

Long-Term Care Survey Alert

F Tags: These Changes Could Definitely Catch You Unawares

Read fine print in survey guidance for 2015.

Late last year, the feds quietly released updates to a number of nursing home F tags – both major and minor. If you've yet to read the fine print, you are flirting with costly citations and damage to your survey record, experts say. The 226-page document updates survey guidance in important ways and includes pages and pages of red (revised) text worthy of your attention.

Let the overview below serve as your guide to highlights from CMS Transmittal 127, Revisions to State Operations Manual (SOM), Appendix PP – "Guidance to Surveyors for Long Term Care Facilities." All changes went into effect immediately on November 26, 2014.

F155 Advance Directives

In this section, the **Centers for Medicare & Medicaid Services** (CMS) makes it clear that it aims to ensure nursing home residents' advance directive (AD) rights under the Federal Patient Self-Determination Act (as contained in Public Law 101-508). These rights include the right of an individual to direct his or her own medical treatment, including withholding or withdrawing life-sustaining treatment, "as grounded in common law (judge-made law), constitutional law, statutory law (law made by legislatures) and regulatory mandates governing care provided by facilities."

Expect surveyors to interview staff about their hands-on roles in protecting residents' rights. Questioning is likely to include assessing "how staff know where to access the documented information on the resident's treatment choices and advance directives in the medical record," during both routine care and in an urgent or emergent situation and "how the facility ensures that practitioner orders and treatment decisions are consistent with the resident's documented choices and goals."

In reworking your program of training and related documentation, consider taking your lead from resources cited by CMS, especially this publication from the **Robert Wood Johnson Foundation** – Education for Physicians at the End of Life (EPEC) Participant's Handbook – Plenary 2, Legal Issues (endoflife.northwestern.edu/legal_issues/module15.pdf) and resources available from the **POLST/Physician Orders for Life Sustaining Treatment** (www.polst.org/).

Dr. Vivienne Roche, program director of the Geriatrics Fellowship Program at the **University Of Texas Southwestern Medical Center** in Dallas, who has studied access to advance directives in electronic health records, recommends that for quick access facilities choose a single location for ADs. Staff training should reinforce knowledge of this location, and advance directives should be included in transfer documentation as a matter of policy.

F309 Quality of Care, F329 Unnecessary Drugs, and F222 Restraints

Under F309, CMS launches into multiple pages of red text designed to make more explicit its expectations regarding the Review of Care and Services for a Resident with Dementia. With plenty of references to person-centered care, individualized care, and family involvement – and cross referencing F329 and F222 – it becomes clear that the agency's main focus of concern is medication use in dementia.

"It has been a common practice to use various types of psychopharmacological medications in nursing homes to try to address behavioral or psychological symptoms of dementia (BPSD) without first determining whether there is an underlying medical, physical, functional, psychosocial, emotional, psychiatric, or environmental cause of the behaviors," reads the guidance.

In setting new guidelines for the use of antipsychotics, Transmittal 127 supports CMS's message from earlier in 2014,

when the agency announced a new goal of reducing the use of antipsychotic medications in long-stay nursing home residents by 25 percent by the end of 2015 and by 30 percent by the close of 2016.

"When antipsychotic medications are used without an adequate rationale, or for the sole purpose of limiting or controlling behavior of an unidentified cause, there is little chance that they will be effective, and they commonly cause complications such as movement disorders, falls, hip fractures, cerebrovascular adverse events," the agency warns.

Double-whammy: The feds point out that current published clinical guidelines recommend use of non-pharmacological interventions for BPSD – a call-out that should serve to caution providers that ill-advised use of antipsychotics is sure to invite legal action as well as survey risks.

Furthermore, citations under one of the categories above could well spill into citations under other related F tags:

"CMS expects that the resident and family/representatives, to the extent possible, are involved in helping staff to understand the potential underlying causes of behavioral distress and to participate in the development and implementation of the resident's care plan. Residents have the right to be informed about their medical condition, care and treatment; they have the right to refuse treatment and the right to participate in the care plan process. (See F154, F155, F242, F279, F280)," reads Transmittal 127.

Added incentive: "It is anticipated that the long and short term quality measures for antipsychotic use will be included in the Quality Measures used to calculate the QM measure for Five Star," according to **Karen Morris**, director of clinical and quality services for the **New York State Health Facilities Association**.

Refresher: F329 – Unnecessary Drugs now spells out the following "inadequate indications" for antipsychotic medications in persons with dementia:

- wandering
- poor self-care
- restlessness
- impaired memory
- mild anxiety
- insomnia
- inattention or indifference to surroundings
- sadness or crying alone that is not related to depression or other psychiatric disorders
- fidgeting
- nervousness
- uncooperativeness (e.g., refusal of or difficulty receiving care).

Sanitary Conditions F371

Expect food safety to be a renewed focus of surveyors in 2015. For starters, CMS inserts this guidance under F371: "The Food and Drug Administration's Food Code (Section 3-801.11) includes nursing facilities in its definition of a 'highly susceptible population,'" suggesting a need for greater scrutiny in the kitchen.

In this regard, the feds seem most focused on preventing egg-related food borne illnesses. Don't even think about soft-cooked or sunny side-up eggs if you don't have pasteurized eggs on hand, for example.

Lesson: Be certain to "have written egg storage and preparation policies that honor resident preferences safely."

The agency also explicitly calls on nursing homes to report food borne illness outbreaks to the local health department.

Infection Control F441

The feds have stepped up their requirements for regulating single-person insulin pens. Echoing a survey clarification memo issued in 2012, the agency makes clear that such devices are intended for use by only one individual. In the latest survey update, the agency calls for labeling:

"Insulin pens containing multiple doses of insulin are used for the resident prescribed only, even when the needle is changed, and [should be] clearly labeled with the resident's name or other identifiers to verify correct use."

Editor's Note: Look for coverage of individual F tags in upcoming issues of Long-Term Care Survey Alert.

Learn more: The survey guidance is available at
<http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R127SOMA.PDF>.