

Health Care Reform (Affordable Care Act)

Leadership Summit – April 26, 2010

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Summary of State Impacts

- Requires States to Post Consumer-Oriented Website with 2567s, Plan of correction & Complaints
- Develop & Provide Independent Informal Dispute Resolution Process for CMPs
- Notice Requirements for Facility Closure
- Opportunity for Funding State background Checks
- State Grant Program for design & implementation of complaint investigation system

**Transparenc
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Enforcement

Accountability

**Training &
Research**

Disclosure of Ownership

Nursing Homes Must Disclose & Report:

- Each member of the Governing Body
- Each Officer, Director, Member, Partner, Trustee, or Managing Employee.
- Organizational Structure

Disclosure of Ownership

Additional Disclosable Parties:

- Exercises operational, financial or managerial control, or provides financial or cash management services.
- Provides management or administrative services, management or clinical consulting services, or accounting or financial services to the facility.

Disclosure of Ownership

Names of Ownership or Control Interest

- Equal or Exceeds 5% (mortgage, deed of trust, note or other obligation)



Disclosure of Ownership

- CMS will Publish **Regulations** to Require Facilities to:
 - Report in a Standardized Format
 - Ensure that the Nursing Home Certifies (as a Condition of Participation & Payment) that the Information is Accurate & Current.
- CMS will provide Guidance & Technical Assistance

Disclosure of Ownership

Public Availability of Information

- Before Final Rule:
 - Make Ownership Information to the Secretary, IG, State LTC Ombudsman & State upon request
- One Year After Final Rule:
 - Make Ownership Information Available to the Public as Required in the Final Rule.

Nursing Home Compare

Requires CMS to Post:

- Staffing Data (including Turnover & Tenure)
- Special Focus Facility Information
- Links to State Internet Websites
- Standardized Complaint Form
- Summary Information on Substantiated Complaints



Nursing Home Compare

- Number of Adjudicated Instances of Criminal Violations by a Facility or Employee of a facility
 - Committed inside the facility
 - Number of CMPs levied against the facility, employees, & contractors
- Violations or crimes of:
 - Abuse
 - Neglect
 - Exploitation
 - Sexual Abuse
 - Serious Bodily Injury



Nursing Home Compare

Timeliness of Submission:

- States submit survey information to CMS not later than date the information is sent to the Nursing Home.



Nursing Home Compare

Availability of Survey, Certification & Complaints

The Nursing Home Must:

- Have reports for the last 3 preceding years available for any individual to review upon request; and
- Post Notice of the Availability of these Reports



Nursing Home Compare

CMS will:

- Provide Guidance on how States can establish electronic links to Form 2567; Complaint Forms.
- Include such information on Nursing Home Compare if possible.

States will:

- Maintain a consumer-oriented website
- Includes
 - Form 2567
 - Complaint Investigations
 - Plans of Correction
 - Other Information

Reporting of Staffing

- Requires Consultation To Develop
- Includes Direct-Care Staff
- Electronically Submitted
- Based on Payroll & Other verifiable data
- Uniform Format

Reporting of Staffing

Type of worker

- Registered Nurse
- Licensed Practical Nurse
- Licensed Vocational Nurse
- Certified Nursing Assistant
- Therapist
- Other Medical Personnel



Notice of Facility Closure

Administrator –

- Written notification of Closure
 - CMS
 - State Long-Term Care Ombudsman
 - Residents
 - Legal Representatives
 - Other responsible parties
- Notice is 60 days before closure unless CMS deems appropriate an earlier closure date.

Notice of Facility Closure

Administrator –

- Ensure that no new residents are admitted on or after the date of written notification of closure.
- Include in written notice
 - Plan for transfer & relocation
 - Specify date of Closure



Notice of Facility Closure

State –

- Ensure that before a Nursing Home closes all residents have been successfully relocated

CMS –

- May continue payment during the period beginning with notice and ending on the date when residents are successfully relocated.

Notice of Facility Closure

Sanctions Against Administrator

- CMP up to \$100,000 (*Mandatory*)
- Exclusion from participation in any Federal health care program (*Permissive*)
- Any other penalties prescribed by law

Standardized Complaint Form

- Requires CMS to develop a standardized complaint form for use by:
 - Resident
 - Person Acting on Behalf of Resident
- Form to be used in Filing a Complaint with:
 - State Survey Agency
 - State Long-Term Care Ombudsman

Standardized Complaint Form

- **Availability** -- State must make form available to residents & any person acting on the resident's behalf



Standardized Complaint Form

- **Complaint Resolution Process** -- Assure that legal representative is not denied access to resident or retaliated if a complaint filed
 - **Complaint Resolution Process includes:**
 - Procedures to assure accurate tracking of complaints (including notification to complainant)
 - Procedures to determine likely severity of a complaint, and investigation of complaint
 - Deadlines for responding to complaint & notifying complainant of the outcome.

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Compliance & Ethics Program

Nursing Homes

- Operate a compliance and ethics program
 - Prevent & Detect Criminal, Civil & Administrative Violations
 - Promote Quality of Care
- Regulations Will Take Into Account Larger Organizations with more than 5 nursing homes (i.e., nursing home chains)

Compliance & Ethics Program

Requirements for Compliance & Ethics Program:

- Designed, implemented & Enforced
- Meets the Following Components:
 - Organization establishes standards & procedures
 - Specific individuals within high-level personnel of organization have been assigned responsibility
 - Do not delegate responsibility to individuals who have a “propensity” to engage in criminal, civil & administrative violations

Compliance & Ethics Program

- Meets the Following Components:
 - Organization takes steps to communicate standards and procedures to all employees
 - Takes steps to achieve compliance with standards
 - Standards must be consistently enforced
 - After offense detected, organization takes steps to respond
 - Organization takes periodic reassessment of compliance program

Quality Assurance & Performance Improvement Program (QAPI)

CMS will establish (through regulations) & implement a QAPI program

- Establish standards
- Provide Technical Assistance in Developing Best Practices to meet standards

Quality Assurance & Performance Improvement Program (QAPI)

- 1-year after regulations are promulgated –
 - Nursing Homes must submit to CMS a plan to meet such standards and implement such best practices
 - Including how to coordinate the implementation of the plan with quality assessment and assurance activities in 1819(b)(1)(B) and 1919(b)(1)(B).

