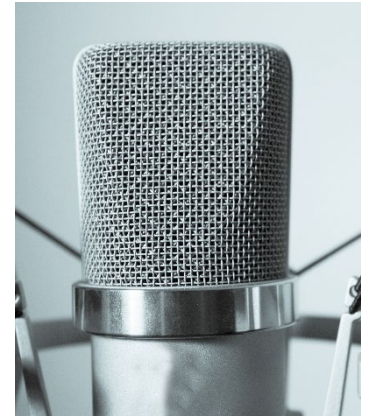


Reception Room

- **Good morning!** The meeting will start shortly.
- **Participants are muted** on entry.
- **Check the chat box:** Information about the training, including information about how to access captions and view the slides, is available there.
- **To view captions for this event:** You can view captions in Teams by clicking the More (...) button in the Teams window, then “Language and Speech,” and choose "Turn on live captions."
- **If you have any technical issues,** please visit the [Microsoft support page for Teams](#) or email Health.HRDCommunications@state.mn.us.





Federal Evaluation and Rapid Response Updates January 2024

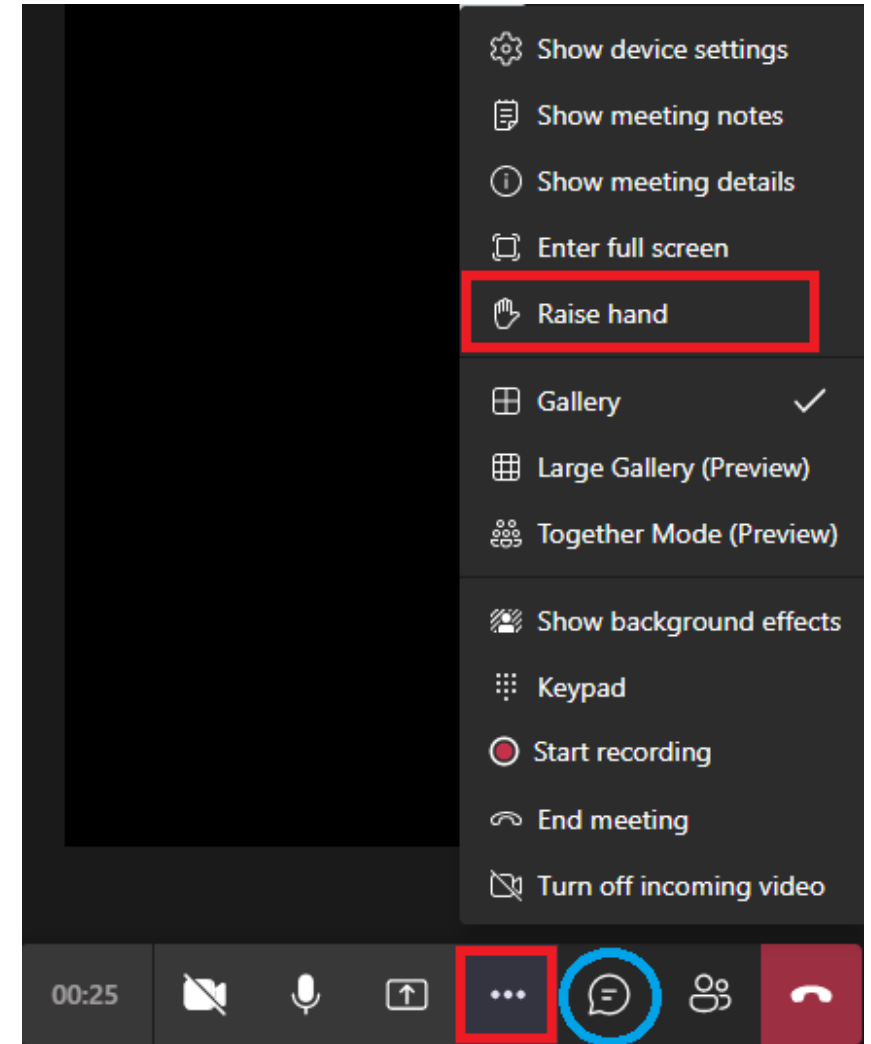
Sarah Grebenc | Executive Regional Operations Manager
Shannon Gilb & Kathy Lucas | Regional Operations Managers

Tennessean Warning

- **The Minnesota Department of Health is hosting this joint regulatory training for providers of long-term care and Health Regulation Division staff.**
- **Your comments, questions, and image, which may be private data, may be visible during this event.** You are not required to provide this data, and there are no consequences for declining to do so.
- **The virtual presentation may be accessible to anyone** who has a business or legal right to access it. By participating, you are authorizing the data collected during this presentation to be maintained by MDH. MDH will be posting a recording of this meeting to our YouTube channel.
- **To opt out of the presentation, please exit now.**

How to Ask a Question

- **Participants are muted.** We will answer as many questions as we can at the end of the presentation.
- **Two ways to ask a question** or provide a comment:
 1. Raise your hand (outlined in red).
 2. Click the Chat bubble (circled in blue) to open the chat.
- For phone attendees, press ***5** to raise your hand, and ***6** to unmute/mute yourself.
- **We will select speakers** in order and add questions from the chat at the end of the presentation.



