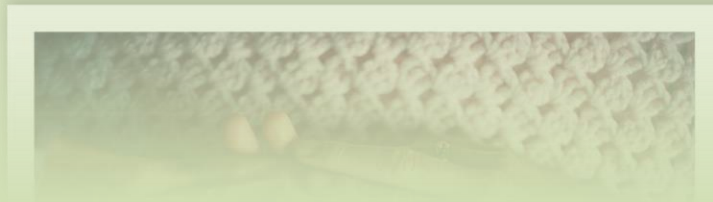


Nursing Home Quality Standards

A Primer for Residents, Families, Ombudsmen, and Advocates



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HOW TO USE THIS PRIMER

I. Important Notes on the Content

To make this primer as helpful as possible for the nonprofessional we have selected standards that we believe are most useful for resident-centered care and advocacy. This primer is not intended to cover all of the standards important to resident care, safety, and dignity. Rather, we have selected what we believe are the most essential points so that the reader can get an immediate grasp of the regulation's essence.

Also, please note that our summaries of many of the selected standards do not necessarily provide all of the relevant information about the standard. For example, we include the resident's right to choose a physician in the section on resident rights. However, we do not include the regulatory language relating to physician licensure and other requirements. All of the regulatory language is available at <http://www.ecfr.gov>.

II. Format of Descriptions of the Standards

Each standard's heading includes a descriptive title, the applicable section of the Federal code (CFR), and (when available) the corresponding F-tag (see note below). We provide a short discussion for each section, including: (1) excerpts from the code (in italics), (2) a brief narrative description, (3) excerpts from the CMS Interpretive Guidelines, and/or (4) illustrative examples.

The F-tags are important because Statements of Deficiencies (SoDs) use them to indicate each nursing home's problems. These SoDs are posted at <http://www.medicare.gov/nursinghomecompare/search.html> and <http://projects.propublica.org/nursing-homes/>. F-tags therefore can be used to find deficiencies that have been identified in the past three years for a given facility.

All excerpts from the Interpretive Guidelines are from the State Operations Manual, Appendix PP - Guidance to Surveyors for Long Term Care Facilities (Rev. 173, 11-22-17), available at https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_ltcf.pdf.

III. New Federal Regulations

The Centers for Medicare & Medicaid Services (CMS) issued revised federal nursing home regulations in October 2016, going into effect in stages between November 2016 and November 2019. New Interpretive Guidelines, which provide instructions for implementing the regulations, and the corresponding F-tags, went into effect in November 2017.

We will endeavor to provide any future changes to the information in this primer as it becomes available to the public. Please visit our website, www.nursinghome411.org, for updates in the future.

Note: This document is the work of LTCCC. It does not necessarily reflect the views of the Department of Health, nor has the Department verified the accuracy of its content.

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The Case for Nursing Home Quality

Residents, as well as their families and advocates, all know the importance of good care and quality of life. Following are some advocacy points that we think are valuable in making the case to nursing home providers and elected officials:

1. Good care and treatment with dignity make for a happy customer. Good care and treatment help sustain and build a provider's reputation among consumers and in the community.
2. Good care makes good financial sense. In addition to the indirect financial benefits of providing good and reputable nursing home services, good nursing home care saves money. For instance, good quality nursing home care reduces repeat hospitalizations. Not only are those costly to begin with, they may have additional financial repercussions, for example, in eligibility for government quality incentive programs.¹
3. As the following sections indicate, good care – that is, care in which the needs and preferences of the individual resident always come first, helping each resident attain and maintain his or her “highest practicable physical, emotional, and social well-being” – is required by the federal Nursing Home Reform Law. Providers of Medicaid and Medicare services agree to meet or exceed these standards. Providers who fail to do this are vulnerable to penalties, prosecution for fraud or for the provision of worthless services, and civil lawsuits by residents (or their families) who have suffered due to poor or inadequate care.

Assessing Nursing Home Quality with Care Compare

Nursing Home Care Compare (NHCC) is the federal website which provides information to the public on nursing home care.² While not perfect, is by far the most reliable and complete resource for information about a nursing home. On NHCC, you can search all of the certified facilities in the country. NHCC includes the results of the most recent inspection reports, as well as information on staffing levels and performance on a range of quality measures. It also provides ownership information, including type of ownership (for profit, not for profit, and government). One can search for facilities by zip code, city, state, or name, and compare up to three nursing homes at a time.

¹ Thomas, K., Rahman, M., Mor., V. and Intrator, O., *Am J Manag Care*. 2014;20(11):e523-e531, *Influence of Hospital and Nursing Home Quality on Hospital Readmissions* (February 2015). Accessed at <http://www.ajmc.com/publications/issue/2014/2014-vol20-n11/Influence-of-Hospital-and-Nursing-Home-Quality-on-Hospital-Readmissions>. This study found that “[p]atients discharged from higher-quality hospitals (as indicated by higher scores on their accountability process measures and high nurse staffing levels) and patients who received care in higher-quality NHs (as indicated by high nurse staffing levels and lower deficiency scores) were less likely to be rehospitalized within 30 days.”

² <https://www.medicare.gov/care-compare/>.

1. The 5-Star Rating System

The 5-Star Rating System on NHCC is an important tool for assessing a nursing home. Facilities receive a star rating in each of the three categories:

1. **Health Inspections:** Based on the facility's annual inspection results by the Department of Health,
2. **Staffing:** Based on licensed nurses (RNs, LPNs and LVNs) and nurse aides (CNAs), and
3. **Quality Measures:** Based on data on residents' needs and the provision of services to meet those needs.³

Facilities also receive an overall star rating, computing from their scores in these three categories. More stars are better. Three stars is considered average.

To assess a nursing home, first look at the star rating to see whether a facility is at the lower or upper end. Consumers may have a number of facilities to choose from, especially in more heavily populated areas. They may nevertheless face limitations due to geography or to the number of facilities that contract with their insurance or managed care organization. We recommend that consumers choose from the highest rated facilities, which they may then explore either online or in person. Whenever possible, we recommend selecting from among facilities with four or five stars and avoiding a facility with three or fewer stars. (**Note:** a high star rating is not necessarily a guarantee of the highest quality, but low ratings are generally a cause for concern. The three category ratings are not equal and should, in our view, be considered in the following order of importance: staffing, then health inspections, then quality measures. The overall rating is a composite of these three.)

2. Digging Deeper

NHCC offers much more information on nursing homes than just star ratings. Each listing for a nursing home provides the results of the most recent inspections, including a downloadable copy of Statements of Deficiencies (SoDs, the records of inspection results). NHCC enables consumers to easily compare the staffing, citation, and quality measures ratings of a given facility with state and national averages. We recommend that consumers use this information to make a list of facilities to visit. Touring the facility gives consumers a chance to form one's own impressions and assessments. It is also helpful to come with a list of questions to ask during the visit. For example, if a facility looks good but has a high pressure ulcer or antipsychotic drugging rate, consumers can ask facility staff why that is so.

3. For the Advanced User: Digging Even Deeper

Sometimes it is useful to gain further insights into how different facilities compare on various criteria by collecting and analyzing performance data. NHCC also has a database that can be accessed directly at <https://data.cms.gov/provider-data/?redirect=true>. This database is useful for collecting and assessing data on nursing home performance over the last three years. The data include the following categories:

³ See the section below, "A Note on the Accuracy of Nursing Home Care Compare Data," for important information about the accuracy of these data.

1. **Deficiencies** (“A list of all deficiencies currently listed on Nursing Home Care Compare, including the nursing home that received the deficiency, the associated inspection date, deficiency tag number, scope and severity, the current status of the deficiency and the correction date.”)
2. **Penalties** (“The total dollar amount of fines, the number of fines, and the number of payment denials for each nursing home.”) **Note:** CMS and states can and do impose other penalties against nursing homes besides fines and payment denials. However, CMS does not (as of November 2021) post them on its website. These data are available from CMS via FOIA request.
3. **Quality Measures** (“A list of the quality measure scores currently displayed on Nursing Home Care Compare for each nursing home. Each row contains a specific quality measure for a specific nursing home and includes the three-quarter score average and the score for each individual quarter.”)
4. **Star Ratings** (“Overall, Health Inspection, Staffing, and Quality Measure Ratings for all active providers.”)

4. A Note on the Accuracy of Nursing Home Care Compare Data

While NHCC is the most useful and accurate resource we have for assessing a nursing home and comparing its quality of care to that of other facilities, consumers still need to be aware of a number of significant issues. These include:

1. **Under-Identification of Nursing Home Deficiencies:** Numerous studies, including several by LTCCC over the years, indicate that state surveyors often fail to identify substandard nursing home care, including serious abuse and neglect. In addition, surveyors often under-rate both the scope of the problem (number of residents affected) and its severity (degree to which residents have been harmed) in the deficiencies that they do identify. As a 2007 study found, nursing home rating systems are generally better at identifying poor performers than they are at identifying superior ones.⁴
2. **Staffing Data:** For many years, the staffing information posted on NHCC was entirely self-reported and unaudited. Thus, there were serious concerns about nursing homes inflating their staffing numbers. To address this, in 2015 CMS announced the development of an auditable, payroll-based journal (PBJ) reporting system. These data have been incorporated in NHCC since April 2018. However, NHCC includes all nurse staff in the facility, no matter what their roles are. Since most people want to know who is providing care, not who is working in an administrative capacity, LTCCC regularly posts data on the [direct care staffing levels](#) for all nursing homes (that are in compliance with the reporting requirement) on our website, www.nursinghome411.org.⁵

⁴ Phillips, C, Hawes, C, Lieberman, T and Koren, M, *Where should Momma go? Current nursing home performance measurement strategies and a less ambitious approach*, BMC Health Services Research 2007, 7:93. This article is available at <http://www.biomedcentral.com/1472-6963/7/93>.

⁵ This information is searchable by state, nursing home name, MDS census, RN hours, LPN hours, CNA hours, total staff time, average staffing hours per resident per day, and average RN hours per resident per day.

3. **Self-Reported Quality Measures:** Like the staffing data, nursing home quality measures are self-reported and unaudited. As a result nursing homes may inflate these too, making this category particularly unreliable. In October 2014 CMS announced the introduction of improvements to these data, including the addition (beginning in 2015) of antipsychotic drugging rates to the Quality Measure star rating. CMS has also been piloting “special surveys of nursing homes that focused on investigating the coding of the Minimum Data Set (MDS), which are based on resident assessments and are used in the quality measures.”⁶
4. **Redacted Statements of Deficiencies:** It is important to note that, while not technically inaccurate, the Statements of Deficiencies are heavily redacted before they are posted on NHCC. This renders many of these statements virtually useless since vital information is often lacking, such as diagnoses and names of drugs used - or misused - to treat residents’ conditions.

5. Other Resources to Assess a Nursing Home’s Quality

ProPublica Nursing Home Inspect⁷ - This web-based tool enables users to compare nursing homes in a state based on deficiencies cited by regulators and penalties imposed during the past three years. Consumers can also search over 60,000 nursing home Statements of Deficiencies to look for trends or patterns.

State Nursing Home Websites and Contact Information –. NHCC provides links to each state’s nursing home website and provides contact information for every State Survey Agency.⁸ It is critical to note that the state websites vary greatly in their quality. However, as of January 1, 2018, states are required to have a consumer-oriented website “providing information regarding all skilled nursing facilities and nursing facilities within in their state.”⁹

Section 6103 of the Affordable Care Act requires the following for state websites:

1. *Inclusive:* Include all skilled nursing facilities (SNFs) and nursing facilities (NFs) in the State.
2. *Accessible:* Be easily accessible from the main page of the website of both the State Medicaid agency and the State Survey Agency.
3. *Consumer Friendly:* Be written and conveyed in a manner that is welcoming and readily understandable to consumers and the public.
4. *Searchable:* Provide search capabilities that allow a consumer to identify any SNF and NF in the State by name and geographic location.
5. *Comprehensive:* The CMS Form 2567 survey results for each recertification survey and each complaint survey performed in the last three years should be available in viewable

⁶ CMS Announces Two Medicare Quality Improvement Initiatives (press release) (October 2014). Available at <http://www.cms.gov/Newsroom/MediaReleaseDatabase/Press-releases/2014-Press-releases-items/2014-10-06.html>.

⁷ <http://projects.propublica.org/nursing-homes/>.

⁸ The NHC page with state-level contact information is available at, <https://www.medicare.gov/NursingHomeCompare/Resources/infoforresidents.html>.

⁹ Survey & Certification Memo 16-17-NH. Available at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-16-17.pdf>.

and downloadable form for each SNF and NF, in a manner consistent with industry standards (such as those developed by the National Institute of Standards and Technology), including portable document file (.pdf) or hypertext markup language (HTML) format.

6. *Include Plans of Correction:* For each recertification and complaint survey completed, provide the nursing facility or skilled nursing facility's plan of correction when available.
7. *Link to Federal Websites:* Link to CMS's Nursing Home Care Compare website.
8. *Link to State Websites:* Link to the State Long Term Care Ombudsman Program and, if applicable, a State Aging and Disability Resource Center (ARDC).
9. *Include Information about Alternative Services:* Provide links and information about alternative long term care services available in the State, including services provided under Home- and Community-based Service programs.
10. *Privacy Safeguards:* Must not contain any identifying information about the resident or complainant(s) in the text of the CMS 2567.¹⁰

Summary of Federal Law

All nursing homes that contract to provide Medicaid and/or Medicare services are required to meet federal standards of care for all of the patients in their facilities (whether or not the individual is a beneficiary of one of those programs). These standards were promulgated in the 1987 Omnibus Budget Reconciliation Act (aka "OBRA '87"), which contains the Nursing Home Reform Law.¹¹ The Reform Law requires all skilled nursing facilities that receive federal funding to conform to specific standards of care, including that nursing staff help residents attain or maintain their "highest practicable physical, mental, and psychosocial well-being" as individuals. The emphasis on individualized, patient-centered care is intended to reduce widespread problems in long-term care facilities, including abuse and neglect, and improve quality of life. Unfortunately many of these reforms were not fully implemented and, as a result, nursing homes can often be poor places to live. An important example is the widespread inappropriate use of antipsychotic drugs in nursing homes, which has received much attention from news and government sources. This extent and duration of this problem typifies the weaknesses in implementation of the Reform Law, according to which residents have the right to be free from unnecessary drugs and chemical restraints, as well as the right to be informed about, participate in, and refuse treatment.

