LTC Regulation Revisions

1. Advances in theory
2. Practice of service delivery
3. Safety
4. Implement sections of the Affordable Care Act (ACA)  Let’s talk about this one and what the recent Presidential Executive Order means

History of LTC Regulations

❖ 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.
Improvement

❖ Improve Key Areas of Residents’ Life
✓ Quality of Life
✓ Health Care
✓ Services
✓ Patient Safety

Why Changes Have Been Made

❖ Substantial changes in the service and delivery of care
❖ Significant innovations in resident care
❖ Quality assessment practices
❖ More diverse residents
❖ Clinically complex residents

Themes of the Final Rule

❖ Person-Centered Care
❖ Quality
❖ Facility Assessment and Competency-Based Approach
❖ Competency of Staff
❖ Resident Rights
❖ Infection Control
Themes of the Final Rule
❖ Strengthened transfer/discharge protections
❖ Alignment with Current HHS Initiatives
❖ Comprehensive Review and Modernization
❖ Implementation of Legislation

Person-Centered Care
Residents and Representatives: Informed, Involved and In Control.
❖ Existing protections maintained
❖ Choices
❖ Care & Discharge Planning

Person-Centered care: “Focus on the resident as the locus of control and support the resident in making their own choices and having control over their daily lives.”

Quality
Quality of Care and Quality of Life - overarching principles for every service.
❖ Quality of Care and Quality of Life
  ✓ Additional special care issues: restraints, pain management, bowel incontinence, dialysis services, and trauma-informed care.
❖ Quality Assurance and Performance Improvement
  ✓ Based on the pilot.
Facility Assessment and Competency-Based Approach

Facilities need to know themselves, their staff, and their residents.
- Not a one-size fits all approach.
- Accounts 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

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

Bringing it into the twenty-first century.
- Reorganized
- Updated
- Consistent with current health and safety knowledge
Regulation will be implemented in 3 phases

❖ **Phase 1:** Existing requirements that are relatively straightforward to implement and require minor changes to survey process *(November 28, 2016)*

❖ **Phase 2:** All Phase 1 requirements and those providers need more time to develop, foundational elements, and a new survey process to assess compliance *(November 28, 2017)*

❖ **Phase 3:** All Phase 1 and 2 components and requirements that need more time to implement (personnel hiring and training, implementation of systems approaches to quality) *(November 28, 2019)*

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**CMS Implementation Timeline**

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<th>Phase</th>
<th>Timeframe</th>
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| 1     | 11/28/16  | • Unchanged requirements  
  • Minor modifications to requirements | • New regulatory language in ASPEN |
| 2     | 11/28/17  | • All Phase 1 Requirements  
  • New requirements and those provisions that required more complex revisions.  
  • Changes to survey process, guidance, and tags | • New F-tags  
  • Interpretive Guidance Changes |
| 3     | 11/28/19  | • All Phase 1 and Phase 2 Requirements  
  • All remaining requirements not implemented in Phases 1 and 2 | • New Basic LTC Course (Jan 2018) |

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**Phase 1 Overview  
11/28/16**

❖ Full implementation of Basis and Scope (483.1) and Definitions (483.5)

❖ The Secretary of the Dept. of Health & Human Services may establish additional requirements for the health, safety, and well-being of skilled nursing facility/nursing facility residents.

❖ The Final Rule retains existing statutory and regulatory authority of the Requirements of Participation for LTC facilities, adds new requirements, eliminates existing duplicative or unnecessary requirements, and reorganizes certain requirements.
Phase 1 Overview
11/28/16
❖ Full implementation of Basis and Scope (483.1) and Definitions (483.5)
❖ Regulatory Groupings become Regulatory Sections. Expanded from 15 to 21.
❖ Full implementation of 5 Regulatory Sections
❖ Minor modifications to 15 other Regulatory Sections
❖ 20 of the 21 Regulatory Sections have all or some regulations implemented in Phase 1

Regulatory Sections Overview

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Key:
- Fully Implemented in Phase 1
- New Regulatory Section
- Partially Implemented in Phase 1
- No implementation in Phase 1

1 Regulatory Group Removed

Resident Behavior and Facility Practices (483.13)
❖ Content of Resident Behavior and Facility Practices has been merged with other Regulatory Sections
5 of 21 Regulatory Sections are **Fully Implemented** in Phase 1

- Resident Assessment (483.20)
- Quality of Life (483.24)
- Physician Services (483.30)
- Laboratory, radiology and other diagnostic services (483.50)
- Specialized Rehabilitation (483.65)

15 of 21 Regulatory Sections are **Partially Implemented** in Phase 1

- Resident Rights (483.10)
- Freedom from Abuse Neglect and Exploitation (483.12)
- Admission, Transfer and Discharge Rights (483.15)
- Comprehensive, Person-Centered Care Planning (483.21)
- Quality of Care (432.25)

15 of 21 Regulatory Sections are **Partially Implemented** in Phase 1

- Nursing Services (483.35)
- Behavioral Health Services (483.40)
- Pharmacy Services (483.45)
- Dental Services (483.55)
- Food and Nutrition Services (483.60)
15 of 21 Regulatory Sections are *Partially Implemented* in Phase 1

- Administration (483.70)
- Quality Assurance and Performance Improvement (483.75)
- Infection Control (483.80)
- Physical Environment (483.90)
- Training Requirements (483.95)

Citing Deficiencies in Phase 1

- NO NEW interpretive guidance at this time.
- If a surveyor identifies a potential deficiency associated with a new regulations, how will it be cited?
- The current F-tags will be used.
- New language has been incorporated into the existing regulations.

§483.5 Definitions

**Abuse**
- The *willful* infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish. Abuse also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being.
\section*{\$483.5 Definitions}

\textbf{Adverse Event}
- An untoward, undesirable, and usually unanticipated event that causes death or serious injury, or the risk thereof.

\textbf{Exploitation}
- Taking advantage of a resident for personal gain through the use of manipulation, intimidation, threats, or coercion.

\section*{\$483.5 Definitions}

\textbf{Misappropriation of resident property}
- The deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a resident's belongings or money without the resident's consent.

\textbf{Mistreatment}
- Inappropriate treatment or exploitation of a resident.

\section*{\$483.5 Definitions}

\textbf{Neglect}
- 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. ("Reasonable Person" concept)

\textbf{Person-Centered care}
- For purposes of this subpart, person-centered care means to focus on the resident as the locus of control and support the resident in making their own choices and having control over their daily lives.
§483.5 Definitions

Resident Representative
❖ An individual chosen by the resident to act on behalf of the resident in order to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications;
❖ A person authorized by State or Federal law (including but not limited to agents under power of attorney, representative payees, and other fiduciaries) to act on behalf of the resident in order to support the resident in decision-making; access medical, social or other personal information of the resident; manage financial matters; or receive notifications; legal representative; court-appointed guardian or conservator.

§483.5 Definitions

Resident Representative
❖ A Legal representative, as used in section 712 of the Older Americans Act; or.
❖ The court-appointed guardian or conservator of a resident.
❖ Nothing in this rule is intended to expand the scope of authority of any resident representative beyond that authority specifically authorized by the resident, State or Federal law, or a court of competent jurisdiction.

§483.5 Definitions

Sexual Abuse
❖ Non-consensual sexual contact of any type with a resident.
Willful
❖ The individual must have “acted” deliberately, NOT that the individual must have “intended” to inflict injury or harm.
What does this mean for providers?

❖ Definitions are included in Phase 1 with implementation effective by November 28, 2016.
❖ Providers should begin preparing for compliance with the respective new and revised definitions.

Next steps...

❖ Providers will be expected to revise facility policy and procedures to reflect and apply the new and revised definitions.

Policies/Procedures Impacted...

❖ F156- Verification of rights/contact info provided orally and in writing.
❖ F166- Grievance policy, must keep at least 3 years of grievance resolutions.
❖ F167- 3 years of survey posting/availability.
❖ F172- Written policies & procedures regarding visitation rights and clinically necessary or reasonable restrictions/limitations.
❖ Bed Hold and Return
Policies/Procedures Impacted...

❖ F206- Written policy on permitting residents to return to the facility after they are hospitalized or placed on therapeutic leave.
❖ F208- Admissions policy, the policy must not request the resident to waive facility liability for loss of personal items.
❖ F226- Looking at specifics of policies related to abuse when triggered, timeframes for reporting, including reporting of crimes, new definitions, policy must include investigation of allegations.
❖ Bed Hold and Return

Policies/Procedures Impacted...

❖ F284- Protocols for discharge planning process.
❖ F361- Qualifications of Dietitian and Food Service Manager.
❖ F371- Policies regarding use and storage of foods brought to residents by family and other visitors to ensure safe and sanitary storage, handling, and consumption.
❖ F411- Policy identifying those circumstances when the loss or damage of dentures is the facility's responsibility and may not charge a resident for the loss or damage of dentures determined in accordance with facility policy to be the facility's responsibility.

Policies/Procedures Impacted...

