www.aapacn.org/education/pop/>

Regulatory Area	Resource(s)
Resident Rights	<ul style="list-style-type: none"> • Action Brief: Taking Photos or Videos in SNFs
Freedom from Abuse, Neglect, and Exploitation	<ul style="list-style-type: none"> • Action Brief: Freedom from Abuse, Neglect, and Exploitation • Sexuality and the Resident with Dementia • Trauma-informed Care: Quality Assurance and Abuse Prevention
Admission, Transfer, & Discharge	<ul style="list-style-type: none"> • Tool: Information Accompanying Residents at Discharge or Transfer • Tool: Discharge Planning Process • Tool: Admission, Transfer, and Discharge Rights
Comprehensive Person-Centered Care Plans	<ul style="list-style-type: none"> • Action Brief: Care Planning • Tool: Comprehensive Person-Centered Care Planning
Quality of Care	<ul style="list-style-type: none"> • Trauma-informed Care Resources • Trauma-informed Care Training • Action Brief: Trauma-informed Care • Action Brief: Accidents • Action Brief: Effective Team Huddles • Provider Self-Assessment & Mitigation Tools for Res-to-Res Occurrences • Nursing Centers Action Plan Responses for Adverse Events
Physician & Nursing Services	<ul style="list-style-type: none"> • Action Brief: Physician Services • Action Brief: Nursing Services

Regulatory Area	Resource(s)
Behavioral Health	<ul style="list-style-type: none">• Action Brief: Behavioral Health• Behavioral Health and Trauma Informed Care
Pharmacy Services	<ul style="list-style-type: none">• Action Brief: Pharmacy Services
Food and Nutrition Services	<ul style="list-style-type: none">• Food and Nutrition Survey: Part 1 & 2
Administration	<ul style="list-style-type: none">• HealthCap Arbitration Agreement Webinar• Arbitration Toolkit by HealthCap• Model Arbitration Agreement
Quality Assurance & Performance Improvement	<ul style="list-style-type: none">• QAPI Certified Professional Training• QAPI Prep Course• Integrating the RoP into your Community Morning Meeting

Regulatory Area	Resource(s)
Infection Control	<ul style="list-style-type: none"> • Infection Prevention • Water Management Training • Action Brief: Infection Control • Tool: Infection Preventionist Role and Competencies
Compliance and Ethics	<ul style="list-style-type: none"> • Compliance & Ethics Program • AHCA Compliance and Ethics Program Implementation Guide
Physical Environment	<ul style="list-style-type: none"> • Action Brief: Physical Environment
Training	<ul style="list-style-type: none"> • Training Program & Staff Competencies • Action Brief: Training Requirements
Overall Resources	<ul style="list-style-type: none"> • Focus F-Tag Weekly Updates • Survey Preparedness: Requirements of Participation • RoP Action Briefs & Tools • Policies & Procedures Checklist of All Required • Requirements of Participation and Baldrige Criteria and Requirements of Participation and Baldrige Connection



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