¹⁰ *Id.*

¹¹ Nursing Home Reform Law, 42 U.S.C. §§1395i-3(a)-(h), 1396r(a)-(h) (Medicare and Medicaid, respectively) (December 1987). The Reform Law's text is available at: <http://law.justia.com/cfr/title42/42-3.0.1.5.22.html#42:3..15.22.2>.

Government Regulation and Oversight

1. Transparency

Nursing Home Care Compare (NHCC), discussed in an earlier section, contains information about every Medicaid and Medicare-certified nursing home in the United States. It is a consumer-friendly resource that can be of tremendous help to family members and professionals alike.

2. Enforcement - Organization

The State Survey Agencies (SAs) contract with the federal government to monitor care in nursing homes and respond to complaints. Typically, the SA is the state Department of Health (DOH) or Department of Public Health (DPH). State agencies are required to operate in accordance with the CMS State Operations Manual (SOM) and SAs also receive periodic updates from CMS on how to improve identification of nursing home care and quality issues. They are expected to conduct a survey of each facility about once a year and respond in a timely, efficacious manner to complaints about quality of care.

3. Enforcement - Implementation

State and federal nursing home surveyors use a system devised by the Centers for Medicare & Medicaid Services (CMS) to help them determine whether a nursing home is meeting quality of care, quality of life, safety, and other standards. The system uses indicators known as “F-tags” (“F” for “Federal”), which identify specific nursing home regulations. These are used in conjunction with the guidance that the SOM provides to help surveyors assess compliance with the regulations.

Statements of Deficiencies (SoDs, also known as Form 2567) are the written record of a surveyor’s findings when a facility fails to comply with one or more standards. These statements use the F-tags to identify specific deficiencies. SoDs for every nursing home are posted on Nursing Home Care Compare and are required to be posted on the state nursing home websites (along with the facility’s Plan of Correction, which details how the facility will be correcting the deficiencies identified in the survey).

Selected Standards Relevant to Quality Care¹²

1. General Residents' Rights [42 CFR 483.10, F-550]¹³

(a) The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility.

- *(1) A facility must treat each resident with respect and dignity and care for each resident in a manner and in an environment that promotes maintenance or enhancement of his or her quality of life, recognizing each resident's individuality. The facility must protect and promote the rights of the resident.*

(b) The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.

- (1) The facility must ensure that the resident can exercise his or her rights without interference, coercion, discrimination, or reprisal from the facility.
- (3) In the case of a resident who has not been adjudged incompetent by the state court, the resident has the right to designate a representative, in accordance with State law and any legal surrogate so designated may exercise the resident's rights to the extent provided by state law.
- (5) The facility shall not extend the resident representative the right to make decisions on behalf of the resident beyond the extent required by the court or delegated by the resident.
- (7) In the case of a resident adjudged incompetent... (ii) The resident's wishes and preferences must be considered in the exercise of rights by the representative.

(d) The resident has the right to choose his or her attending physician.

2. Right to Be Fully Informed [42 CFR 483.10(c), F-552]¹⁴

The resident has the right to be informed of, and participate in, his or her treatment, including:

- (1) The right to be fully informed in language that he or she can understand of his or her total health status, including but not limited to, his or her medical condition.
- (2) The right to participate in the development and implementation of his or her person-centered plan of care, including:

¹² For the CMS guidance for all of the F-tags, see "State Operations Manual, Appendix PP - Guidance to Surveyors for Long Term Care Facilities" (Hereinafter "CMS Guidance"). Available at: http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_ltc.pdf.

¹³ Formerly F-151 - General Residents' Rights - CFR 483.10.

¹⁴ Formerly F-154 - Right to be Fully Informed - 42 CFR 483.10(b)(3) and 483.10(d)(2).

- (i) The right to identify individuals or roles to be included in the planning process, the right to request meetings and the right to request revisions to the person-centered plan of care.
- (ii) The right to participate in establishing the expected goals and outcomes of care, the type, amount, frequency, and duration of care, and any other factors related to the effectiveness of the plan of care.
- (iv) The right to receive the services and/or items included in the plan of care.
- (3) *The [care] planning process must:*
 - (i) *Facilitate the inclusion of the resident and/or resident representative.*
 - (ii) *Include an assessment of the resident's strengths and needs.*
 - (iii) *Incorporate the resident's personal and cultural preferences in developing goals of care.*

A resident is fully informed when he or she receives information, in a manner he or she can understand, on (1) the benefits and reasonable risks of treatment, (2) potential changes to his or her medical condition, and (3) information about reasonably available alternatives.

Note: Being appropriately informed, and in particular having the opportunity to provide informed consent, is increasingly considered a critical component of good and appropriate care. For example, it has played an important part in efforts to improve dementia care and reduce antipsychotic drugging. Facility policies should include processes for providing informed consent, and residents' records should reflect implementation of these policies.

3. Right to Refuse: Formulate Advance Directives [42 CFR 483.10(c)(6), F-578]¹⁵

The resident has the right to request, refuse, and/or discontinue treatment, to participate in or refuse to participate in experimental a research, and to formulate an advance directive.

Importantly, just like citizens who do not reside in a facility, **nursing home residents have the right to refuse treatment even if doing so is detrimental** (or perceived as detrimental by their caregivers).

4. Right to Choose a Personal Attending Physician [42 CFR 483.10(d), F-555]¹⁶

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

Residents have free choice in choosing their physician, but there are certain qualifications. The CMS Interpretive Guidelines state:

The right to choose a personal physician does not mean that a resident is required to do so. It also does not mean that the physician the resident chose is obligated to provide service to the resident. If a resident or his or her representative declines to designate a personal physician or if a physician of the resident's choosing fails to fulfill their responsibilities, as specified in §483.30, F710, Physician Services, or elsewhere as

¹⁵ Formerly F-155 - Right to Refuse: Formulate Advance Directives - CFR 483.10(b)(4).

¹⁶ Formerly F-163 - Right to Choose a Personal Attending Physician – CFR 483.10 (d)(1).

required in these regulations, facility staff may choose another physician after informing the resident or the resident's representative. Before consulting an alternate physician, the medical director must have a discussion with the attending physician. Only after a failed attempt to work with the attending physician or mediate differences may facility staff request an alternate physician.

5. Personal Privacy [42 CFR 483.10(h), F-583]¹⁷

The resident has the right to personal privacy and confidentiality of his or her personal and medical records.

- (1) Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups, but this does not require the facility to provide a private room for each resident;
- (2) The facility must respect the residents right to personal privacy, including the right to privacy in his or her oral (that is, spoken), written, and electronic communications, including the right to send and promptly receive unopened mail and other letters, packages and other materials delivered to the facility for the resident, including those delivered through a means other than a postal service.
- (3) The resident has a right to secure and confidential personal and medical records.
 - (i) The resident has the right to refuse the release of personal and medical records except as provided at §483.70(i)(2) or other applicable federal or state laws.
 - (ii) The facility must allow representatives of the Office of the State Long-Term Care Ombudsman to examine a resident's medical, social, and administrative records in accordance with State law.

The Interpretive Guidelines state:

Each resident has the right to privacy and confidentiality for all aspects of care and services. A nursing home resident has the right to personal privacy of not only his or her own physical body, but of his or her personal space, including accommodations and personal care.

Residents in nursing homes have varying degrees of physical/psychosocial needs, intellectual disabilities, and/or cognitive impairments. A resident may be dependent on nursing home staff for some or all aspects of care, such as assistance with eating, ambulating, bathing, daily personal hygiene, dressing, and bathroom needs. Only authorized staff directly involved in providing care and services for the resident may be present when care is provided, unless the resident consents to other individuals being present during the delivery of care. During the delivery of personal care and services, staff must remove residents from public view, pull privacy curtains or close doors, and provide clothing or draping to prevent exposure of body parts.

¹⁷ Formerly F-164 - Personal Privacy - CFR 483.10 (e).

6. Right to/Facility Provision of Visitor Access [42 FR 483.10(f)(4), F-563]¹⁸

The resident has a right to receive visitors of his or her choosing at the time of his or her choosing, subject to the resident's right to deny visitation when applicable, and in a manner that does not impose on the rights of another resident.

Residents have numerous access and visitation rights, including to their physician, family, LTC Ombudsman, and “any entity or individual that provides health, social, legal, or other services to the resident.” Importantly, these rights pertain to the resident, and she or he can withdraw consent at any time (including in regard to family members).

7. Reasons for Transfer/Discharge of Resident [42 CFR 483.15(c)(1)(i), F-622]¹⁹

The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless--

- *(A) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;*
- *(B) The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;*
- *(C) The safety of individuals in the facility is endangered due to the clinical or behavioral status of the resident;*
- *(D) The health of individuals in the facility would otherwise be endangered;*
- *(E) The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility;*
- *(F) The facility ceases to operate.*

The Interpretive Guidelines state:

Surveyors must determine whether a transfer or discharge is resident or facility-initiated. The medical record should contain documentation or evidence of the resident's or resident representative's verbal or written notice of intent to leave the facility, a discharge care plan, and documented discussions with the resident or, if appropriate, his/her representative, containing details of discharge planning and arrangements for post-discharge care

If transfer is due to a significant change in the resident's condition, but not an emergency requiring an immediate transfer, then prior to any action, the facility must conduct and document the appropriate assessment to determine if revisions to the care plan would allow the facility to meet the resident's needs....

¹⁸ Formerly F-172 - Right to/Facility Provision of Visitor Access - CFR 483.10 (j)(1)&(2).

¹⁹ Formerly F-201 - Reasons for Transfer/Discharge of Resident - CFR 483.12(a)(2).

A resident's declination of treatment does not constitute grounds for discharge, unless the facility is unable to meet the needs of the resident or protect the health and safety of others. The facility must be able to demonstrate that the resident or, if applicable, resident representative, received information regarding the risks of refusal of treatment, and that staff conducted the appropriate assessment to determine if care plan revisions would allow the facility to meet the resident needs or protect the health and safety of others....

For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid. Additionally, conversion from a private pay rate to payment at the Medicaid rate does not constitute non-payment.

8. Right to be Free from Chemical Restraints – [42 CFR 483.10(e), F-605]²⁰

The resident has a right to be treated with respect and dignity, including (1) The right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

A facility may be in violation of F-605 if an antipsychotic or other drug is administered and not required to treat medical symptoms. While in practice this is usually done to make it easier for caregivers to manage behaviors associated with dementia, it is important to note that the prohibition exists whether or not the antipsychotic is given for convenience or disciplinary purposes.²¹ Conversely, even if the antipsychotic is required to treat a particular medical symptom, pursuant to F-605, the drug should not be administered for convenience or disciplinary purposes. F-605 is deliberately broad in this sense. Facilities sometimes rely on antipsychotic drugs to treat residents deemed difficult or uncooperative. For example, if a resident is behaving in a manner that the facility finds difficult to treat, a staff member could claim that the resident is exhibiting a "behavioral problem" and administer an antipsychotic drug to sedate the resident. This treatment may be easier for the staff member but is not necessarily therapeutic for the resident; masking behavioral symptoms of dementia is not an appropriate substitute for care that responds to a resident's needs.²²

9. Freedom from Abuse, Neglect, and Involuntary Seclusion [42 CFR 483.12, F-600,602,603]²³

The resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation as defined in this subpart. This includes but is not limited to freedom from

²⁰ Formerly F-222 - Right to be Free from Chemical Restraints - 42 CFR 483.13(a).

²¹ CMS, in its May 24, 2013, Survey & Certification memo, specifically noted that if a survey team "identifies a concern that an antipsychotic medication may potentially be administered for discipline, convenience and not being used to treat a medical symptom, the survey team should review F222 [F-605 in the new numbering]...."

²² California Advocates for Nursing Home Reform, *No Surprises: Chemical Restraints Sedate and Subdue the Elderly with Dementia* (January 3, 2012). Available at: <http://www.canhr.org/stop-drugging/archives/839>.

²³ Formerly F-223 - Free From Abuse/Involuntary Seclusion - CFR 483.13(b).

corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms.

The Interpretive Guidelines state:

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.** It includes verbal abuse, sexual abuse, physical abuse, and mental abuse including abuse facilitated or enabled through the use of technology.

Physical abuse includes, but is not limited to, hitting, slapping, punching, biting, and kicking. Corporal punishment, which is physical punishment, is used as a means to correct or control behavior.

Corporal punishment includes, but is not limited to, pinching, spanking, slapping of hands, flicking, or hitting with an object.

Mental abuse is the use of verbal or nonverbal conduct which causes or has the potential to cause the resident to experience humiliation, intimidation, fear, shame, agitation, or degradation.

Verbal abuse may be considered to be a type of mental abuse. Verbal abuse includes the use of oral, written, or gestured communication, or sounds, to residents within hearing distance, regardless of age, ability to comprehend, or disability.

Sexual abuse is non-consensual sexual contact of any type with a resident, [including] unwanted intimate touching of any kind [and] taking sexually explicit photographs and/or audio/video recordings of a resident and maintaining and/or distributing them (e.g. posting on social media). This would include, but is not limited to, nudity, fondling, and/or intercourse involving a resident.

