

## Long-Term Care Proposed Rule

### OVERVIEW

On July 13<sup>th</sup>, the Centers for Medicare and Medicaid Services (CMS) issued a proposed rule for long-term care facilities. Unlike the annual Skilled Nursing Facility payment rule issued in April of this year, the newly released proposal modernizes conditions of participation for long-term care facilities, which had not been updated since 1991. The proposed rule includes modifications to resident rights, facility responsibilities, transitions of care, and comprehensive resident-centered care plans. The proposed rule aims to improve quality of life, optimize resident safety, and encourage patient-centered care in long-term care facilities.

CMS will accept comments on the proposed rule for 60 days. This document summarizes several major provisions of the proposed rule, which is available [here](#).

### RESIDENT RIGHTS

Among CMS's proposed modifications:

- **Visitation:** CMS proposes to establish open visitation that aligns with visitation requirements for inpatient hospitals.
- **Abuse, neglect, and exploitation:** CMS proposes that facilities cannot employ individuals who have had a disciplinary action taken against their professional license by a state licensure body due to abuse, neglect, or harm of residents, or inappropriate use of their property.

### TRANSITIONS OF CARE

CMS proposes that the transfer or discharge of a resident would be documented in the clinical record. CMS also proposes that when a resident is transferred, specific information such as history of present illness, reason for transfer, and past medical/surgical history must be provided to the receiving facility. To avoid inappropriate transfer or discharge, CMS is proposing that facilities would also be required to document the specific resident needs that it cannot meet, attempts to meet the resident needs, and the services available at the receiving facility that will meet the resident's needs. At this time, CMS is not requiring a specific form or format for this communication.

CMS also proposes the following updates be made to discharge planning. Facilities would be required to:

- Document the resident's goals for admission, assess the resident's potential for future discharge, and include discharge planning in the comprehensive care plan;
- Include a reconciliation of all discharge medications with the resident's pre-admission medications in the resident's discharge summary;
- Add what arrangements have been made for the resident's follow-up care, including any post-discharge medical and non-medical services, to the post-discharge plan of care summary; and

- Implement the discharge planning requirements mandated by the Improving Medicare Post-Acute Care Transformation (IMPACT) Act, which requires long-term care facilities to report standardized patient assessment data. The IMPACT Act requires long-term care facilities to account for treatment preferences, goals of care of residents, and quality measures to inform the discharge planning process.

## RESIDENT ASSESSMENT

CMS proposes that nursing facilities must notify the state mental health authority or intellectual disability authority promptly if a resident has a significant change in mental or physical status so that a resident review can be conducted.

## COMPREHENSIVE PERSON-CENTERED CARE PLANNING

Currently, a comprehensive resident assessment must be completed within 14 days of a resident's admission. A comprehensive care plan is required for each resident within seven days after completion of the comprehensive resident assessment.

CMS proposes the following modifications to comprehensive care planning:

- **Baseline Care Plan:** Require facilities to develop a baseline care plan for each resident, within 48 hours of their admission.
- **Interdisciplinary Team (IDT):** Add a nurse aide, a member of the food and nutrition services staff, and a social worker to the required members of the IDT that develops the comprehensive care plan.

## PHYSICIAN SERVICES

Before an unscheduled transfer to a hospital, CMS proposes to require an in-person evaluation of a resident by a physician, a physician assistant, nurse practitioner, or clinical nurse specialist.

CMS proposes to allow an attending physician to delegate dietary authority to a dietician or other clinically qualified nutrition professional to prescribe a resident's diet. CMS also proposes that therapy orders may be delegated by the attending physician to a therapist. Delegated authority would be allowed to the extent that the clinician is permitted under state law.

## BEHAVIORAL HEALTH

CMS proposes to add a new section on requirements to provide behavioral health services to nursing facility residents. Facilities would be required to determine their direct care staff needs based on a facility assessment. CMS also proposes that facilities provide behavioral health training to staff based on the facility assessment.

Staff would be required to have appropriate competencies and skills to provide behavioral health care services to care for those who have been identified in the facility assessment. This includes knowledge of and appropriate training to care for residents with mental illness, psychosocial, adjustment problems and/or a history of trauma and/or post-traumatic stress disorder.

## PHARMACY SERVICES

CMS proposes to require that a pharmacist review a resident's chart:

- If a resident is new to a facility;
- If a prior resident returns or is transferred from a hospital or other facility;
- At least every 6 months; and/or
- Monthly, if the resident is prescribed medication such as a psychotropic drug or antibiotics.

CMS proposes to revise requirements regarding psychotropic drug use. The proposed rule would limit the use of psychotropic drugs to 48 hours unless medically necessary. Residents that take psychotropic drugs would receive gradual dose reductions and behavioral interventions in an effort to discontinue use of such medications, if clinically appropriate.