Exhibit 22 - Guidance to Distinguish Between the Priorities of Immediate Jeopardy and Non-Immediate Jeopardy-High in Nursing Home Allegations

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GUIDANCE TO DISTINGUISH BETWEEN THE PRIORITIES OF IMMEDIATE JEOPARDY AND NON-IMMEDIATE JEOPARDY-HIGH IN NURSING HOME ALLEGATIONS

(The following scenarios are intended only to assist in the triage of certain allegations of noncompliance in a nursing home. Each situation is unique, and the following examples should be considered as guidance only. An additional resource is Appendix Q (Guidelines for Determining Immediate Jeopardy) of the State Operations Manual.)

1. Allegations of Abuse

Unexplained, unexpected death, with circumstances indicating that there was abuse or neglect - A report of abuse/neglect resulting in an unexplained or unexpected death would not be triaged as immediate jeopardy if it is clear that the abuse/neglect is not present and ongoing. Whether or not an alleged perpetrator is still present in the facility and has unsupervised interaction with residents would be a consideration in assessing the urgency for an onsite visit. Unless the intake information is sufficient to determine the conditions are not present and ongoing, the intake should be triaged as immediate jeopardy and an onsite visit should be conducted within two working days.

Resident is physically abused - spitting/slapping/sticking with sharp object, pushing, pinching - A higher level of actual harm would exist if the situation has caused harm that negatively impacts the resident's mental, physical and/or psychosocial status and is of such consequence to the person's well being that a rapid response by the SA is indicated. The extent of the injuries, whether or not the alleged perpetrator is still present in the facility and has unsupervised interaction with the residents, the frequency and duration of the behavior as well as the facility history, recent complaint reports, deficiencies cited, and other available information should also be reviewed in making a decision regarding the triage of complaints alleging physical abuse. Unless the intake information is sufficient to determine the conditions are not present and ongoing, the intake should be triaged as immediate jeopardy and an onsite visit should be conducted within two working days.

Sexual assault, sexual harassment and sexual coercion - A report of sexual assault, sexual harassment or sexual coercion would not be triaged as immediate jeopardy if it is clear that the threat of sexual abuse is not present and ongoing. A higher level of actual harm would exist if the situation has caused harm that negatively impacts the resident's mental, physical and/or psychosocial status and is of such consequence to the person's well being that a rapid response by the SA is indicated. Whether or not an alleged perpetrator is still present and has unsupervised interaction with the residents in the facility would be a consideration in assessing the urgency for an onsite visit. Unless the intake information is sufficient to determine the conditions are not present and ongoing, the intake should be triaged as immediate jeopardy and an onsite visit should be conducted within two working days.

Verbal Abuse - Resident is intimidated/threatened - A higher level of actual harm would exist if the situation has caused harm that negatively impacts the resident's mental, physical and/or psychosocial status and is of such consequence to the person's well being that a rapid response

by the SA is indicated. Possible indicators of a higher level of actual harm could include: the resident crying, fleeing, not want to leave their room, fearful, not participating in activities, communicating, etc.). The frequency and duration of the behavior, as well as the facility history, recent complaint reports, deficiencies cited, and other available information should also be reviewed in making a decision regarding the triage of intakes alleging verbal abuse. Whether or not an alleged perpetrator is still present in the facility and has unsupervised interaction with the residents would be a consideration in assessing the urgency for an onsite visit. Unless the intake information is sufficient to determine whether or not the conditions are present and ongoing, the complaint should be triaged as immediate jeopardy and an onsite visit should be conducted within two working days.

2. Falls Resulting in Fracture or Serious Injury

A report of falls resulting in fracture would not be triaged as immediate jeopardy if it is clear that the conditions causing and/or contributing to the falls are not present and ongoing. If the intake information is not sufficient to determine whether or not the conditions are present and ongoing, the intake should be triaged as immediate jeopardy and an onsite visit should be conducted within 2 working days. A higher level of actual harm would exist if the situation has caused harm that negatively impacts on the resident's mental, physical and/or psychosocial status and is of such consequence to the person's well being that a rapid response by the SA is indicated. Factors to consider would be whether or not falls are preventable (the cause of the fall was the result of something the facility did or failed to do) or non-preventable (the cause of the fall was not the result of something the facility did or failed to do). Unless the intake information is sufficient to determine whether or not the conditions are present and ongoing, the intake should be triaged as immediate jeopardy and an onsite visit should be conducted within two working days.

3. Inappropriate Use of Physical or Chemical Restraints Resulting in Serious Injury

A report of inappropriate use of restraints resulting in injury would not be triaged as immediate jeopardy if it is clear that the inappropriate use of restraints is not present and ongoing. If the intake information is not sufficient to determine whether or not the conditions are present and ongoing, the intake should be triaged as immediate jeopardy and an onsite visit should be conducted within two working days. A higher level of actual harm would exist if the situation has caused harm that negatively impacts the resident's mental, physical and/or psychosocial status and is of such consequence to the person's well being that a rapid response by the SA is indicated. Unless the intake information is sufficient to determine whether or not the conditions are present and ongoing, the intake should be triaged as immediate jeopardy and an onsite visit should be conducted within two working days.

4. Inadequate Staffing that Negatively Impacts Resident Health and Safety

A higher level of actual harm would exist if the situation has caused harm negatively impacting on the resident's mental, physical and/or psychosocial status and is of such consequence to the person's well being that a rapid response by the SA is indicated. The intake would need to provide information about the nature and frequency of the problems created for residents by the inadequate staffing. Other information that could be used to triage the allegation of inadequate staff would be facility history, recent complaint reports, deficiencies cited, MDS data (falls, weight loss, etc). Allegations of inadequate staff should also be analyzed to assess whether or not the lack of staff poses a life safety code violation that places residents at risk. The source or sources of the allegations may impact on the classification of the complaint. Numerous complaints from multiple sources could elevate the priority for an investigation.