Involuntary seclusion may take many forms, including but not limited to the confinement, restriction or isolation of a resident. Involuntary seclusion may be a result of staff convenience, a display of power from the caregiver over the resident, or may be used to discipline a resident for wandering, yelling, repeatedly requesting care or services, using the call light, disrupting a program or activity, or refusing to allow care or services such as showering or bathing to occur.

[Emphases added.]

10. Allegations of Mistreatment, Neglect or Abuse [42 CFR 483.12(c), F-609,610]²⁴

In response to allegations of abuse, neglect, exploitation, or mistreatment, the facility must:

- (1) Ensure that all alleged violations involving abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property, are reported immediately.
- (2) Have evidence that all alleged violations are thoroughly investigated.
- (3) Prevent further potential abuse, neglect, exploitation, or mistreatment while the investigation is in progress.
- (4) Report the results of all investigations to the administrator or his or her designated representative and to other officials in accordance with State law, including to the State Survey Agency, within 5 working days of the incident, and if the alleged violation is verified appropriate corrective action must be taken.

The Interpretive Guidelines state:

The facility must report alleged violations related to mistreatment, exploitation, neglect, or abuse, including injuries of unknown source and misappropriation of resident property and report the results of all investigations to the proper authorities within prescribed timeframes.

“Immediately” means as soon as possible, in the absence of a shorter State time frame requirement, but not later than 2 hours after the allegation is made, if the events that cause the allegation involve abuse or result in serious bodily injury, or not later than 24 hours if the events that cause the allegation do not involve abuse and do not result in serious bodily injury.

“Injuries of unknown source” - An injury should be classified as an “injury of unknown source” when **both** of the following conditions are met:

- The source of the injury was not observed by any person or the source of the injury could not be explained by the resident; **and**
- The injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma) or the number of injuries observed at one particular point in time or the incidence of injuries over time.

As detailed in the CFR and Guidelines, nursing homes have specific standards with which they must comply to (1) ensure that residents are safe and free from abuse and neglect, and (2) investigate and report any instances or suspicion of abuse, neglect, or mistreatment. **In addition to these obligations, facility staff and contractors are required to report any suspicion of a crime against a resident.**²⁵

²⁴ Formerly F-225 - Investigate and Report Allegations of Mistreatment, Neglect or Abuse- CFR 483.13(c).

²⁵ For more information, see <https://nursinghome411.org/policy-brief-reporting-nursing-home-crime/>.

11. Facility Promotes/Enhances Quality of Life [42 CFR 483.24, F-675]²⁶

Quality of life is a fundamental principle that applies to all care and services provided to facility residents. Each resident must receive and the facility must 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.

The Interpretive Guidelines state:

The intent of this requirement is to specify the facility's responsibility to create and sustain an environment that humanizes and individualizes each resident's quality of life by . . . **ensuring that the care and services provided are person-centered, and honor and support each resident's preferences, choices, values, and beliefs.** (Emphasis added.)

12. Dignity [42 CFR 483.10(a)(1), F-550,557]²⁷

A facility must treat each resident with respect and dignity and care for each resident in a manner and in an environment that promotes maintenance or enhancement of his or her quality of life, recognizing each resident's individuality. The facility must protect and promote the rights of the resident.

The Interpretive Guidelines state:

Each resident has the right to be treated with dignity and respect. All activities and interactions with residents by any staff, temporary agency staff or volunteers must focus on assisting the resident in maintaining and enhancing his or her self-esteem and self-worth and incorporating the resident's, goals, preferences, and choices. When providing care and services, staff must respect each resident's individuality, as well as honor and value their input.

Examples of treating residents with dignity and respect include, but are not limited to:

- Encouraging and assisting residents to dress in their own clothes, rather than hospital-type gowns, and appropriate footwear for the time of day and individual preferences;
- Placing labels on each resident's clothing in a way that is inconspicuous and respects his or her dignity (for example, placing labeling on the inside of shoes and clothing or using a color coding system);
- Promoting resident independence and dignity while dining, such as avoiding:
 - Daily use of disposable cutlery and dishware;
 - Bibs or clothing protectors instead of napkins (except by resident choice);
 - Staff standing over residents while assisting them to eat;

²⁶ Formerly F-240 - Facility Promotes/Enhances Quality of Life - 42 CFR 483.15.

²⁷ Formerly F-241 - Dignity - 42 CFR 483.15(a).

- Staff interacting/conversing only with each other rather than with residents while assisting with meals;
- Protecting and valuing residents' private space (for example, knocking on doors and requesting permission before entering, closing doors as requested by the resident)....

Staff and volunteers must interact with residents in a manner that takes into account the physical limitations of the resident, assures communication, and maintains respect. For example, getting down to eye level with a resident who is sitting, maintaining eye contact when speaking with a resident with limited hearing, or utilizing a hearing amplification device when needed by a resident.

Dignity is a critical issue for nursing home residents, one which is both important in itself and also significantly affects a resident's physical and mental health. To aid in understanding and identifying dignity issues, **following are some relevant excerpts from the survey procedure section of the State Operations Manual:**

- Observe if staff show respect for each resident and treat them as an individual.
- Do staff respond in a timely manner to the resident's requests for assistance?
- Do staff explain to the resident what care is being provided or where they are taking the resident? Is the resident's appearance consistent with his or her preferences and in a manner that maintains his or her dignity?
- Do staff know the resident's specific needs and preferences?
- Do staff make efforts to understand the preferences of those residents, who are not able to verbalize them, due to cognitive or physical limitations?

Determine if staff members respond to residents with cognitive impairments in a manner that facilitates communication and allows the resident the time to respond appropriately. For example, a resident with dementia may be attempting to exit the building with the intent to meet her/his children at the school bus. Walking with the resident without challenging or disputing the resident's intent and conversing with the resident about the desire (tell me about your children) may reassure the resident.

13. Self-Determination-Right to Make Personal Choices [42 CFR 483.10(f), F-561]²⁸

The resident has the right to and the facility must promote and facilitate resident self-determination through support of resident choice:

- (1) The resident has a right to choose activities, schedules (including sleeping and waking times), health care and providers of health care services consistent with his or her interests, assessments, plan of care.
- (2) The resident has the right to make choices about aspects of his or her life in the facility that are significant to the resident.

²⁸ Formerly F-242 - Self-Determination-Right to Make Personal Choices - CFR 483.15(b).

- (3) The resident has a right to interact with members of the community and participate in community activities both inside and outside the facility.
- (4) The resident has a right to receive visitors of his or her choosing at the time of his or her choosing, subject to the resident's right to deny visitation when applicable, and in a manner that does not impose on the rights of another resident.

According to the State Operations Manual, "The intent of this requirement is to ensure that each resident has the opportunity to exercise his or her autonomy regarding those things that are important in his or her life. This includes the residents' interests and preferences."

The Interpretive Guidelines state:

It is important for residents to have a choice about which activities they participate in, whether they are part of the formal activities program or self-directed. Additionally, a resident's needs and choices for how he or she spends time, both inside and outside the facility, should also be supported and accommodated, to the extent possible, including making transportation arrangements.

Residents have the right to choose their schedules, consistent with their interests, assessments, and care plans. **This includes, but is not limited to, choices about the schedules that are important to the resident, such as waking, eating, bathing, and going to bed at night. Choices about schedules and ensuring that residents are able to get enough sleep is an important contributor to overall health and well-being. Residents also have the right to choose health care schedules consistent with their interests and preferences, and information should be gathered to proactively assist residents with the fulfillment of their choices. Facilities must not develop a schedule for care, such as waking or bathing schedules, for staff convenience and without the input of the residents.**

Examples that demonstrate the support and accommodation of resident goals, preferences, and choices include, but are not limited to:

- If a resident shares that attendance at family gatherings or external community events is of interest to them, the resident's goals of attending these events should be accommodated, to the extent possible.
- If a resident mentions that his or her therapy is scheduled at the time of a favorite television program, the resident's preference should be accommodated, to the extent possible.
- If a resident refuses a bath because he or she prefers a shower or a different bathing method, such as in-bed bathing, prefers to bathe at a different time of day or on a different day, does not feel well that day, is uneasy about the aide assigned to help or is worried about falling, the resident's preferences must be accommodated.

[Emphases added.]

14. Reasonable Accommodation of Needs/Preferences [42 CFR 483.10(e)(3), F-558]²⁹

The right to reside and receive services in the facility with reasonable accommodation of resident needs and preferences except when to do so would endanger the health or safety of the resident or other residents.

The Interpretive Guidelines state:

Reasonable accommodation(s) of resident needs and preferences includes, but is not limited to, individualizing the physical environment of the resident's bedroom and bathroom, as well as individualizing common living areas as much as feasible. These reasonable accommodations may be directed toward assisting the resident in maintaining and/or achieving independent functioning, dignity, and well-being to the extent possible in accordance with the resident's own needs and preferences.

The environment must reflect the unique needs and preferences of each resident to the extent reasonable and does not endanger the health or safety of individuals or other residents.

Common areas frequented by residents should accommodate residents' physical limitations. Furnishings in common areas may enhance residents' abilities to maintain their independence. Resident seating should have appropriate seat height, depth, firmness, and with arms that assist residents to independently rise to a standing position. Functional furniture must be arranged to accommodate residents' needs and preferences.

15. Activity Program Meets Individual Needs [42 CFR 483.24(c)(1), F-679]³⁰

The facility must provide, based on the comprehensive assessment and care plan and the preferences of each resident, an ongoing program to support residents in their choice of activities, both facility-sponsored group and individual activities and independent activities, designed to meet the interests of and support the physical, mental, and psychosocial well-being of each resident, encouraging both independence and interaction in the community.

F-679 emphasizes the importance of patient-appropriate activities as a component of good care. **Activities should be tailored to meet the physical, mental, and psychosocial needs of each resident, including those with dementia.** For example, a facility fails to meet this standard when the facility is not identifying and providing appropriate activities to engage residents with dementia and, instead, is treating so-called "behavioral and psychological symptoms of dementia" with antipsychotics drugs.

²⁹ Formerly F-246 - Reasonable Accommodation of Needs/Preferences - CFR 483.15(e).

³⁰ Formerly F-248 - Activity Program Meets Individual Needs - 42 CFR 483.15(f)(1).

16. Medically Related Social Services [42 CFR 483.40(d), F-745]³¹

The facility must provide medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

The Interpretive Guidelines state:

All facilities are required to provide medically-related social services for each resident. **Facilities must identify the need for medically-related social services and ensure that these services are provided.** It is not required that a qualified social worker necessarily provide all of these services, except as required by State law.

The guidance continues by providing several relevant examples:

- Advocating for residents and assisting them in the assertion of their rights....
- Assisting residents in voicing and obtaining **resolution to grievances** about treatment, living conditions, visitation rights, and accommodation of needs;
- Assisting or arranging for a resident's communication of needs through the resident's primary method of communication or in a language that the resident understands;
- Making arrangements for obtaining items, such as clothing and personal items;
- Assisting with informing and educating residents, their family, and/or representative(s) about health care options and ramifications;
- Making referrals and obtaining needed services from outside entities (e.g., talking books, absentee ballots, community wheelchair transportation);
- Assisting residents with financial and legal matters (e.g., applying for pensions, referrals to lawyers, referrals to funeral homes for preplanning arrangements);
- Transitions of care services (e.g., assisting the resident with identifying community placement options and completion of the application process, arranging intake for home care services for residents returning home, assisting with transfer arrangements to other facilities);
- Providing or arranging for needed mental and psychosocial counseling services;
- Identifying and seeking ways to support residents' individual needs through the assessment and care planning process;
- Encouraging staff to maintain or enhance each resident's dignity in recognition of each resident's individuality;
- Assisting residents with advance care planning, including but not limited to completion of advance directives...;
- Identifying and promoting individualized, **non-pharmacological** approaches to care that meet the mental and psychosocial needs of each resident; and
- Meeting the needs of residents who are grieving from losses and coping with stressful events.

[Emphases added.]

³¹ Formerly F-250 - Medically Related Social Services - 42 CFR 483.15(g).

17. Safe/Clean/Comfortable/Homelike Environment [42 CFR 483.10(i), F-584]³²

The resident has a right to a safe, clean, comfortable and homelike environment, including but not limited to receiving treatment and supports for daily living safely.

The Interpretive Guidelines state:

A “homelike environment” is one that de-emphasizes the institutional character of the setting, to the extent possible, and allows the resident to use those personal belongings that support a homelike environment. A determination of “homelike” should include the resident’s opinion of the living environment. . . .

A personalized, homelike environment recognizes the individuality and autonomy of the resident, provides an opportunity for self-expression, and encourages links with the past and family members. The intent of the word “homelike” in this regulation is that **the nursing home should provide an environment as close to that of the environment of a private home as possible.**

This concept of creating a home setting includes the elimination of institutional odors, and practices to the extent possible. **Some practices that can be eliminated to decrease the institutional character of the environment include, but are not limited to, the following:**

- Overhead paging (including frequent announcements) and piped-in music throughout the building.
- Meal service using trays (some residents may wish to eat certain meals in their rooms on trays).
- Institutional signs labeling work rooms/closets in areas visible to residents and the public.
- Medication or treatment carts (some innovative facilities store medications in locked areas in resident rooms or in secured carts that appear like furniture).
- The widespread and long-term use of audible chair and bed alarms, instead of their limited use for selected residents for diagnostic purposes or according to their care planned needs. These devices can startle the resident and constrain the resident from normal repositioning movements, which can be problematic.
- Furniture that does not reflect a home-like environment or is uncomfortable; the absence of window treatments or drapes; the lack of textures or the absence of bedspreads or personal items in rooms or on walls.
- Large, centrally located nursing/care team stations, including those with barriers (such as Plexiglas) that prevent the staff from interacting with residents.