- Maria King - Health Regulation Division Director
- Sarah Grebenc - Executive Regional Operations Manager, Federal Team

- Citations
- Pneumococcal Immunizations
- Past Noncompliance
- Arbitration Agreements
- Q & A





Citations

Protecting Health & Safety

MDH is responsible for following the CMS Mission and Priority Document

- [FY2024 Mission & Priorities document \(MPD\) - Action](https://www.cms.gov/medicare/health-safety-standards/quality-safety-oversight-general-information/administrative/fiscal-year-fy-2024-mission-priorities-document-mpd-action)
(<https://www.cms.gov/medicare/health-safety-standards/quality-safety-oversight-general-information/administrative/fiscal-year-fy-2024-mission-priorities-document-mpd-action>)
- LTC Requirements start on page 39
- [Nursing Homes | CMS](https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/GuidanceforLawsAndRegulations/nursing-homes) (<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/GuidanceforLawsAndRegulations/nursing-homes>)

Top Tags Cited in 1st Quarter FY24

- ✓ F880: Infection Control
- ✓ F689: Accidents/Supervision
- ✓ F883: Influenza and Pneumococcal Immunizations
- ✓ F684: Quality of Care
- ✓ F609: Reporting Alleged Violations
- ✓ F812: Food Procurement/Storage/Prepare/Serve Sanitary
- ✓ F677: ADL Care Provided for Dependent Residents
- ✓ F758: Free from Unnecessary Psychotropic Medications/PRN Use
- ✓ F554: Resident Self Administer Medications
- ✓ F695: Respiratory/Tracheostomy Care and Suctioning

Complaints 1st Quarter FY24

- 1930 total **Complaints** and **Facility Report Incidents (FRI's)** received for all provider types
- 446 triaged as an **Immediate Jeopardy (IJ)** complaints for all provider types
- 15 IJ's were called in nursing homes



IJs cited in 1st Quarter FY24

- F689: Accidents/Supervision*
- F578: Request/Refuse Discontinue Treatment; Formulate Advanced Directive
- F600: Free from Abuse/Neglect
- F686: Treatment to Prevent/Heal Pressure Ulcers
- F760: Free from Significant Medication Errors

*IJ's under Accidents/Supervision include using the incorrect sling/harness for a mechanical lift, fall from mechanical lift, elopement, supervision to prevent burns, supervision to prevent overdoses and falls.



Pneumococcal Immunizations

F883 §483.80(d)(2) Pneumococcal Disease

The facility must develop policies and procedures to ensure that-

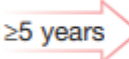
- i. Before offering the pneumococcal immunization, each resident or the resident's representative receives education regarding the benefits and potential side effects of the immunization;
- ii. Each resident is offered a pneumococcal immunization, unless the immunization is medically contraindicated, or the resident has already been immunized;
- iii. The resident or the resident's representative has the opportunity to refuse immunization; and
- iv. The resident's medical record includes documentation that indicates, at a minimum, the following: (A) That the resident or resident's representative was provided education regarding the benefits and potential side effects of pneumococcal immunization; and (B) That the resident either received the pneumococcal immunization or did not receive the pneumococcal immunization due to medical contraindication or refusal

Additional SOM Information

Facilities should follow the CDC and ACIP recommendations for vaccines. For up-to-date information on indications and timing of pneumococcal vaccines, please refer to CDC's ACIP Vaccine Recommendations and Guidelines.

