



The  
NEW  
Nursing  
Home  
Regulations

## Requirements for Nursing Home Physician, Dental and Rehab Services

Presented by Richard Mollot, Long Term Care Community Coalition

[www.nursinghome411.org](http://www.nursinghome411.org)

This program is made possible by the generous support of the NY State Health Foundation

## + What is the Long Term Care Community Coalition?

- **LTCCC**: Nonprofit organization dedicated to improving care & quality of life for the elderly & adult disabled in long-term care (LTC).
- **Our focus**: People who live in nursing homes & assisted living.
- **What we do**:
  - Policy analysis and systems advocacy in NYS & nationally;
  - Education of consumers and families, LTC Ombudsmen and other stakeholders.
- **Richard Molloy**: Joined LTCCC in 2002. Executive director since 2005.



+ What Will We Be Talking About TODAY?

■ **Brief Background: How the Nursing Home System Works**

■ **Focus: Requirements for Those Who Provide Physician, Dental and Rehab Services**



What dental services are a nursing home required to provide?

What is a physician's involvement in a resident's assessment and care?

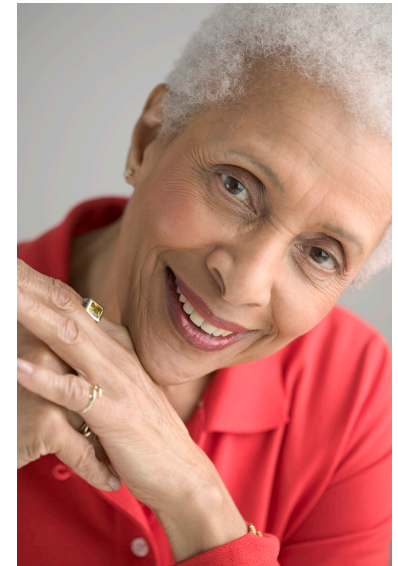
## + The Nursing Home System in a Nutshell

- Virtually all nursing homes participate in Medicaid and/or Medicare.
- In order to participate in Medicaid/Medicare, a facility agrees to meet the standards provided for in the federal **Nursing Home Reform Law**.
- States may have *additional* protections, but no state can have less protections.
- Federal *protections are for all the residents* in a facility, whether their care is paid for by Medicare, Medicaid or private pay.
- The federal agency, CMS, contracts with the state DOH to ensure that residents are protected and receive the services they need and deserve.