Many facilities cannot immediately make these types of changes, but it should be a goal for all facilities that have not yet made these types of changes to work toward them.

A “homelike” environment is not achieved simply through enhancements to the physical environment. It concerns striving for person-centered care that

³² Formerly F-252 - Safe/Clean/Comfortable/Homelike Environment - CFR 483.15(h)(1).

emphasizes individualization, relationships, and a psychosocial environment that welcomes each resident and makes her/him comfortable. It is the responsibility of all facility staff to create a “homelike” environment and promptly address any cleaning needs.

[Emphases added.]

18. Resident Assessment [42 CFR 483.20, F-636]³³

The facility must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident’s functional capacity.

- (b)(1) A facility must make a comprehensive assessment of a resident’s needs, strengths, goals, life history and preferences, using the resident assessment instrument (RAI) specified by CMS. The assessment must include at least the following:
 - Identification and demographic information.
 - Customary routine.
 - Cognitive patterns.
 - Communication.
 - Vision.
 - Mood and behavior patterns.
 - Psychosocial well-being.
 - Physical functioning and structural problems.
 - Continence.
 - Disease diagnoses and health conditions.
 - Dental and nutritional status.
 - Skin condition.
 - Activity pursuit.
 - Medications.
 - Special treatments and procedures.
 - Discharge planning.
 - Documentation of summary information regarding the additional assessment performed on the care areas triggered by the completion of the Minimum Data Set (MDS).
 - Documentation of participation in assessment.

A facility is expected to rely primarily on direct observation and communication with the resident in order to assess his or her functional capacity when completing the **Resident Assessment Instrument (RAI)**.

The Interpretive Guidelines state:

The facility is expected to use resident observation and communication as the primary source of information when completing the RAI. **In addition to record review, direct observation and communication with the resident, the facility**

³³ Formerly F-272 - Resident Assessment - 42 CFR 483.20 and 42 CFR 483.20(b)(1).

must use a variety of other sources, including communication with licensed and non-licensed staff members on all shifts and may include discussions with the resident's physician, the resident's representative, family members, or outside consultants. (Emphasis added.)

19. Develop Comprehensive Care Plans [42 CFR 483.21(b)(1), F-656]³⁴

The facility must develop and implement a comprehensive person-centered care plan for each resident, consistent with the resident rights set forth at §483.10(c)(2) and §483.10(c)(3), that includes measurable objectives and timeframes to meet a resident's medical, nursing, and mental and psychosocial needs that are identified in the comprehensive assessment. The comprehensive care plan must describe the following:

- (i) The services that are to be furnished to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being as required under §483.24, §483.25, or §483.40; and
- (ii) Any services that would otherwise be required under §483.24, §483.25, or §483.40 but are not provided due to the resident's exercise of rights under §483.10, including the right to refuse treatment under §483.10(c)(6).

The care plan is critical because it provides - or should provide - a written record of the care that the resident should be receiving.

The Interpretive Guidelines state:

Through the care planning process, facility staff must work with the resident and his/her representative, if applicable, to understand and meet the resident's preferences, choices and goals during their stay at the facility. The facility must establish, document and implement the care and services to be provided to each resident **to assist in attaining or maintaining his or her highest practicable quality of life.** Care planning drives the type of care and services that a resident receives. If care planning is not complete, or is inadequate, the consequences may negatively impact the resident's quality of life, as well as the quality of care and services received.

Facilities are required to develop care plans that describe the resident's medical, nursing, physical, mental and psychosocial needs and preferences and how the facility will assist in meeting these needs and preferences. Care plans must include **person-specific, measurable objectives and timeframes** in order to evaluate the resident's progress toward his/her goal(s).

Care plans must be person-centered and reflect the resident's goals for admission and desired outcomes. Person-centered care means the facility focuses on the resident as the center of control, and supports each resident in making his or her own choices. Person-centered care includes making an effort to understand what each resident is communicating, verbally and nonverbally, identifying what is important to each resident with regard to daily routines and

³⁴ Formerly F-279 - Develop Comprehensive Care Plans - CFR 483.20(d), 483.20(k)(1).

preferred activities, and having an understanding of the resident's life before coming to reside in the nursing home. . . .

Residents' preferences and goals may change throughout their stay, so facilities should have ongoing discussions with the resident and resident representative, if applicable, so that changes can be reflected in the comprehensive care plan.

The comprehensive care plan must address a resident's preference for future discharge, as early as upon admission, to ensure that each resident is given every opportunity to attain his/her highest quality of life. This encourages facilities to operate in a person-centered fashion that addresses resident choice and preferences.

[Emphases added.]

20. Comprehensive Care Plan [42 CFR 483.21(b)(2), F-657]³⁵

A comprehensive care plan must be:

- (i) Developed within 7 days after the completion of the comprehensive assessment.
- (ii) Prepared by an interdisciplinary team, that includes but is not limited to:
 - The attending physician,
 - A registered nurse with responsibility for the resident,
 - A nurse aide with responsibility for the resident.
 - A member of food and nutrition services staff.
 - Other appropriate staff or professionals in disciplines as determined by the resident's needs or as requested by the resident.
- (iii) Reviewed and revised by the interdisciplinary team after each assessment, including both the comprehensive and quarterly review assessments.

The intent, according to CMS, is:

To ensure the timeliness of each resident's **person-centered**, comprehensive care plan, and to ensure that the comprehensive care plan is reviewed and revised by an **interdisciplinary team** composed of individuals who have knowledge of the resident and his/her needs, and that each resident and resident representative, if applicable, is involved in developing the care plan and making decisions about his or her care.

The Interpretive Guidelines continue:

Each resident has the right to participate in choosing treatment options and must be given the opportunity to participate in the development, review and revision of his/her care plan. Residents also have the right to refuse treatment.

Facility staff have a responsibility to assist residents to engage in the care planning process, e.g., helping residents and resident representatives, if applicable understand the assessment and care planning process; holding care

³⁵ Formerly F-280 - Resident Participation in Development of Comprehensive Care Plan - 42 CFR 483.10(d)(3) and 42 CFR 483.20(k)(2).

planning meetings at the time of day when the resident is functioning best;
 planning enough time for information exchange and decision making;
encouraging a resident's representative to participate in care planning and attend care planning conferences.

The facility must provide the resident and resident representative, if applicable with advance notice of care planning conferences to enable resident/resident representative participation. Resident and resident representative participation in care planning can be accomplished in many forms such as holding care planning conferences **at a time the resident representative is available to participate**, holding conference calls or video conferencing.

Facilities are expected to facilitate the residents' and if applicable, the resident representatives' participation in the care planning process.

[Emphases added.]

21. Services Provided Meet Professional Standards of Quality [42 CFR 483.21(b)(3), F-658]³⁶

The services provided or arranged by the facility, as outlined by the comprehensive care plan, must:

- (i) Meet professional standards of quality.

The Interpretive Guidelines state:

“Professional standards of quality” means that care and services are provided according to accepted standards of clinical practice. Standards may apply to care provided by a particular clinical discipline or in a specific clinical situation or setting. Standards regarding quality care practices may be published by a professional organization, licensing board, accreditation body or other regulatory agency. Recommended practices to achieve desired resident outcomes may also be found in clinical literature. Possible reference sources for standards of practice include:

- Current manuals or textbooks on nursing, social work, physical therapy, etc.
- Standards published by professional organizations such as the American Dietetic Association, American Medical Association, American Medical Directors Association, American Nurses Association, National Association of Activity Professionals, National Association of Social Work, etc.
- Clinical practice guidelines published by the Agency for Healthcare Research and Quality.
- Current professional journal articles.

This standard is important to quality of care because it makes clear that nursing homes are required to be aware of, and provide care in accordance with, accepted

³⁶ Formerly F-281- Services Provided Meet Professional Standards of Quality - CFR 483.20(k)(3)(i).

standards of practice. Thus, as noted above, **professional guidelines and other literature can serve as a reference point to determine if a nursing home is providing appropriate and sufficient care.** For example, if antipsychotic drugs are given to a resident with dementia - including situations where an individual was put on antipsychotics in a hospital before coming to the facility - the record should show that the facility utilized both gradual dose reduction and non-pharmacological approaches to reduce and eliminate use of these drugs (particularly if the resident's medical history does not indicate a condition for which these drugs might be appropriate: schizophrenia, Tourette's Syndrome, or Huntington's Disease).

22. Care Provided by Qualified Persons [42 CFR 483.21(b)(3)(ii), F-659]³⁷

The services provided or arranged by the facility, as outlined by the comprehensive care plan, must be provided by qualified persons in accordance with each resident's written plan of care.

The Interpretive Guidelines state:

The facility must ensure that services provided or arranged are delivered **by individuals who have the skills, experience and knowledge to do a particular task or activity. This includes proper licensure or certification**, if required.
[Emphasis added.]

The implementation of an individual resident's care plan is a crucial aspect of appropriate, resident-centered care. Unfortunately, some facilities fail to adhere to the federal standards when carrying out a care plan: a July 2012 report issued by the Office of the Inspector General found, in a review of 375 records from 640 nursing homes, that these facilities failed to meet federal requirements in care plan implementation 17.9% of the time.³⁸

23. Necessary Care for Highest Practicable Well Being [42 CFR 483.24, F-675,684]³⁹

Quality of life is a fundamental principle that applies to all care and services provided to facility residents. Each resident must receive and the facility must 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.

The Interpretive Guidelines state:

Facilities must create and sustain an environment that humanizes and promotes each resident's well-being, and feeling of self-worth and self-esteem. This requires nursing home leadership to establish a culture that treats each resident with respect and dignity as an individual, and addresses, supports and/or

³⁷ Formerly F-282 - Care Provided by Qualified Persons in Accordance with Plan of Care - 42 CFR 483.20(k)(3)(ii).

³⁸ "Office of the Inspector General: Nursing Facility Assessments and Care Plans for Residents Receiving Atypical Antipsychotic Drugs." July 2012. Available at: <http://oig.hhs.gov/oei/reports/oei-07-08-00151.pdf>. Importantly, the OIG's assessment also found that "99 percent of records did not contain evidence that Federal requirements for care plans... were met... [and] 18 percent of records that listed care plan interventions for antipsychotic drug use did not contain evidence that those interventions... actually occurred."

³⁹ Formerly F-309 - Necessary Care for Highest Practicable Well Being - 42 CFR 483.25.

enhances his/her feelings of self-worth including personal control over choices, such as mealtimes, activities, clothing, and bedtime; privacy during visits, and treatments; and opportunities to engage in religious, political, civic, recreational or other social activities.

Importantly, “highest practicable physical, mental, and psychosocial well-being” is defined as the highest possible level of functioning and well-being, limited by the individual’s recognized pathology and normal aging process. “Highest practicable” focuses on the resident, not on the facility; the facility is required to provide what residents need to attain and maintain the highest level of functioning of which they are capable. The Interpretive Guidelines define “highest practicable” as “determined through the comprehensive resident assessment and by recognizing and competently and thoroughly addressing the physical, mental, or psychosocial needs of the individual.”

The Guidelines continue:

In any instance in which the surveyor has identified a lack of improvement or a decline, it must be determined whether this was unavoidable or avoidable. **In order to make a determination of unavoidable decline or failure to reach highest practicable well-being, the facility must have:**

- Conducted an accurate and comprehensive assessment (see §483.20 Resident Assessment) including evaluating the resident’s clinical condition and risk factors for the concern being investigated;
- Based on information gathered through resident assessments, with resident/representative input, developed a person-centered care plan, defined and implemented interventions that are consistent with resident needs, goals, and recognized standards of practice;
- Implemented the care plan, and monitored resident responses to the interventions; and
- Provided ongoing review and revision of the care plan and interventions as necessary.

If the facility has not done one or more of the above bulleted items, and a decline or failure to reach his/her highest practicable well-being occurred, **this would be considered an avoidable decline.** [Emphases added.]

24. ADLs Do Not Decline Unless Unavoidable [42 CFR 483.24, F-676]⁴⁰

(a) The facility must provide the necessary care and services to ensure that a resident’s abilities in activities of daily living do not diminish unless circumstances of the individual’s clinical condition demonstrate that such diminution was unavoidable.

(b) The facility must provide care and services in accordance with paragraph (a) of this section for the following activities of daily living:

- Hygiene—bathing, dressing, grooming, and oral care,

⁴⁰ Formerly F-310 - ADLs Do Not Decline Unless Unavoidable - CFR 483.25(a)(1).

- Mobility—transfer and ambulation, including walking,
- Elimination—toileting,
- Dining—eating, including meals and snacks,
- Communication, including
 - Speech,
 - Language,
 - Other functional communication systems.

The facility is responsible for ensuring that each resident’s ability to perform the activities of daily living does not decline unless such decline is unavoidable due to factors that are impervious to treatment, such as the natural and unavoidable progression of disease or the resident’s refusal of care or treatment.

25. Treatment/Services to Improve/Maintain ADLs [42 CFR 483.24(a)(1), F-676]⁴¹

A resident is given the appropriate treatment and services to maintain or improve his or her ability to carry out the activities of daily living.

The facility must provide maintenance and restorative programs **that will not only maintain but improve** the resident’s highest practicable outcome. The Guidelines elaborate:

If it is determined that the resident’s inability to perform ADLs occurred after admission due to an unavoidable decline, such as the progression of the resident’s disease process, surveyors must still determine that interventions to assist the resident are identified and implemented immediately.

26. ADL Care for Dependent Residents [42 CFR 483.24(a)(2), F-677]⁴²

A resident who is unable to carry out activities of daily living receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.

The facility must provide these services to the resident regardless of whether the decline was avoidable. The Guidelines state:

If it is determined that the resident’s inability to perform ADLs occurred after admission due to an unavoidable decline, such as the progression of the resident’s disease process, surveyors must still determine that interventions to assist the resident are identified and implemented immediately.

