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Nursing Home: Regulatory Update January 2024

Presenters:

Maurella Sooh, District Operations Bureau Chief

Nursing Homes Survey Data 2023

8 Initials/CHOWs

1 Initials with complaints

18 Recertification Surveys

35 Recertification surveys with complaints

94 Complaints Surveys

1482 Cited Deficiencies

1082 Health

257 LSC

10 State regulation deficiencies

NHSN 133

Completed 219 Complaint investigations, 40%
Substantiated

Top LSC Deficiencies 2023

0321 - Hazardous Areas - Enclosure	28
0712 - Fire Drills	21
0324 - Cooking Facilities	20
0372 - Subdivision of Building Spaces - Smoke Barrier	15
0521 - HVAC	15
0761 - Maintenance, Inspection & Testing - Doors	15
0918 - Electrical Systems - Essential Electric System	10
0291 - Emergency Lighting	9
0293 - Exit Signage	9
0353 - Sprinkler System - Maintenance and Testing	9
0363 - Corridor - Doors	9
0374 - Subdivision of Building Spaces - Smoke Barriers	8
0211 - Means of Egress - General	7
0351 - Sprinkler System - Installation	7
0741 - Smoking Regulations	7
0511 - Utilities - Gas and Electric	6
0921 - Electrical Equipment - Testing and Maintenance	6

For Consideration: LSC

Not maintain fire/smoke barriers to resist passage of fire/smoke

Missing fire drills

Missing or late servicing of fire sprinkler system

Sensitivity testing for smoke detection devices

Generator load bank (30 min/month and 1.5 hr annually) and fuel quality tests (annual for diesel)

Corridor doors not maintained to resist fire/smoke (resident room doors, doors leading to the corridor)

Doors: self closers not attached

Sprinklers shall be located minimum 4 inches from a wall

E007: how facility assists residents with specific needs during an evacuation

E0015: quantities of supplies for shelter in place

Transfer grill on door

Kitchen suppression system inspection (every 6 months) and cleaning

Top Health Deficiencies 2023

0884 - Reporting - National Health Safety Network	133
0812 - Food Procurement,Store/Prepare/Serve-Sanitary	47
0761 - Label/Store Drugs and Biologicals	40
0842 - Resident Records - Identifiable Information	39
0657 - Care Plan Timing and Revision	38
0656 - Develop/Implement Comprehensive Care Plan	36
0880 - Infection Prevention & Control	36
0658 - Services Provided Meet Professional Standards	32
0684 - Quality of Care	29
0689 - Free of Accident Hazards/Supervision/Devices	27
0584 - Safe/Clean/Comfortable/Homelike Environment	25
0580 - Notify of Changes (Injury/Decline/Room, etc.)	24
0550 - Resident Rights/Exercise of Rights	22
0760 - Residents are Free of Significant Med Errors	21
0600 - Free from Abuse and Neglect	18
0695 - Respiratory/Tracheostomy Care and Suctioning	17
0655 - Baseline Care Plan	16
0740 - Behavioral Health Services	16
0609 - Reporting of Alleged Violations	15
0623 - Notice Requirements Before Transfer/Discharge	15
0758 - Free from Unnecessary Psychotropic Meds/PRN Use	15

Actual Harm Citations 2023

Detail for Sept-Dec 2023 only

F600: Free from Abuse and Neglect (3)

Failure to prevent ongoing resident to resident sexual abuse and harassment.

F684: Quality of Care (2)

Resident began to experience difficulty swallowing for multiple days, stopped eating and drinking. Physician not notified and sent out to hospital after several days. Resident passed (CMS identified as missed IJ)

F686: Treatment to Prevent/Heal Pressure Ulcer (2)

Failed to enter new wound care orders resulting in worsening wound (unstageable) and need for hospitalization.

Delay in initiating wound care, not monitoring, no pressure relieving devices resulting in development of unstageable wound and infection, requiring hospitalization. (CMS identified as missed IJ)

F689: Free of Accidents/Hazards/Supervision (1)

F697: Pain Management (4)

F740: Behavioral Health Services (1)

F760: Free from Significant Med Error (2)

Nurse administered medications to the wrong resident. Resident was hospitalized as a result.

