

## MDS Alert

### MDS & BILLING NEWS TO USE

**Are you up on the latest CMS clarification for electronic MDS signatures?** Nursing facilities may use electronic signatures on the MDS, if state and local laws permit - and if the facility's internal policies authorize the practice. That's according to the most recent letter from the **Centers for Medicare & Medicaid Services** State Operations/Survey and Certification Group (S&C-05-14). This letter was the subject of discussion at the recent **American Health Lawyers Association's** Long Term Care and the Law conference in San Diego. CMS also states that SNF/NFs that have the capability to implement electronic signatures for their MDSs may do so even if the clinical record isn't in electronic format, noted attorney **Joanne Lax** with **Dykema Gossett PLLC** in Bloomfield Hills, MI, in a conference presentation.

If the facility doesn't have the ability to record and sign the entire MDS electronically, it must retain a handwritten or typed print copy of the MDS - or a hand-signed printout of a computer-generated MDS form, Lax said. "The nursing facility must have safeguards to protect the [integrity of the] electronic signature," added Lax, who recommended facilities consider using the HIPAA security requirements as a model.

According to Lax, a facility that uses electronic MDS signatures must ensure:

1. it has adequate internal controls specifying who can complete and sign the document. The facility should also have policies/procedures to properly authenticate the signature and maintain the integrity of the document; and
2. surveyors will have access to the documents. Facilities can store the MDS on the computer without printing it (if that's OK with state law) but must have the ability to make a copy available for the surveyors, said Lax.

**Comparing Nursing Home Compare data to your facility's surveys is a good idea.** The **HHS Office of Inspector General** found some significant discrepancies between facilities' survey records and what's posted on the Web site, according to a presentation at a recent American Health Lawyers Association conference in San Diego. "If you see something on the [site] that's not on your survey, contact CMS and the state survey agency," advised **Anne Hall, JD**, with the **HHS Office of the General Counsel** in a presentation. One reason for the discrepancies may be that facilities' IDR and departmental appeals board findings aren't making their way into data on the site, Hall said. "So make sure the facility's IDR and DAB rulings [changing the survey outcome] are showing up."