27. Treatment/Services to Prevent/Heal Pressure Ulcers [42 CFR 483.25(b)(1), F-686]⁴³

Based on the comprehensive assessment of a resident, the facility must ensure that:

⁴¹ Formerly F-311 - Treatment/Services to Improve/Maintain ADLs - CFR 483.25(a)(2).

⁴² Formerly F-312 - ADL Care for Dependent Residents - CFR 483.25(a)(3).

⁴³ Formerly F-314 - Treatment/Services to Prevent/Heal Pressure Sores - CFR 483.25(c).

- A resident receives care, consistent with professional standards of practice, to prevent pressure ulcers and does not develop pressure ulcers unless the individual's clinical condition demonstrates that they were unavoidable; and
- A resident with pressure ulcers receives necessary treatment and services, consistent with professional standards of practice, to promote healing, prevent infection and prevent new ulcers from developing.

Pressure ulcers or sores are one of the most significant nursing home care problems. The State Operations Manual states:

The intent of this requirement is that the resident does not develop pressure ulcers/injuries unless clinically unavoidable and that the facility provides care and services consistent with professional standards of practice to:

- Promote the prevention of pressure ulcer/injury development;
- Promote the healing of pressure ulcers/injuries (including prevention of infection to the extent possible); and
- Prevent development of additional pressure ulcer/injury.

According to the Centers for Disease Control and Prevention,

Pressure ulcers, also known as bed sores, pressure sores, or decubitus ulcers, are wounds caused by unrelieved pressure on the skin. They usually develop over bony prominences, such as the elbow, heel, hip, shoulder, back, and back of the head. Pressure ulcers are serious medical conditions and one of the important measures of the quality of clinical care in nursing homes.⁴⁴ [Endnotes deleted from original.]

While some pressure ulcers are unavoidable, **research and experience indicate that, "[i]n the vast majority of cases, appropriate identification and mitigation of risk factors can prevent or minimize pressure ulcer (PU) formation."**⁴⁵ In fact, the need to reduce pressure ulcers in nursing homes has been one of the key areas identified for quality improvement by the nursing home industry's quality improvement campaign, Advancing Excellence.⁴⁶

28. No Catheter, Prevent UTI, Restore Bladder [42 CFR 483.25(e)(2), F-690]⁴⁷

For a resident with urinary incontinence, based on the resident's comprehensive assessment, the facility must ensure that:

⁴⁴ NCHS Data Brief, No. 14 (February 2009), which incorporates *Pressure Ulcers Among Nursing Home Residents: United States, 2004*. Accessed in November 2021 from www.cdc.gov/nchs/data/databriefs/db14.pdf (PDF).

⁴⁵ Edsberg, L; Langemo, D; Baharestani, M; Posthauer, M; and Goldberg, M, "Unavoidable Pressure Injury: State of the Science and Consensus Outcomes," *Journal of Wound, Ostomy & Continence Nursing*: July/August 2014 - Volume 41 - Issue 4 - p 313-334. Abstract accessed in November 2021 at http://journals.lww.com/jwoconline/Abstract/2014/07000/Unavoidable_Pressure_Injury_State_of_the_Science.6.aspx.

⁴⁶ Advancing Excellence in America's Nursing Homes, <https://www.nhqualitycampaign.org/default.aspx>.

⁴⁷ Formerly F-315 - No Catheter, Prevent UTI, Restore Bladder - CFR 483.25(d).

- (i) A resident who enters the facility without an indwelling catheter is not catheterized unless the resident's clinical condition demonstrates that catheterization was necessary;
- (ii) A resident who enters the facility with an indwelling catheter or subsequently receives one is assessed for removal of the catheter as soon as possible unless the resident's clinical condition demonstrates that catheterization is necessary, and
- (iii) A resident who is incontinent of bladder receives appropriate treatment and services to prevent urinary tract infections and to restore continence to the extent possible.

Loss of bladder (and bowel) control is a significant problem for nursing home residents that often results from poor or inadequate care. The State Operations Manual states:

The intent of this requirement is to ensure that:

- Each resident who is continent of bladder and bowel receives the necessary services and assistance to maintain continence, unless it is clinically not possible.
- Each resident who is incontinent of urine is identified, assessed and provided appropriate treatment and services to achieve or maintain as much normal bladder function as possible;
- A resident who is incontinent of bowel is identified, assessed and provided appropriate treatment and services to restore as much normal bowel function as possible;
- An indwelling catheter is not used unless there is valid medical justification for catheterization and the catheter is discontinued as soon as clinically warranted;
- Services are provided to restore or improve normal bladder function to the extent possible, after the removal of the indwelling catheter; and
- A resident, with or without an indwelling catheter, receives the appropriate care and services to prevent urinary tract infections to the extent possible.

29. Treatment for Range of Motion Problems [42 CFR 483.25(c), F-688]⁴⁸

(1) The facility must ensure that a resident who enters the facility without limited range of motion does not experience reduction in range of motion unless the resident's clinical condition demonstrates that a reduction in range of motion is unavoidable; and

(2) A resident with limited range of motion receives appropriate treatment and services to increase range of motion and/or to prevent further decrease in range of motion.

The State Operations Manual states:

The intent of this regulation is to ensure that the facility provides the services, care, and equipment to assure that:

- A resident maintains, and/or improves to his/her highest level of range of motion (ROM)
- and mobility, unless a reduction is clinically unavoidable; and

⁴⁸ Formerly F-317 - No Reduction in Range of Motion Unless Unavoidable, and F-318 - Treatment for Range of Motion Problems - CFR 483.25(e).

- A resident with limited range of motion and mobility maintains or improves function unless reduced Range of Motion (ROM)/mobility is unavoidable based on the resident's clinical condition.

According to the Interpretive Guidelines:

The resident-specific, comprehensive assessment should identify individual risks which could impact the resident's range of motion including, but not limited to:

- Immobilization (e.g., bedfast, reclining in a chair or remaining seated in a chair/wheelchair);
- Neurological conditions causing functional limitations such as cerebral vascular accidents, multiple sclerosis, Amyotrophic Lateral Sclerosis (ALS) or Lou Gehrig's disease, Guillain-Barre syndrome, Muscular Dystrophy, or cerebral palsy, etc.;
- Any condition where movement may result in pain, spasms or loss of movement such as cancer, presence of pressure ulcers, arthritis, gout, late stages of Alzheimer's, contractures, dependence on mechanical ventilation, etc.; or
- Clinical conditions such as immobilized limbs or digits because of injury, fractures, or surgical procedures including amputations.

30. Mental/Psychosocial Treatment [42 CFR 483.40(b), F-742]⁴⁹

Based on the comprehensive assessment of a resident, the facility must ensure that:

- (1) A resident who displays or is diagnosed with mental disorder or psychosocial adjustment difficulty, or who has a history of trauma and/or post-traumatic stress disorder, receives appropriate treatment and services to correct the assessed problem or to attain the highest practicable mental and psychosocial well-being.

F-742 may be particularly relevant when a resident displays mental or psychosocial adjustment difficulties and is administered antipsychotics inappropriately. As noted in the discussion below for F-758, an antipsychotic must be clinically appropriate for the resident and not used for convenience or disciplinary purposes, for instance as a means to address a resident's mental or psychosocial adjustment difficulties in a manner that is most convenient for medical and/or care staff, rather than what is most appropriate for the resident.

31. No Development of Mental Problems [42 CFR 483.40(b), F-743]⁵⁰

- (2) A resident whose assessment did not reveal or who does not have a diagnosis of a mental or psychosocial adjustment difficulty or a documented history of trauma and/or post-traumatic stress disorder does not display a pattern of decreased social interaction and/or increased withdrawn, angry, or depressive behaviors, unless the resident's clinical condition demonstrates that development of such a pattern was unavoidable; and

⁴⁹ Formerly F-319 - Mental/Psychosocial Treatment - 42 CFR 483.25(f)(1).

⁵⁰ Formerly F-320 - No Development of Mental Problems - 42 CFR 483.25(f)(2).

- (3) A resident who displays or is diagnosed with dementia, receives the appropriate treatment and services to attain or maintain his or her highest practicable physical, mental, and psychosocial well-being..

According to the Interpretive Guidelines,

The intent of this regulation is to ensure that a resident who, upon admission was not assessed or diagnosed with a mental or psychosocial adjustment difficulty or a documented history of trauma and/or post-traumatic stress disorder (PTSD), does not develop patterns of decreased social interaction and/or increased withdrawn, angry, or depressive behaviors while residing in the facility.

The Guidelines continue:

Nursing home admission can be a stressful experience for a resident, his/her family, and/or representative. Behavioral health is an integral part of a resident's assessment process and care plan development. The assessment and care plan should include goals that are person-centered and individualized to reflect and maximize the resident's dignity, autonomy, privacy, socialization, independence, choice, and safety.

Facility staff must:

- Monitor the resident closely for expressions or indications of distress;
- Assess and plan care for concerns identified in the resident's assessment;
- Accurately document the changes, including the frequency of occurrence and potential triggers in the resident's record;
- Share concerns with the interdisciplinary team (IDT) to determine underlying causes, including differential diagnosis;
- Ensure appropriate follow-up assessment, if needed; and
- Discuss potential modifications to the care plan.

32. Maintain Nutrition Status Unless Unavoidable [42 CFR 483.25(g), F-692]⁵¹

Based on a resident's comprehensive assessment, the facility must ensure that a resident:

- (1) Maintains acceptable parameters of nutritional status, such as usual body weight or desirable body weight range and electrolyte balance, unless the resident's clinical condition demonstrates that this is not possible or resident preferences indicate otherwise;
- (2) Is offered sufficient fluid intake to maintain proper hydration and health; and
- (3) Is offered a therapeutic diet when there is a nutritional problem and the health care provider orders a therapeutic diet.

⁵¹ Formerly F-325 - Maintain Nutrition Status Unless Unavoidable - CFR 483.25(i).

33. Free from Unnecessary Drugs [42 CFR 483.45(d), F-757]⁵²

Each resident's drug regimen must be free from unnecessary drugs. An unnecessary drug is any drug when used:

- (1) In excessive dose (including duplicate drug therapy); or
- (2) For excessive duration; or
- (3) Without adequate monitoring; or
- (4) Without adequate indications for its use; or
- (5) In the presence of adverse consequences which indicate the dose should be reduced or discontinued; or
- (6) Any combinations of the reasons stated [above].

Every drug administered to a resident and its dosage level should have a sound clinical basis. Following is an excerpt from a 2012 CMS Survey & Cert Letter on F-309 (the original F-tag number) and end-of-life care:

Medications/Drugs. **It is important that use of medications be consistent with the goals for comfort, control of symptoms, and for the individual's desired level of alertness.** Review the continued need for any routine administration of medication and adjust or discontinue, as appropriate. Routes of administering medications may also need modification. Medication doses may need adjustment to attain desired symptom relief, while still considering whether side effects (such as sedation and nausea) are tolerable and consistent with the resident's wishes or that of his/her legal representative. Anecdotal reports indicate that nursing homes maybe be under treating terminal restlessness because of the fear of being accused of using a chemical restraint. (Emphasis added.)⁵³

34. Free from Unnecessary Psychotropic Medications [42 CFR 483.45(e), F-758]⁵⁴

Based on a comprehensive assessment of a resident, the facility must ensure that:

- (1) Residents who have not used psychotropic drugs are not given these drugs unless the medication is necessary to treat a specific condition as diagnosed and documented in the clinical record;
- (2) Residents who use psychotropic drugs receive gradual dose reductions, and behavioral interventions, unless clinically contraindicated, in an effort to discontinue these drugs;

⁵² Formerly F-329 - Free from Unnecessary Drugs - 42 CFR 483.25(l).

⁵³ Centers for Medicare and Medicaid Services, *F tag 309—Quality of Care- Advance Copy*, Survey and Certification Letter, (2012). Available at <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-12-48.pdf>.

⁵⁴ Formerly F-329 - Free from Unnecessary Drugs - 42 CFR 483.25(l).

- (3) Residents do not receive psychotropic drugs pursuant to a PRN order unless that medication is necessary to treat a diagnosed specific condition that is documented in the clinical record; and
- (4) PRN orders for psychotropic drugs are limited to 14 days.

F-758 is a highly significant standard and is perhaps the most important F-tag for inappropriate antipsychotic drugging, a serious and widespread problem in nursing homes that is receiving increasing attention by both the public and regulators. The first purpose of F-758 related to antipsychotic drug use is to prevent nursing home staff from giving a resident an unnecessary antipsychotic drug in the first place. Despite the FDA's black box warning of the potentially fatal side effects of antipsychotics for people suffering from dementia, these powerful drugs are too often used as a means of sedating elderly nursing home residents with dementia, as a substitute for appropriate care.⁵⁵ This is contrary to the Nursing Home Reform Law's requirement of promoting patient-centered care, which enables each resident to maintain his or her highest practicable physical, emotional, and social well-being. It is often accompanied by a failure to try non-pharmacological approaches to dementia care. For example, residents who become agitated are often subdued with antipsychotic drugs when other, non-medicinal options might be effective.

The second purpose of this F-tag relating to antipsychotics is to ensure that facilities take steps to wean residents off antipsychotic drugs whenever the drugs are given. This is accomplished either by the implementation of behavioral interventions (unless the diagnosis does not call for such interventions) or through recorded and monitored gradual dose reductions (GDR) (or, most likely, a combination of the two). A facility's systematic failure to implement GDRs could be an example of staff relying on antipsychotics as a primary treatment rather than attempting to discontinue the use of the drugs.

