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*National Provider Call*

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

Karen Tritz – Division of Nursing Homes Director

Clinical Standards Group Long-Term Care Team  
Survey & Certification Group Division of Nursing Homes  
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# Background

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- 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

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

# Person-Centered Care

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## *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

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## *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

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## *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.

# Phased In Implementation Schedule

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

Phase	Primary Implementation
<p><b>Phase 1</b></p> <p><i>(* this section is partially implemented in Phase 2 and/or 3)</i></p>	<ul style="list-style-type: none"><li>• Resident Rights and Facility Responsibilities*</li><li>• Freedom from Abuse Neglect and Exploitation*</li><li>• Admission, Transfer and Discharge*</li><li>• Resident Assessment</li><li>• Comprehensive, Person-Centered Care Planning*</li><li>• Quality of Life</li><li>• Quality of Care*</li><li>• Physician Services</li><li>• Nursing Services*</li><li>• Pharmacy Services*</li><li>• Laboratory, radiology and other diagnostic services</li><li>• Dental Services*</li><li>• Food and Nutrition*</li><li>• Specialized Rehabilitation</li><li>• Administration (Facility Assessment – Phase 2)*</li><li>• Quality Assurance and Performance Improvement* - QAA Committee</li><li>• Infection Control – Program*</li><li>• Physical Environment*</li></ul>

# Phased Implementation (continued)

Phase 2	<ul style="list-style-type: none"><li>• Behavioral Health Services*</li><li>• Quality Assurance and Performance Improvement* - QAPI Plan</li><li>• Infection Control – Facility Assessment and Antibiotic Stewardship **</li><li>• Compliance and Ethics*</li><li>• Physical Environment- smoking policies *</li></ul>
Phase 3	<ul style="list-style-type: none"><li>• Quality Assurance and Performance Improvement* - Implementation of QAPI</li><li>• Infection Control – Infection Control Preventionist *</li><li>• Compliance and Ethics*</li><li>• Physical Environment-call lights at resident bedside *</li><li>• Training *</li></ul>

\*This section is partially implemented in other phases

# 483.5 Definitions

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## Added federal definitions

- Clarification of abuse, neglect, exploitation, mistreatment
- Adverse event (QAPI)
- Nurse aide
- Person-centered

# 483.10 Resident Rights

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- 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

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

# 483.20 Resident Assessment

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- Few changes to resident assessment, but strengthened PASARR section.
- Implemented in Phase 1.

# 483.21 Comprehensive Person-Centered Care Planning

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- 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

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- No brand new requirements.
- “Highest Practicable Well-Being” language in this section.
- Implemented Phase 1.

# 483.25 Quality of Care

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- 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

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- 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

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- 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

# Other Regulations

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## 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

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- 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

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## Current Requirements – (Phase 1)

- Infection Control Program
- Linens
- Infection Control Preventionist with Specialized Training (Phase 3)
- Antibiotic Stewardship (Phase 2)
- Flu and Pneumonia Vaccines

# 483.85 Compliance and Ethics Program

## 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?

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# Implementation Timelines

Estimated Implementation Date	Type of Change	Details of Change
Phase 1: November 28, 2016	Effective date of Nursing Home Requirements for Participation	New Regulatory Language will be uploaded to ASPEN under current F Tags
Phase 2: November 28, 2017	<ul style="list-style-type: none"><li>• F Tag numbering</li><li>• Interpretive Guidance (IG)</li></ul> Implement new survey process	New F Tag numbers IG Changes Begin surveying with the new survey process

# What Exactly Does This Mean?

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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.)*

# Expected Impact Phase 1

## 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.

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Intent/Interpretive Guidance/Survey Process doesn't change...

# Expected Impact Phase 2

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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...

