House Children and Seniors Committee  
February 3, 2015

Nursing Homes
Survey, Certification, and Credentialing

Presented by:
Joe Ewert, Commissioner
Kansas Department for Aging and Disability Services
Nursing Homes

- Nursing Facilities: 302
- Nursing Facilities for Mental Health: 11
- Long Term Care Units of Hospitals: 42
Nursing Home Oversight

Licensure:
State statutes and regulations
http://www.aging.ks.gov/PolicyInfo_andRegs/ACH_CurrentRegs/ACH_Reg_Index.html

Certification (Medicare/Medicaid):
Federal statute, regulations, and interpretive guidance through Centers for Medicare/Medicaid Services
http://www.cms.gov

February 16, 2015
Layers of Oversight

- CMS contracts with states to perform survey and certification activities.
- States implement federal policies and systems.
- CMS maintains strict oversight over the state’s performance.
Inspections

• Annual Licensure Inspections

• Revisit Inspections

• Abbreviated Complaint Investigations
  Adult Abuse Neglect and Exploitation Hotline
  1-800-842-0078

• Life Safety Code / Kansas State Fire Marshal
Inspection Process

• In 2005 Kansas volunteered to pilot a new “Quality Indicator Survey” process developed by CMS.

• The process is data driven making it more objective than the traditional process.

• The process is more thorough, and requires 20% more time to complete.
The QIS uses health record data which is submitted quarterly on all residents, record reviews, resident interviews, and direct observations to identify "triggers" for further investigation.

Regulatory requirements are broken into "tags." Each tag has a specific investigative protocol a surveyor must complete.
Federal Regulatory Groups for Long Term Care Facilities

Substandard quality of care = one or more deficiencies with s/s levels of F, H, I, J, K, or L in Red Letter Reg. Groups

Definitions
F150 Definition of a Facility – SNF & NF
F151 Right to Exercise Rights – Free of Reprisal
F152 Rights Exercised by Representative
F153 Right to Access/Purchase Copies of Records
F154 Rights of an Inmate While Incarcerated
F155 Right to Refuse, Formulate Advance Directives
F156 Notice of Rights, Rules, Services, Charges
F157 Notify of Changes (Injury/Decline/Room, Etc)
F158 Right to Manage Own Financial Affairs
F159 Facility Management of Personal Funds
F160 Conveyance of Personal Funds Upon Death
F161 Surety Bond – Security of Personal Funds
F162 Limitation on Charges to Personal Funds
F163 Right to Choose a Personal Physician
F164 Personal Privacy/Confidentiality of Records
F165 Right to Voice Grievances Without Reprisal
F166 Right to Prompt Efforts to Resolve Grievances
F167 Right to Survey Results – Readily Accessible
F168 Right to Info/Contact Advocate Agencies
F169 Right to Perform Facility Services or Refuse
F170 Right to Privacy – Send/Receive Unopened Mail
F171 Access to Stationary/Postage/Pens, Etc
F172 Right to Facility Provision of Visitor Access
F173 Right to Examine Resident Records
F174 Right to Telephone Access with Privacy
F175 Right to Marital Couples to Share a Room
F176 Resident Self-Administer Drugs if Deemed Safe
F177 Right to Refuse Certain Transfers

Admission, Transfer & DC: 483.12
F201 Reasons for Transfer/Discharge of Resident
F202 Documentation for Transfer/Discharge of Res
F203 Notice Requirements Before Transfer/Discharge
F204 Preparation for Safe/Orderly Transfer/Discharge
F205 Notice of Bed Hold Policy Before/On-Transfer
F206 Policy to Permit Readmission Beyond Bed Hold
F207 Equal Practices Regardless of Payment Source
F208 Prohibiting Certain Admission Policies

