Long-Term Care Surveyor Guidance

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Long-Term Care Surveyor Guidance

The Centers for Medicare & Medicaid Services (CMS) released extensive updates to the Long-Term Care Surveyor Guidance, Appendix PP in the State Operations Manual, in November 2024. While these updates do not change Requirements of Participation, they significantly impact how requirements are surveyed and could result in increased citations and fines for nursing homes without proper preparation. Join us as we take a deep dive into these updates and explore what you can do to prepare for your next survey.

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Background Info

- Updates to State Operations Manual, Appendix PP released November 2024
  - Appendix PP: Long-Term Care Surveyor Guidance
- Original effective date: February 2025
  - Updated January 2025, delayed to March 2025
  - Communications freeze, delayed to April 2025

Background Info

- Changes made to 25 Ftags, 9 Critical Element Pathways
  - Added 3 new Ftags (1 known, 2 previously unknown)
- Includes changes to all three federal Focus Concern areas
  - Unnecessary medications, transfer/discharge, nurse staffing

Topics and Ftags

- Unnecessary medications
- Assessment and diagnosis
- Transfer and discharge
- Nurse staffing
- Infection control
- Admissions Policy
- ADL Care
- Cardio-Pulmonary Resuscitation
- Pain Management
- QAPI/QAA Improvement Activities
- Bedrooms Equipped/Near Toilet

Unnecessary Medications

Affected Tags

- F605 Right to be Free from Chemical Restraints
- F757 Drug Regimen is Free from Unnecessary Drugs
- F841 Responsibilities of Medical Director

REMOVING:

- F758 Free from Unnecessary Psychotropic Meds / PRN Use

Key Takeaways

- Refers to unnecessary psychotropics and regular medications
  - Unnecessary psychotropics: cited at F605 (abuse tag)
  - Unnecessary other medications: cited at F757 Unnecessary Drugs
- Pay attention to:
  - Definitions
  - Documentation
  - Processes

Definition: Unnecessary Drug

- Excessive dose or duration
- Without adequate indications for use
- Without adequate monitoring [for adverse effects]
- In the presence of adverse consequences

Definition: Chemical Restraint

- Causes a change in resident's behavior (sedated, subdued, withdrawn)
- Requires less effort from staff to care for resident
- Not required to treat medical symptoms
- Nonpharmacological treatments not clinically contraindicated

Documentation: Comprehensive Assessment

- Evaluate physical, behavioral, mental, psychosocial signs/symptoms
- Identify / rule out any underlying medical conditions
- Assessment of benefits and risks
- Consider preferences and goals for treatment

Documentation: Adequate Indications for Use

- Assessment of condition and therapeutic goals
- Other (safer) treatments are clinically contraindicated
  - Include clinical contraindications for nonpharmacological interventions
- Consistent with manufacturer's recommendations and/or clinical practice guidelines

Documentation: Informed Consent

- Prior to initiating or increasing psychotropic medication
- Risks and benefits of proposed care (medication) including black box warnings
- Treatment alternatives or other options
- Able to choose preferred option

Documentation: Gradual Dose Reduction

- Date of GDR attempt
- Outcome of attempt
- Plan regarding future GDR attempts
- Rationale in physician documentation why GDR attempts are clinically contraindicated
- May be documented in medical record or MDS

Process: When to Re-Evaluate Meds

- Admission or re-admission
  - Must validate need for continuation of any meds
- New or worsening change in condition/status
- Irregularity identified in pharmacist's medication regimen review
- New medication ordered as emergency measure

Process: Monitoring and Adverse Consequences

- Did side effects such as:
- Sedation
- Lethargy
- Agitation
- Mental status changes
- Behavior changes

- Affect the resident's abilities to perform activities of daily living or interact with others
- Cause the resident to withdraw or decline from usual social patterns
- Show the resident has decreased engagement in activities
- Cause diminished ability to think or concentrate

Monitoring and Adverse Consequences

- Surveying for a failure in care processes related to considering/acting upon possibilities
- Surveyor does not have to prove causation
- Level 4 (immediate jeopardy): failure to monitor, failure to attempt GDR, failure to document clinical rationale

Process: Medical Director Responsibilities

- Ensuring physicians / other practitioners adhere to facility policies for prescribing medications
- Intervening with health care practitioners regarding medical care that is not consistent with current professional standards of care

Remember:

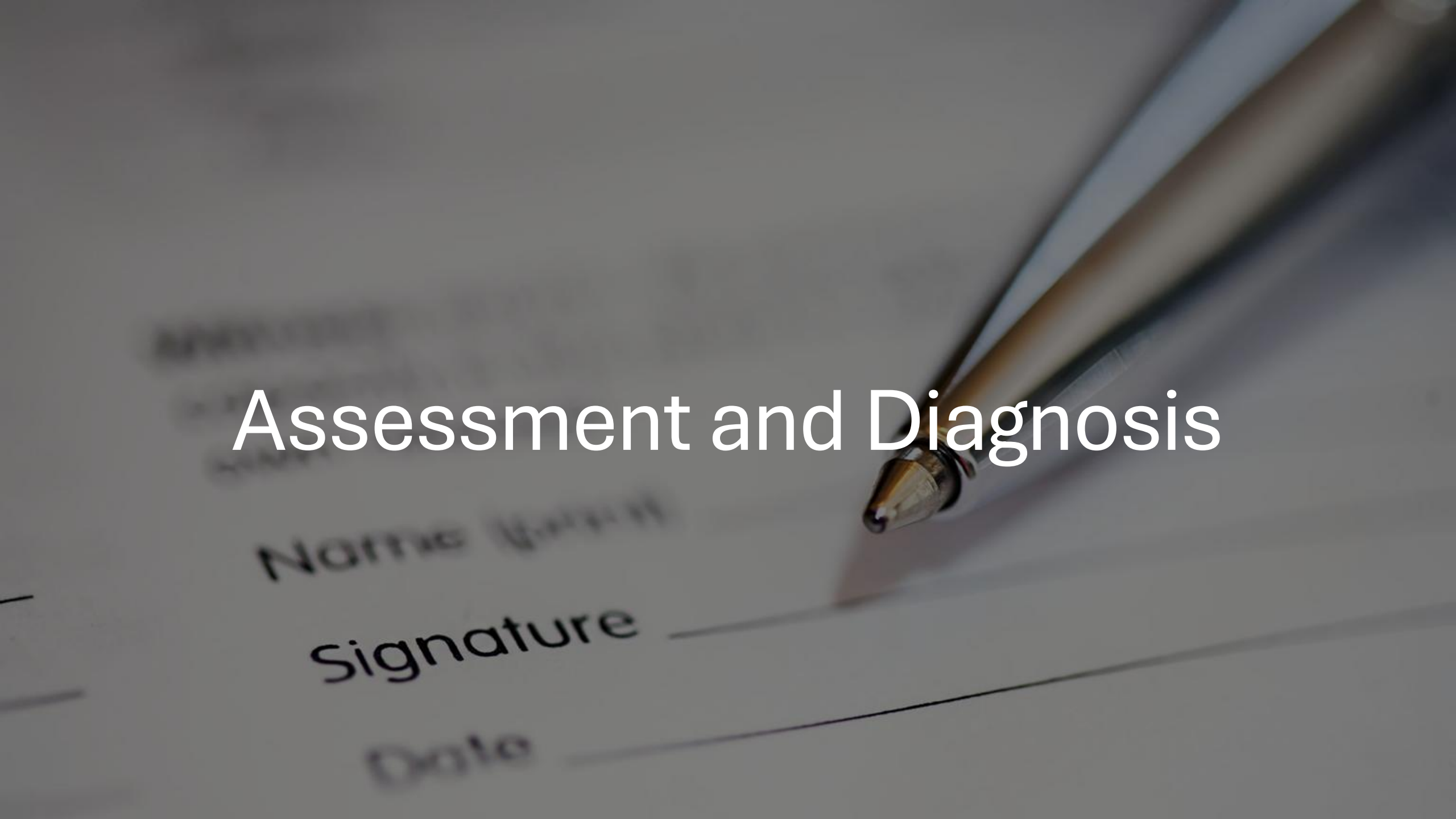
- F605 can also include non-psychotropics that affect brain activity:
  - Antihistamines
  - Anticholinergics
  - Central nervous system agents used to treat: seizures, mood disorders, pseudobulbar affect, muscle spasms, stiffness
  - Examples: Benadryl, Depakote, Nuedexta
- F757 can include antibiotics for which there is not adequate indication for use

What to Do

- Focus your efforts
  - Psychotropics
  - Polypharmacy, duplicate therapies
  - Antibiotics
- Run your audits
  - Comprehensive assessments
  - Adequate indications for use (including contraindications)
  - Adverse event monitoring
  - Psychotropics: consent, gradual dose reductions

What to Do

- Resources
  - Electronic medical record
  - Pharmacy reports
  - Critical Element Pathway: Unnecessary Medications, Chemical Restraints / Psychotropic Medications, and Medication Regimen Review