- [ACIP Vaccine Recommendations and Guidelines \(https://www.cdc.gov/vaccines/hcp/acip-recs/index.html\)](https://www.cdc.gov/vaccines/hcp/acip-recs/index.html)
- [Immunization Schedules for Healthcare Providers \(https://www.cdc.gov/vaccines/schedules/hcp/index.html\)](https://www.cdc.gov/vaccines/schedules/hcp/index.html)
- [Pneumococcal Vaccine Timing for Adults \(PDF\) \(https://www.cdc.gov/vaccines/vpd/pneumo/downloads/pneumo-vaccine-timing.pdf\)](https://www.cdc.gov/vaccines/vpd/pneumo/downloads/pneumo-vaccine-timing.pdf)

Shared clinical decision-making for those who already completed the series with PCV13 and PPSV23

Prior vaccines	Shared clinical decision-making option
Complete series: PCV13 at any age & PPSV23 at ≥65 yrs	 PCV20 Together, with the patient, vaccine providers may choose to administer PCV20 to adults ≥65 years old who have already received PCV13 (but not PCV15 or PCV20) at any age and PPSV23 at or after the age of 65 years old.

Mobile App for Vaccine Providers

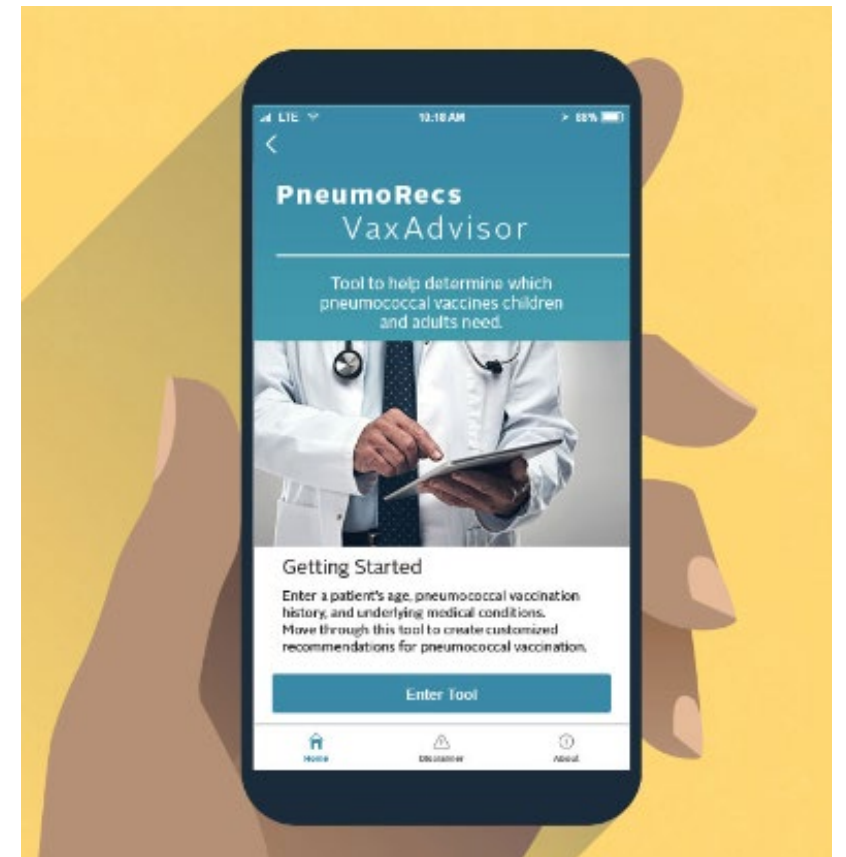
[PneumoRecs VaxAdvisor Mobile App for Vaccine Providers](https://www.cdc.gov/vaccines/vpd/pneumo/hcp/pneumoapp.html)
(<https://www.cdc.gov/vaccines/vpd/pneumo/hcp/pneumoapp.html>)

The ***PneumoRecs VaxAdvisor*** mobile app helps vaccination providers quickly and easily determine which pneumococcal vaccines a patient needs and when. The app incorporates recommendations for all ages so internists, family physicians, pediatricians, and pharmacists alike will find the tool beneficial.

Users simply:

- Enter a patient's age.
- Note if the patient has specific underlying medical conditions.
- Answer questions about the patient's pneumococcal vaccination history.

Then the app provides patient-specific guidance consistent with the immunization schedule recommended by the U.S. Advisory Committee on Immunization Practices (ACIP).





Past Noncompliance

7510.1 - Determining Citations of Past Noncompliance at the Time of the Current Survey

Past noncompliance may be identified during any survey. To make determinations of current noncompliance or past noncompliance, the survey team is expected to follow the investigative protocols and surveyor guidance.

To cite past noncompliance with a specific survey data tag (F-tag or K-tag), all the following three criteria must be met:

Past Noncompliance Criteria

1. The facility was not in compliance with the specific regulatory requirement(s) (as referenced by the specific F-tag or K-tag) at the time the situation occurred;
2. The noncompliance occurred after the exit date of the last standard (recertification) survey and before the survey (standard, complaint, or revisit) currently being conducted; and
3. There is sufficient evidence that the facility corrected the noncompliance and is in substantial compliance at the time of the current survey for the specific regulatory requirement(s), as referenced by the specific F-tag or K-tag.