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Civil Money Penalties

Changes CMP Statute:

- Reduction of CMPs for certain self-reported deficiencies
- Prohibits Reduction –
 - Repeated deficiencies
 - Pattern of Harm or Immediate Jeopardy

Civil Money Penalties

Collection of CMPs

- Provide Nursing Homes the opportunity of Independent Informal Dispute Resolution before collection.
- CMS may collect CMPs prior to formal hearing
- CMPs will be kept in an Escrow Account
- CMP + Interest if NH Successful on Appeal

Civil Money Penalties

Use of CMPs (if NH is unsuccessful)

- May be used to support activities that benefit residents
- Projects that support resident & family councils
- Other consumer involvement in assuring quality
- **Approved by the Secretary (CMS)**

Background Checks

- Builds on Previous Background Check program conducted under a CMS pilot
- Not mandatory but discretionary for a State
- Federal Match – Federal funds shall be 3 times the amount that the State guarantees to make available.
- OIG will conduct Evaluation & Report to Congress.



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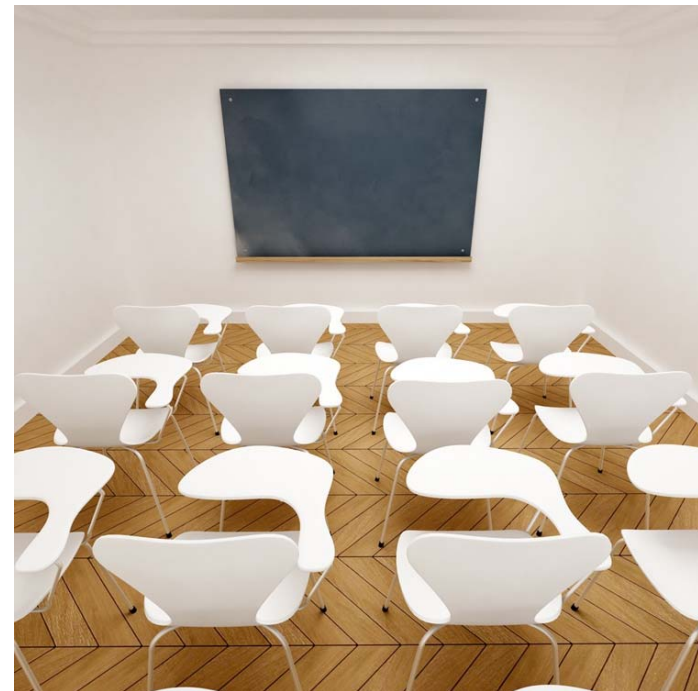
Accountability

**Training &
Research**

National Training Institute

National Training Institute for
Federal and State Surveyors
(Run by HHS Funded Contract)

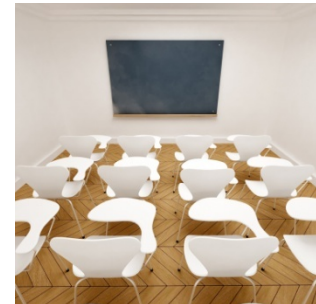
Purpose -- provide & improve
surveyor training in investigation
of abuse, neglect &
misappropriation of property.



National Training Institute

Activities

- Assess SA use of specialized surveyors
- Evaluate surveyor competencies
- Provide national program of training, tools and technical assistance
- Develop and disseminate information on best practices for investigation
- Assess performance of State complaint intake system
- Provide a national 24-hours/7 days a week back-up system to State complaint intake system



National Training Institute

- **Analyze & report on:**
 - Number & Sources of Complaints
 - # of Referrals to Law Enf.
 - Results of Fed. & State investigation of complaints
- Conduct National Study of cost to SAs of conducting complaint investigations
- Make Recommendations on options to increase efficiency & cost-effectiveness

Grants to State Survey Agencies

- To design & implement complaint investigation systems that:
 - Prioritize complaints
 - Respond to complaints with optimum effectiveness
 - Optimize collaboration between local authorities, consumers and providers

Dementia & Abuse Prevention Training

- Amends Statute to include dementia management training and abuse prevention training
- Clarifies the definition of nurse aide to include contract staff.

Culture Change & Use of Technology

National Demonstration

- Two Demonstration Projects
 - Best practices in Culture Change
 - Development of Best Practices in Use of Information Technology
- Demo Projects Take Into Consideration Special Needs of Residents (cognitive impairment, including dementia).
- Duration – Not to Exceed 3 Years

National Nurse Aide Registry

Conduct a Study on Establishing a National Nurse Aide Registry

Evaluate

- Who should be included in registry
- How such a registry complies with Federal and State privacy laws and regulations
- How data would be collected
- What entities and individuals have access to data
- How registry would provide appropriate information regarding violations of Federal and State laws



National Nurse Aide Registry

Evaluate

- How functions of nurse aide registry be coordinated nationwide program for background checks
- How information included in State nurse aide registries be included in national registry

Funding Not to Exceed \$500K