Assessment and Diagnosis

Affected Tags

- F641 Accuracy of Assessments
- F658 Services Provided Meet Professional Standards
- F841 Responsibilities of Medical Director

REMOVING:

- F642 Coordination/Certification of Assessment

Key Takeaways

- Reviewing for documentation to support the diagnosis
  - In accordance with professional standards of care / accepted standards of practice
  - Documented by practitioner
- Patterns of concern may be referred to applicable state board and/or Office of Inspector General

Supporting Documentation

- Evaluation of resident's physical, behavioral, mental, psychosocial status, comorbid conditions
- Rule out physiological effects of a substance (medication or drugs) or medical conditions
- Indications of distress
- Changes in functional status
- Resident complaints, behaviors, symptoms
- PASARR

Insufficient Documentation

Medical record does not contain:

- Documentation of symptoms, disturbances, behaviors consistent with DSM criteria and period of time consistent with DSM criteria
- Documentation from diagnosing practitioner indicating diagnosis was based on comprehensive assessment (notes from visit)
- Documentation from diagnosing practitioner indicating symptoms, disturbances, behaviors are not attributable to effects of substances or another medical condition
- Documentation regarding the effect the disturbance has on resident's function: interpersonal relationships, self-care, etc. in comparison to level of function prior to onset of disturbance

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Examples of Insufficient Documentation:

- Diagnosis is listed as indication on med orders but no supporting documentation in record
- Diagnosis list without supporting documentation
- Note from previous provider or transfer summary stating diagnosis or “history of” without supporting documentation and current practitioner failed to conduct comprehensive evaluation after admission to confirm
- Note in EHR that populates throughout record without supporting documentation
- Note of diagnosis by nurse without supporting documentation by practitioner

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Medical Director Responsibilities

- Ensuring physicians / other practitioners adhere to facility policies for prescribing medications
- Intervening with health care practitioners regarding medical care that is not consistent with current professional standards of care

Notes on Enforcement

- Each person signing off on MDS is responsible
- Referral to state board of nursing, OIG
- Have policy to ensure access to hard copy if needed for surveyors/others required by state law

What to Do

- Focus your efforts
  - Schizophrenia diagnoses
- Run your audits
  - Comprehensive assessments
  - Practitioner’s documentation
  - Historical documentation
  - PASARR
- Resources
  - Electronic medical record
  - Critical Element Pathway: Resident Assessment

Transfer and Discharge

Affected Tags

REMOVING:

- F622 Transfer and Discharge Requirements
- F623 Notice Requirements Before Transfer/Discharge
- F624 Preparation for Safe/Orderly Transfer/Discharge
- F625 Notice of Bed Hold Policy Before/Upon Transfer
- F626 Permitting Residents to Return to Facility
- F660 Discharge Planning Process
- F661 Discharge Summary

NEW: F627 Inappropriate Transfers and Discharges

- Conditions under which a resident can be discharged
- Documentation required
- Right to return after hospitalization or therapeutic leave
- Discharge planning process
- Unsafe discharges

NEW: F628 Transfer and Discharge Process

- Adhering to all components of process for transfer/discharge:
- Documentation and information conveyed to receiving provider
- Notice of transfer or discharge
- Notice of bed-hold policy
- Completing discharge summary

Notes on Enforcement

- Will be coordinating with ombudsman re: complaints
- Must show evidence of assessment at time of discharge: needs cannot be met, danger to self/others
- Hospital transfer is not discharge
- AMA is not discharge
- From SOM: F627 will generally always be cited at Level 3 or 4 due to psychosocial outcomes as well as likelihood of physical harm (enforcement remedies)

Discharge Planning Process

- Addresses goals and needs
- Includes caregiver
- Includes referrals to local contact agencies
- Involves resident/representative and interdisciplinary team in developing the discharge plan

Inappropriate Discharges

Receiving location:

- Cannot meet resident's need
- Does not provide needed support and resources
- Does not meet resident's preferences

Inappropriate Discharges

- Discharge occurs when appeal is pending and there is no evidence to support danger due to failure to discharge
- Not permitted to return after hospitalization/leave and no evidence of basis for discharge
- No evidence that discharge planning considered caregiver's availability, capacity, and capability
- Post-discharge plan did not address resident limitations to care for self

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Inappropriate Discharges

Documentation does not support basis for discharge:

- “Unable to meet resident’s needs”: no evidence of attempts to meet needs, no assessment of what needs cannot be met
- “Improvement such that services no longer needed”: no evidence that health has improved or health has actually declined
- “Danger to self/others”: no documentation of dangers
- “Failure to pay”: no evidence resident was offered to pay privately or apply for medical assistance, no evidence of refusal