Resident Assessment: 483.20
F271 Admission Physician Orders for Immediate Care
F272 Comprehensive Assessments
F273 Comprehensive Assessment 14 Days After Admit
F274 Comprehensive Assess After Significant Change
F275 Comprehensive Assess At Least Every 12 Months
F276 Quarterly Assessement At Least Every 3 Months
F278 Assessment Accuracy/Coordination/Certified
F279 Develop Comprehensive Care Plans
F280 Right to Participate Planning Care – Health CP
F281 Services Provided Meet Professional Standards
F282 Services By Qualified Persons/Per Care Plan
F283 Anticipate Discharge: Recap Stay/Final Status
F284 Anticipate Discharge: Post-Discharge Plan
F285 PASRR Requirements for MI & MR
F286 Maintain 15 Months of Resident Assessments
F287 Encoding/Transmitting Resident Assessment

Resident Behavior and Facility Practices: 483.13
F221 Right to be Free from Physical Restraints
F222 Right to be Free from Chemical Restraints
F223 Right to be Free from Abuse/Involutary Seclusion
F224 Right to Voice Grievances Without Reprisal
F225 Right to Report Allegations/Individuals
F226 Develop/Implement Abuse/Neglect, etc. Policies

Quality of Life: 483.15
F240 Care and Environment Promotes Quality of Life
F241 Dignity and Respect of Individual
F242 Self Determination – Right to Make Choices
F243 Right to Participate in Resident/Family Group
F244 [removed]
F245 Participate in Social/Religious Act/Community
F246 Reasonable Accommodations of Needs/Preferences
F247 Right to Notice Before Room/Roommate Change
F248 Activities Meet Interests/Needs of Each Resident
F249 Qualifications of Activity Professional
F250 Provision of Medically Related Social Service
F251 Qualifications of Social Worker >120 Beds
F252 Safe/Clean/Comfortable/Homelike Environment
F253 CSA/Caregiver Services
F254 Clean Bed/Bath Linens in Good Condition
F255 Adequate and Comfortable Lighting Levels
F256 Comfortable and Safe Temperature Levels
F257 Maintenance of Comfortable Sound Levels

Quality of Care: 483.25
F309 Provide Care/Services for Highest Well Being
F310 ADLs Do Not Decline Unless Unavoidable
F311 Treatment/Services to Improve/Maintain ADLs
F312 ADL Care Provided for Dependent Residents
F313 Treatment/Devices to Maintain Hearing/Vision
F314 Treatment/IC/CC to Prevent/Relieve Pressure Ulcers
F315 No Cath/Lef, Prevent (UTI), Restore Bladder
F317 No Reduction in ROM Unless Unavoidable
F318 Increase/Prevent Decrease in Range of Motion
F319 Treatment/Svc for Mental Psychosocial Difficulties
F320 No Behavior Difficulties Unless Unavoidable
F321 No NG (Nasogastric) Tube Unless Unavoidable
F322 NG Treatment/Services – Restore Eating Skills
F323 Free of Accident Hazards/Supervision/Devices
F324 Maintain Nutritional Status Unless Unavoidable
F325 Sufficient Fluid to Maintain Hydration
F326 Drug Regimen is Free From Unnecessary Drugs
F327 Drug Regimen is Free From Unnecessary Drugs
F328 Free of Medication Error Rates of 5% or More
F333 Residents are Free of Significant Med Errors
F334 Influenza and Pneumococcal Immunizations
Federal Regulatory Groups for Long Term Care Facilities

Nursing Services: 483.30
F353 Sufficient 24 Hour Nursing Staff Per Care Plans
F354 Waiver – RN 8 Hrs 7 Days/Week, Full Time DON
F355 Waiver – Licensed Nurses 24 Hr/Day
F356 Posted Nurse Staffing Information

Dietary Services: 483.35
F360 Provided Diet Meets Needs of Each Resident
F361 Qualified Dietician – Director of Food Services
F362 Sufficient Dietary Personnel
F363 Menus Meet Res Needs/Prep in Advance/Followed
F364 Nutive Value/Appeal, Palatable/Proper Temp
F365 Food in Form to Meet Individual Needs
F366 Substitutes of Similar Nutive Value
F367 Therapeutic Diet Prescribed by Physician
F368 Frequency of Meals/Meals at Bedtime
F369 Assistive Devices – Eating Equip/utensils
F371 Food Procurement, Store/Prepare/Serve – Sanitary
F373 Dispose Garbage & Refuse Properly
F373 Feeding Aids – Training/Supervision/Resident