Civil Money Penalty (CMP)

A nursing home does not provide a plan of correction for a deficiency cited as past noncompliance because the deficiency is already corrected; however, the survey team documents the facility's corrective actions on the CMS-2567.

Regulations at 42 CFR 488.430(b) provide that a Civil Money Penalty (CMP) may be imposed for past noncompliance since the last standard survey. CMS strongly urges States to recommend the imposition of a CMP for past noncompliance cited at the level of immediate jeopardy.

When a CMP is recommended, the State Survey Agency notifies the CMS Location and/or State Medicaid Agency within 20 days from the last day of the survey that determined past noncompliance of its recommendation to impose a CMP. The CMS Location and/or State Medicaid Agency responds to the recommendation within 10 days, and if accepted, sends out the formal notice in accordance with the notice requirements in §7305 and §7520.

Past Noncompliance – Scenario 1

689 Accidents: Facility failed to maintain lifts per manufacturer's guidelines leading to a malfunction that resulted in a fall for a resident during transfer. R1 sustained serious injuries.

- Observation

- Lifts in good repair and functioning correctly
- Staff inspection of lift prior to use to ensure no visible issues

- Interviews

- Resident and like residents
- Staff: assess competency, education
- Staff member(s) responsible for deficient practice: confirm deficient practice and education received
- Administrative staff: confirm deficiency and corrective actions

Past Noncompliance – Scenario 1 Cont.

- Record review
 - Resident and like residents
 - Cognition, pertinent diagnosis, orders, etc.
 - Incident report
 - 1:1 education with responsible parties
 - Staff education
 - Appropriate staff received
 - Completion/tracking of education
 - Audits
 - Policies, procedures, systems, and QAPI documentation



Past Noncompliance – Scenario 2

760 Freedom from Significant Medication Errors: Facility failed to administer prescribed medications to the correct resident. Resident developed hypotension and bradycardia which required emergency medical treatment and was admitted to the hospital ICU.

- Observation

- Nurses and TMAs were adhering to the facility's medication administration policy and following the "five rights" of medication administration
- Resident monitoring occurring as appropriate

- Interviews

- Resident and like residents
- Staff: assess competency, education
- Staff member(s) responsible for deficient practice: confirm deficient practice and education received
- Administrative staff: confirm deficiency and corrective actions

Past Noncompliance – Scenario 2 Cont.

- Record review
 - Resident and like residents
 - Cognition, monitoring/evaluation, pertinent diagnosis, orders, etc.
 - Incident report
 - 1:1 education with responsible parties
 - Staff education
 - Appropriate staff received
 - Completion/tracking of education
 - Audits
 - Policies, procedures, systems and QAPI documentation





Arbitration Agreements

- §483.70(n) Binding Arbitration Agreements If a facility chooses to ask a resident or his or her representative to enter into an agreement for binding arbitration, the facility must comply with all of the requirements in this section.
- §483.70(n)(1) The facility must not require any resident or his or her representative to sign an agreement for binding arbitration as a condition of admission to, or as a requirement to continue to receive care at, the facility and must explicitly inform the resident or his or her representative of his or her right not to sign the agreement as a condition of admission to, or as a requirement to continue to receive care at, the facility.

- §483.70(n)(2) The facility must ensure that:
 - The agreement is explained to the resident and his or her representative in a form and manner that he or she understands, including in a language the resident and his or her representative understands;
 - The resident or his or her representative acknowledges that he or she understands the agreement...
- §483.70(n)(3) The agreement must explicitly grant the resident or his or her representative the right to rescind the agreement within 30 calendar days of signing it.

- **Arbitration:** a private process where disputing parties agree that one or several other individuals can make a decision about the dispute after receiving evidence and hearing arguments.
- **Binding Arbitration Agreement (Arbitration Agreement or Agreement):** a binding agreement by the parties to submit to arbitration all or certain disputes which have arisen or may arise between them in respect of a defined legal relationship, whether contractual or not. The decision is final, can be enforced by a court, and can only be appealed on very narrow grounds.

Arbitration section of the admission agreement was blank. Did not indicate the resident agreed or declined arbitration. Resident interview indicated she asked for an explanation of the arbitration agreement; however, it was not provided. Social services interview indicated there was no follow-up with the resident to explain what the arbitration agreement meant.