Appeals and Findings of Noncompliance

If discharge location is setting that does not meet resident's needs, nursing home must:

- Readmit until safe and compliant discharge can take place, or
- Coordinate transfer of resident to a safe setting

What to Do

- Focus your efforts
  - Discharges since last standard survey
  - Complaints to ombudsman
  - Discharge appeals
- Run your audits
  - Evidence of discharge planning (care plans, notes, etc.)
  - Documentation of condition, behavior, etc. including assessments
  - Discharge notices
- Resources
  - Electronic medical record
  - Critical Element Pathway: Discharge

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Nurse Staffing

Affected Tags

- F725 Sufficient Nursing Staff
- F727 RN 8 Hours / 7 Days / Week, Full Time DON
- F851 Payroll Based Journal

Survey Process

Off-site Review

- PBJ Data

On-site Investigations

- Interviews
- Observations
- Chart Reviews

Offsite Review: PBJ Staffing Data Report

- No RN hours (F727)
- Failed to have licensed nurse 24 hours / day (F725)
- Excessively low weekend staffing (F725)
- One-star staffing (F725)
- Failed to submit data for the quarter (F851)

Failed to Have Licensed Nurse

- Opportunity to provide evidence of licensed nurse coverage
- Interviewing Administrator, DON, nursing staff
- Looking at communication protocols, omissions of care
  - Are you aware when there's no licensed nurse?
  - Is care missed?
  - Who do you notify in emergency?

One Star Staffing Rating

- Also interviewing housekeeping/dietary/maintenance
- Observations, complaints
  - Not meeting needs
  - Residents waiting a long time for help
  - Bad odors
  - Complaining residents or family

Excessively Low Weekend Staffing

- Also interviewing housekeeping/dietary/maintenance
- Observations:
  - Not enough staff to provide care
  - Residents calling out
  - Activities being cancelled
  - Beds unmade, rooms messy

Sufficient Staffing – Chart Review

- Indicators:
  - Falls
  - Weight loss
  - Dehydration
  - Pressure ulcers
  - Elopement
  - Resident altercations

Sufficient Staffing - Observations

- Odors
- Timely assist (still in bed, unkempt, unclean)
- Care provided at reasonable times of day
- Rushed care
- Timely response to call devices and alarms
- Timely medication
- Calling out, wandering unsupervised, sedation, position change alarms or physical/chemical restraints

Sufficient Staffing - Interviews

- Residents/Representatives
  - Receiving needed help/care?
  - Informed care could not be provided?
- Nursing Staff
  - Enough time and adequate training to meet needs?
- Dietary Staff
  - Concerns related to food, weight loss, or nutrition?

What to Do

- Review your PBJ Staffing Data Report
- Prevent staffing issues: review practices
  - PRNs or staffing pools
  - Incentives for extra shifts
  - Agency staffing
- Review communications protocol for when short staffed
  - How are front-line staff informed?
- Minimize negative outcomes: work prioritization
  - What can be reassigned?
  - What can be skipped?
- Remember: don’t rob Peter to pay Paul on PBJ!

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Infection Control

Affected Tags

- F880 Infection Prevention & Control
- F887 COVID-19 Immunization

Main topics:

- Enhanced Barrier Precautions
- Educating/offering COVID-19 vaccination

Enhanced Barrier Precautions (F880)

- Guidance pulled directly from March 2024 QSO memo
- Applies to: infected/colonized with MDRO, wounds, indwelling medical devices
- Use during high contact care activities
- Use when contact precautions are not indicated

What to Do

- Refer to CDC for “targeted MDROs”
- Have a policy for how use of EBP is communicated to staff
- Ensure staff are trained:
  - When to use EBP vs. contact precautions: outbreak, uncontained secretions/excretions
  - Which activities are “high contact care”
- Check availability of PPE and alcohol-based hand rub
- Critical Element Pathway: Infection Prevention, Control & Immunization Facility Task

COVID-19 Immunization (F887)

- Guidance pulled directly from May 2021 QSO memo
- Must continue to educate residents, staff
  - Benefits, risks, potential side effects of vaccination
- Must offer vaccination / assist with accessing vaccination

What to Do

- Audit all charts:
  - Documentation of education
  - Accepted / declined
  - Any medical contraindications
- Maintain copies of educational materials
- Critical Element Pathway: Infection Prevention, Control & Immunization Facility Task

Admissions Policy

F620 Admissions Policy

- Nursing home can:
- Require payment from resident
- Discharge for non-payment

- Nursing home cannot:
- Require payment from someone who does not have legal access to funds
- Hold third party personally responsible
- Include language anywhere that would indicate a condition of admission or continued stay