❖ F428- Policies and procedures for the monthly drug regimen review including time frames for the different steps in the process and steps the pharmacist must take when he or she identifies an irregularity that requires urgent action to protect the resident; looking for required reporting irregularities & physician's rationale.
❖ F441- Written standards, policies and procedures to include: surveillance, communicable disease identification and reporting, transmission based precautions, when/how to use isolation for residents, employee communicable disease, and hand hygiene.
Policies/Procedures Impacted...

❖ F465- Establish policies, in accordance with applicable Federal, State, and local laws and regulations, regarding smoking, smoking areas, and smoking safety that also take into account non-smoking residents.
❖ F498- Dementia Management training & Resident Abuse Prevention training.
❖ F526- Verify the facility has a contract with the Hospice agency providing services.
❖ F527- PBJ reporting of staffing.

§483.10 Resident Rights

F151 (Exercise of Rights) - Surveyor focus
❖ Resident has the right to exercise his/her rights without interference.
❖ Facility support to exercise those rights.

§483.10 Resident Rights

F152 (Resident adjudged incompetent) - Surveyor focus
❖ Competent residents have the right to designate a resident representative. (Resident is not adjudged mentally incompetent.)
❖ Equal treatment of a same-sex spouses.
❖ Resident representative exercises their decision-making responsibilities. Adds new language requiring a facility to report concerns if it has reason to believe a resident rep is not acting in the resident’s best interests.
§483.10 Resident Rights

F152 (Resident adjudged incompetent) - Surveyor focus
❖ Resident retains the right to make decisions outside the representative’s authority. Adds new language addressing the role of a court-appointed resident rep in cases where a resident is adjudged incompetent, including requirements to ensure that a resident continues to have a role in care planning even when judged incompetent:
✓ where a court has granted only limited powers to a guardian/other rep, the resident retains rights;
✓ rep must consider the resident’s wishes and preferences, and
✓ resident must be provided opportunities to participate in care planning, to the extent practicable.
❖ Report concerns about a resident representative as required by State law.

F153 (Receipt of records) - Surveyor focus
❖ Personal and medical records are provided as requested by the individual.
❖ Records are provided in a manner the resident can understand.
❖ A reasonable, cost-based fee was assessed as described in the regulation.
§483.10 Resident Rights
F155 (Refusal of treatment) - Surveyor focus
❖ New regulatory language was added. New surveyor guidance will appear in Phase 2.
❖ Moves to Quality of Life.
❖ Resident also has the right to request and/or discontinue treatment or to participate in experimental research.
❖ Advance Directives - If facility did not provide information, they are to assure that an outside contractor did.
❖ If the adult individual was incapacitated at the time of admission, the information was provided to the resident representative and then to the resident, if the resident condition changes, was no longer incapacitated, and was able to understand the information.

§483.10 Resident Rights
F156 (Informing Residents of Rights) - Surveyor focus
❖ Residents are:
✓ Aware of who and how to contact other primary care professionals.
✓ Received notification (oral and written) such as expanded resources, home and community based service programs.
✓ Able to request information about returning to the community/the facility and identified that information to provide upon request.

§483.10 Resident Rights
F156 - Surveyor focus
❖ Made aware of changes to charges for services not covered under Medicare/Medicaid, or by the facility’s per diem rate.
❖ Refunds were made to the resident, resident representative, or estate.
❖ Admission contract did not conflict with the requirements of these regulations.
§483.10 Resident Rights

F158 (Protection of Resident Funds) - Surveyor focus
❖ Resident is informed of charges in advance that are imposed and also refer to F162.

F159 - Surveyor focus
❖ There are now differing dollar amounts for Medicaid residents and other residents.

F160 - Surveyor focus
❖ Conveyance of funds for discharged or evicted residents.

§483.10 Resident Rights

F162 (Limitation on charges) - Surveyor focus
❖ Residents are not charged for food and nutrition or hospice services.
❖ Items and services that may be charged to resident if not required to achieve resident’s goals have been expanded.
❖ Facility has considered resident food and cultural preferences for meals.
❖ Resident was informed (orally and in writing) of any item or service where there is a charge.

§483.10 Resident Rights

F163 (Choose a physician) - Surveyor focus
❖ Verify physician is licensed to practice.
❖ Determine if resident was informed that their attending physician is unable or unwilling to meet the requirements, and that the facility is seeking an alternate physician.
❖ Ensure resident’s choice of physician is honored as long as they meet the requirements.

F164 - Surveyor focus
❖ Ensure medical records are kept confidential except in cases cited in this regulation.
Resolution of grievances
❖ New rule includes a lengthy and detailed set of requirements relating to grievances. Highlights include:
✓ Establishment of a facility grievance policy
✓ Resident notification requirements regarding grievances
✓ Identifying a Grievance Official responsible for overseeing policies (does not have to be the person’s only job)
✓ Specification for written grievance decisions, and
✓ Maintaining 3 years of evidence demonstrating the results of all grievances

F166 (Resolution of grievances) - Surveyor focus
❖ Determine that residents have information on how to file grievances or complaints.
❖ Ensure that there is a grievance policy, that includes at a minimum, assurance of prompt resolution of all grievances, and identifies a grievance official.

F167 - Surveyor focus
❖ Ensure that most recent survey results during the 3 preceding years, as well as certification and complaint investigations are posted and readily accessible to residents, resident representatives.
❖ Ensure that identifying information about complainants or residents are not available.

F168 (Information from advocacy agencies) - Surveyor focus
❖ Ensure that facility staff did not prohibit or discourage a resident from communicating with external entities.

F169 (Refuse to work) - Surveyor focus
❖ Facility cannot require a resident to perform services for the facility.
§483.10 Resident Rights

F170 (Send & Receive mail) - Surveyor focus
❖ Privacy of electronic communications is provided.
❖ Creates additional new language on this topic, stating that the resident has the right to have reasonable access to and privacy in their use of electronic communications such as email and video communications and for internet research - provided the access is available to the facility, at the resident’s expense if the facility incurs costs, and the use complies with state & federal law (e.g. does not involve access to illegal on-line content, etc.)

F170 (Send & Receive mail) - Surveyor focus
❖ Resident is able to receive mail/packages from other than the postal service.

F171 (Access to mail supplies) - Surveyor focus
❖ Facility supported resident’s right to communication, including the ability to send mail.

F172 (Access & visitation rights) - Surveyor focus
❖ Residents have the right to receive visitors at the time of their choosing, and they do not impose on the rights of others.
❖ Facility has a policy that includes visitation rights. (Including any restrictions and the rationale.)
❖ Amends current requirement, relating to “others who are visiting with the resident’s consent,” by requiring any imposed limitation relate to clinical and safety restrictions.
§483.10 Resident Rights

F172 (Access & visitation rights) - Surveyor focus
❖ Resident or their visitors are informed of the visitation policies.
❖ Facility staff do not restrict, limit or deny visitation privileges.
❖ Privileges are consistent with the resident’s preferences.
❖ NO discrimination, must ensure full and equal rights of all visitors.

§483.10 Resident Rights

F174 (Telephone) - Surveyor focus
❖ Expanded access to cell phone use, TTY and TTD services.
F175 (Married couples) - Surveyor focus
❖ Right to choose a roommate.
F176 (Self-administration of drugs - Surveyor focus
❖ How the facility determined self-administration was clinically appropriate.

§483.10 Resident Rights

F177 (Refusal of certain transfers) - Surveyor focus
❖ Facility may not perform a transfer solely for the convenience of staff.
F240 - Surveyor focus
❖ Every resident is treated with respect and dignity.
❖ Policies for practices such as transfer, discharge, and equal access to services regardless of payment source.
**§483.10 Resident Rights**

F242 (Self-determination) - Surveyor focus

- Note this will be a Resident Right tag.
- Resident’s right to choose:
  - ✓ activities; and participate in community activities
  - ✓ schedules (including sleeping & waking times)
  - ✓ health care & providers of health care services consistent with his/her interests, assessments, plan of care & other applicable provisions of this part.

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**§483.10 Resident Rights**

F243 (Participation in groups) - Surveyor focus

- Notify residents and family of upcoming meetings in a timely manner.
- Revises current language regarding facility response:
  - ✓ Must “consider” the views of a resident/family group
  - ✓ Must act upon grievances/recommendations “promptly” (not defined)
  - ✓ Must be able to demonstrate its response & rationale

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**§483.10 Resident Rights**

F247 (Room changes) - Surveyor focus

- Notice was provided in writing before a change of room or roommate was made, and included the reason for the change.
- Added that a resident may refuse if the transfer is purely for the convenience of staff.
What does this mean for providers?
❖ While many of the new sections cover existing resident rights without making significant changes, CMS has revised and updated the language in many instances, so careful reading of familiar provisions is important.
❖ At the same time, CMS has expanded selected existing rights in substantive ways and has added new rights & provider responsibilities.

What do we need to do to comply?
❖ Study the guidance when CMS releases it, and any related announcements from state survey agencies.
❖ Identify necessary changes to written notices and posters currently in use (bill of rights pamphlets, standard notifications covered by these new requirements, etc.)

