



Key Medicare SNF Regulatory and Survey Changes

March 2, 2018

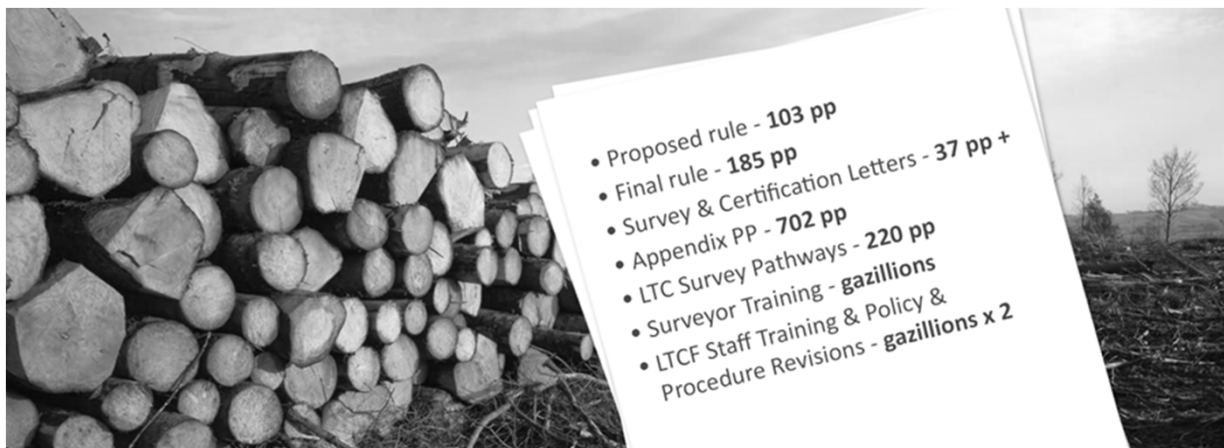
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A Moment of Silence for All the Trees...



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Key Event Timeline

- Jul. 16, 2015: Proposed Rule Published (103 pp)
- Oct. 4, 2016: Final Rule Published (185 pp)
- Nov. 28, 2016: Phase 1 Rules Effective
- Jun. 30, 2017: CMS Releases New Interpretive Guidance, to be effective Nov. 28, 2016
- Nov. 24, 2017: CMS Announces “Temporary Enforcement Delay”
- Nov 28, 2017: Most Phase 2 Rules Effective + New Survey Procedures
- Nov 28, 2019: Phase 3 Rules Effective

Reorganization of Existing Rule

- “F-Tag” numbers previously in use changed.
- Different rule groupings.

Basic Concepts that Remain

▪ Scope and severity determinations.

	Isolated	Pattern	Widespread
Immediate jeopardy to resident health or safety	J	K	L
Actual harm that is not immediate	G	H	I
No actual harm with potential for more than minimal harm that is not immediate jeopardy	D	E	F
No actual harm with potential for minimal harm	A <i>No POC Req.</i>	B	C

Three Phases of the Rule Implementation

Phase 1	Phase 2	Phase 3
<ul style="list-style-type: none"> • Resident Rights and Facility Responsibilities* • Freedom from Abuse, Neglect and Exploitation* • Admission, Transfer and Discharge* • Resident Assessment • Comprehensive, Person-Centered Care Planning* • Quality of Life • Quality of Care* • Physician Services • Nursing Services* • Pharmacy Services* • Laboratory, radiology and other diagnostic services • Dental services* • Food and Nutrition* • Specialized Rehabilitation • Administration- Facility Assessment* • QAPI – QAA Committee • Infection Control Program* • Physical Environment 	<ul style="list-style-type: none"> • Behavioral Health Services* • QAPI Plan* • Infection Control – Facility Assessment and Antibiotic Stewardship* • Compliance and Ethics* • Physical Environment - Smoking Policies* <p><u>18-Month Moratorium Applicable to:</u></p> <ul style="list-style-type: none"> • F-655 - Baseline Care Plan • F-740 - Behavioral Health Services • F-741 - Sufficient/Competent Direct Care/Access Staff-Behavioral Health • F-758 - Psychotropic Medications related to PRN Limitations • F-838 - Facility Assessment • F-881 - Antibiotic Stewardship Program • F-865 - QAPI Program and Plan related to the development of the QAPI Plan 	<ul style="list-style-type: none"> • QAPI- Implementation • Infection Control- Infection Control Preventionist* • Compliance and Ethics* • Physical Environment- Call Lights at Bedsides* • Training*

Proposed Rule Changes NOT Adopted (or Significantly Revised)

- Requirement for in-person evaluation by physician extender before any unscheduled non-emergency resident transfer to hospital.
- Requirement for physician credentialing.
- Open visitation to residents.
- Ban on pre-dispute binding arbitration agreements.

Significant Rule Changes Adopted

- **ADDED** - Comprehensive Person-Centered Care Planning requirements added [§483.21]
- **REVISED** - Residents' rights and abuse, neglect and exploitation provisions strengthened [§§483.5, 483.10, 483.12]
- **REVISED** - Admission, transfer and discharge requirements far more detailed [§483.15]
- **ADDED** - Requirements for behavioral health care and services [§483.40]
- **ADDED** - Facilities must annually perform facility-wide assessment to determine resources necessary to care for their resident population day-to-day and in emergencies [§483.70]

Significant Rule Changes Adopted

- **ADDED** - Facilities must perform a facility assessment and evaluate nursing staff competency to determine the sufficiency of their staff. [§483.35]
- **REVISED** - Requirements pertaining to psychotropic drugs, and monthly drug regimen reviews must include pharmacist review of medical chart [§483.45]
- **ADDED** - Provision covering facility obligation to pay for lost or damaged dentures under certain circumstances [§483.55]
- **ADDED** – Requirement for data-driven Quality Assurance and Performance Improvement (QAPI) program [§483.75]
- **ADDED** – Requirement for Infection Prevention & Control Program that includes an Antibiotic Stewardship Program [§483.80]
- **ADDED** – Requirement for Compliance & Ethics Program [§483.85]

Increasing Civil Monetary Penalties

- Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, HHS made its first CMP adjustment since 1987.
- Max. penalties increased from \$10,000/day to \$20,628/day.
- For CMPs assessed on or after Feb 3, 2018, max. penalty will now be \$20,965/day.

Survey Procedures Changed Significantly

- All States to use new computer-based survey process for LTC surveys.
- Theory: new system will improve consistency.
- Majority of surveyor time to be spent observing and interviewing.
- Surveyors to use Appendix PP and “Survey Pathways”.

Case Study –Surveyor Review of Non-Elective Transfers from LTCF to Hospital

- See Case Study material in hand-out.