Other Tags

F677 ADL Care Provided for Dependent Residents

- Added definitions as specified in RAI manual:
- Independent, setup / clean-up assist, supervision / touch assist, partial/moderate assist, substantial/max assist, dependent

F678 Cardio-Pulmonary Resuscitation

Training must be:

- Hands-on session
- Physical or virtual
- Instructor-led
- In accordance with accepted national standards

F697 Pain Management

Updated definitions according to CDC:

- Acute pain: sudden in onset, time-limited, duration less than 1 month, caused by injury, trauma, medical treatments
- Chronic pain: duration longer than 3 months, can be result of underlying medical disease or condition, injury, medical treatment, inflammation or unknown cause
- Subacute pain: duration of 1-3 months
- Direction to clinicians: may consider immediate release opioids instead of extended-release or long-acting

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F867 QAPI/QAA Improvement Activities

Consider health equity when:

- Reviewing feedback
- Collecting, analyzing, and monitoring data
- Establishing priorities

F918 Bedrooms Equipped/Near Lavatory/Toilet

Applies to all “new construction”(i.e. after November 28, 2016):

- Approval for construction
- Newly certified
- CHOW with new certification
- Termination and reenrollment

F918 Bedrooms Equipped/Near Lavatory/Toilet

- Own bathroom consisting of sink and toilet in each resident bedroom
- No more than 2 residents per bedroom
- Conjoined private rooms that share bath: no more than 2 residents per bath

New/Updated Critical Element Pathways

- QAPI and QAA Review
- Pain Recognition and Management
- Respiratory Care
- Unnecessary Medications, Chemical Restraints/Psychotropic Medications, and Medication Regimen Review
- Hospitalization
- Accidents
- Resident Assessment
- Discharge

Resources

- LeadingAge Resources
  - Unnecessary Medications
  - Admission Agreements
  - Transfer and Discharge
  - Assessment and Diagnosis
- Appendix PP
- CMS Nursing Home Survey Resources (Downloads)


Practice Time!

Scenario 1: Unnecessary Medications

A resident is showing extreme physical agitation and behaviors. Basic needs are met and underlying causes have been ruled out. Attempts to soothe the resident through nonpharmacological interventions have been unsuccessful and the agitation has increased to the point that both the resident and others are in imminent danger. The physician has recommended a PRN but the resident is unable to consent and the resident's representative cannot be reached. What do you do?

Scenario 2 – Discharge

A short-term resident has expressed a desire to leave and return to her home in the community. Her physician does not recommend discharge at this time, as she is unable to do stairs and lives in a second-floor walk-up. She says her friend will help her at home and calls him to come pick her up. When the friend arrives, you observe that he uses a walker to ambulate. What are your discharge considerations?

Scenario 3 – Resident Assessment

You accept a resident for admission from the hospital. The resident has a diagnosis of schizophrenia and is prescribed antipsychotic medication. Hospital notes indicate that the hospitalist conferred with the community physician that prescribed the medication and the resident is considered stable. What do you do?

Scenario 4 – Infection Control

A resident with a g-tube is placed on enhanced barrier precautions per protocol. The resident is very upset about this. She says seeing staff gown up to take care of her makes her feel like she's dirty or contagious. During care plan review, she and her daughter (POA) request that staff provide care without EBP going forward. What do you do?

Deregulation RFI

Request for Information - Deregulation

Unleashing Prosperity Through Deregulation (January 31)

- For every one new regulation, eliminate 10
- All regulations must be cost-neutral

HHS RFI – Medicare Program (comments June 10)

- Streamline regulatory requirements
- Opportunities to reduce administrative burden of reporting and documentation
- Identification of duplicative requirements
- Additional recommendations

Request for Information - Deregulation

Focus on:

- Specific requirements, administrative processes, or reporting requirements that could be streamlined to reduce administrative burdens
- Changes to reporting and documentation requirements, such as frequency and complexity of reporting or redundancies in reporting
- Requirements or processes that are duplicative within Medicare, across other requirements, or **between federal and state**

Resources

- HHS RFI – Medicare Program
- LeadingAge Tips for Commenting
- LeadingAge Comments on OMB RFI

Let’s Keep in Touch!

- Email me anytime: jeyigor@leadingage.org

- Join the Nursing Home Network:
  Meeting over Zoom on the last Tuesday of every month.
  https://leadingage.org/join-the-nursing-home-member-network/

- Dial in for the National Policy Pulse:
  Every Monday at 3:30pm ET.
  https://leadingage.org/leadingage-national-policy-pulse/