## + The Nursing Home Reform Law

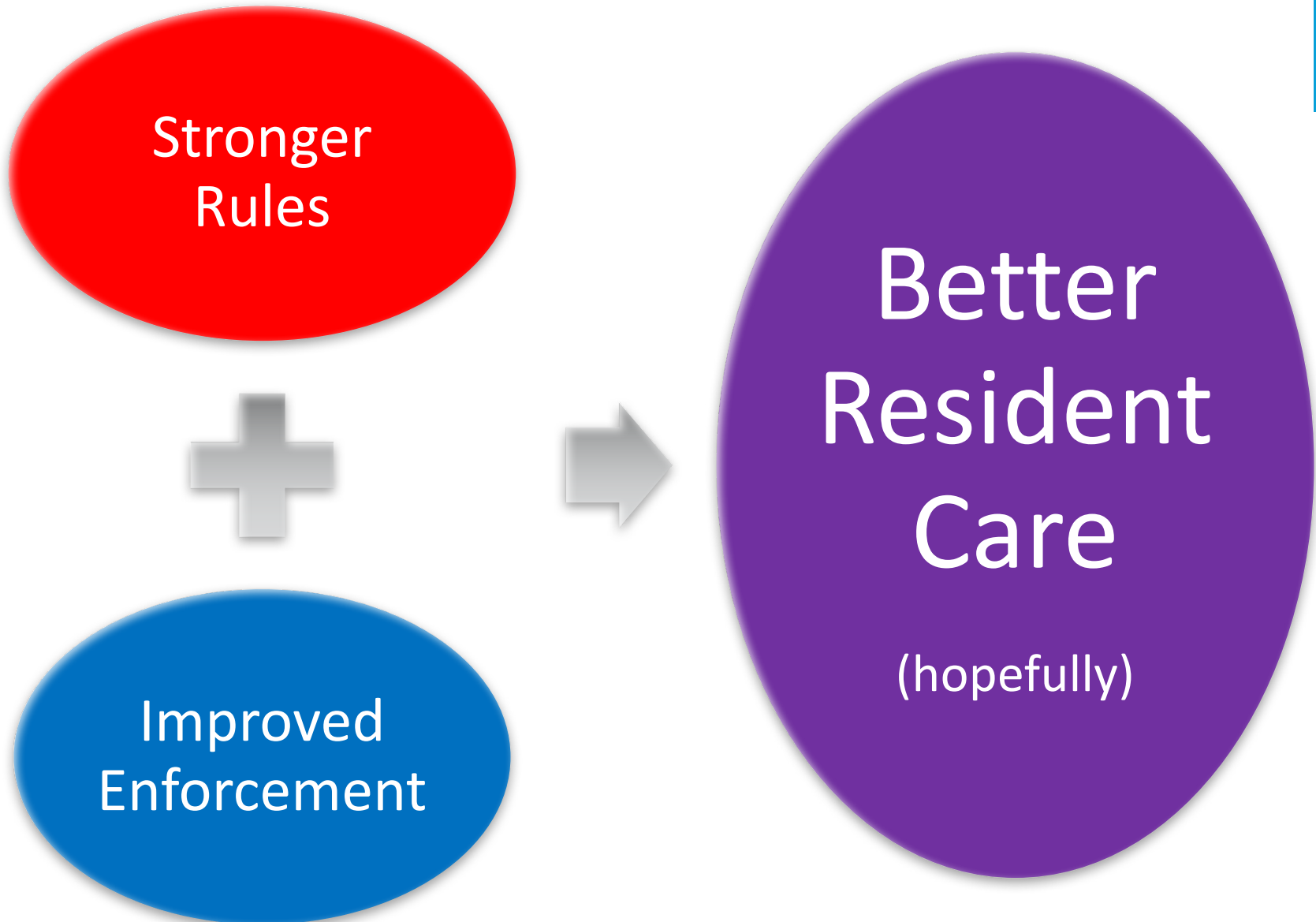
- The federal law requires that every nursing home resident is provided the care and quality of life services sufficient to attain and maintain her **highest practicable physical, emotional & social well-being**.
- The law emphasizes **individualized, patient-centered care**.
- Importantly, the law lays out specific resident rights, from **good care** and monitoring to a quality of life that maximizes **choice, dignity & autonomy**.
- The law passed in 1987. Regulatory standards came out in 1991.



## + **What** Is Happening Now?

- For the first time in 25 years, the federal regulatory system has been significantly revised and updated.
- This will affect **every aspect of care & quality of life.**
- **All of the Regulations are changing.** For 25 years everyone – nursing homes, surveyors, ombudsmen and advocates – knew what the rules were and where to find them. That entire structure has changed.
- **All of the Guidelines are changing.** The guidelines detail what is expected of nursing homes in relation to each standard – what they are supposed to do and how they are suppose to do it.
- **The F-tag system, used by nursing home inspectors, is changing.** When a surveyor identifies a problem in care or living conditions in a nursing home, she cites the nursing home using a system called “F-tags” – numbers that correlate with the regulatory requirements.

# + Why Does it Matter?



## + **WHY** Is This Information Important to Us?

We must be prepared and know our rights as the changes are implemented, and beyond!

Knowledge  
=  
Power

### Resident Rights

- Law
- Regulation
- Oversight





## + How Will This Program Help **YOU** In Your Knowledge & Advocacy?

1. **New Federal Language.** We will review together the federal requirements, so you can see exactly what nursing homes are being told they must do for their residents.
2. **Summaries of Important Points.** At the end of the program we will simplify and recap some of the important points for you.
3. **Fact Sheets.** For each program we are developing free, easy-to-use fact sheets which you can use now and in the future to support resident-centered advocacy and problem solving.

**All programs, fact sheets and other resources are available for free on our website, [www.nursinghome411.org](http://www.nursinghome411.org).**

**There is no need to worry about remembering details - when you have an issue or concern in the future you can easily find and print out the information you need.**



*The Federal Nursing Home Standards:*

**Requirements for**

- **Physician,**
- **Rehab &**
- **Dental Services**

## + Why Are We Talking About These Requirements?

Because residents & families frequently have concerns and questions, such as...