What do we need to do to comply?
❖ Examine and update, if needed, facility policies, procedures & protocols relating to engagement with resident reps, as defined by new rule.
❖ Review applicable state law, clarifying if needed.
§483.10 Resident Rights
What do we need to do to comply?
❖ Review new requirements and current process to identify changes necessary to comply with new, person-centered care planning requirements.
❖ Develop procedures relating to confirmation of licensure for a resident’s attending physician; ensure policies & procedures align with new requirements relating to a facility’s determination that alternative physician involvement is needed.

§483.10 Resident Rights
What do we need to do to comply?
❖ Develop systems for accommodating the roommate-of-choice requirement, and for notifying residents of room or roommate changes.
❖ Prepare written policies and procedures relating to visitation, as now required.
❖ Determine a process for reaching and documentation agreement with resident/family groups about which staff will serve as liaison.

§483.10 Resident Rights
What do we need to do to comply?
❖ Work with billing/financial personnel to identify changes necessary to comply with the requirements relating to financial issues, resident funds, and covered- and non-covered charges as set forth in §483.10(f) and §483.20(g).
❖ Assess your readiness to meet the general requirement to provide a broader range of information in a form and manner a resident can access and understand, including in an alternative format or in a language the resident can understand.
§483.10 Resident Rights

What do we need to do to comply?
❖ Identify tools/resources that can be used to assess your physical environment as it relates to safety risks but also maximization of resident independence.
❖ Evaluate current policies/procedures for protecting resident property from loss and theft; focus must be on prevention.
❖ Prepare a written policy and procedure relating to grievances, being sure to include all of the required elements specified.

§483.12 Freedom from Abuse, Neglect, and Exploitation

❖ Strengthens existing protections, in addition to review of policies and procedures.
❖ Adds language related to resident “right to be free from neglect” and “exploitation.”
❖ Requires facilities to investigate and report all allegations of abusive conduct.
❖ Individuals who had a disciplinary action taken against their professional license by a state licensure body cannot be hired by facilities.

❖ Continue to review citations related to abuse, corporal punishment, and involuntary seclusion at F223.
❖ New definitions for “abuse” and “sexual abuse.”
✓ Abuse is the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish. Abuse also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain or mental anguish.
§483.12 Freedom from Abuse, Neglect, and Exploitation

❖ New definitions for “abuse” and “sexual abuse.”
✓ Abuse: It includes verbal abuse, sexual abuse, physical abuse, and mental abuse including abuse facilitated or enabled through the use of technology.
✓ Willful: as used in this definition of abuse, means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.
✓ Sexual abuse - non-consensual sexual contact of any type with a resident.

§483.12 Freedom from Abuse, Neglect, and Exploitation

F224 (Abuse, neglect...) - Surveyor focus
❖ Regulations specifically require...
✓ implementing policies & procedures for prohibiting and preventing abuse, neglect, misappropriation, and exploitation;
✓ investigating all alleged violations;
✓ training for their prevention;
✓ activities that constitute abuse, neglect, exploitation, misappropriation; procedures for reporting;
✓ and dementia management and resident abuse prevention.

§483.12 Freedom from Abuse, Neglect, and Exploitation

F224 - Surveyor focus
❖ Findings of neglect, misappropriation of resident property, and exploitation will be cited under F224.
❖ Cite F224 if an investigation identifies the facility failed to ensure that residents are free from neglect, misappropriation, and exploitation.
❖ Review the new definitions for “neglect” and “exploitation” at 42 CRF 483.5.
❖ Cite F224 when facility has failed to implement policies and procedures to prohibit neglect, misappropriation of resident property, and exploitation.
§483.12 Freedom from Abuse, Neglect, and Exploitation

F225 (Hiring practices) - Surveyor focus
❖ Facility requirement is not limited to only facility employees but also individuals facility engages.
❖ Facility must not employ/engage any individuals with:
  ✓ A finding of exploitation or misappropriation of resident property.
  ✓ Have a disciplinary action in effect against his/her professional license that is related to a finding of abuse/neglect/exploitation/mistreatment/misappropriation. Immediate reporting also includes to the State Adult Protective Services agency, if it has jurisdiction in SNF/NFs.

❖ Alleged violations must be reported immediately. Maximum time frames are outlined in the regs, but it is "expected that reports would occur more quickly to protect residents. No later than two hours if the allegation involves abuse that results in serious, bodily injury; and no later than 24 hours if the allegation involves abuse that does not result in serious bodily injury."
❖ Immediate reporting also includes to the State Adult Protective Services agency, if it has jurisdiction in SNF/NFs.

§483.12 Freedom from Abuse, Neglect, and Exploitation

F226 Staff treatment/hiring - Surveyor focus
❖ Continue to cite F226 when facility has failed to develop and implement policies and procedures to prohibit abuse, neglect, misappropriation of resident property, and exploitation.
❖ Staff training; reporting; dementia management
§483.12 Freedom from Abuse, Neglect, and Exploitation

F221 (Resident Behavior) - Surveyor focus
❖ Deficiencies related to physical restraints will be cited at F221.
F222 (Restraints) - Surveyor focus
❖ Deficiencies related to chemical restraints will be cited at F222.
❖ When the use of restraints is indicated, the facility must:
  ✓ Use the least restrictive alternative for the least amount of time, and
  ✓ Document ongoing re-evaluation of the need for restraints.

What do we need to do to comply?
❖ Revise policy and procedures to reflect the new requirements, including all new and revised definitions, including the new concept of exploitation.
❖ Revise policies and procedures for applicant screening and employee discipline to reflect the revised employment prohibitions; extend the same to individual whom a facility does not employ but otherwise engages - such as a volunteer or contractor.
❖ Compare existing staff training to the new requirements, and align as needed.

What do we need to do to comply?
❖ As you begin to develop your QAPI program and written plan, note the PHASE 3 requirement to ensure that a method for monitoring of incidents (trends, patterns, etc.) indicating abuse, neglect, misappropriation and exploitation are reviewed and discussed within the QAPI program.
§483.12 Freedom from Abuse, Neglect, and Exploitation

What do we need to do to comply?
❖ Reporting:
✓ Determine if adult protective services has jurisdiction in LTC facilities in your state; if so, revise reporting protocols to include APS
✓ Work with your state agency on implementation of new requirements regarding timing of reports,

§483.15 Admission, Transfer, and Discharge Rights
❖ Transfer or discharge to be documented in medical record, including specific information which should be exchanged with receiving provider or facility when a resident is transferred.
F201 (Transfer & Discharge) - Surveyor Focus
❖ Requires additional documentation: If facility has transferred or discharged resident while an appeal is pending, because keeping the resident in the facility endangers the health or safety of the residents, or others in the facility. Medical records documentation should indicate what danger is posed if the facility does not transfer or discharge the resident.

§483.15 Admission, Transfer, and Discharge Rights
❖ Requires facility to send a copy of transfer or discharge notice to the ombudsman.
❖ This requirement’s EXACT interpretation is STILL being heavily debated by CMS, provider associations, and advocacy groups.
§483.15 Admission, Transfer, and Discharge Rights

❖ Requires facility to provide resident and/or resident representative with additional information in the notice regarding process for appealing transfer or discharge.

❖ Requires facility to update recipients of transfer/discharge notice of any changes to the notice as soon as possible (if the changes occur prior to the transfer or discharge).

§483.15 Admission, Transfer, and Discharge Rights

F204 (Orientation for Transfer) - Surveyor focus

❖ New regulatory language at F204 adds that the orientation facilities provided to residents regarding transfer or discharge must be in a manner that they understand. (appropriate educational level, in the resident’s language, and/or taking into consideration other communication barriers, and physical and mental impairment)

§483.15 Admission, Transfer, and Discharge Rights

F205 (Notice of Bed-Hold) - Surveyor focus

❖ Changes “readmission” to “return.”

❖ New language requires facilities to provide written information to resident or representative about payment needed to hold a bed if the individual state requires payments to hold beds.

❖ Corrections to references in Final Rule.

✓ At 483.15(d)(1)(iii), reference to (c)(3) should be (e)(1).

✓ At 483.15(d)(1)(iv), reference to (c)(3) should be (c)(5).

✓ At 483.15(d)(2), reference to (c)(1) should be (e)(1).
§483.15 Admission, Transfer, and Discharge Rights

F206 (Permitting resident to return) - Surveyor focus
❖ If facility decides a resident cannot return to facility, the facility would then discharge resident. Can only discharge a resident for the reasons listed at 483.15, paragraph (c). Documentation should reflect reason for discharge. Documentation regarding basis for discharge should also be in the notice to the resident/representative. If a resident is transferred and the facility can not/will not, the individual is considered a discharge, and the facility has to meet all discharge requirements that are implemented in Phase 1.

§483.15 Admission, Transfer, and Discharge Rights

F206 - Surveyor focus
❖ “Readmission to a composite distinct part” provision is not new but has been added to F206 if concerns are identified regarding this issue.

F207 (Equal Access to Quality Care) - Surveyor focus
❖ “Room changes in a composite distinct part” is not a new provision but has been added to F207 since it may indicate unequal treatment of residents.

