Key Medicare SNF Regulatory and Survey Changes

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A Moment of Silence for All the Trees...

- Proposed rule - 103 pp
- Final rule - 185 pp
- Survey & Certification Letters - 37 pp +
- Appendix PP - 702 pp
- LTC Survey Pathways - 220 pp
- Surveyor Training - gazillions
- LT CF Staff Training & Policy & Procedure Revisions - gazillions x 2
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
- 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.**

<table>
<thead>
<tr>
<th>Isolated</th>
<th>Pattern</th>
<th>Widespread</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immediate jeopardy to resident health or safety</td>
<td>J</td>
<td>K</td>
</tr>
<tr>
<td>Actual harm that is not immediate</td>
<td>G</td>
<td>H</td>
</tr>
<tr>
<td>No actual harm with potential for more than minimal harm that is not immediate jeopardy</td>
<td>D</td>
<td>E</td>
</tr>
<tr>
<td>No actual harm with potential for minimal harm</td>
<td>A</td>
<td>B</td>
</tr>
</tbody>
</table>

**No POC Req.**

### Three Phases of the Rule Implementation

<table>
<thead>
<tr>
<th>Phase 1</th>
<th>Phase 2</th>
<th>Phase 3</th>
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<tbody>
<tr>
<td>- Resident Rights and Facility Responsibilities*</td>
<td>- Behavioral Health Services*</td>
<td>- QAPI- Implementation</td>
</tr>
<tr>
<td>- Freedom from Abuse, Neglect and Exploitation*</td>
<td>- QAPI Plan*</td>
<td>- Infection Control- Infection Control Preventionist*</td>
</tr>
<tr>
<td>- Admission, Transfer and Discharge*</td>
<td>- Infection Control – Facility Assessment and Antibiotic Stewardship*</td>
<td>- Compliance and Ethics*</td>
</tr>
<tr>
<td>- Resident Assessment</td>
<td>- Compliance and Ethics*</td>
<td>- Physical Environment- Call Lights at Bedsides*</td>
</tr>
<tr>
<td>- Comprehensive, Person-Centered Care Planning*</td>
<td>- Physical Environment - Smoking Policies*</td>
<td>- Training*</td>
</tr>
<tr>
<td>- Quality of Life</td>
<td>- 18-Month Moratorium Applicable to:</td>
<td></td>
</tr>
<tr>
<td>- Quality of Care*</td>
<td>• F-655 - Baseline Care Plan</td>
<td>- F-655 - QAPI Program and Plan related to the development of the QAPI Plan</td>
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<tr>
<td>- Physician Services</td>
<td>• F-740 - Behavioral Health Services</td>
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<tr>
<td>- Nursing Services*</td>
<td>• F-741 - Sufficient/Competent Direct Care/Access Staff-Behavioral Health</td>
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<tr>
<td>- Pharmacy Services*</td>
<td>• F-758 - Psychotropic Medications related to PRN Limitations</td>
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</tr>
<tr>
<td>- Laboratory, radiology and other diagnostic services</td>
<td>• F-838 - Facility Assessment</td>
<td></td>
</tr>
<tr>
<td>- Dental services*</td>
<td>• F-881 - Antibiotic Stewardship Program</td>
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</tr>
<tr>
<td>- Food and Nutrition*</td>
<td>• F-865 - QAPI Program and Plan related to the development of the QAPI Plan</td>
<td></td>
</tr>
</tbody>
</table>
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

- 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.