Physician Services: 483.40
F386 Residents’ Care Supervised by a Physician
F386 Physician Visits – Review Care/Notes/Orders
F387 Frequency & Timeliness of Physician Visits
F388 Personal Visits by Physician, Alternate PA/NP
F389 Physician for Emergency Care, Available 24 Hours
F390 Physician Delegation of Tasks in SNF’s & NF’s

Specialized Rehab Services: 483.45
F406 Provide/Obtain Specialized Rehab Services
F407 Rehab Services – Physician Order/Qualified Person

Pharmacy Services: 483.60
F425 Pharmaceutical Svcs – Accurate Procedures, RPH
F429 Drug Regimen Review, Report Irregular, Act On
F431 Drug Records, Label/Store Drugs & Biologicals

Infection Control: 483.85
F441 Infection Control, Prevent Spread, Linens

Physical Environment: 483.70
F454 Life Safety from Fire
F455 Emergency Electrical Power System
F456 Essential Equipment, Safe Operating Condition
F457 Bedrooms Accommodate No More Than 4 Residents
F458 Bedrooms Measure at Least 60 Square Feet/Resident
F459 Bedrooms Have Direct Access to Exit Corridor
F460 Bedrooms Assure Full Visual Privacy
F461 Bedrooms – Window/Floor, Bed/Furniture/Closet
F462 Bedrooms Equipped Near Lavatory/Tioket
F463 Resident Call System – Rooms/Toilet/Bath
F464 Requirements for Dining and Activity Rooms
F465 Safe/Functional/Sanitary/Comfortable Environment
F466 Procedures to Ensure Water Availability
F467 Adequate Outside Ventilation – Window/Mechanical
F468 Compliances Have Firmly Secured Handrails
F469 Maintains Effective Pest Control Program

Administration: 483.75
F480 Effective Administration/Resident Well-Being
F481 Facility Licensed Under State and Local Laws
F482 Comply With Federal/State Local Laws/Prof Std
F483 Governing Body – Facility Policies/Appoint Admin
F484 Nurse Aide Work > 4 Mo – Training/Competency
F485 Nurse Aide Work < 4 Mo – Training/Competency
F486 Nurse Aide Registry Verification, Retraining
F487 Nurse Aide Training Review – 12 Hi/Year In-service
F488 Nurse Aide Demonstrate Competency/Care Needs
F489 Employ Qualified PT/OT/Consult Professionals
F500 Outside Professional Resources – Arrange/Agreement
F501 Responsibilities of Medical Director
F502 Providers/Obtain Lab Services – Quality/Time/Lynn
F503 Lab Services – Fac Provided, Referred, Agreement
F504 Labs Services Only When Ordered by a Physician
F505 Promptly Notify Physician of Lab Results
F506 Assist With Transport Arrangements to Lab Svcs
F507 Lab Reports in Record – Lab Name/Address
F508 Provide/Obtain Radiology/Diagnostic Services
F509 Diagnostic Services – Meet Hospital Requirements
F510 Radiology/Diagnostic Services Only When Ordered
F511 Radiology Findings – Promptly Notify Physician
F512 Assist With Transport Arrangements to Radiology
F513 X-Ray/Diagnostic Report in Record – Signed/Date
F514 Resident Records – Complete/Accurate/Accessible
F515 Retention of Resident Clinical Records
F516 Release Resident Info, Safeguard Clinical Records
F517 Written Plans to Meet Emergencies/Disasters
F518 Train All Staff/Emergency Procedures/Drills
F519 Transfer Agreement With Hospital
F520 QAA Committee – Members/Meet Quarterly/Plans
F522 Disclosure of Ownership Requirements
Deficiencies

- Deficiencies are given a scope and severity ranking based on how many residents were impacted, and what the impact of the deficient practice was.
### CMS Scope and Severity Grid