F725: Sufficient Nursing Staff (1)

Immediate Jeopardy 2023

Detail for Sept-Dec
2023 only

F580: Notify of Changes (4)

F600: Free from Abuse and Neglect (1)

F610: Investigate/Prevent/Correct Alleged Violation (1)

F684: Quality of Care (4)

Not providing wound care (non-pressure related) resulting in worsening wound

Not monitoring for blood sugar level for diabetic resident resulting in resident going into diabetic coma

F686: Treatment to Prevent/Heal Pressure Ulcers (1)

F689: Free from Accident Hazards (3)

Resident with history of taking food from other residents' plates and choking, observed taking food (not within diet) from another resident's plate.

F697: Pain Management (1)

F726: Competent Nursing Staff (1)

Nurse administered medications to the wrong resident

F760: Significant Medication Error (1)

Did continue blood thinner medication from hospital to facility, resulting in pulmonary embolism

For Consideration: Health

Abuse reporting:
2 hours

Daily Staff
Posting Retention

Hot water
temperatures

EPOC user and
back up

Compliance
dates: within 45
days

Food complaints;
temperatures,
alternates, taste

Identifying
change in
condition

Monitoring: blood
sugars,
inputs/outputs,
pain, prns

Notifying
residents of
rights

Not reporting

Infection Control:
oxygen tubing,
glucometers

Silver Alert
criteria

Survey Enforcement

Termination (6 months) from survey exit

DPNA (90 days) from exit date

ODPNA/DDPNA (15 days) from letter

- Survey exit: last date surveyors were onsite
- Plan of Correction/IDR: 10 calendar days from enforcement
- Remedies:
 - DPNA (90 days from survey exit) versus DDPNA/ODPNA (15 days from date enforcement received for Harm, SQC, IJ)
 - Termination: 6 months from survey exit
- Revisit: Within 60 days of survey exit
 - Enforcement letters to be revised to reflect compliance date within 30 days from enforcement

* Facility determines compliance date on POC




THE ENFORCEMENT GRID

ISOLATED: One or a very limited number of residents are affected and/or a very limited number of staff are involved, and/or the situation has occurred only occasionally or in a very limited number of locations.

PATTERN: More than a limited number of residents are affected, and/or more than a very limited number of staff are involved, and/or the situation has occurred in several locations and/or the same resident(s) have been affected by repeated occurrences of the same deficient practice.

WIDESPREAD: the problem causing the deficiencies are pervasive in the facility and/or represent systemic failure that affected or has the potential to affect a large portion or all of the facility's residents.

SEVERITY

Immediate Jeopardy To resident health or safety	J Requires Onsite Revisit	K Requires Onsite Revisit	L Requires Onsite Revisit
Actual harm that is not immediate jeopardy	G Requires Onsite Revisit	H Requires Onsite Revisit	I Requires Onsite Revisit
No actual harm with Potential for more than minimal harm that is not immediate jeopardy	D Phone/Fax Revisit	E Phone/Fax Revisit	F Requires Onsite Revisit Only If Substandard Quality of Care (SQC)
No actual harm With potential for minimal harm	A  Does NOT Require A POC. Not on 2567	B  Phone/Fax Revisit	C  Phone/Fax Revisit
	ISOLATED	PATTERN	WIDESPREAD