§483.15 Admission, Transfer, and Discharge Rights

F208 (Admissions policy) - Surveyor focus
❖ Adds an admission policy to ensure facility has not required resident to waive potential facility liability in the event of loss of property.
❖ Adds requirement for facility to disclose any special characteristics or limitations of facility. Surveyors may identify concerns at this provision through interviews or complaints. For example, a facility may have a religious affiliation that guide this practice and routine, which must be communicated to any potential resident that the facility may have some limitations in the type of medical care it can provide prior to admission.
§483.15 Admission, Transfer, and Discharge Rights

F208 - Surveyor focus
❖ Adds an admission policy to ensure facility has not required resident to waive potential facility liability in the event of loss of property.
❖ Adds requirement for facility to disclose any special characteristics or limitations of facility. Surveyors may identify concerns at this provision through interviews or complaints. For example, a facility may have a religious affiliation that guide this practice and routine, which must be communicated to any potential resident that the facility may have some limitations in the type of medical care it can provide prior to admission.

What does this mean to providers?
❖ Requirements related to how an organization conducts, communicates and implements its admission, transfer and discharge processes. The Rule has embraced the intent of the National Quality Strategy as it relates to safe care transitions, allowing residents to have a voice as well as ensuring proper communication across the health care continuum.
❖ Important to note that this section will be implemented in two phases:
✓ Phase 1 - Language changes, clarifications, policy and procedure needs and facility responsibilities
✓ Phase 2 - Transfer/Discharge documentation requirements

What do we need to do to comply?
❖ Conduct a detailed review of these requirements with your leadership team.
❖ Conduct a comparative analysis - current policies, procedures, and processes to the new requirements.
❖ Develop a detailed action plan to include:
  a. Review all current policies related to admission, transfer and discharge. Revise based upon the new requirements:
     1. Preadmission
        ✓ Composite distinct part
§483.15 Admission, Transfer, and Discharge Rights

What do we need to do to comply?

1. Preadmission
   ✓ Coordinate assessments with PASARR to avoid duplicative testing and effort
   ✓ Incorporate recommendations from PASARR level II determination and the PASARR evaluation report into a resident’s assessment, care planning, and transitions of care.

2. Admission Policy - Must be compliant with the requirements, and facility must follow its policy. Increases provider responsibility and outlines areas that need to be added to Admission Agreements, also clarifies definitions and communicate faculties policies to resident/representatives.

3. Transfers - Reflect new requirements and language changes
   ✓ Internal
   ✓ Composite distinct part
   ✓ External
   ✓ Involuntary
   ✓ Notice of transfer
§483.15 Admission, Transfer, and Discharge Rights

What do we need to do to comply?
4. Bed hold - Reflect new requirements & language changes
5. Return from LOA - written policy on permitting residents to return to facility after they are hospitalized or placed on therapeutic leave: the policy must include specific provision outlined in the regulation.

§483.15 Admission, Transfer, and Discharge Rights

What do we need to do to comply?
6. Discharge - Reflect new requirements and language changes and safe care transition best practice
   ✓ Composite distinct part
   ✓ Death
   ✓ Community
   ✓ Another health care organization
   ✓ Acute care

§483.15 Admission, Transfer, and Discharge Rights

What do we need to do to comply?
8. Documentation requirements - reflect new requirements and language changes.
§483.15 Admission, Transfer, and Discharge Rights

What do we need to do to comply?

b. Review and revise admission contractual documents to reflect Final Rule updates.

c. Review discharge planning and care transition standards of practice. Determine differences between current organizations policies and practice compared to best practices. Prioritize opportunities for improvement based upon timelines for implementation.

d. Review electronic health record defined assessments and tools to align with required changes.

§483.15 Admission, Transfer, and Discharge Rights

What do we need to do to comply?

2. Meet with Medical Director to address policy, process, communication and documentation changes respective to resident specific information on admission, discharge, and transfer. Additionally identify the areas for training for all primary care physicians and extenders associated with the organization.

§483.15 Admission, Transfer, and Discharge Rights

What do we need to do to comply?

3. Develop a communication plan related to admission, discharge, and transfer will all affected constituents, including but not limited to: residents, resident reps, physicians/extenders, pharmacy and other clinical consultants, partners (ACO, BPCI, and network), peers, and organization staff.

✓ Include communication expectations during transitions of care
§483.15 Admission, Transfer, and Discharge Rights

What do we need to do to comply?

4. Develop a detailed training and competency plan to include leadership, interdisciplinary team members and all other staff related to admission, discharge, and transfer policies, procedures, roles/responsibilities, documentation and communication requirements.

5. Track, trend and analyze admission, discharge, and transfer outcomes to determine adherence to updated protocols. Include applicable data within QAPI process. Develop Performance Improvement Plans as indicated.

§483.20 Resident Assessment

❖ Clarification to what constitutes appropriate coordination of a resident’s assessment with the Preadmission Screening and Resident Review (PASARR) program under Medicaid.

❖ Addition of references to statutory requirements that were inadvertently omitted from the regulation when sections 1819 and 1919 of the Act were first implemented.

§483.20 Resident Assessment

F272 (Comprehensive Assessment) - Surveyor focus

❖ Resident’s strengths, goals, life history and preferences in his/her comprehensive assessment.

❖ Evidence of resident and direct care staff participation.
§483.20 Resident Assessment

F285 (Coordination) - Surveyor focus
❖ Coordination includes:
✓ Incorporating recommendations from PASARR level 11 determination and evaluation report. (Assessment, care planning, and transitions in care.)
✓ Significant change in Status - referring to all level 11 residents and residents with newly evident or possible serious mental disorder, intellectual disability, or a related condition for level 11 resident review.

What do we need to do to comply?
❖ Update any policies regarding resident assessments that discuss determination of residents' needs to reflect understanding their strengths, goals, life history and preferences. (CMS acknowledges that this may be difficult to obtain on some residents; however they do not specify what, if any, documentation of efforts may be required. You may want to begin explaining/documenting your efforts.)

What do we need to do to comply?
❖ Update any policies regarding the resident assessment as it pertains to discharge potential to the new terminology of discharge planning. CMS is clear that facilities are encourage to determine a resident’s preferences and expectations in this area as opposed to using facility judgement. Again, CMS does not specify what, if any, documentation will be required to explain this area.
§483.20 Resident Assessment

What do we need to do to comply?
❖ Be sure to document that the assessment process includes direct observation and communication with the resident as well as communication with direct care staff on all shifts.
❖ Update policies if not already coordinating assessments with PASARR consistent with the clarified requirements.
❖ Develop a process (if one not already in place) to incorporate PASARR level 11 information to the residents’ assessment, care planning and transitions of care.

§483.20 Resident Assessment

What do we need to do to comply?
❖ Develop or update policy and educate staff on any exceptions to the PASARR process that are adopted by your state.
❖ Develop a policy and educate staff of the requirement to notify the appropriate state agency of significant change in condition of residents who are subject to PASARR level 11 review.

§483.21 Comprehensive Person-Centered Care Planning Summary

New Section - Phase 2 effective 11/28/17
❖ Baseline Care Plan: requires development of a baseline care plan for each resident, within 48 hours of their admission, which includes the instruction needed to provide effective and person-centered care that meets professional standards of quality care.
✓ Includes initial goals, physician orders, medications, dietary orders, therapy orders, social services, and PASARR recommendations
§483.21 Comprehensive Person-Centered Care Planning Summary

New Section - Phase 2 effective 11/28/17
❖ Baseline Care Plan:
✓ Requires facilities to provide resident/representative with summary of baseline CP in a form and manner the resident can easily understand. Summary to include initial goals, medications, treatments, and diet.

§483.21 Comprehensive Person-Centered Care Planning Summary
New Section - Phase 1 effective 11/28/16
❖ PASARR: Adds a requirement to include as part of a resident’s care plan any specialized services or specialized rehabilitation services the nursing facility will provide as a result of PASARR recommendations. If a facility disagrees with the findings of the PASARR, it must indicate its rationale in the resident's medical record.

§483.21 Comprehensive Person-Centered Care Planning Summary
New Section - Phase 1 effective 11/28/16
❖ Interdisciplinary Team (IDT):
✓ Adds a nurse aide, a member of the food and nutrition services staff, to the required members of the IDT that develops the comprehensive care plan. Participation is not required to be in-person at the care plan meeting. Can obtain information/participate via written or electronic conversation.
§483.21 Comprehensive Person-Centered Care Planning Summary

New Section - Phase 1 effective 11/28/16
❖ Interdisciplinary Team (IDT):
✓ Includes participation of resident and/or representative for development of care plan, as well as any additional updates to the care plan, to the extent possible. May not be practical for residents with impaired decision-making or declared incompetent by a court. (Representative = individual of resident’s choice, may include family and individuals with legal standing.)

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§483.21 Comprehensive Person-Centered Care Planning Summary

New Section - Phase 1 effective 11/28/16
❖ Interdisciplinary Team (IDT):
✓ Includes a provision for culturally competent and trauma-informed care.
✓ Requires facilities to provide a written explanation in a resident’s medical record if the participation of the resident and their representative is determined to not be practicable for the development of the resident’s care plan.

