

Long-Term Care Survey Alert

Compliance: Restore Badly Eroded Faith in SNFs as a Priority

Staff with quality checks in mind ☐ or risk big losses under feds' new rules.

Resolve to fine tune your approach to staffing and record keeping related to staffing if you expect to fare well in the New Year. The feds have taken several steps in recent months that are sure to bring added attention and scrutiny to staffing levels as well as how facilities track and report staffing levels.

Background: In April, a report from the **Health and Human Services Office of the Inspector General** (OIG) found that one-third of nursing home residents suffered an adverse event or other harm in the month covered by the report (August 2011) and that most of the events were preventable and caused by problems with staffing. Flash forward a few months, and you can see how the media picked up on the theme. Reports ☐ including a high-profile article in August in the New York Times ☐ have called further attention to the potential disconnect between actual year-round staffing levels at nursing homes and the typical, once-annual staffing check-in by surveyors. What if facilities staff up around survey time, meaning that staffing levels during the remaining months are considerably lower than reflected in survey data and on Nursing Home Compare?

Similarly, a report from the **Center for Public Integrity**, a group of investigative journalists, recently claimed that more than 80 percent of skilled nursing facilities might have inflated registered nurse staffing levels on the Nursing Home Compare website, accusing a quarter of nursing homes of inflating their staffing counts by double.

In essence, nursing homes have found that trust in their self-reported staffing numbers has eroded, and the feds are taking steps to hold nursing homes accountable for their staffing counts.

News to know: One resulting development to have squarely on your radar screen: On October 6, **President Barack Obama** signed into law the Improving Medicare Post-Acute Care Transformation Act (IMPACT). With support from industry groups including the **American Health Care Association** and LeadingAge, the law will usher in a standardized method of assessment for different post-acute players, with the intent of bringing more equity to payment for post-acute care. Along with the act, CMS announced that it would be bolstering its Five Star rating system for nursing homes.

Among the IMPACT related changes:

- **Payroll-based staffing reporting.** CMS will receive funding specifically to implement a system of quarterly electronic reporting that is auditable back to nursing homes' payroll records. Look for pilot testing of the system in fiscal 2015, with a goal of nationwide reporting by all nursing homes by fiscal year 2016.
- **Timely and complete inspection data.** This means that CMS may be putting more pressure on state survey agencies. Specifically, according to a White House press release, CMS will "strengthen requirements to ensure that states complete inspections of nursing homes in a timely and accurate manner."

These announcements were followed on October 31 with Survey and Certification (S&C) Letter 15-06-NH, Nationwide Expansion of Minimum Data Set (MD) Focused Survey. This missive relays news of the agency's pilot MDF-focused surveys ☐ which rolled out in 2014 ☐ and announces plans to extend the new survey type to all states in 2015.

"The new survey type provides the surveyors with more time to review MDS data than they have in annual surveys," explains the **CMS Compliance Group** in a recent blog posting.

Worth noting: That added time to scrutinize MDS data led to deficiencies being cited on 24 of 25 of the pilot surveys.

According to the S&C memo, states will have a say in recommending which facilities are subject to the new MDS-focused surveys. Additionally, the feds state that surveyors will employ record review, staff and resident interviews, and resident

observations.

The pilots revealed several trouble spots: namely, pressure ulcers, antipsychotic drug classifications, and the use of restraints. While these areas will see continued focus, the S&C memo adds "Reported Staffing" as an additional area worthy of scrutiny.

"The scope of some or all of the focused surveys will also be expanded to include an assessment of the staffing levels of nursing homes," the feds say in the memo's summary. "This assessment will aim to verify the data self-reported by the nursing home, and identify change in staffing levels throughout the year."

New Year's resolution: Accordingly, nursing homes must aim for full staffing and few fluctuations in staffing or risk survey citations or even the loss of payments under Medicare and Medicaid.

One question to ask is whether your facility has in place a self-audit system that will allow you to identify potential survey issues. "Review your facility's quality assurance and process improvement plan," including staffing and the other newly focused areas," urges **Dr. Raju Kunnath, DMH, LNHA, RN, MSN, MPA**, president and CEO of MedApps Inc.

Be sure to know the feds' view of who counts toward "facility staff" and who doesn't, cautions **Cheryl Shiffer, BSN, RN, RAC-CT, MDS** Clinical Coordinator the **Texas Department of Aging and Disability Services**.

For instance, facility staff does not include hospice nurses, hospice CNAs, nurse aides participating in CNA training or testing on the premises, or nurse students participating in nurse training or testing on the premises.

Benefit: In addition to survey compliance, attention to staffing can protect you from malpractice losses, research suggests. A study conducted by researchers at the **University of North Florida** concludes that "staffing levels are strongly associated with paid losses on malpractice claims."