SCOPE



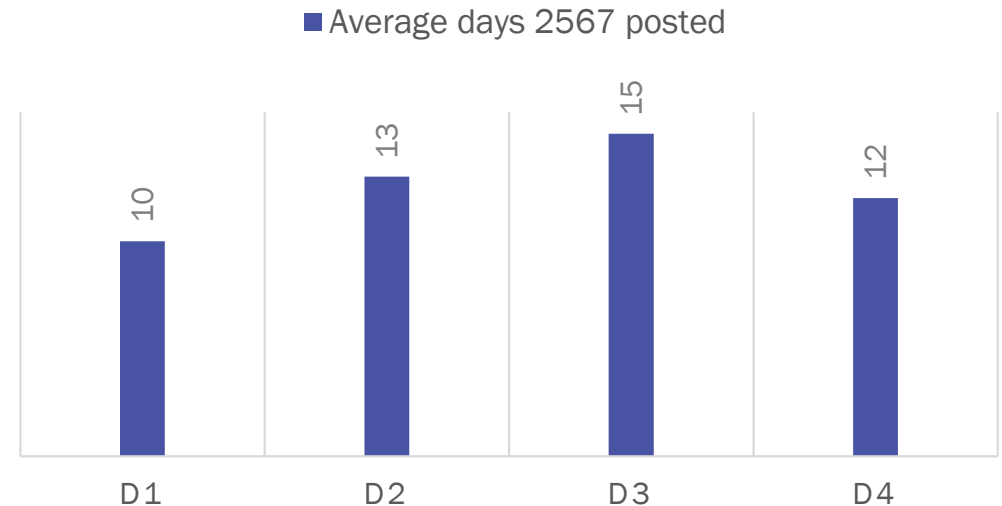
Substantial Compliance

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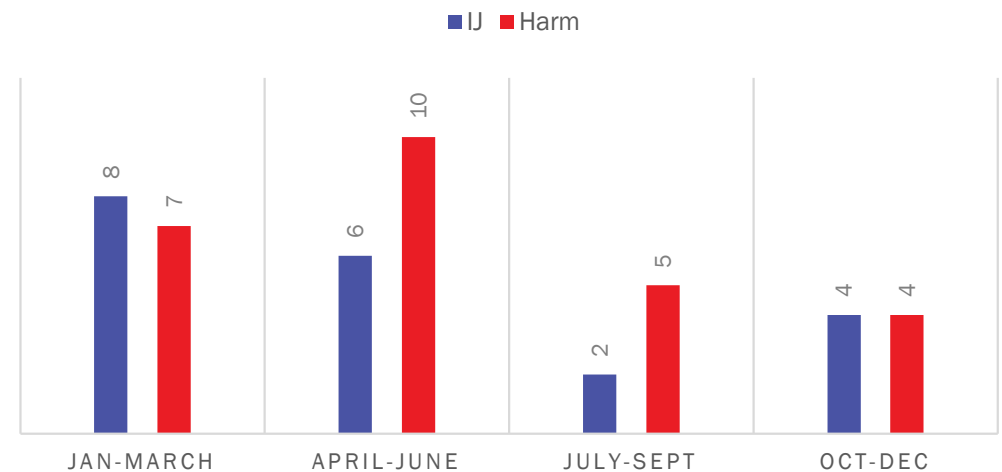
Enforcement Challenges

- Late 2567 Turnaround time: 55%
- Initial Determination: Ability to revise CMS_2567 reports for up to (1) year
- CMS feedback: wrong Scope/severity and missed IJs
- CMS feedback resulting in 2567 revisions: (3) revisions to lower s/s
- Inability to impose CMP for non-compliance identified before last recert
 - Timely revisits if outstanding complaints
- Conducting timely revisits
 - 60 days from survey exit
 - Outstanding complaints prior to recert enforcement

AVERAGE DAYS 2567 POSTED BY DISTRICT



FY23 (JULY 2022-JULY 2023): IJ AND HARM CITATIONS



Nursing Home Defensible 2023

Informal Dispute Resolution (IDR)

- 31 Citations disputed
 - (1) Removed during IDR
 - (12) Removed before sending to committee
 - 58% of IDR citations supported
 - MOU w/ Louisiana: completed (2) IIDR reviews

CMS Enforcement Review

- (30) Surveys for 24 facilities
- Resulting in
 - (20) IJ Citations
 - (26) Harm Citations
- 27/30 surveys supported with CMP; 90%
- Resulting in approximately \$1 million plus imposed CMPs (minus 35% reduction for waiving appeal)

CMP Grant Balance: approx. \$3.5 million

CMP Grant

The biggest changes to the CMP Grant application are that there is a limit of \$5,000 per facility per project.

There is no limit on how many CMP grants a Nursing Home can have ongoing at one time.

In addition, CMP Grants can no longer be used for the following projects:

- Mental and Behavioral Health Support; however CMS is offering technical and training to nursing homes through the SAMHSA Center of Excellence: [Home - COE-NF \(nursinghomebehavioralhealth.org\)](http://Home-COE-NF(nursinghomebehavioralhealth.org))
- Workforce; however CMS is launching a national campaign to help increase the nursing workforce in nursing homes. More information to be released in the future.