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

# Expected Impact Phase 2

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F981

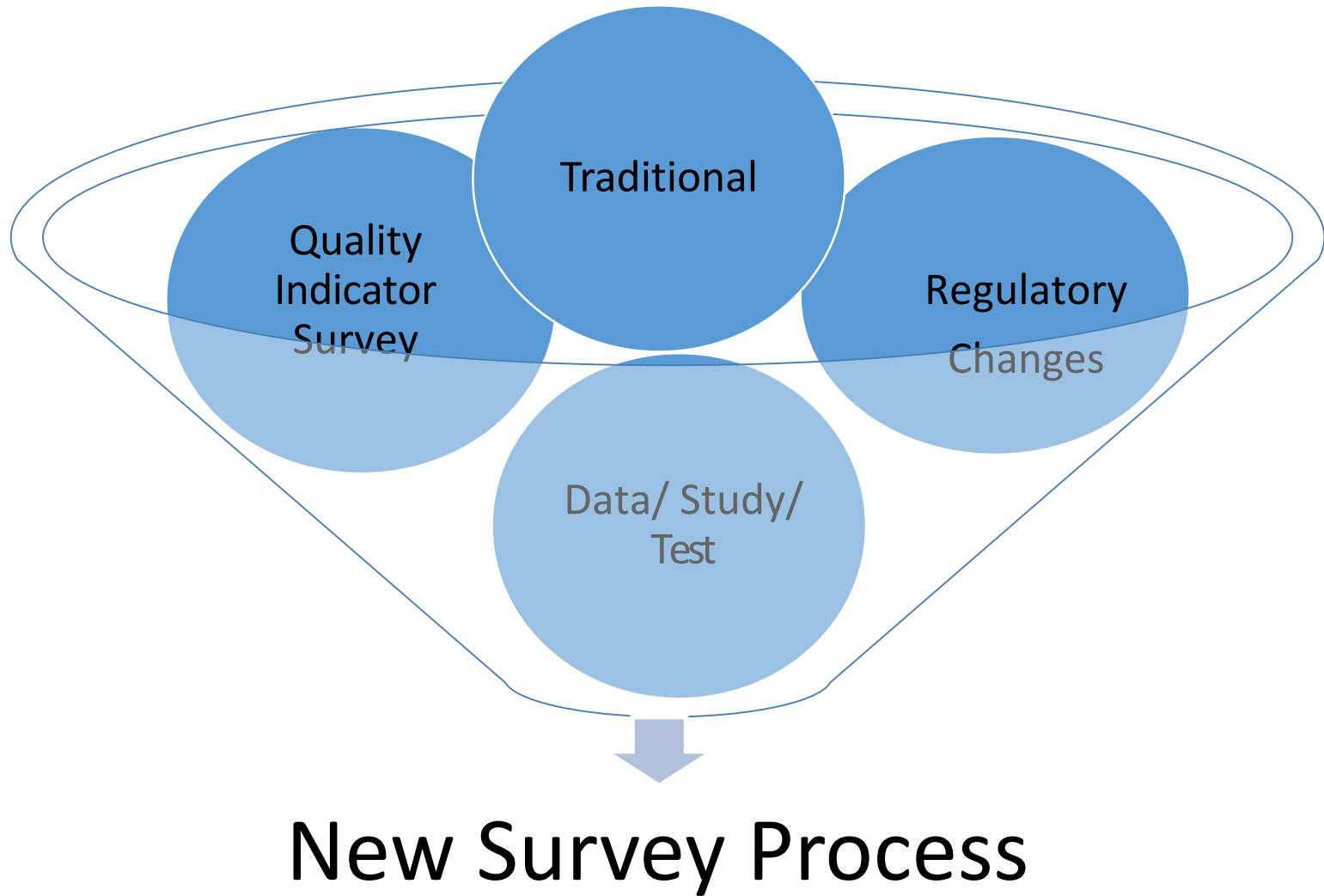
§483.999 The facility must provide purple attire for all residents to wear on Sundays.

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



# New Survey Protocol

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



# Survey Process

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- 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?

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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

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[NHSurveyDevelopment@cms.hhs.gov](mailto:NHSurveyDevelopment@cms.hhs.gov)

# Question & Answer Session

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# Acronyms in this Presentation

Acronym / Phrase	Term
LTC	Long Term Care
CFR	Code of Federal Regulations
QAPI	Quality Assurance Process Improvement
SNF	Skilled Nursing Facility
The Act	Social Security Act
PASARR	Preadmission Screening And Resident Review
PTSD	Post Traumatic Stress Disorder
C & E	Compliance and Ethics
ACA	Affordable Care Act
HHS	Health & Human Services
IMPACT	Improving Medicare Post Acute Care Transformations
QAA	Quality Assessment and Assurance
ASPEN	Automated Survey Processing Environment
IG	Investigative Guidance



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