



WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 2

TO: MEMBERS OF THE SPECIAL COMMITTEE ON LEGAL INTERVENTIONS FOR PERSONS WITH ALZHEIMER'S DISEASE AND RELATED DEMENTIAS

FROM: Tawsif Anam, Intern

RE: Selected Federal Regulations and Initiatives Related to Long-Term Care Facilities

DATE: October 12, 2012

This Memo responds to the committee's request for more information about federal laws and regulations pertaining to long-term care facilities that: (a) are relevant to a long-term care facility's ability and responsibility to address "challenging behaviors" of residents; and (b) may impact the degree to which Wisconsin law may be modified to enable or encourage long-term care facilities to treat residents with challenging behaviors in place.

The first part of the Memo identifies relevant federal regulations, which are found at 42 CFR 483 (Requirements for States and Long-Term Care Facilities). Any nursing home that receives Medicaid or Medicare funding for the care of a resident is subject to both federal and state law related to the operation of nursing homes. The federal requirements are enforced by the Department of Health Services' Division of Quality Assurance, by delegation from the federal government. The full text of the federal regulations identified below, together with relevant interpretive guidelines prepared by the federal Centers for Medicare and Medicaid Services (CMS), are reproduced in Appendix PP to CMS's State Operations Manual, which is available on CMS's website at: http://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/som107ap_pp_guidelines_ltcf.pdf.

The second part of the Memo provides information regarding the "Hand in Hand" training series developed by CMS as part of the Partnership to Improve Dementia Care, an initiative to ensure appropriate care and use of antipsychotic medications for nursing home patients. A memorandum from CMS describing the Hand in Hand series is available at: <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-12-44.pdf>

RELEVANT FEDERAL REGULATIONS

Transfer and Discharge

The following relevant federal regulations concern transfer and discharge of nursing home residents:

- Section 483.12 -- Admission, Transfer, and Discharge Rights
- Section 483.12 (a) -- Transfer and Discharge
- Section 483.12 (a) (2) -- Transfer and Discharge Requirements
- Section 483.12 (a) (4) -- Notice Before Transfer
- Section 483.12 (a) (5) -- Timing of the Notice
- Section 483.12 (a) (6) -- Contents of the Notice
- Section 483.12 (a) (7) -- Orientation for Transfer or Discharge

These regulations provide information on the time, process, and under what circumstances a resident may be transferred or discharged from a facility.

Bed-Hold Policy and Readmission

The following relevant federal regulations concern policies regarding bed-holds and readmission of residents:

- Section 483.12 (b) -- Notice of Bed-Hold Policy and Readmission
- Section 483.12 (b) (1) -- Notice Before Transfer
- Section 483.12 (b) (2) -- Bed-Hold Notice Upon Transfer
- Section 483.12 (b) (3) -- Permitting Resident to Return to Facility

These regulations state the federal policies pertaining to bed-hold and readmission of residents after they have been transferred to a hospital or for therapeutic leave.

Quality of Life and Dignity

The following relevant federal regulations concern quality of life of nursing home residents:

- Section 483.15 -- Quality of Life
- Section 483.15 (a) -- Dignity

- Section 483.15 (b) -- Self-Determination and Participation
- Section 483.15 (e) -- Accommodation of Needs

These regulations require facilities to provide care for residents in a way that would maintain or enhance the dignity and respect of individuals. A facility has to promote an environment that maintains or enhances the dignity of residents, allow residents to make choices and have their needs and preferences satisfied. However, there is an important exception to a resident's right to reasonable accommodation of needs, which involves circumstances that endanger the health or safety of the individual or other residents.

Mental and Psychosocial Functioning of Residents

The following federal regulation concerns the mental and psychosocial functioning of residents and the provision of appropriate treatment and services to help promote and maintain the well-being of residents:

- Section 483.25 (f) -- Mental and Psychosocial Functioning

This regulation emphasizes the need for a resident to receive appropriate treatment and services to correct any mental or psychosocial adjustment difficulty.

HAND IN HAND: A TRAINING SERIES FOR NURSING HOMES

CMS's "Hand in Hand" training series presents a person-centered approach to care for and prevent abuse of people with dementia. CMS has developed the series as part of the Partnership to Improve Dementia Care, an initiative to ensure appropriate care and use of antipsychotic medications for nursing home patients. The series consists of video-based modules and instructor guides, which CMS has indicated it will distribute to nursing homes no later than December 2012.

While current nursing home regulations require annual training on dementia care and abuse prevention for nurse aides, the nursing homes are not required to use Hand in Hand as a training tool.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

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