F847 Citation Example #1

The arbitration agreement lacked evidence the resident was provided information that granted the resident or his or her representative the right to rescind the agreement within 30 calendar days of signing it for 3 of 3 residents reviewed. This section of the agreement was left blank, and the resident's indicated they could not recall this was ever explained or they understood this was an option.

F847 – Citation Example #2

- §483.70(n) Binding Arbitration Agreements. If a facility chooses to ask a resident or his or her representative to enter into an agreement for binding arbitration, the facility must comply with all of the requirements in this section..
- §483.70(n)(2) The facility must ensure that . . . (iii) The agreement provides for the selection of a neutral arbitrator agreed upon by both parties; and (iv)The agreement provides for the selection of a venue that is convenient to both parties.

- **Arbitrator:** A third party who resolves a dispute between others by arbitration and pursuant to an arbitration agreement. Arbitrators are decision makers, with procedures set by the arbitration agreement and state law, except they may not be required to follow federal or state rules of evidence and their decisions may not be reviewable by a court absent extraordinary circumstances.
- **Convenient Venue:** A location in which to carry out arbitration proceedings which should be agreed upon and suitable to both parties

F848 – Arbitration Agreement Language

In reviewing Arbitration Agreements, evaluators have reviewed agreements that:

- Include language the location of the arbitration will be determined by the facility as well as the selection of the arbitrator will be assigned by the facility.
- Please review your agreement to ensure it allows for an agreed upon venue by both the resident/resident representative, the facility is convenient and suitable to both parties and the arbitrator is neutral and agree upon by both parties.



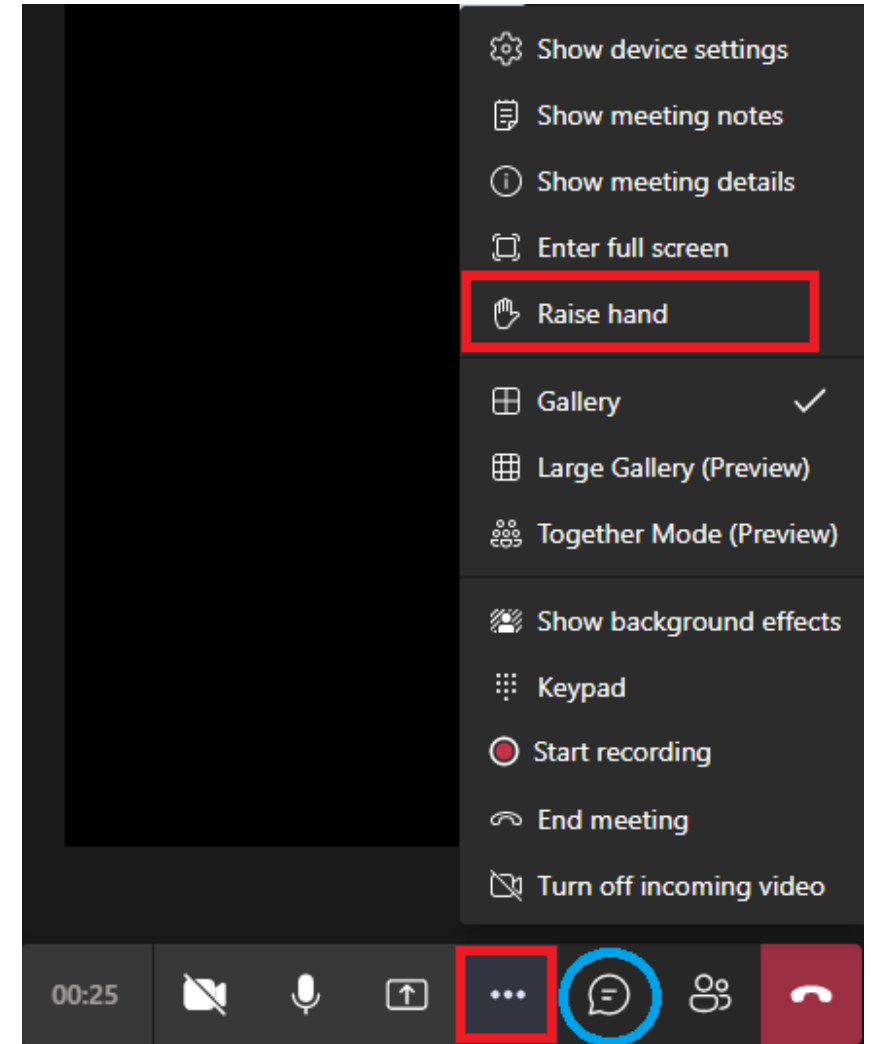
Questions?

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Thank You!

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