The Interpretive Guidelines offer the following cautions:

Proper medication selection and prescribing (including dose, duration, and type of medication(s)) may help stabilize or improve a resident's outcome, quality of life, and functional capacity. **Any medication or combination of medications—or the use of a medication without adequate indications, in excessive dose, for an excessive duration, or without adequate monitoring—may increase the risk of a broad range of adverse consequences such as medication interactions, depression, confusion, immobility, falls, hip fractures, and death....**

Intrinsic factors including physiological changes accompanying the aging process, multiple comorbidities, and certain medical conditions may affect the absorption, distribution, metabolism or elimination of medications from the body and may also increase an individual's risk of adverse consequences.

While assuring that only those medications required to treat the resident's assessed condition are being used, reducing the need for and maximizing the effectiveness of medications are important considerations for all residents.

⁵⁵ *The Boston Globe*, "A Rampant Prescription, A Hidden Peril" (April 29, 2012). Available at: <http://www.canhr.org/newsroom/canhrnewsarchive/2012/BostonGlobe20120429.html>.

Therefore, as part of all medication management (especially psychotropic medications), it is important for the IDT [interdisciplinary team] to implement non-pharmacological approaches designed to meet the individual needs of each resident. Educating facility staff and providers about the importance of implementing individualized, non-pharmacological approaches to care prior to the use of medications may minimize the need for medications or reduce the dose and duration of those medications.

[Emphases added.]

35. Free of Medication Errors 5% or Greater [42 CFR 483.45(f)(1), F-759]⁵⁶

The facility must ensure that its medication error rates are not 5 percent or greater.

36. Free of Significant Medication Errors [42 CFR 483.45(f)(2), F-760]⁵⁷

Residents are free of any significant medication errors.

According to the Interpretive Guidelines for these two requirements,

“Medication Error” means **the observed or identified preparation or administration of medications or biologicals which is not in accordance with:**

1. The prescriber’s order;
2. **Manufacturer’s specifications (not recommendations)** regarding the preparation and administration of the medication or biological; or
3. **Accepted professional standards and principles** which apply to professionals providing services. Accepted professional standards and principles include the various practice regulations in each State, and current commonly accepted health standards established by national organizations, boards, and councils.

[Emphases added.]

37. Sufficient 24-Hr Nursing Staff Per Care Plans [42 CFR 483.35, F-725]⁵⁸

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.

Staffing levels have repeatedly been identified as one of the most (if not the most) significant indicators of a nursing home’s quality of care and safety. Federal guidelines require that there be sufficient staff to meet the needs of the resident. **While this requirement lacks numerical specificity, it is straightforward on what outcomes are expected: facilities are required to have sufficient staff to provide both care and related services necessary for each resident to attain and maintain her “highest practicable” physical, emotional, and social well-being.**

⁵⁶ Formerly F-332 - Facility Free of Medication Errors of 5% or Greater - CFR 483.25(m)(1).

⁵⁷ Formerly F-333 - Residents Free of Significant Med Errors - CFR 483.25(m)(2).

⁵⁸ Formerly F-353 - Sufficient 24-Hr Nursing Staff Per Care Plans - CFR 483.30(a).

To assess whether staffing is sufficient, the guidelines provide surveyors with the following “probes” to determine compliance with minimum regulatory standards:

- When interviewing staff, residents and others, are concerns raised with the amount of time staff are available to provide care and services, such that there is not sufficient time allowed to provide the necessary care and services to a resident. If so, verify these concerns through observations and record review if necessary.
- Does the facility assessment describe the type and level of staff required to meet each resident’s needs as required under 483.70(e). Does the type and level of the staff onsite reflect the expectations described in the facility assessment?
- Does the workload or assignments of the nursing staff allow them time to participate in team meetings, care planning meetings, attend training, spend time caring for residents and take time for breaks including meal breaks?
- Are there enough licensed staff to provide services to residents, and assist and monitor aides? Do residents and families report that nursing staff are responsive to residents’ request for assistance, such as call bells typically answered promptly? Do they feel that they can have a conversation with a direct caregiver and not feel rushed?
- Are there any indications of delays in responsiveness for staff such as pungent odors, residents calling out, or residents wandering with inadequate supervision?
- Are there any indications of the use of devices or practices to manage residents’ behaviors or activities such as the use of position-change alarms, positioning residents in chairs that limit their movement, or residents who are subdued or sedated?
- Are residents who are unable to use call bells or otherwise communicate their needs checked frequently (e.g., each half hour) for safety, comfort, bathroom needs positioning, and offered fluids and other provisions of care?
- Have care problems associated with a specific unit, day or tour of duty been identified by the facility? For example, does documentation show that skin integrity issues are identified more on days following a long weekend?
- Has the use of overtime hours increased? (If overtime hours have increased substantially, it can indicate that there is not sufficient staff or a back-up plan when staff call-out).
- When there are staff call-outs, did the facility fill those positions in a timely manner (e.g. within 1 hour after the start of the shift)?

38. Food [42 CFR 483.60(d), F-804]⁵⁹

Each resident receives and the facility provides:

- (1) Food prepared by methods that conserve nutritive value, flavor, and appearance;
- (2) Food and drink that is palatable, attractive, and at a safe and appetizing temperature.

⁵⁹ Formerly F-364 - Food - CFR 483.35(d)(1)-(2).

Poor food quality, palatability, and choice are among the most often cited resident complaints. In addition to affecting quality of life, the absence of food that is both enjoyable and nutritious can have a serious negative effect on a resident's physical health.

The Guidelines further observe:

Providing palatable, attractive, and appetizing food and drink to residents can help to encourage residents to increase the amount they eat and drink. Improved nutrition and hydration status can help prevent, or aid in the recovery from, illness or injury.

39. Residents' Care Supervised by Physician [42 CFR 483.30(a), F-710]⁶⁰

The facility must ensure that:

- (1) The medical care of each resident is supervised by a physician; and
- (2) Another physician supervises the medical care of residents when their attending physician is unavailable.

F-385 relates to an important distinction between supervision of a resident's care, which must be provided by a physician, and the carrying out of certain tasks, some of which must be carried out by a physician and some of which may be carried out by designated staff or others with appropriate training and/or licensure. For example, this standard is relevant when there are indications that a resident has been given antipsychotic drugs inappropriately or if there are patterns of extensive off-label use of antipsychotics or extensive reliance on PRNs (*pro re nata*), which allow nursing home staff to give a resident drugs on an "as needed" basis, at their own discretion. Any of these situations should trigger an inquiry into whether the physician(s) supervised their residents' care in a meaningful way when these drugs were used, as the law requires.⁶¹

40. Routine/Emergency Dental Services [42 CFR 483.55(a), F-790]⁶²

A facility

- (1) Must provide or obtain from an outside resource, in accordance with §483.70(g), routine and emergency dental services to meet the needs of each resident;
- (2) May charge a Medicare resident an additional amount for routine and emergency dental services;
- (3) Must have a 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;
- (4) Must if necessary or if requested, assist the resident—
 - (i) In making appointments; and

⁶⁰ Formerly F-385 - Residents' Care Supervised by Physician - 42 CFR 483.40(a)(1, 2).

⁶¹ For a discussion of roles and tasks that physicians may delegate in LTC settings see Wilson, Kathleen M., PhD, "Physicians May Delegate Tasks, Not Supervision," *Caring For the Ages*, Vol. 9, No. 11 (November 2008). Available at www.CaringfortheAges.com.

⁶² Formerly F-411 - Routine/Emergency Dental Services - CFR 483.55(a).

- (ii) By arranging for transportation to and from the dental services location; and
- (5) Must promptly, within 3 days, refer residents with lost or damaged dentures for dental services. If a referral does not occur within 3 days, the facility must provide documentation of what they did to ensure the resident could still eat and drink adequately while awaiting dental services and the extenuating circumstances that led to the delay.

The Interpretive Guidelines define:

“Routine dental services” means an annual inspection of the oral cavity for signs of disease, diagnosis of dental disease, dental radiographs as needed, dental cleaning, fillings (new and repairs), minor partial or full denture adjustments, smoothing of broken teeth, and limited prosthodontic procedures, e.g., taking impressions for dentures and fitting dentures.

“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.

The Guidelines continue:

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 within Federal and State laws and 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.

41. Drug Regimen Reviewed Monthly [42 CFR 483.45(c)(1), F-756]⁶³

The drug regimen of each resident must be reviewed at least once a month by a licensed pharmacist.

The purpose of F-428 is to improve oversight and accountability in drug prescribing practices in nursing facilities. **The pharmacist is charged with identifying potential medication-related problems such as: use of a medication without adequate indication for its use, use of a medication without identifiable evidence that safer alternatives** (including more clinically appropriate medications) **have been considered, and use of an appropriate medication that is not reaching treatment goals.**⁶⁴

⁶³ Formerly F-428 - Drug Regimen Reviewed Monthly - 42 CFR 483.60(c)(1).

⁶⁴ For more examples and further information on F-428 see presentation by Maher, Robert L. Jr., Pharm.D, BCPS, CGP, *F-tag 428 Medication Regimen Review Drug Use Problems in Long Term Care Residents and Key Elements to Performing a Drug Regimen Review* (October 2007). Available at <http://www.slideserve.com/lavina/F-tag-428-medication-regimen-review-drug-use-problems-in-long-term-care-residents-and-key-elements-to-performing-a-dru>.

According to the guidance:

The pharmacist must review each resident's medication regimen at least once a month in order to identify irregularities and to identify clinically significant risks and/or actual or potential adverse consequences which may result from or be associated with medications. It may be necessary for the pharmacist to conduct the MRR [Medication Regimen Review] more frequently, for example weekly, depending on the resident's condition and the risks for adverse consequences related to current medications. Regulations prohibit the pharmacist from delegating the medication regimen reviews to other staff. The requirement for the MRR applies to all residents (whether short or long-stay) without exceptions.

For example, given the critical safeguards that an independent pharmacist's review provides, cases where inappropriate use of antipsychotics have been identified should trigger a review of whether these requirements were met.

42. Facility Administered Effectively [42 CFR 483.70, F-835]⁶⁵

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.

This requirement relates to the ultimate responsibility of the facility administration to ensure that the nursing home is providing sufficient appropriate services to ensure that each resident attains, and maintains, his or her highest practicable physical, emotional, and social well-being.

For example, inappropriate antipsychotic drug use is often associated with systemic problems in a facility, such as insufficient staffing and a lack of knowledge and/or use of non-pharmacological treatment options for dementia care.

The Guidelines state:

Resources include but are not limited to a facility's operating budget, staff, supplies, or other services necessary to provide for the needs of residents.

43. Proficiency of Nurse Aides [42 CFR 483.35(c), F-726]⁶⁶

The facility must ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the plan of care.

Facilities are required to ensure that nurse aides have the knowledge and ability necessary to meet the various needs of their residents. The Interpretive Guidelines for F-726 note the need for competency in a range of skills, including the ability to provide person-centered care and to uphold residents' rights. The training must be substantial:

Competency may not be demonstrated simply by documenting that staff attended a training, listened to a lecture, or watched a video. A staff's ability to

⁶⁵ Formerly F-490 - Facility Administered Effectively - 42 CFR 483.75.

⁶⁶ Formerly F-498 - Proficiency of Nurse Aides - 42 CFR 483.75(f).

use and integrate the knowledge and skills that were the subject of the training, lecture or video must be assessed and evaluated by staff already determined to be competent in these skill areas.

44. Responsibilities of Medical Director [42 CFR 483.70(h), F-841]⁶⁷

(1) The facility must designate a physician to serve as medical director.

(2) The medical director is responsible for:

- (i) Implementation of resident care policies; and
- (ii) The coordination of medical care in the facility.

The medical director has an important role in ensuring that a nursing home's residents have access to appropriate care that reflects current standards of practice. The Interpretive Guidelines state:

The medical director responsibilities should include, but are not limited to:

- Ensuring the appropriateness and quality of medical care and medically related care;
- Assisting in the development of educational programs for facility staff and other professionals;
- Working with the facility's clinical team to provide surveillance and develop policies to prevent the potential infection of residents...;
- Cooperating with facility staff to establish policies for assuring that the rights of individuals (residents, staff members, and community members) are respected;
- Supporting and promoting person-directed care such as the formation of advance directives, end-of-life care, and provisions that enhance resident decision making, including choice regarding medical care options.

45. Medical Records Meet Professional Standards [42 CFR 483.70(i)(1)(i-iv), F-842]⁶⁸

In accordance with accepted professional standards and practices, the facility must maintain medical records on each resident that are complete, accurately documented, readily accessible, and systematically organized.

The guidance requires the following:

The medical record shall reflect a resident's progress toward achieving their person-centered plan of care objectives and goals and the improvement and maintenance of their clinical, functional, mental, and psychosocial status. Staff must document a resident's medical and non-medical status when any positive or negative condition change occurs, at a periodic reassessment and during the annual comprehensive assessment. The medical record must also reflect the resident's condition and the care and services provided across all disciplines to

⁶⁷ Formerly F-501 - Responsibilities of Medical Director - 42 CFR 483.75(i)(1, 2)(i, ii).

⁶⁸ Formerly F-514 – Clinical Records Meet Professional Standards – 42 CFR 483.75(l).

ensure information is available to facilitate communication among the interdisciplinary team.

The medical record must contain an accurate representation of the actual experiences of the resident and include enough information to provide a picture of the resident's progress, including his/her response to treatments and/or services, and changes in his/her condition, plan of care goals, objectives and/or interventions.

Accurate, timely, and complete records of a resident's needs, care plan, and implementation thereof are important in assuring that the facility appropriately identifies and addresses a resident's needs and desires. For example, in the context of dementia care and antipsychotic drugging, this F-tag is relevant in determining whether descriptions of the so-called "behavioral symptoms" of dementia in the medical record are sufficiently detailed to permit identifying the cause, if possible, and to provide individualized interventions. The onset, duration, intensity, and possible precipitating events or environmental triggers should be noted, as well as related factors such as appearance and alertness.