What can I do if I cannot afford to pay for a dentist?

How often can I see a doctor?

My resident is being told she cannot have any more therapy services. Is that right?

I don't know who my doctor is.

What happens if my dentures break?

## + Requirements for Physician Services

### 42 CFR 483.30(a) Physician Supervision. [F710]

*The facility must ensure that—*

*(1) The medical care of each resident is supervised by a physician;*

*(2) Another physician supervises the medical care of residents when their attending physician is unavailable.*

#### **INTENT**

*The intent of this regulation is to ensure the medical supervision of the care of each resident by a physician and that orders for the resident's immediate care and needs are provided throughout the resident's stay.*



## + Physician Services

### GUIDANCE

Generally, the term “attending physician” or “physician” may also include a NPP involved in the management of the resident’s care, to the extent permitted by State law. However, when the regulation specifies a task to be completed “personally” by the physician, that task may not be delegated to a NPP.

Supervising the medical care of residents means participating in the resident’s assessment and care planning, monitoring changes in resident’s medical status, and providing consultation or treatment **when contacted** by the facility. It also includes, but is not limited to, prescribing **medications and** therapy, ordering a resident’s transfer to the hospital, conducting required routine visits or delegating to and supervising follow-up visits **by NPPs**.

**It is the responsibility of the facility to ensure that another physician supervises the care of residents when the attending physician is unavailable. The attending physician may designate another physician to act on his/her behalf when unavailable. If the attending physician is unavailable and does not designate another physician to act on his/her behalf, or the designated physician is unavailable, the facility must have a physician available who will supervise the care of the... residents.**

**NPP:**  
(Non-physician practitioner)

1. Nurse practitioner,
2. Clinical nurse specialist, or
3. Physician assistant.

## + Physician Services

### 42 CFR 483.10(d) *Choice of attending physician.* [F555]

The resident has the right to choose **his or her** attending physician.

- (1) The physician must be licensed to practice, and**
- (2) If the physician chosen by the resident refuses to or does not meet requirements specified in this part, the facility may seek alternate physician participation as specified in paragraphs (d)(4) and (5) of this section to assure provision of appropriate and adequate care and treatment.**
- (3) The facility must ensure that each resident remains informed** of the name, specialty, and way of contacting the physician **and other primary care professionals** responsible for his or her care.
- (4) The facility must inform the resident if the facility determines that the physician chosen by the resident is unable or unwilling to meet requirements specified in this part and the facility seeks alternate physician participation to assure provision of appropriate and adequate care and treatment. The facility must discuss the alternative physician participation with the resident and honor the resident's preferences, if any, among options.**
- (5) If the resident subsequently selects another attending physician who meets the requirements specified in this part, the facility must honor that choice.**

Can a Resident Choose His or Her Doctor?

Orange Type = New Regulatory Language

## + Physician Services

### 42 CFR 483.30(c) Frequency of physician visits. [F712]

*(1) The residents must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 thereafter.*

*(2) A physician visit is considered timely if it occurs not later than 10 days after the date the visit was required.*

*(3) Except as provided in paragraphs (c)(4) and (f) of this section, all required physician visits must be made by the physician personally.*

*(4) At the option of the physician, required visits in SNFs, after the initial visit, may alternate between personal visits by the physician and visits by a physician assistant, nurse practitioner or clinical nurse specialist in accordance with paragraph (e) of this section.*

**“Must be seen”** – For purposes of #1, above, **...means that the physician or NPP must make actual face-to-face contact with the resident, and at the same physical location, not via a telehealth arrangement.**

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Language

# + Physician Services

**Table 1: Authority for *Non-physician Practitioners* to Perform Visits, Sign Orders *and Sign Medicare Part A Certifications/Re-certifications* when Permitted by the State**

	<b>Initial Comprehensive Visit /Orders</b>	<b>Other Required Visits<sup>^</sup></b>	<b>Other Medically Necessary Visits &amp; Orders<sup>+</sup></b>	<b><i>Certification/Recertification</i> ±</b>
<b>SNFs</b>				
PA, NP & CNS employed by the facility	May not perform/ May not sign	May perform alternate visits	May perform and sign	<i>May not sign</i>
PA, NP & CNS not a facility employee	May not perform/ May not sign	May perform alternate visits	May perform and sign	<i>May sign subject to State Requirements</i>
<b>NFs</b>				
PA, NP, & CNS employed by the facility	May not perform/ May not sign	May not perform	May perform and sign	<i>Not applicable</i>
PA, NP, & CNS not a facility employee	May perform/ May sign*	May perform	May perform and sign	<i>Not applicable</i>