Examples of Allowable Uses for CMP Funds:

Resident or Family Councils: CMP funds may be used for projects by not-for-profit resident advocacy organizations that:

- Assist in the development of new independent family councils;
- Assist resident and family councils in effective advocacy on their family member's behalf;
- Develop materials and training sessions for resident and family councils on state implementation of new federal or state legislation.

Consumer Information: CMP funds may be used to develop and disseminate information that is directly useful to nursing home residents and their families in becoming knowledgeable about their rights, nursing home care processes, and other information useful to a resident.

Training to Improve Quality of Care: CMP funds may be considered for training in facility improvement initiatives that are open to multiple nursing homes, including joint training of facility staff and surveyors, technical assistance for facilities implementing quality assurance programs, training for resident and/or family councils, LTC ombudsman or advocacy organizations and other activities approved by CMS.

Alzheimer's Disease
and Dementia,
Wound Care,
Patient Safety,
Trauma Centered Care,

Cultural Sensitivity,
Culture Change
Person-Centered Care
Safe Medication Management
Pain Management

Oral Health
Non-Pharmaceutical
Solutions
Falls Education

Activities to Improve Quality of Life: CMP funds can be used for projects to foster social interaction, movement, and minimize loneliness. Projects include, but are not limited to: Horticulture/Gardening

- Music Therapy
- Animal Therapy Including Robotic Pets
- Activities and games fostering movement and function- This may include activities (e.g., Tai Chi), group games (e.g., bingo with movement components), or technology-assisted



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Error ID	Error Message	Severity	Type	Potential Cause	Tips /Action
-3555c	Invalid Skip Pattern: If O0250A equals dash (-), then O0250B must equal dash (-).	Fatal	Skip	The value submitted in item O0250B (Date vaccine received) is not consistent with the value submitted in item O0250A (Did resident receive the influenza vaccine?).	Tips: IF O0250A is a dash (-), THEN O0250B must be a dash (-). Action: Make appropriate corrections to the record and resubmit.

CMS iQIES MDS Error Codes

- ❖ Provider MDS Final Validation Reports in iQIES automatically generated within 24 hours of successful submission files
- ❖ Lists the error messages in order by Error ID followed by an Error Message
- ❖ The severity and type of error message are shown
- ❖ Type of error can determine the solution
- ❖ First four explanatory columns are followed by explanation of the potential cause and Tips to correcting the error and actions to take
- ❖ Contact MDS State Coordinator with any questions

MDS/OASIS Education Coordinator

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Satisfaction Survey Results 2023

DHI staff:	
Professional/courteous	73% Agree/Strongly Agree
Fair/Unbiased	52% Agree/Strongly Agree
Trained/Knowledgeable	47% Agree/Strongly Agree
Team Leader kept you informed	56% Agree/Strongly Agree

- Very respectful and professional
- They were very rude when asking questions
- DHI while interviewing staff, staff was miss quoted on survey results
- Surveyors are looking for 100 percent compliance as opposed to substantial compliance
- The team leader was fair, professional and responsive
- Not be so impersonal we are all professional if we are doing something that is not state regulated don't put your personal judgement. Make sure it's a real tag not something that fits into their perception of the tag.
- What happened to any sort of communication during the process? The team leader said they were going in the evenings, and otherwise no one spoke to any leadership in the building.
- This team of surveyors were wonderful to work with. They were extremely thorough and seemed to never stop digging for information or potential issues. They were always polite and felt like part of the team to ensure overall quality of care was provided to our residents. We never felt threatened. The team was made up of surveyors from district and seemed to work well together.
- It is well known in the state that your survey is all dependent on which team you get. Facilities well known to have terrible patient experience and outcomes get light surveys, and decent facilities with the wrong team are constantly beat up. The is getting worse and worse again like it was in years past.
- Communication was great and they respected our time, allowing us to take care of our residents.
- These intense surveys (large number deficiencies, high scope/severity deficiencies) are causing good professionals to exit the long-term care industry thereby hurting the industry overall

* 23 Nursing Home responses



Thank you!