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§483.21 Comprehensive Person-Centered Care Planning Summary

New Section - Phase 1 effective 11/28/16
❖ Interdisciplinary Team (IDT):
✓ Requires notification of resident of his/her right to request meetings, request revisions to CP, and to be informed in advance of changes to CP. Resident has a right to see CP and sign CP after significant changes are made.
✓ Requires access to CP by any person involved in implementation of CP.
✓ Encourage facilities to allow resident/rep access to CP on a routine basis.

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§483.21 Comprehensive Person-Centered Care Planning Summary

New Section - Phase 1 effective 11/28/16

❖ Discharge Planning:
✓ The Improving Medicare Post-Acute Care Transformation Act of 2014 (IMPACT Act) requires that certain providers, including LTC facilities, take into account, quality, resource use, and other measure to inform and assist with the discharge planning process, while also accounting for the treatment preferences and goals of care of residents. This section implements those discharge planning requirements.

❖ Discharge Planning:
✓ Requires facilities to document in a resident’s care plan the resident’s goals for admission, assess the resident’s potential for future discharge, and include discharge planning in the comprehensive care plan, as appropriate.
✓ Requires that the resident’s discharge summary include a reconciliation of all discharge medications with the resident’s pre-admission medications (both prescribed and over-the-counter).

❖ Discharge Planning:
✓ Adds to the post discharge plan of care a summary of what arrangements have been made for the resident’s follow up care and any post-discharge medical and non-medical services, and where the resident will reside.
✓ Facilities to establish, maintain, and implement identical policies and practices related to admission, transfer, and discharge regardless of source of payment.
§483.21 Comprehensive Person-Centered Care Planning Summary

New Section - Phase 1 effective 11/28/16
❖ Discharge Planning:
✓ Requires facilities to present resident/representative with data from IMPACT quality measures to assist in making an informed decision in selection of post-acute provider. Facility must be able to show evidence that data was presented.

§483.21 Comprehensive Person-Centered Care Planning

F286 - Surveyor focus
❖ No new regulatory language at F286. Updated the language as “and use the results of the assessments to develop, review and revise the resident’s comprehensive care plan” was not previously included in the SOM.
❖ Refer to §483.21 Comprehensive person-centered care planning to evaluate use of resident assessment data results, in the development, review, and revision of resident’s care plan.

§483.21 Comprehensive Person-Centered Care Planning

F286 - Surveyor focus
❖ Addition of nurse aide and member of the food and nutrition services staff to required members of the interdisciplinary team that develops care plan.
§483.21 Comprehensive Person-Centered Care Planning

F286 - Surveyor focus
❖ Requires facilities to develop and implement a discharge planning process focusing on resident's discharge goals and prepares residents to be active partners in post-discharge care, in effective transitions, and in the reduction of factors leading to preventable re-admissions.
❖ Implementing discharge planning requirements mandated by the Improving Medicare Post-Acute Care Transformation Act of 2014 (IMPACT Act) by revising, or adding where appropriate, discharge planning requirements for LTC facilities.

§483.21 Comprehensive Person-Centered Care Planning

F279 (Comprehensive Care Plan) - Surveyor focus
❖ Care Plan must:
✓ Be centered on resident’s needs and include measurable objectives and time frames.
✓ Include specialized services facility will provide as a result of the PASARR.
✓ Have a documented rationale in medical record if they disagree with PASARR findings.
✓ Include goals for admission and discharge preferences.

§483.21 Comprehensive Person-Centered Care Planning

F280 (Participate in planning care) - Surveyor focus
❖ Facility involved a nurse aide responsible for resident and member of food and nutrition service, along with the attending physician and a registered nurse.
❖ Any other professionals needed in development of the care plans as based on residents’ care needs.
❖ Facility has reviewed and revised care plan after each assessment for both comprehensive and quarterly assessments.
§ 483.21 Comprehensive Person-Centered Care Planning

F281 (Meet professional standards) - Surveyor focus
❖ Services outlined in comprehensive care plan meet professional standards of quality.

F283 (Discharge Summary) - Surveyor focus
❖ When discharge is anticipated for a resident facility must have discharge summary.

§ 483.21 Comprehensive Person-Centered Care Planning

F284 (Post-discharge plan of care) - Surveyor focus
Discharge Planning
❖ Begins on admission with comprehensive assessment of resident’s discharge goals.
❖ Included in the care plan. Must be reevaluated with each comprehensive and significant assessment.
❖ Must involve resident and/or representative, and be developed by the interdisciplinary team (including the physician).

§ 483.21 Comprehensive Person-Centered Care Planning

F284 - Surveyor focus
Discharge Planning
❖ Must include documentation of LCA involvement if the resident wishes to be discharged to the community (if not feasible, facility must document).
❖ Facilities must assist residents/representatives wishing to be discharged to another SNF (skilled nursing facility), HHA (home health agency), IRF, (inpatient rehab facility) or LTCH (long term care hospital) by providing them with standardized patient assessment data (where available), data on quality measures, and resource use (i.e., staffing data) to assist resident/representative in selecting a provider.
§483.21 Comprehensive Person-Centered Care Planning

What do we need to do to comply?
❖ Will need to document participation in care planning a different way to reflect inclusion of the nursing assistant and food/nutrition services staff.
   Development of policy/procedure related to method participation.
❖ Development of information material for resident/rep for rights related to participation in the care planning process, determining who will represent them.

§483.21 Comprehensive Person-Centered Care Planning

What do we need to do to comply?
❖ Development/revision of forms for interim/baseline care plan to ensure inclusion of required information and to reflect participation by resident/representative.
❖ Development/revision of forms for baseline CP for copy to resident, discharge summary/instructions for resident to be compliant with required information.
❖ Development of process to complete and document medication reconciliation at the time of discharge.

§483.25 Quality of Care & Quality of Life

❖ §483.25 "Quality of Care" renamed to "Quality of Care and Quality of Life"
❖ §483.25(a)(3) newly added section - CPR
❖ §483.25(d)(1) Restraints (currently located under "Resident Behavior and Facility Practices") to be moved under "Quality of Care & Quality of Life"
❖ §483.25(d)(8) - assisted nutrition and hydration; §483.25(a)(3) - cardiopulmonary resuscitation; and §483.25(d)(13) - pain management have already been incorporated into the current survey process
§483.25 Quality of Care & Quality of Life

❖ Clarifies that quality of care and quality of life are overarching principles in the delivery of care to residents of nursing homes and should be applied to every service provided.
❖ Clarifies the requirements regarding a resident’s ability to perform ADLs and prevention of decline unless unavoidable, as well as redefining scope of ADL definition.
❖ Facility must ensure appropriate personal to provide basis life support/CPR.

§483.25 Quality of Care & Quality of Life

❖ Activities program to include consideration of care plan and resident preferences, as well as potential for independence and ability to interact with the community.
❖ Updating current practices: Modifies existing requirements for nasogastric tubes to reflect current clinical practice, and to include enteral fluids in the requirements for assisted nutrition and hydration.

§483.25 Quality of Care & Quality of Life

❖ Special Need Issues: Adds a new requirement that facilities must ensure residents receive necessary and appropriate pain management.
✓ Restraints used must be least restrictive for least amount of time with ongoing evaluation of need for use.
✓ Bed rails have expanded language related to use, alternatives, safety requirements, and resident/representative informed consent.
✓ Skin care updated to include language about professional standards and foot care to prevent complications related to medical conditions.
### §483.25 Quality of Care & Quality of Life

- **Special Need Issues:** Adds a new requirement that facilities must ensure residents receive necessary and appropriate pain management.
  - ✔ Mobility/range of motion: language related to services to prevent decline
  - ✔ Tube feeding/diet: updated definition to include G-Tube, PEG tube, J-tube. Modifies language to allow resident right to choose therapeutic diet or not.
  - ✔ Trauma survivors: provision to address special needs of trauma survivors.

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### §483.25 Quality of Care & Quality of Life

- **Special Need Issues:** Adds a new requirement that facilities must ensure residents receive necessary and appropriate pain management.
  - ✔ Re-designation of Requirements: Relocates the provision regarding unnecessary drugs, antipsychotic drugs, medication errors, and influenza and pneumococcal immunizations to “Pharmacy Services.”

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### §483.25 Quality of Care & Quality of Life

- No brand new requirements.
- “Highest Practicable Well-Being” language in this section.
- Each resident to receive and the facility to provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, consistent with the resident’s comprehensive assessment and plan of care.
§483.25 Quality of Care & Quality of Life

F309 - Quality of Care: Surveyor focus
❖ Resident receives hemodialysis and/or peritoneal dialysis according to care plan.
❖ Facility staff provides dialysis care consistent with current professional standards of practice.
❖ New interpretive guidance for quality of life review specifically end of life and/or hospice care is currently in CMS clearance review. Surveyors are directed to review this area in regard to outcomes for F309.
❖ Specific intent of the regulatory language at F309.

F310 (Avoidable declines) - Surveyor focus
❖ Moved to Quality of Life.
❖ Adds oral care and expanded to include dining (meals and snacks).