*\*A NPP may provide admission orders if a physician personally approved in writing a recommendation for admission to the facility prior to admission. For additional requirements on physician recommendation for admission and admission orders, see §483.30(a), F710.*

*^Other required visits are the physician visits required by 483.30(c)(1) other than the initial comprehensive visit.*

*+Medically necessary visits are independent of required visits and may be performed prior to the initial comprehensive visit.*

*±Though not part of a compliance determination for this section, this requirement is provided for clarification and relates specifically to coverage of a Part A Medicare stay, which can take place only in a Medicare-certified SNF.*

For those who want more details....

**Note also that the regulations require that a nursing home follow its own written policies in respect to physician services.**



## + Requirements for Rehab Services

### 42 CFR 483.65 Specialized rehabilitative services [F825]

If specialized rehabilitative services such as but not limited to physical therapy, speech-language pathology, occupational therapy, **respiratory therapy**, and rehabilitative services for mental illness and intellectual disability **or services of a lesser intensity as set forth at §483.120(c)**, are required in the resident's comprehensive plan of care, the facility must—

- (1) Provide the required services; or
- (2) ...obtain the required services from an outside resource **that is** a provider of specialized rehabilitative services....

#### INTENT

The intent of this regulation is **to ensure that every resident receives specialized rehabilitative services** as determined by their comprehensive **plan of care to assist them to attain, maintain or restore their highest practicable level of physical, mental, functional and psycho-social well-being.**



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## + Requirements for Rehab Services


**“Specialized Rehabilitative Services”** *includes but is not limited to physical therapy, speech-language pathology, occupational therapy, or respiratory therapy and are provided or arranged for by the nursing home.*

*They are “specialized” in that they are provided based on each resident’s individual assessed rehabilitative needs based on their comprehensive plan of care and can only be performed by or under the supervision of qualified personnel.*

*These services must be provided by the facility or an outside resource and delivered by qualified personnel... who are acting within the State’s scope of practice laws and regulations.*

*The facility must provide or arrange for the provision of specialized rehabilitative services to all residents that require these services for the appropriate length of time as assessed in their comprehensive plan of care. These services are considered a facility service provided to all residents who need them based on their comprehensive plan of care and are included within the scope of facility services.*

*Care provided by all facility staff must be coordinated and consistent with the specialized rehabilitative services provided by qualified personnel....*



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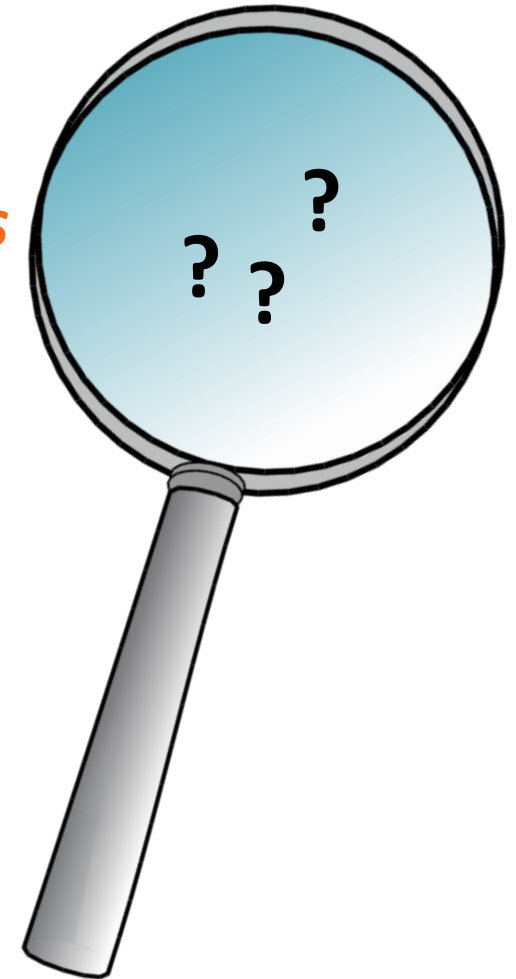
## + Requirements for Rehab Services

What does CMS tell state surveyors?