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<td><strong>Immediate Jeopardy to Resident Health or Safety:</strong> A situation in which immediate corrective action is necessary because the provider's non-compliance has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in a facility.</td>
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<td><strong>Actual Harm That is Not Immediate Jeopardy:</strong> Non-compliance that results in a negative outcome that has compromised the resident's ability to maintain and/or reach his/her highest practicable well being.</td>
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<td><strong>No Actual with Potential for More than Minimal Harm That is Not Immediate Jeopardy:</strong> Non-compliance that results in minimal physical, mental and/or psycho social discomfort to the resident and/or has the potential (not yet realized) for harm.</td>
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<tr>
<td><strong>No Actual with Potential for Minimal Harm:</strong> A deficiency that has the potential for causing no more than a minor negative impact to the resident(s).</td>
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<tbody>
<tr>
<td><strong>Red</strong></td>
<td><strong>Substandard Care</strong></td>
<td><strong>ISOLATED:</strong></td>
<td>More than a limited # of residents affected or staff involved.</td>
</tr>
<tr>
<td><strong>Blue</strong></td>
<td><strong>Substantial Compliance</strong></td>
<td><strong>WIDESPREAD:</strong></td>
<td>Pervasive, systemic problems identified that do/potentially affect a large # of residents.</td>
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<tr>
<td><strong>Blue</strong></td>
<td><strong>Substantial Compliance</strong></td>
<td><strong>PATTERN:</strong></td>
<td>More than a limited # of residents affected or staff involved.</td>
</tr>
<tr>
<td><strong>Red</strong></td>
<td><strong>Substandard Care</strong></td>
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February 16, 2015
Enforcement Remedies

• Correction Orders
• Civil Money Penalties
• Ban on Admissions
• Denial of Payment for new Admissions
• Decertification
• Receivership
• Licensure Revocation

February 16, 2015
Achieving Compliance

• All deficiencies cited must be corrected.

• KDADS conducts additional reviews to assure corrective actions have occurred and compliance has been achieved.

• Progressive enforcement remedies are applied if deficiencies are not corrected upon a revisit.

• Facilities must achieve compliance within 3 revisits, with maximum of 180 days from first inspection or face decertification.
Deficiency Trends

• Deficiencies Written CY 2014: 2606

• Average Number per Facility: 9.6

• Percentage Deficiencies SS of G or Higher: 3%

• Percentage Facilities with 0 Deficiencies: 2.2%
Deficiency Trends

• Most frequently written deficiencies at SS of G or higher:
  – Accidents/Supervision/Devices
  – Preventions/Treatment of Pressure Sores

• Most frequently written deficiencies lower than G:
  – Accidents/Supervision/Devices
  – Food Service
Abuse Neglect and Exploitation (ANE) KSA 39-1401

• (f) “Abuse” means any act or failure to act performed intentionally or recklessly that causes or is likely to cause harm to a resident.

• (g) “Neglect” means the failure or omission by one's self, caretaker or another person with a duty to provide goods or services which are reasonably necessary to ensure safety and well-being and to avoid physical or mental harm or illness.

• (i) “Exploitation” means misappropriation of resident property or intentionally taking unfair advantage of an adult's physical or financial resources for another individual's personal or financial advantage by the use of undue influence, coercion, harassment, duress, deception, false representation or false pretense by a caretaker or another person.
ANE Related Deficiencies

• *Four tags related to ANE:*
  - F223- Free from Abuse/Involuntary Seclusion: 7
  - F224- Neglect/Misappropriation: 7
  - F225- Investigate/Report Allegations: 72
  - F226- Develop/Implement Policies for prevention: 39
Individual Liability

• In addition to holding facilities accountable, credentialed individuals may be disciplined.

• Our team reviews investigations for individual liability and makes referrals to professional boards such as KSBN, BACHA, and the Kansas Nurse Aide Registry for discipline.
Kansas Nurse Aide Registry

- KDADS maintains the Kansas Nurse Aide Registry.

- Individual nurse aides who have findings of ANE may be placed on the registry and be prohibited from employment in any adult care home.
• Nurse aides accused of ANE have due process through OAH.

• KDADS legal issues notice and petition within 30 days of referral.

• Can take several months to work through the process and place an individual on the registry.
Kansas Nurse Aide Registry

• All adult care homes must verify employees are eligible for employment.

• Adult care homes must submit all unlicensed/non-registered staff for criminal record checks.

• Record checks conducted on licensed/registered staff through respective boards/authorities.