F311, F312 (Assistance/care to improve) - Surveyor focus
❖ Moved to Quality of Life.

❖ Added special care issues, many of which were previously cited under F309, if there were care issues
❖ Specific areas: restraints, pain management, bowel incontinence, and dialysis services
❖ Based on comprehensive assessment of a resident, facilities required to ensure that residents receive treatment and care in accordance with professional standards of practice, the comprehensive person-centered care plan, and the residents’ choices.
F313, F314 (Vision, hearing/pressure ulcers - Surveyor Focus
❖ No significant changes.

F315 - Surveyor Focus
❖ Residents who are continent receive necessary services to maintain continence;
❖ Residents with a catheter are assessed for removal as soon as possible; and
❖ Residents with fecal incontinence receive appropriate treatment and services to restore as much normal bowel function as possible.

F323 (Accidents) - Surveyor Focus
❖ Facility must attempt to use appropriate alternatives prior to installing a side or bed rail and must ensure the correct installation, use, and maintenance including, but not limited to:
✓ Assessing the resident for risk of entrapment.
✓ Review risks and benefits of the bedrails with the resident or resident representative and obtain informed consent prior to installation.
✓ Ensure the bed’s dimensions are appropriate for the resident’s size and weight.

F328 (Special Needs) - Surveyor Focus
❖ Expanded regulatory language in the areas of:
✓ Foot care
✓ Colostomy, ureterostomy, or ileostomy care
✓ Parental fluids
✓ Respiratory care
✓ Prostheses
❖ Expanded regulatory language includes professional standards and care provided in accordance to the comprehensive person-centered care plan.
What do we need to do to comply?
❖ Review policies and procedures related to the use of alarms/bedrails to ensure they are compliant with new guidance. Education of staff related to alternatives and individualized care planning.
❖ With regard to mobility, pain, nutritional services - facilities will need to review processes to ensure compliance and address any refusals by the resident to ensure residents to not decline even if resident is refusing intervention.

What do we need to do to comply?
❖ Update policies and procedures related to pain, restraints, bedrails, ADL assistance, mobility/ROM, CPR.
❖ Educate staff on new requirements and documentation of alternatives and all efforts to maintain function.
❖ Educate staff on expanded definition of ADLS to include communication and increased focus on mobility maintenance.

❖ Attending physicians to delegate dietary orders to qualified dietitians or other clinically qualified nutrition professionals and therapy orders to therapists.
§483.30 Physician Services

F385 (Physician Supervision) - Surveyor Focus
❖ Orders to meet the immediate care and needs of the resident
F390 (Physician Delegation of tasks) - Surveyor Focus
❖ If dietitian, other clinically qualified nutrition professional, or a qualified therapist has been delegated the task of writing orders:
✓ They are able to do so in accordance with State law.
✓ The written order was delegated by physician.
✓ They are acting under the supervision of a physician.

§483.35 Nursing Services

❖ This section will be implemented in Phase 1 (11/28/16), except that the facility assessment required determining the sufficient number and competencies for staff will be implemented in Phase 2 (11/28/17).

❖ Addition of competency requirement for determining the sufficiency of nursing staff, based on a facility assessment, which includes but is not limited to the number of residents, resident acuity, range of diagnoses, and the content of the individual care plans.
§483.35 Nursing Services

This evaluation must include:
❖ the number and acuity levels of the residents;
❖ the range of diagnoses and resident needs;
❖ the content of individual care plans; and
❖ the training, experience, and skill sets of individual staff members.

§483.35 Nursing Services

❖ The facility will have to take into account its assessment of all residents as well as the skill sets of individual staff when making staffing decisions.
❖ Facility determinations of what is sufficient staff as well as the necessary competencies and skill sets must take into account the number, acuity & diagnoses of the resident population.
❖ The facility evaluation must be consistent with the evaluation required by the evaluations.

§483.35 Nursing Services

How is this different from prior regulations?
❖ This new regulation adds the requirement that facilities ensure that licensed nurses have the specific competencies and skill sets necessary to care for residents’ needs, as identified through resident assessments and care plans.
§483.35 Nursing Services
How is this different from prior regulations?
❖ Consistent with CMS’s clarification that nurse aides are included in the term “other nursing personnel,” the requirements relating to hiring and utilizing nurse aides previously located in §483.75 are now included in §483.35.

§483.35 Nursing Services
How is this different from prior regulations?
❖ Non-permanent caregivers must meet the same competency, knowledge and skill requirements as permanent personnel. These caregivers may have less familiarity with a facility’s residents and processes, which need to be considered when using, orienting, and assigning non-permanent staff.

§483.35 Nursing Services
How is this different from prior regulations?
❖ Meeting the minimum requirements for hiring a nurse aide does not automatically mean meeting the staff competency requirement that would be specific to the needs of each individual resident.
❖ This specifically includes nursing services and food and nutrition services workers, but may apply to any direct care provider.
§483.35 Nursing Services

F353 (Sufficient staff) - Survey focus
❖ Sufficient nursing staff with the appropriate competencies and skills sets to provide nursing and related services to each resident.
❖ Sufficient number of nurse aides, along with other nursing personnel, on a 24-hour basis to provide nursing care to all residents in accordance with resident’s care plans.

§483.35 Nursing Services

F497 (In-service education) - Survey focus
❖ Surveyor needs to determine if in-service training complies with the requirements of 483.95(g):
✓ Facilities are required to include dementia management and abuse.
✓ Prevention in their regular in-service education for all Nurse Aides.

§483.35 Nursing Services

What do we need to do to comply?
❖ CMS anticipates that an initial competency requirements will be identified by the facility assessment with documentation of individual accomplishments managed by an administrative position as an addition to existing documentation.
§483.40 Behavioral Health Services

Parts Effective in Phase 1: 11/28/16

Based off the resident assessment, the facility must ensure:

❖ A resident who displays or is diagnosed with a mental/physiological disorder receive appropriate care.
❖ A resident whose assessment did NOT reveal a mental/psychological disorder does not display decreased social interaction or increased withdrawn, angry or depressive behaviors unless the resident’s clinical conditions demonstrates that this is unavoidable.

❖ If rehabilitative services are required in the resident’s comprehensive plan of care, the facility must:
  ✓ Provide the required services, including specialized rehab services as required; or
  ✓ Obtain the required services from an outside resource from a Medicare and/or Medicaid provider of specialized rehabilitative services.

❖ The facility must provide medically related social services “to attain or maintain the highest practicable mental and psychological well-being of each resident.”
§483.40 Behavioral Health Services

❖ Comprehensive assessment and medically related social services.
❖ New requirement (incorporates highest practicable well-being, specialized rehabilitation, and medical social services).
❖ Addition of new section focusing on requirement to provide necessary behavioral health care and services to residents, in accordance with their comprehensive assessment and plan of care.
❖ Addition of “gerontology” to the list of possible human services fields from which a bachelor degree could provide the minimum educational requirement for a social worker.

F319 (Mental & Psychosocial Functioning) - Surveyor focus

❖ Review of residents who display and/or diagnosed with mental disorder or psychosocial adjustment difficulty.
❖ Facility must correct resident’s assessed problem or assist resident in attaining their highest practicable mental and psychosocial well-being.

F320 (Mental/Psychosocial Adjustment) - Surveyor focus

❖ Review of residents who do not have diagnosis of a mental disorder or psychosocial adjustment difficulty to ensure they do not have an avoidable decrease in social interaction since admission to the facility.
§483.45 Pharmacy Services

❖ Entire section will be implemented in Phase 1 (11/28/16) with the exception of medical chart review - Phase 2 (11/28/17) and psychotropic - implemented in Phase 2 (11/28/17).

❖ Pharmacist must review a resident’s medical chart during each monthly drug regimen review.

❖ Revision of existing requirements regarding “antipsychotic” drugs to refer to “psychotropic” drugs

❖ Define “psychotropic drug” as any drug that affects brain activities associated with mental processes and behavior

❖ Requiring several provisions intended to reduce or eliminate the need for psychotropic drugs, if not clinically contraindicated, to safeguard the resident’s health

F428 (Medication Regimen Review) - Surveyor focus

❖ Requires new process for medication regimen review (MRR) and requires facilities to develop and maintain policies and procedures to address all aspects of the MRR.

❖ The pharmacist must now report MRR irregularities to the Medical Director, as well as the attending physician, and the Director of Nursing.
§483.45 Pharmacy Services

F428 (Medication Regimen Review) - Surveyor focus
❖ “Irregularities” are defined as medications that meet the criteria for unnecessary medications.
❖ The pharmacist provides a written report regarding the irregularities to the attending physician, Medical Director and DON. The attending physician must document that he/she reviewed the identified irregularity and action taken to address the irregularity, or the reason for not changing the medication related to the identified irregularity.

§483.50 Laboratory, radiology, and other diagnostic services

Summary
❖ Effective 11/28/16
❖ Facility must provide or obtain lab or radiology and other diagnostic services when ordered by a physician, a physician assistant, nurse practitioner, or clinical nurse specialist, if the practitioners are acting in accordance with state law, including scope of practice laws and facility policy.