*For each of the services noted above, surveyors should determine through information obtained by observations, interviews and record reviews, that the facility not only delivered these services, but that the services and interventions:*

*(1) Were monitored for their effectiveness; and*

*(2) Assisted residents to attain or maintain their highest practicable level of physical, mental, functional and psycho-social well-being or to prevent or slow a decline in condition.*



## + Requirements for Dental Services

### 42 CFR 483.55 Dental services. [F790 & F791]

The facility must assist residents in obtaining routine and 24-hour emergency dental care.

#### INTENT

To ensure that residents obtain needed dental services, including routine dental services; *to ensure the facility provides the assistance needed or requested to obtain these services; to ensure the resident is not inappropriately charged for these services; and if a referral does not occur within three business days, documentation of the facility's to ensure the resident could still eat and drink adequately while awaiting dental services and the extenuating circumstances that led to the delay.*



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## + Dental Services

### DEFINITIONS

**“Emergency dental services”** includes services needed to treat an episode of acute pain in teeth, gums, or palate; broken, or otherwise damaged teeth, or any other problem of the oral cavity that required immediate attention by a dentist.

**“Promptly”** means within 3 business days or less from the time the loss or damage to dentures is identified unless the facility can provide documentation of extenuating circumstances that resulted in the delay.



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## + Requirements for Dental Services

### GUIDANCE

*A dentist **must be** available for each resident. The dentist can be directly employed by the facility or the facility can have a written contractual agreement with a dentist. The facility may also choose to have a written agreement for dentist services from a dental clinic, dental school or a dental hygienist all of whom are working... under the direct supervision of a dentist.*

*For Medicare and private pay residents, facilities are responsible for having the services available, but may **bill** an additional charge for the services.*

***For Medicaid residents, the facility must provide all emergency dental services and those routine dental services to the extent covered under the Medicaid state plan. The facility must inform the resident of the deduction for the incurred medical expense available under the Medicaid state plan and must assist the resident in applying for the deduction.***

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## + Requirements for Dental Services

### GUIDANCE

*If any resident is unable to pay for dental services, the facility should attempt to find alternative funding sources or delivery systems so that the resident may receive the services needed to meet their dental needs and maintain his/her highest practicable level of well-being. This can include finding other providers of dental services, such as a dental school or the provision of dental hygiene services on site at a facility.*

*The facility must assist residents in making arrangements for transportation to their dental appointments when necessary or requested. The facility should attempt to minimize the financial burden on the resident by finding the lowest cost or no cost transportation option to dental health care appointments.*

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# Summary: Resources @ [www.nursinghome411.org](http://www.nursinghome411.org)

## LONG TERM CARE COMMUNITY COALITION

*Advancing Quality, Dignity & Justice*

### CONSUMER FACT SHEET: REQUIREMENTS FOR NURSING HOME PHYSICIAN, REHAB & DENTAL SERVICES

Following are several of the nursing home standards that we have identified as important. The descriptions are taken directly from the federal regulations and guidelines (as indicated by text in italics). The excerpts are formatted into bulleted lists to make it easier to identify the points that we believe are most relevant to resident-centered advocacy. For more detailed information, see the webinar program & other resources on our website, [www.nursinghome411.org](http://www.nursinghome411.org). [Note: The brackets below provide, for reference, the citation to the federal requirement (42 CFR 483.xx) and the F-tag number used when a facility is cited for failing to meet the requirement.]

