

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

CONSUMER FACT SHEET: REQUIREMENTS FOR NURSING HOME CARE STAFF & ADMINISTRATION

Staffing is widely considered to be the most important factor in the quality of care provided in a nursing home. Too often, facilities fail to have sufficient staff or the staff does not have the appropriate knowledge and competencies to provide the care residents need. Thus, federal requirements for sufficient and competent staff are critical to support resident-centered advocacy to ensure that residents are safe and that they receive appropriate services. This is what we pay for and what every facility agrees to provide for all of its residents when it participates in Medicaid/Medicare.

Below are relevant standards with descriptions excerpted from the federal regulations, followed by some points for you to consider when you advocate on these issues. [Note: The brackets below provide, for reference, the applicable federal regulation (42 CFR) and the F-tag number used when a facility is cited for failing to meet the standard.]

I. Fundamental Requirements for Nursing Services [42 CFR 483.35 F-725]

The facility must have sufficient nursing staff *with the appropriate competencies and skills sets* to provide nursing and related services to *assure resident safety and* attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care *and considering the number, acuity and diagnoses of the facility's resident population....*

II. Sufficient Staffing Levels [42 CFR 483.35(a) F-725]

The facility must provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans:

(i) ...licensed nurses; and (ii) Other nursing personnel, including but not limited to nurse aides.

III. Nurse Aide Competency [42 CFR 483.35(d) F-728]

General rule. *A facility must not use any individual working in the facility as a nurse aide for more than 4 months, on a full-time basis, unless—*

That individual is competent to provide nursing and nursing related services; and

That individual has completed a training and competency evaluation program, or a competency evaluation program approved by the State...; or

That individual has been deemed or determined competent [based on long-term experience and other federal requirements]....

Non-permanent employees. *A facility must not use on a temporary, per diem, leased, or any basis other than a permanent employee any individual who does not meet the [above] requirements....*

Considerations for Resident-Centered Advocacy – Staffing Competency & Quantity:

1. Note the reference to the 1987 Nursing Home Reform Law's requirement that nursing home services **must** be sufficient to assure that residents attain and maintain their "highest practicable physical, mental and psychosocial well-being." This means that services must be tailored to what residents need, not what the facility wishes to provide based on its profit margins and financial goals.
2. Nursing services must be both sufficient and competent to fulfill the needs identified in each and every resident's assessment and care plan.
3. When a facility accepts a resident it is affirming that it has both enough staff to meet the care and service needs of that individual and that the staff it hires and retains are appropriately trained to carry out this promise. When a facility lacks sufficient staff to meet the needs of its residents it is breaking that promise and violating its agreement with the federal government.

IV. Nursing Home Administration [42 CFR 483.70 F835]

A facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

Considerations for Resident-Centered Advocacy – Administration:

Federal guidelines state that, to order for a facility to be cited for substandard administration the surveyor's "*investigation must demonstrate how the administration knew or should have known of the deficient practice and how the lack of administration involvement contributed to the deficient practice found.*"

This is important in two ways:

1. Is the administrator aware of the specific problem or concerned about which you are advocating? Depending on the nature of the problem, and how long it has continued, it may be worth bringing it to the attention of the administrator and/or senior staff.
2. Even if you do not know if the administrator has direct knowledge, there are numerous situations for which it is expected that an administrator is aware and accountable, including:
 - a. ***"all alleged violations involving neglect, abuse, including injuries of unknown source, and/or misappropriation of resident property, by anyone furnishing services on behalf of the provider...."***
 - b. ***overall implementation of the facility policies/procedures, including to prohibit involuntary seclusion...."*** and
 - c. any **reasonable suspicion of a crime against a resident.**

RESOURCES

WWW.NURSINGHOME411.ORG. LTCCC's website includes materials on the relevant standards for nursing home care and a variety of resources on specific issues, such as dementia care, resident assessment and care planning, dignity and quality of life.