Note: The following four F-tags greatly add to and expand the content in the original regulations concerning the facility's obligation to identify problems and determine remedies. They will be treated as a unit.

46. Quality Assurance and Performance Improvement (QAPI) [42 CFR 483.75, F-865]

*(a) **Quality assurance and performance improvement (QAPI) program.** Each LTC facility, including a facility that is part of a multiunit chain, must develop, implement, and maintain an effective, comprehensive, data-driven QAPI program that focuses on indicators of the outcomes of care and quality of life.*

*(b) **Program design and scope.** A facility must design its QAPI program to be ongoing, comprehensive, and to address the full range of care and services provided by the facility.*

47. Program Feedback, Data Systems, and Monitoring [42 CFR 483.75, F-866]

*(c) **Program feedback, data systems, and monitoring.** A facility must establish and implement written policies and procedures for feedback, data collections systems, and monitoring, including adverse event monitoring.*

48. Program Analysis and Improvement Activities [42 CFR 483.75, F-867]

*(d) **Program systematic analysis and systemic action***

- The facility must take actions aimed at performance improvement and, after implementing those actions, measure its success, and track performance to ensure that improvements are realized and sustained.

*(e) **Program activities***

- The facility must set priorities for its performance improvement activities that focus on high-risk, high-volume, or problem-prone areas; consider the incidence, prevalence, and

severity of problems in those areas; and affect health outcomes, resident safety, resident autonomy, resident choice, and quality of care.

- Performance improvement activities must track medical errors and adverse resident events, analyze their causes, and implement preventive actions and mechanisms that include feedback and learning throughout the facility.
- As a part of their performance improvement activities, the facility must conduct distinct performance improvement projects.

49. Quality Assessment and Assurance [42 CFR 483.75(g), F-868]⁶⁹

(1) A facility must maintain a quality assessment and assurance committee consisting at a minimum of:

- (i) The director of nursing services;
- (ii) The Medical Director or his or her designee;
- (iii) At least three other members of the facility's staff, at least one of who must be the administrator, owner, a board member or other individual in a leadership role; and
- (iv) The infection control and prevention officer.

(2) The quality assessment and assurance committee... must:

- Meet at least quarterly and as needed to coordinate and evaluate activities under the QAPI [Quality Assurance and Performance Improvement] program, such as identifying issues with respect to which quality assessment and assurance activities, including performance improvement projects required under the QAPI program, are necessary; and
- Develop and implement appropriate plans of action to correct identified quality deficiencies; and
- Regularly review and analyze data, including data collected under the QAPI program and data resulting from drug regimen reviews, and act on available data to make improvements.

Under these F-tags, a facility is responsible for identifying problem areas and addressing them. Facilities should not only rely on surveyors, complaints, or other external catalysts to identify quality of care and quality of life concerns. The Quality Assurance and Performance Improvement (QAPI) process, which these new regulations record in much greater detail, is intended to ensure that the facility be proactive in monitoring and troubleshooting problems.

The Quality Assessment and Assurance (QAA) Committee should identify problems in the facility and then develop and implement policies and procedures to correct them. The QAA Committee is also charged with monitoring these policies to ensure that their implementation actually corrects identified problems and that those problems do not reoccur. Repeated citations for the same deficiency may indicate that a facility does not have an appropriately functioning QAA Committee.

⁶⁹ Formerly F-520 - Quality Assessment and Assurance - 42 CFR 483.75(o)(1) and 483.75(o)(2).

The Guidelines offer these specific definitions:

Quality Assurance (QA): QA is the specification of standards for quality of care, service and outcomes, and systems throughout the facility for assuring that care is maintained at acceptable levels in relation to those standards. QA is on-going and both anticipatory and retrospective in its efforts to identify how the organization is performing, including where and why facility performance is at risk or has failed to meet standards.

Performance Improvement (PI): PI (also called Quality Improvement - QI) is the continuous study and improvement of processes with the intent to improve services or outcomes, and prevent or decrease the likelihood of problems, by identifying opportunities for improvement, and testing new approaches to fix underlying causes of persistent/systemic problems or barriers to improvement. PI in nursing homes aims to improve facility processes involved in care delivery and enhanced resident quality of life. PI can make good quality even better.

Appendix I: F-tag List

F-tags are used to identify the specific compliance standard for nursing homes set forth in the Code of Federal Regulations (CFR). The following list provides short descriptions of all the F-tags, many of which are covered in this primer. [See the Table of Contents for the list of F-tags covered.]

Note: The list is in two parts, on this and the following page.

Federal Regulatory Groups for Long Term Care
***Substandard Quality of Care = one or more deficiencies with s/s levels of F, H, I, J, K, or L in Red**
**** Tag to be cited by Federal Surveyors Only**

F540	Definitions	483.12	Freedom from Abuse, Neglect, and Exploitation	483.24	Quality of Life
483.10	Resident Rights	F600	*Free from Abuse and Neglect	F675	*Quality of Life
F550	*Resident Rights/Exercise of Rights	F602	*Free from Misappropriation/Exploitation	F676	*Activities of Daily Living (ADLs)/ Maintain Abilities
F551	Rights Exercised by Representative	F603	*Free from Involuntary Seclusion	F677	*ADL Care Provided for Dependent Residents
F552	Right to be Informed/Make Treatment Decisions	F604	*Right to be Free from Physical Restraints	F678	*Cardio-Pulmonary Resuscitation (CPR)
F553	Right to Participate in Planning Care	F605	*Right to be Free from Chemical Restraints	F679	*Activities Meet Interest/Needs of Each Resident
F554	Resident Self-Admin Meds-Clinically Appropriate	F606	*Not Employ/Engage Staff with Adverse Actions	F680	*Qualifications of Activity Professional
F555	Right to Choose/Be Informed of Attending Physician	F607	*Develop/Implement Abuse/Neglect, etc. Policies	483.25	Quality of Care
F557	Respect, Dignity/Right to have Personal Property	F608	*Reporting of Reasonable Suspicion of a Crime	F684	Quality of Care
F558	*Reasonable Accommodations of Needs/Preferences	F609	*Reporting of Alleged Violations	F685	*Treatment/Devices to Maintain Hearing/Vision
F559	*Choose/Be Notified of Room/Roommate Change	F610	*Investigate/Prevent/Correct Alleged Violation	F686	*Treatment/Svcs to Prevent/Heal Pressure Ulcers
F560	Right to Refuse Certain Transfers	483.15	Admission, Transfer, and Discharge	F687	*Foot Care
F561	*Self Determination	F620	Admissions Policy	F688	*Increase/Prevent Decrease in ROM/Mobility
F562	Immediate Access to Resident	F621	Equal Practices Regardless of Payment Source	F689	*Free of Accident Hazards/Supervision/Devices
F563	Right to Receive/Deny Visitors	F622	Transfer and Discharge Requirements	F690	*Bowel/Bladder Incontinence, Catheter, UTI
F564	Inform of Visitation Rights/Equal Visitation Privileges	F623	Notice Requirements Before Transfer/Discharge	F691	*Colostomy, Urostomy, or Ileostomy Care
F565	*Resident/Family Group and Response	F624	Preparation for Safe/Orderly Transfer/Discharge	F692	*Nutrition/Hydration Status Maintenance
F566	Right to Perform Facility Services or Refuse	F625	Notice of Bed Hold Policy Before/Upon Transfer	F693	*Tube Feeding Management/Restore Eating Skills
F567	Protection/Management of Personal Funds	F626	Permitting Residents to Return to Facility	F694	*Parenteral/IV Fluids
F568	Accounting and Records of Personal Funds	483.20	Resident Assessments	F695	*Respiratory/Tracheostomy care and Suctioning
F569	Notice and Conveyance of Personal Funds	F635	Admission Physician Orders for Immediate Care	F696	*Prostheses
F570	Surety Bond - Security of Personal Funds	F636	Comprehensive Assessments & Timing	F697	*Pain Management
F571	Limitations on Charges to Personal Funds	F637	Comprehensive Assmt After Significant Change	F698	*Dialysis
F572	Notice of Rights and Rules	F638	Quarterly Assessment At Least Every 3 Months	F699	*[PHASE-3] Trauma Informed Care
F573	Right to Access/Purchase Copies of Records	F639	Maintain 15 Months of Resident Assessments	F700	*Bedrails
F574	Required Notices and Contact Information	F640	Encoding/Transmitting Resident Assessment	483.30	Physician Services
F575	Required Postings	F641	Accuracy of Assessments	F710	Resident's Care Supervised by a Physician
F576	Right to Forms of Communication with Privacy	F642	Coordination/Certification of A assessment	F711	Physician Visits- Review Care/Notes/Order
F577	Right to Survey Results/Advocate Agency Info	F644	Coordination of PASARR and Assessments	F712	Physician Visits-Frequency/Timeliness/Alternate NPPs
F578	Request/Refuse/Discontinue Treatment/Formulate Adv Di	F645	PASARR Screening for MD & ID	F713	Physician for Emergency Care, Available 24 Hours
F579	Posting/Notice of Medicare/Medicaid on Admission	F646	MD/ID Significant Change Notification	F714	Physician Delegation of Tasks to NPP
F580	Notify of Changes (Injury/Decline/Room, Etc.)	483.21	Comprehensive Resident Centered Care Plan	F715	Physician Delegation to Dietitian/Therapist
F582	Medicaid/Medicare Coverage/Liability Notice	F655	Baseline Care Plan	483.35	Nursing Services
F583	Personal Privacy/Confidentiality of Records	F656	Develop/Implement Comprehensive Care Plan	F725	Sufficient Nursing Staff
F584	*Safe/Clean/Comfortable/Homelike Environment	F657	Care Plan Timing and Revision	F726	Competent Nursing Staff
F585	Grievances	F658	Services Provided Meet Professional Standards	F727	RN 8 Hrs/7 days/Wk, Full Time DON
F586	Resident Contact with External Entities	F659	Qualified Persons	F728	Facility Hiring and Use of Nurse
		F660	Discharge Planning Process	F729	Nurse Aide Registry Verification, Retraining
		F661	Discharge Summary	F730	Nurse Aide Perform Review – 12Hr/Year In- service
				F731	Waiver-Licensed Nurses 24Hr/Day and RN Coverage
				F732	Posted Nurse Staffing Information

Figure 1 - F-tag List Part 1

Federal Regulatory Groups for Long Term Care

*Substandard Quality of Care = one or more deficiencies with s/s levels of F, H, I, J, K, or L in Red

** Tag to be cited by Federal Surveyors Only

483.40 Behavioral Health	F811	Feeding Asst -Training/Supervision/Resident	483.90 Physical Environment
F740 Behavioral Health Services	F812	Food Procurement, Store/Prepare/Serve - Sanitary	F906 Emergency Electrical Power System
F741 Sufficient/Competent Staff-Behav Health Needs	F813	Personal Food Policy	F907 Space and Equipment
F742 *Treatment/Svc for Mental/Psychosocial Concerns	F814	Dispose Garbage & Refuse Properly	F908 Essential Equipment, Safe Operating Condition
F743 *No Pattern of Behavioral Difficulties Unless Unavoidable	483.65 Specialized Rehabilitative Services		F909 Resident Bed
F744 *Treatment /Service for Dementia	F825	Provide/Obtain Specialized Rehab Services	F910 Resident Room
F745 *Provision of Medically Related Social Services	F826	Rehab Services- Physician Order/Qualified Person	F911 Bedroom Number of Residents
483.45 Pharmacy Services	483.70 Administration		F912 Bedrooms Measure at Least 80 Square Ft/Resident
F755 Pharmacy Svcs/Procedures/Pharmacist/ Records	F835	Administration	F913 Bedrooms Have Direct Access to Exit Corridor
F756 Drug Regimen Review, Report Irregular, Act On	F836	License/Comply w/Fed/State/Local Law/Prof Std	F914 Bedrooms Assure Full Visual Privacy
F757 *Drug Regimen is Free From Unnecessary Drugs	F837	Governing Body	F915 Resident Room Window
F758 *Free from Unnec Psychotropic Meds/PRN Use	F838	Facility Assessment	F916 Resident Room Floor Above Grade
F759 *Free of Medication Error Rate sof 5% or More	F839	Staff Qualifications	F917 Resident Room Bed/Furniture/Closet
F760 *Residents Are Free of Significant Med Errors	F840	Use of Outside Resources	F918 Bedrooms Equipped/Near Lavatory/Toilet
F761 Label/Store Drugs & Biologicals	F841	Responsibilities of Medical Director	F919 Resident Call System
483.50 Laboratory, Radiology, and Other Diagnostic Services	F842	Resident Records - Identifiable Information	F920 Requirements for Dining and Activity Rooms
F770 Laboratory Services	F843	Transfer Agreement	F921 Safe/Functional/Sanitary/ Comfortable Environment
F771 Blood Blank and Transfusion Services	F844	Disclosure of Ownership Requirements	F922 Procedures to Ensure Water Availability
F772 Lab Services Not Provided On-Site	F845	Facility closure-Administrator	F923 Ventilation
F773 Lab Svcs Physician Order/Notify of Results	F846	Facility closure	F924 Corridors Have Firmly Secured Handrails
F774 Assist with Transport Arrangements to Lab Svcs	F847	Enter into Binding Arbitration Agreements	F925 Maintains Effective Pest Control Program
F775 Lab Reports in Record-Lab Name/Address	F848	Select Arbitrator/Venue, Retention of Agreements	F926 Smoking Policies
F776 Radiology/Other Diagnostic Services	F849	Hospice Services	483.95 Training Requirements
F777 Radiology/Diag. Svcs Ordered/Notify Results	F850	*Qualifications of Social Worker >120 Beds	F940 {PHASE-3} Training Requirements - General
F778 Assist with Transport Arrangements to Radiology	F851	Payroll Based Journal	F941 {PHASE-3} Communication Training
F779 X-Ray/Diagnostic Report in Record-Sign/Dated	483.75 Quality Assurance and Performance Improvement		F942 {PHASE-3} Resident's Rights Training
483.55 Dental Services	F865	QAPI Program/Plan, Disclosure/Good Faith Attempt	F943 Abuse, Neglect, and Exploitation Training
F790 Routine/Emergency Dental Services in SNFs	F866	{PHASE-3} QAPI/QAA Data Collection and Monitoring	F944 {PHASE-3} QAPI Training
F791 Routine/Emergency Dental Services in NFs	F867	QAPI/QAA Improvement Activities	F945 {PHASE-3} Infection Control Training
483.60 Food and Nutrition Services	F868	QAA Committee	F946 {PHASE-3} Compliance and Ethics Training
F800 Provided Diet Meets Needs of Each Resident	483.80 Infection Control		F947 Required In-Service Training for Nurse Aides
F801 Qualified Dietary Staff	F880	Infection Prevention & Control	F948 Training for Feeding Assistants
F802 Sufficient Dietary Support Personnel	F881	Antibiotic Stewardship Program	F949 {PHASE-3} Behavioral Health Training
F803 Menus Meet Res Needs/Prep in Advance/Followed	F882	Infection Preventionist Qualifications/Role	
F804 Nutritive Value/Appear, Palatable/Prefer Temp	F883	*Influenza and Pneumococcal Immunizations	
F805 Food in Form to Meet Individual Needs	F884	**Reporting – National Health Safety Network	
F806 Resident Allergies, Preferences and Substitutes	F885	Reporting – Residents, Representatives & Families	
F807 Drinks Avail to Meet Needs/P references/ Hydration	F886	COVID-19 Testing-Residents & Staff	
F808 Therapeutic Diet Prescribed by Physician	F887	COVID-19 Immunization	
F809 Frequency of Meals/Snacks at Bedtime	483.85 Compliance and Ethics Program		
F810 Assistive Devices - Eating Equipment/Utensils	F895	{PHASE-3} Compliance and Ethics Program	