#### I. Requirements for Physician Services [42 CFR 483.30(a) F-710]

- *The facility must ensure that the medical care of each resident is supervised by a physician.*
- *Supervising the medical care of residents means participating in the resident's assessment and care planning, monitoring changes in resident's medical status, and providing consultation or treatment when contacted by the facility. It also includes, but is not limited to, prescribing medications and therapy, ordering a resident's transfer to the hospital, conducting required routine visits or delegating to and supervising follow-up visits by... non-physician practitioners.*

#### II. Choice of Attending Physician [42 CFR 483.10(d) F-555]

- *The resident has the right to choose his or her attending physician.*
- *If the physician chosen by the resident refuses to or does not meet requirements specified in this part, the facility may seek alternate physician participation... to assure provision of appropriate and adequate care and treatment.*
- *The facility must inform the resident if the facility determines that the physician chosen by the resident is unable or unwilling to meet requirements specified in this part and the facility seeks alternate physician participation to assure provision of appropriate and adequate care and treatment. The facility must discuss the alternative physician participation with the resident and honor the resident's preferences, if any, among options.*
- *The facility must ensure that each resident remains informed of the name, specialty, and way of contacting the physician and other primary care professionals responsible for his or her care.*

#### III. Frequency of Physician Visits [42 CFR 483.30(c) F-712]

- *The residents must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 thereafter.*
- *At the option of the physician, required visits..., after the initial visit, may alternate between personal visits by the physician and visits by a physician assistant, nurse practitioner or clinical nurse specialist...*
- *"Must be seen" –...means that the physician or NPP must make actual face-to-face contact with the resident, and at the same physical location, not via a telehealth arrangement.*

#### IV. Specialized Rehabilitative Services [42 CFR 483.65 F825]

- *If specialized rehabilitative services... are required in the resident's comprehensive plan of care, the facility must—  
(1) Provide the required services; or (2) ...obtain the required services from an outside resource that is a provider of specialized rehabilitative services....*
- *The intent of this regulation is to ensure that every resident receives specialized rehabilitative services as determined by their comprehensive plan of care to assist them to attain, maintain or restore their highest practicable level of physical, mental, functional and psycho-social well-being.*
- *"Specialized Rehabilitative Services" includes but is not limited to physical therapy, speech-language pathology, occupational therapy, or respiratory therapy and are provided or arranged for by the nursing home. They are "specialized" in that they are provided based on each resident's individual assessed rehabilitative needs based on their comprehensive plan of care and can only be performed by or under the supervision of qualified personnel. These services must be provided by the facility or an outside resource and delivered by qualified personnel....*

#### V. Dental Services [42 CFR 483.55 [F790 & F791]

- *The facility must assist residents in obtaining routine and 24-hour emergency dental care.*
- *The intent of this regulation is to ensure that residents obtain needed dental services, including routine dental services; to ensure the facility provides the assistance needed or requested to obtain these services; to ensure the resident is not inappropriately charged for these services; and if a referral does not occur within three business days, documentation of the facility's to ensure the resident could still eat and drink adequately while awaiting dental services and the extenuating circumstances that led to the delay.*
- **Federal Guidelines.**
  - *A dentist must be available for each resident.*
  - *For Medicare and private pay residents, facilities are responsible for having the services available, but may bill an additional charge for the services.*
  - *For Medicaid residents, the facility must provide all emergency dental services and those routine dental services to the extent covered under the Medicaid state plan.*
  - *If any resident is unable to pay for dental services, the facility should attempt to find alternative funding sources or delivery systems so that the resident may receive the services needed to meet their dental needs and maintain his/her highest practicable level of well-being. This can include finding other providers of dental services, such as a dental school or the provision of dental hygiene services on site at a facility.*

#### RESOURCES

[WWW.NURSINGHOME411.ORG](http://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.



# + Thank You For Joining Us Today!

Email [info@ltccc.org](mailto:info@ltccc.org) or call **212-385-0355** if you would like to...

Receive alerts for future programs or sign up for our newsletter and alerts.

**Next Program:** September 19<sup>th</sup> at 1pm.

**Topic:** Freedom From Abuse, Neglect & Exploitation.

You can also...

- Join us on **Facebook** at [www.facebook.com/ltccc](http://www.facebook.com/ltccc)
- Follow us on **Twitter** at [www.twitter.com/LTCconsumer](http://www.twitter.com/LTCconsumer)
- Visit us on the **Web** at [www.nursinghome411.org](http://www.nursinghome411.org).

## For LTC Ombudsmen in NY State

If you would like us to let your supervisor know that you attended this training program, please take the quick survey at:

<https://www.surveymonkey.com/r/ltccc-ltccop1>

## For Family Members in NY State

connect with the Alliance of NY Family Councils at [www.anyfc.org](http://www.anyfc.org) (or email [info@anyfc.org](mailto:info@anyfc.org)).



Questions?

Comments?