Summary
❖ Notify the ordering physician, physician assistance, nurse practitioner, or clinical nurse specialist to be notified of lab, radiology or other diagnostic test results that fall outside of clinical references ranges in accordance with facility policies and practitioner orders for notification.
§483.50 Laboratory, radiology, and other diagnostic services

Summary
❖ Facility must assist, as needed, transportation and from the source of service.
❖ Facility must file in the resident’s clinical record reports that are dated and contain the name and address of the testing lab, radiology service of other diagnostic testing service.
❖ Facility is responsible for the quality and timeliness of the services.

❖ A physician assistant, nurse practitioner, or clinical nurse specialist may order laboratory, radiology, and other diagnostic services for a resident in accordance with state law, including scope-of-practice laws.

F504 (Lab Services) - Surveyor focus
❖ Facility provides or obtains laboratory services by a physician, physician assistant, nurse practitioner, or clinical nurse specialist in accordance with State law, including scope of practice laws.
§483.50 Laboratory, radiology, and other diagnostic services

F505 (Notification of Physician) - Surveyor focus
❖ Facility staff promptly notifies the ordering physician, physician assistant, nurse practitioner, or clinical nurse specialist of laboratory results that fall outside of clinical reference ranges in accordance with facility policies and procedures for notification of a practitioner or per the ordering physician’s orders.

§483.50 Laboratory, radiology, and other diagnostic services

F510 (Diagnostic Services) - Surveyor focus
❖ Facility provides or obtains radiology and other diagnostic services by a physician; physician assistant; nurse practitioner or clinical nurse specialist in accordance with State law, including scope of practice laws.

§483.50 Laboratory, radiology, and other diagnostic services

F511 (Physician notification) - Surveyor focus
❖ Facility staff prompts notifies the ordering physician; physician assistant; nurse practitioner or clinical nurse specialist of laboratory results that fall outside of clinical reference ranges in accordance with facility policies and procedures for notification of a practitioner or per the ordering physician’s orders.
§483.55 Dental services

Summary

❖ Facility may not charge a resident for the loss or damage to dentures when the loss of damage is the responsibility of the facility.
❖ If resident requests assistance in scheduling a dental appointment, the facility would be required to provide it. Facilities are already required to provide assistance when it is needed. This adds “if requested.”
❖ Adds a requirement to arrange for transportation to and from dental services.

❖ Requires facilities to make a dental referral within 3 days from the time the loss or damage to dentures is identified unless the facility can document extenuating circumstances that resulted in a delay beyond 3 days. Compliance with this requirement will be required as of 11/28/17.
❖ Adds a requirement that facilities assist residents to apply for reimbursement of dental service as incurred medical expense under the state plan as appropriate.

❖ Facilities will be required to have a policy identifying those instances when the loss or damage of dentures is the facility’s responsibility. Compliance with this addition is required by 11/28/17.
❖ Facilities must document what they did to ensure that the resident could eat and drink adequately while awaiting dental services.
§483.55 Dental services
❖ Limited changes to update and clarify
F411 (Dental services) - Surveyor focus
❖ Assistance is not only provided when deemed necessary by the facility, but also when requested by the resident.
❖ Transportation is provided to any location providing dental services, not just the dentist office.
F412 (Nursing facilities) - Surveyor focus
❖ Facility submitted an application for reimbursement of dental services under the State plan, if the resident is eligible and wishes to participate.

§483.60 Food and Nutrition Services
❖ Dietary Services is now Food and Nutrition Services
❖ Facilities to provide each resident with a nourishing, palatable, well-balanced diet that meets his or her daily nutritional and special dietary needs, taking into consideration the preferences of each resident.

§483.60 Food and Nutrition Services
❖ Facilities to employ sufficient staff, including the designation of a director of food and nutrition service, with the appropriate competencies and skills sets to carry out the functions of dietary services while taking into consideration resident assessments and individual plans of care, including diagnoses and acuity, as well as the facility's resident census.
§483.60 Food and Nutrition Services Summary
❖ Must employ sufficient staff based on new requirement of a facility assessment, effective November 28, 2017.
❖ Establishes education requirements for qualified dietitian or other clinically qualified nutrition professional. Rule is effective 11/28/16 newly hired dietitians and allows a 5-year phase in for dietitians hired before 11/28/16.

§483.60 Food and Nutrition Services Summary
❖ Establishes education requirements for director of food and nutrition services when qualified dietitian or other qualified nutrition professional is not employed full-time.
❖ A member of the food and nutrition services staff must participate on the interdisciplinary team.

§483.60 Food and Nutrition Services Summary
❖ Requires facilities to have menus that reflect the cultural and the ethnic needs of residents, effective 11/28/16.
❖ Attending physician may delegate to a registered or licensed dietitian the task of prescribing a resident’s diet, including a therapeutic diet, to the extent allowed by State law, effective 11/28/16.
❖ Requires facilities to have a policy regarding use and storage of food brought to residents by family and other visitors to ensure safe and sanitary storage, handling, and consumption, effective 11/28/16.
§483.60 Food and Nutrition Services

F360 (Dietary Services) - Surveyor focus
❖ Indications for the emphasis on resident preferences.

§483.60 Food and Nutrition Services

F361 (Staffing) - Surveyor focus
❖ Demonstration of staff competencies and skills in food service
✓ Qualified dietitian or other clinically qualified nutrition professional
  • Within 5 years, if hired PRIOR to November 28, 2016.
  • There is NO GRACE PERIOD, if hired after November 28, 2016.

❖ Explicit regulatory requirement to meet State requirements for food service or dietary managers.
❖ Surveyors must know the specific requirements of the state that are surveying in to determine compliance.
§483.60 Food and Nutrition Services

F362 (Standard Sufficient Staff) - Surveyor focus
❖ Change from “competent” to “safely and effectively.”
❖ Verify who from the Food and Nutrition Services staff is participating on the interdisciplinary team as required.
F363 (Menus) - Surveyor focus
❖ Facility to ensure the menu reflects the religious, cultural, and ethnic needs of the resident population and input from residents and resident groups.

§483.60 Food and Nutrition Services

F364 (Food) - Surveyor focus
❖ Drinks must now also meet these requirements.
❖ Expanded to include meeting hydration needs and preferences regarding fluids.

§483.60 Food and Nutrition Services

F366 (Substitutions) - Surveyor focus
❖ Meeting explicit requirements for accommodating resident allergies, intolerances, and preferences.
❖ Alternatives must also now be appealing to the resident.
F367 (Therapeutic Diets) - Surveyor focus
❖ State surveyors must be aware of their state’s laws governing the ability for the registered/licensed dietitian to write orders. They may not write orders, if not allowed under the State law.
§483.60 Food and Nutrition Services

F368 - Surveyor focus
❖ Meals meeting resident needs, preferences, requests, care plan are now explicitly required.
❖ Alternative meals/snacks must be provided to residents eating outside of traditional/scheduled times. Food must be suitable, nourishing, and consistent with care plan.

F369 (Frequency of meals) - Surveyor focus
❖ Appropriate assistance is provided to the resident to use the assistive devices when consuming meals and snacks.

F371 (Sanitary Conditions) - Surveyor focus
❖ Foods from local producers meet applicable state and local laws or regulations.
❖ Produce from facility gardens are grown and handled safely.
❖ Explicit requirement that residents are able to have foods from outside the facility.

F373 (Paid Feeding Assistants) - Surveyor focus
❖ Interdisciplinary teams are responsible for assessing resident for having a feeding assistant, not just the charge nurse.
❖ Rationale for resident being in feeding assistant program should be reflected in the comprehensive care plan.

§483.65 Specialized Rehabilitative Services

❖ Addition of respiratory services to those services identified as specialized rehabilitative services.
F406 (Rehabilitation Services) - Surveyor focus
❖ Facility provides, either directly or from an outside resource, respiratory services or services of a lesser intensity as required at §483.120(c).
❖ If any specialized rehabilitative services are provided by an outside resource, the requirements at §483.70(g) should be met.
§ 483.70 Administration

❖ Various portions of this section have been relocated into subpart B.

F251 - Social Worker Qualifications: Surveyor focus
❖ Social Workers - bachelor’s degrees can now include gerontology.

F492 (Compliance with State laws) - Surveyor focus
❖ The regulatory language provides additional protection against discrimination and for protection for health information.

§ 483.70 Administration

F493 (Governing body) - Surveyor focus
❖ Ensure that the administrator reports to and is acceptable to the governing body.

F514 (Clinical records) - Surveyor focus
❖ Medical record should include the resident’s representative.
❖ Surveyor should ensure that records be kept confidential and only released as authorized by the regulations.

§ 483.70 Administration

F519 (Transfer Agreement) - Surveyor focus
❖ When a resident is transferred to the hospital in an emergency situation by another practitioner, it is in accordance with the facility policy and consistent with state law.
❖ Ensure the exchange of resident care information regardless of resident care setting to determine if they can return to the community or be placed in less restricted setting.
§483.70 Administration

F523 (Notification) - Surveyor focus
❖ Written notification of an impending closure must be submitted by the facility to the following:
✓ State Survey Agency
✓ State LTC Ombudsman
✓ Residents of the facility
✓ Legal representative of the residents (or other responsible parties).
❖ Ensure the facility does not admit any new residents on or after the date the written notification is submitted.

