The Final Phase of the Final Rule:
Phase 3 of the CMS Mega Rule

MEET YOUR PRESENTERS

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**SOURCE OF REFORM**

- CMS issued updated federal health and safety standards on September 28, 2016

- First updates to Requirements of Participation since 1991

- Where To Find It
  - 42 CFR 483, Subpart B
  - State Operations Manual, Appendix PP
Phase 3 Changes:

- Physical Environment
- Infection Control Preventionist
- Training
- Quality Assurance and Performance Improvement (QAPI)
- Compliance and Ethics
- Food and Nutrition
PHYSICAL ENVIRONMENT

• Resident call system at each resident’s bedside.

\((g)\) Resident call system. The facility must be adequately equipped to allow residents to call for staff assistance through a communication system which relays the call directly to a staff member or to a centralized staff work area from...  

Each resident’s bedside

\cite{42 CFR §483.90(g)(1)}

INFECTION CONTROL

\cite{42 CFR §483.80}

• Infection preventionist (IP): One or more individuals are responsible for the facility’s Infection Prevention and Control Program (IPCP).

• IP must:
  • Have primary professional training in nursing, medical technology, microbiology, epidemiology, or other related field;
  • Be qualified by education, training, experience or certification;
  • Work at least part-time at the facility; and
  • Have completed specialized training in infection prevention and control.
INFECTION CONTROL IMPLEMENTATION TIPS

• The IP must be a member of the QAAC and report to the committee on the IPCP on a regular basis.

• Partnerships

• Sharing

TRAINING

42 CFR §483.95

• A facility must develop, implement, and maintain an effective training program for all new and existing staff, contractors, and volunteers.

• A facility must determine the amount and types of training necessary based on a facility assessment.
MANDATORY TRAINING TOPICS

• Training must include:
  • Communication
  • Resident’s rights and facility responsibilities
  • Quality assurance and performance improvement (QAPI)

MANDATORY TRAINING TOPICS (continued)

• Infection control
• Compliance and ethics
• Required in-service training for nurse aides
• Behavioral health
TRAINING IMPLEMENTATION TIPS

• CMS-recommended training resources:
  • National Center on Elder Abuse. https://ncea.acl.gov
  • University of Southern California. Training Resources on Elder Abuse. http://trea.usc.edu

Phase 3

“Each LTC facility . . . must develop, implement, and maintain an effective, comprehensive, data-driven QAPI program that focuses on indicators of the outcomes of care and quality of life.”

42 CFR 483.75(a)
QAPI

The facility must –
• Maintain documentation and demonstrate evidence of its ongoing QAPI program.
• Present its QAPI plan to a State or Federal Survey Agency during surveys and upon request.
• Present documentation and evidence of its ongoing QAPI program's implementation and the facility's compliance with requirements upon request.

QAPI - PROGRAM DESIGN AND SCOPE

"A facility must design its QAPI program to be ongoing, comprehensive, and to address the full range of care and services provided by the facility.”
42 CFR 483.75(b)

QAPI program must:

- Address all systems of care and management practices
- Include clinical care, quality of life, and resident choice
- Utilize the best available evidence to define and measure indicators of quality and facility goals
- Reflect the complexities, unique care, and services that the facility provides
QAPI - PROGRAM FEEDBACK, DATA SYSTEMS, AND MONITORING

• “A facility must establish and implement written policies and procedures for feedback, data collections systems, and monitoring, including adverse event monitoring.” 42 CFR 483.75(c)

• Minimum requirements:
  • Effective systems to obtain and use feedback and input.
  • Effective systems to identify, collect, and use data and information from all departments.
  • Development, monitoring, and evaluation of performance indicators.
  • Facility adverse event monitoring.