Figure 2 - F-tag List Part 2

Appendix II: Scope and Severity Grid

CMS and State Survey Agencies use the Scope and Severity Grid for rating the seriousness of nursing home deficiencies, i.e., of violations in minimum standards of care or other requirements. For each deficiency identified, the surveyor is charged with indicating the level of harm to the resident(s) involved and the scope of the problem within the nursing home. The surveyor then assigns an alphabetical scope and severity value to the deficiency. "A" is the least serious rating and "L" is the most serious rating. Information on deficiencies for all licensed nursing homes is available on Nursing Home Care Compare. When assessing a facility's survey performance it is important to keep in mind that numerous studies have found that surveyors often fail to identify nursing home problems adequately, including serious care problems.⁷⁰

The following chart is from the CMS [Nursing Home Data Compendium 2013 Edition](#).⁷¹

Figure 2.1. Scope and Severity Grid for Rating Nursing Home Deficiencies

	Isolated	Pattern	Widespread
Immediate Jeopardy to Resident Health or Safety	J	K	L
Actual Harm that is Not Immediate Jeopardy	G	H	I
No Actual Harm with Potential for More than Minimal Harm that is Not Immediate Jeopardy	D	E	F
No Actual Harm with Potential for Minimal Harm	A	B	C

⁷⁰ See, for example, US Government Accountability Office, *Nursing Homes: Some Improvement Seen in Understatement of Serious Deficiencies, but Implications for the Longer-Term Trend Are Unclear*, GAO-10-434R (April 2010). Available at <http://www.gao.gov/products/GAO-10-434R>.

⁷¹ Available at http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/downloads/nursinghomedatacompendium_508.pdf.

Appendix III: CMS Summary of Certification and Compliance for Nursing Homes

Following is an overview of nursing home oversight and compliance, which appears on the Centers for Medicare and Medicaid Services (CMS) website:

(<http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/NHs.html>).

CMS's website provides links to important information relating to nursing homes, including:

- (1) The [current list of Special Focus Facilities](#) (pdf). ("Special Focus Facilities" are nursing homes identified as among the worst in the country and targeted for special oversight and possible removal from Medicaid/Medicare if they fail to make substantial improvements);
- (2) [Survey and enforcement process requirements for nursing homes](#) (pdf); and
- (3) The 2015 [Nursing Home Data Compendium](#) (pdf).

In 2021, LTCCC published a comprehensive [Guide to Nursing Home Oversight & Enforcement](#).⁷² The Guide provides user-friendly information on the key requirements for the state survey agencies which are responsible for monitoring nursing homes and ensuring quality care, dignity, and safety for residents.

Nursing Homes

This page provides basic information about being certified as a Medicare and/or Medicaid nursing home provider and includes links to applicable laws, regulations, and compliance information. Below, in the downloads section, we also provide related nursing home reports, compendia, and the list of Special Focus Facilities (i.e., nursing homes with a record of poor survey [inspection] performance on which CMS focuses extra attention).

Skilled nursing facilities (SNFs under the Medicare Provision) and nursing facilities (NFs under the Medicaid Provision) are required to be in compliance with the requirements in 42 CFR Part 483, Subpart B to receive payment under the Medicare or Medicaid programs. To certify a SNF or NF, a state surveyor completes at least a Life Safety Code (LSC) survey, and a Standard Survey.

SNF/NF surveys are not announced to the facility. States conduct standard surveys and complete them on consecutive workdays, whenever possible. They may be conducted at any time including weekends, 24 hours a day. When standard surveys begin at times beyond the business hours of 8:00 a.m. to 6:00 p.m., or begin on a Saturday or Sunday, the entrance conference and initial tour should be modified in recognition of the residents' activity (e.g. sleep, religious services) and types and numbers of staff available upon entry.

The State has the responsibility for certifying a skilled nursing facility's or nursing facility's compliance or noncompliance, except in the case of State-operated facilities. However, the

⁷² <https://nursinghome411.org/news-reports/reports/survey-enforcement/guide-oversight/>.

State's certification for a skilled nursing facility is subject to CMS approval. "Certification of compliance" means that a facility's compliance with Federal participation requirements is ascertained. In addition to certifying a facility's compliance or noncompliance, the State recommends appropriate enforcement actions to the State Medicaid agency for Medicaid and to the regional office for Medicare.

The CMS regional office determines a facility's eligibility to participate in the Medicare program based on the State's certification of compliance and a facility's compliance with civil rights requirements.

The following entities are responsible for surveying and certifying a skilled nursing facility's or nursing facility's compliance or noncompliance with Federal requirements:

- **State-Operated Skilled Nursing Facilities or Nursing Facilities or State-Operated Dually Participating Facilities** - The State conducts the survey, but the CMS regional office certifies compliance or noncompliance and determines whether a facility will participate in the Medicare or Medicaid programs.
- **Non-State Operated Skilled Nursing Facilities** - The State conducts the survey and certifies compliance or noncompliance, and the CMS regional office determines whether a facility is eligible to participate in the Medicare program.
- **Non-State Operated Nursing Facilities** - The State conducts the survey and certifies compliance or noncompliance. The State's certification is final. The State Medicaid agency determines whether a facility is eligible to participate in the Medicaid program.
- **Non-State Operated Dually Participating Facilities (Skilled Nursing Facilities/Nursing Facilities)** - The State conducts the survey and certifies compliance or noncompliance. The State's certification of compliance or noncompliance is communicated to the State Medicaid agency for the nursing facility and to the CMS regional office for the skilled nursing facility. In the case where the State and the regional office disagree with the certification of compliance or noncompliance, there are certain rules to resolve such disagreements.

Appendix IV: Useful Terms, Acronyms, and Internet Resources

1. National and General Resources

- **Centers for Medicare and Medicaid Services (CMS)**⁷³ - The federal agency responsible for overseeing care and quality of life in nursing homes (as well as for other providers that participate in Medicare and/or Medicaid).
- **Long-Term Care Ombudsman Program (LTCOP)**⁷⁴ - The LTCOP is a federally-mandated program that provides, within each state and locality, nursing home monitoring and advocacy for residents' rights and quality care. In addition, ombudsmen educate consumers and providers, work to resolve residents' complaints, and make information available to the public on nursing homes and other long-term care facilities and services. Also see below under New York State Resources.
- **Medicaid Fraud Control Units (MFCU)** -MFCUs investigate and prosecute abuse, neglect and fraud committed by hospitals, nursing homes, pharmacies, and other providers. There are MFCUs in the District of Columbia and every state except North Dakota.
- **Nursing Home Care Compare**⁷⁵ - The federal website with quality-of-care, staffing, ownership, and other information for all licensed nursing homes in the United States. Nursing Home Care Compare includes the 5-Star Nursing Home Quality Rating System, which provides a star rating for each nursing home based on its (1) health inspections, (2) staffing levels, and (3) quality measures. Though Nursing Home Care Compare has its weaknesses it is widely considered to be, by far, the most reliable resource for information on a facility's quality of care.
- **ProPublica Nursing Home Inspect**⁷⁶ - This web-based tool enables users to compare nursing homes in a state based on the deficiencies cited by regulators and the penalties imposed in the past three years. One can also search over 60,000 nursing home inspection reports to look for trends or patterns.
- **U.S. Office of Inspector General (OIG)**⁷⁷ - The OIG, part of the Department of Health and Human Services, has responsibility for fighting waste, fraud, and abuse in Medicare and Medicaid services. This work includes auditing for the appropriateness of services billed to Medicaid/Medicare. The OIG website has a searchable database of individuals and entities excluded from providing Medicaid/Medicare services.
- **U.S. Code of Federal Regulations: Requirements for Nursing Homes.**⁷⁸

⁷³ <https://www.cms.gov/>.

⁷⁴ <https://www.acl.gov/programs/protecting-rights-and-preventing-abuse/long-term-care-ombudsman-program>. (See also <http://ltcombudsman.org/>).

⁷⁵ <https://www.medicare.gov/nursinghomecompare/search.html?>.

⁷⁶ <http://projects.propublica.org/nursing-homes/>.

⁷⁷ <https://oig.hhs.gov>.

⁷⁸ https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=371b56d5eda767bbbbc9625cce48c146&mc=true&n=pt42.5.483&r=PART&ty=HTML#s_p42.5.483.b.

- **CMS State Operations Manual (SOM)**⁷⁹ - The SOM for state Survey Agency operations is provided in numerous chapter and appendix files (PDF) on the CMS website.
- **Requirements for Reporting Suspicion of Crime in Nursing Homes to Law Enforcement** (PDF)⁸⁰ - The 2010 Affordable Care Act set forth important requirements regarding reporting suspicion of crime against nursing home residents. Because this is such a serious issue, the law sets forth significant fines if a facility employee or owner (including care staff, administrative staff and contractors) fails to report when there is suspicion of a crime against a nursing home resident.

⁷⁹ <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs-Items/CMS1201984.html>. For Appendix PP, Interpretive Guidelines, see: https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_ltcf.pdf.

⁸⁰ <http://nursinghome411.org/policy-brief-reporting-nursing-home-crime/>.

2. New York State Resources

- **NYS Nursing Home Profile**⁸¹ - Searchable website with information on all NYS nursing homes. Quality data are the same as those reported on Nursing Home Care Compare, though the format of information provided is somewhat different.
- **New York State Attorney General Healthcare Bureau**⁸² - Investigates and enforces laws relating to fraudulent, misleading, deceptive, or illegal practices by insurers, providers and drug companies.
- **New York State Department of Health (DOH)**⁸³ - Monitors care and enforces standards in NY nursing homes. DOH has principal regulatory authority and responsibility for ensuring that residents are safe and that care and quality of life services are provided in accordance with regulatory standards.
- **Medicaid Fraud Control Unit (MFCU)**⁸⁴ - In New York, the MFCU is housed in the NY State Attorney General's Office. It investigates and prosecutes abuse, neglect, and fraud committed by hospitals, nursing homes, pharmacies, and other providers. MFCU "handles numerous cases in order to safeguard elderly and disabled New Yorkers from abuse and neglect in nursing homes and other health care facilities."
- **New York State Office of Medicaid Inspector General (OMIG)**⁸⁵ - Audits and imposes sanctions for Medicaid fraud. The OMIG website has a list of providers who have been excluded from providing services in the Medicaid program.
- **NY State Long-Term Care Ombudsman Program (LTCOP)**⁸⁶ - The state office of the LTCOP, with offices throughout the state. As noted above under National Resources, the LTCOP is a federally mandated program that provides nursing home monitoring and advocacy for residents' rights and quality care. In addition, ombudsmen educate consumers and providers, defend residents' rights, work with facilities to resolve complaints, and support the development of resident and family councils. LTCOP representatives often visit nursing homes on a weekly basis. Thus, although they do not have regulatory and enforcement authority (as the Department of Health does), they are often instrumental in making sure that residents are protected and their rights respected.

⁸¹ https://profiles.health.ny.gov/nursing_home/.

⁸² <https://ag.ny.gov/bureau/health-care-bureau>.

⁸³ <https://www.health.ny.gov/>

⁸⁴ <https://ag.ny.gov/bureau/medicaid-fraud-control-unit>.

⁸⁵ <http://www.ny.gov/agencies/office-medicaid-inspector-general>.

⁸⁶ <https://ltcombudsman.ny.gov/>.

3. Additional Terms

- **F-tag** - F-tags (“F” for “federal”) constitute the system through which federal nursing home regulations are identified in the survey process. Generally, each regulatory provision is assigned a corresponding F-tag number and surveyors (inspectors) use these numbers to indicate on the Statement of Deficiencies when a facility has failed to meet (or exceed) a given standard.
- **Statement of Deficiencies** (also known as Form 2567) - Form on which a nursing home’s citations for failing to meet or exceed federal regulatory standards are recorded and published.