§483.70 Administration

F526 is a Process Tag - Surveyor focus
❖ Nursing home must develop and implement a written agreement between the nursing home and a Medicare certified hospice, IF the nursing home CHOOSES to allow a Medicare certified hospice to provide hospice care and services in the nursing home. Agreement must be in place prior to the provision of care by hospice.
❖ If resident chooses to elect the hospice benefit, hospice providers are required to provide many of the same services as the LTC facility.
❖ Ensure nursing homes have a written agreement with hospice if they chose to arrange for the provision of hospice care with one or more Medicare-certified hospice providers that will specify the roles and responsibilities of each entity.

§483.70 Administration

F527 - Surveyor focus
❖ Facilities must electronically submit to CMS complete and accurate staffing information, including information for agency and contract staff, based on payroll and other verifiable and audit able data in a uniform format according to specifications established by CMS.
❖ When reporting information about direct care staff, the facility must specify whether the individual is an employee of the facility or is engaged by the facility under contract, or through an agency.
❖ Direct Care Staff are those individuals who provide care and services to allow resident to attain or maintain the highest practicable physical, mental, and psychosocial well-being.
§483.70 Administration
Facility Assessment

Effective in PHASE 2: November 28, 2017

❖ Must document what resources are necessary to care for its residents competently during day-to-day operations and in emergencies.
❖ Must be updated annually; but this is a minimum standard - it can be updated whenever there is a change or facility plans any changes that require a substantial modification of any part of the assessment.

Must include:
❖ Resident population, number and facility capacity;
❖ Care required considering the diseases, conditions, physical and cognitive difficulties, overall acuity;
❖ Staff competencies necessary for the level and types of care needed;
❖ the physical environment, equipment, services necessary to care for residents:

❖ Any ethnic, cultural, religious factors that could potentially affect care including activities, food/nutrition.
❖ Facilities’ resources, including
✓ buildings;
✓ physical structures, vehicles;
✓ medical and non-medical equipment;
✓ services provided such as PT, pharmacy, specific rehab therapies.
§483.70 Administration Facility Assessment

Effective in PHASE 2: November 28, 2017

Must include:
❖ All personnel, including managers, staff (employees and contracted), volunteers, and education/training and competencies related to care.
❖ Contracts/agreements to 3rd parties to provide services/equipment during operations or emergencies.
❖ HIT resources for managing care and electronically sharing info with other organizations.

§483.75 Quality Assurance & Performance Improvement

❖ Facilities will develop, implement, and maintain effective comprehensive, data-driven QAPI program that focuses on systems of care, outcomes of care, and quality of life.

§483.75 Quality Assurance & Performance Improvement

F520 (Quality Assessment) - Survey Focus
❖ Contains clarifying language regarding committee members.
❖ Facility must report to their governing body or designated persons regarding its activities.
❖ QA & A Committee must meet at least quarterly.
§483.80 Infection Control

❖ Facilities to develop an Infection Prevention and Control Program (IPCP)

F441 (Infection Control) - Survey Focus

❖ Developed and implemented an infection control program:
  ✓ When and to whom to report infections.
  ✓ What types of transmission-based precautions will be used and when to use them.
  ✓ Infection control incidents and the facility’s corrective actions.

§483.80 Infection Control

F441 - Survey Focus

❖ Appropriate use of standard precautions including:
  ✓ hand hygiene
  ✓ respiratory and cough etiquette
  ✓ use personal protective equipment
  ✓ safe injection practices
  ✓ safe handling of potentially contaminated equipment or surfaces are used and implemented

❖ The IPCP policies and procedures are reviewed and updated annually.

§483.90 Physical Environment

❖ Facilities that are constructed, reconstructed, or newly certified after the effective date of this regulation to accommodate no more than two residents in a bedroom.

❖ Facilities that are constructed, or newly certified after the effective date of this regulation to have a bathroom equipped with at least a commode and sink in each room.
§483.90 Physical Environment

F457 (Bedrooms) - Surveyor focus
❖ Bedrooms must accommodate no more than two residents.

F461 (Resident Rooms) - Surveyor focus
❖ Follow manufacturers’ recommendations and specifications for installing and maintaining bed rails, and conduct regular inspections. (Bed frames, mattresses, bed rails - evaluated for “entrapment” and safety issues.)

§483.90 Physical Environment

F461 - Surveyor focus
❖ Resident room must be equipped with/or located near toilet and bathing facilities. If facility received approval of construction, or are newly certified after November 28, 2016, each resident room must have its own bathroom equipped with at least a commode and sink.

§483.95 Training Requirements

❖ New section to subpart B
❖ Facilities must develop, implement, and maintain an effective training program for all new and existing staff
❖ Other individuals must be trained, consistent with their specific roles
✓ Contract staff
✓ Volunteers
§483.95 Training Requirements

Training topics must include:
❖ Communication: requires facilities to include effective communications as a mandatory training for direct care personnel.
❖ Residents Rights & Facility Responsibilities: requires facilities to ensure that staff members are educated on the rights of the residents and the responsibilities of a facility to properly care for its residents as set forth in the regulations.

❖ Abuse, neglect and exploitation: requires facilities, at a minimum, to educate staff on activities that constitute abuse, neglect, exploitation & misappropriation of resident property, and procedures for reporting these incidents.
❖ QAPI & Infection control: Requires mandatory training as a part of their QAPI & infection prevention and control programs that educate staff on the written standards, polices, and procedures for each program.

❖ Compliance & Ethics: Must include training as a part of their compliance and ethics program. Requires annual training if the operating organization operates five or more facilities.
❖ In-Service Training for Nurse Aides: Requires dementia management and resident abuse prevention training to be a part of 12 hours per year in-service training for nurse aides.
§483.95 Training Requirements

Training topics must include:
❖ Behavioral Health Training: Must provide behavioral health training to its entire staff, based on the facility assessment at §483.70(e).
❖ Feeding Assistants: May not use any individual as a paid feeding assistant unless that individual has successfully completed a State-approved program for feeding assistants as specified in §483.16.

§483.95 Training Requirements

F495 (Competency) - Surveyor focus
❖ Addresses required in-service training for nurse aides
❖ Includes dementia management training and resident abuse prevention training
F373 (Paid Feeding Assistants) - Surveyor focus
❖ A facility must not use any individual working in the facility as a paid feeding assistant unless that individual has successfully completed a State-approved training program for feeding assistants.

§483.95 Training Requirements

How is this different from prior regulations?
❖ Facility must provide behavioral health training to its staff based on the facility assessment.
❖ Training in dementia management to take place at least annually. This applies not only to nurse aides, but to direct staff as well. CMS has defined direct staff as “individuals who, through interpersonal contact with residents or resident case management, provide care and services to allow residents to attain or maintain the highest practicable physical, mental, and psychosocial well-being.”
§483.95 Training Requirements

How is this different from prior regulations?
❖ Under the new requirement all new and existing staff; individuals providing services under a contractual arrangement; and volunteers, receive dementia management and abuse prevention training consistent with their expected roles.
❖ Added to the definitions around abuse is “exploitation” which CMS defines as “taking advantage of a resident for personal gain through the use of manipulation, intimidation, threats, or coercion.” This must be added to the current abuse training in facilities.

Key Actions stated:
❖ The entire Training section §483.95 will be implemented in Phase 3 (November 28, 2019) with the exception of training on Abuse/Neglect/Exploitation, Dementia Management, and the Feeding Assistant requirement. These 3 components are required in Phase 1.
❖ Abuse training is currently required, but facilities will have to educate staff regarding “exploitation.”
§483.95 Training Requirements

Key Actions stated:
❖ Dementia management training will need to be expanded beyond nurse aides to other direct staff. CMS indicates that training currently part of the nurse aide training program or existing materials such as “Hand-in-Hand” can be utilized.
❖ Staff not currently the recipients of the required training will be need to be brought up to compliance with the new requirement.

§483.95 Training Requirements

What does this mean to providers?
❖ CMS acknowledges that yet be developed surveyor interpretive guidelines will provide additional clarity on how to meet the requirements.
❖ It is suspected that the Facility Assessment (§483.70) will impact on training within the facility and whether if resident needs are not met it is an indication of problems with the assessment. The Assessment requirement is a Phase 2 requirement, effective November 28, 2017.

§483.95 Training Requirements

What does this mean to providers?
❖ The expectation as to who is trained and how much training they receive has been expanded. Therefore, coordination of training for contract staff and even volunteers presents additional challenges.
❖ Although required under current regulations, record keeping and documentation of paid feeding assistants may receive additional scrutiny.
§483.95 Training Requirements

What are next steps/what do we need to do to comply?

❖ As a CMS initiative, dementia care is a major focus. The earlier dementia-focused surveys identified deficits in training and CMS has continued the selective use of the dementia-focused survey.

❖ Materials produced from those surveys have been made available by CMS in S&C 16-04. Facilities should become familiar with these documents and use them to assess their current needs.

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