QAPI - PROGRAM SYSTEMATIC ANALYSIS AND SYSTEMIC ACTION

The facility must take actions aimed at performance improvement, measure its success, and track performance. 42 CFR 483.75(d)(1)

The facility must develop and implement policies regarding:

- Using a systematic approach to determine underlying causes of problems impacting larger systems
- Monitoring the effectiveness of its performance improvement activities to ensure that improvements are sustained
- Developing corrective actions that will be designed to effect change at the systems level to prevent quality of care, quality of life, or safety problems
QAPI – PROGRAM ACTIVITIES

42 CFR 483.75(e)

• Priorities: high-risk, high-volume, or problem-prone areas.
• Must track medical errors and adverse resident events, analyze their causes, and implement preventive actions and mechanisms.
• Performance improvement projects (PIP). Must focus on high risk or problem-prone areas at least annually.

QAPI - GOVERNANCE AND LEADERSHIP

• “The governing body and/or executive leadership (or organized group or individual who assumes full legal authority and responsibility for operation of the facility) is responsible and accountable for ensuring...” 42 CFR 483.75(f)
• The QAPI program is implemented and maintained.
• QAPI program is sustained during transitions in leadership and staffing.
QAPI - GOVERNANCE AND LEADERSHIP (continued)

• The QAPI program is adequately resourced.
• The QAPI program identifies and prioritizes problems and opportunities.
• Corrective actions address gaps in systems, and are evaluated for effectiveness.
• Clear expectations are set around safety, quality, rights, choice, and respect.

Must maintain a quality assessment and assurance committee (QAAC) that includes the infection preventionist.
• QAAC reports to the facility’s governing body.
• QAAC must:
  • Meet at least quarterly;
  • Develop and implement appropriate plans of action to correct identified quality deficiencies;
  • Regularly review and analyze data, and act on available data to make improvements.
COMPLIANCE AND ETHICS PROGRAM

- Minimum requirements:
  - Established written compliance and ethics standards, policies, and procedures, including procedures for reporting suspected violations and disciplinary standards.
  - Assignment of high-level personnel with responsibility to oversee compliance.
  - Responsible personnel must have sufficient resources and authority to reasonably assure compliance.

A program must be reasonably designed, implemented, and enforced so that it is likely to be effective in preventing and detecting criminal, civil, and administrative violations and in promoting quality of care.

42 CFR §483.85

QAAC TIPS

- Optional
  - Resident and families
  - Staff responsible for direct care and services
- Tips
  - Monthly meetings
  - Standing Committee
    - Include relevant staff at all levels
Minimum Requirements for Compliance and Ethics Program (continued):

- Exercise due care to not delegate substantial discretionary authority to individuals who have a propensity to engage in criminal, civil, and administrative violations.

- Effectively communicate the standards, policies, and procedures to the entire staff, contractors, and volunteers. Includes mandatory participation in training or disseminating information that explains in a practical manner what is required under the program.

- Take reasonable steps to achieve compliance with the program’s standards, policies, and procedures.

- Consistent enforcement.

- When a violation is detected, ensure that all reasonable steps are taken to respond appropriately to the violation and to prevent further violations.

- Annual review.
COMPLIANCE AND ETHICS PROGRAM

Additional Compliance and Ethics Requirements for Operators with More Than Five Facilities

- Must include all previous requirements, PLUS-
  - Mandatory annual training program
  - A designated compliance officer
  - Designated compliance liaisons at each facility

FOOD AND NUTRITION

42 CFR §483.60

- Implementation deadline November 28, 2021.
- Employee a dietician and/or a Director of Food and Nutrition services.
- Employment of sufficient staff with appropriate competencies to carry out dietary services in accordance with resident assessments, individual care plans, and facility census.
• Requires a qualified dietitian or other clinically qualified nutrition professional either full-time, part-time, or on consultant basis.
  • Requirements for Dietitian

• If the dietician is not employed full time, must designate someone to serve as director of food and nutrition services.
  • Requirements for Director

• At minimum, the dietitian must:
  • Assess needs of residents
  • Develop and evaluate resident diets
  • Develop and implement person-centered programs
  • Oversee budget and purchasing
  • Participate in QAPI

• Dietitian can delegate to Director of Food Services and Nutrition
FOOD AND NUTRITION IMPLEMENTATION TIPS

• Person-centered
• Individual preference and cultural differences
• Competing interests
• Education and informed consent

THANK YOU