

Florida Medical Directors 28th Annual Conference and Trade Show

AHCA Regulatory Update October 27, 2019

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Learning Objectives

- Summarize the relevant updates for the Mega Rule and the roll back proposal.
- Review incidences of Immediate Jeopardy in SNFs.
- List the top 10 SNF deficiencies.
- Discuss the facility assessment process in terms of QAPI and what medical directors need to know.
- Describe the most common sources of health care-associated infections across the continuum of care including infection rates.
- Discuss abuse/neglect regulations.

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Learning Objectives

- Explain the necessary elements of a comprehensive infection prevention and control program for post-acute care settings, including outbreak response and surveillance.
- Discuss antibiotic stewardship.
- Discuss components of the infection prevention and control program and the medical director's role.
- Describe how often medical directors have been cited in Florida.
- Review any relevant updates to the assisted living regulations.

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**LTC Requirements of Participation
Phase 3 Implementation
November 28, 2019**

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F607-Abuse & Neglect Policies

- §483.12(b)(4) Establish coordination with the QAPI program required under §483.75.
- F607 can be Substandard Quality of Care (SQC).

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F699 - Trauma Informed Care

Entire tag will be implemented November 2019:

§483.25(m) Trauma-informed care (TIC)

The facility must ensure that residents who are trauma survivors receive culturally competent, trauma-informed care in accordance with professional standards of practice and accounting for residents' experiences and preferences in order to eliminate or mitigate triggers that may cause re-traumatization of the resident.

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F741- Staffing - Behavioral Health Needs

- §483.40(a)(1) Caring for residents with mental and psychosocial disorders, as well as residents with a history of trauma and/or post-traumatic stress disorder, that have been identified in the facility assessment pursuant to §483.70(e).

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F837- Governing Body

- §483.70(d)(3) The governing body is responsible and accountable for the QAPI program.

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F865- QAPI Plan/Program

- §483.75
 - Must address full range of services, but remove specific's such as:
 - Care and management practices.
 - Clinical care, quality of life, and resident choice.
 - Evidence of quality that reflects processes that have shown to be beneficial to residents.
 - Required to address feedback and monitoring, but eliminating references to:
 - Input from staff and residents frequent problems.
 - Systems to collect information from all departments within a facility.
 - Adverse event monitoring.

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F865- QAPI Plan/Program

- Address performance improvement through analysis and action, but removes:
 - How to use a systematic approach.
 - How to develop corrective actions.
 - How to monitor effectiveness of performance improvement activities.

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F882 - Infection Preventionist

Entire tag November 2019 Implementation:

§483.80(b) The facility must designate one or more individual(s) as the infection preventionist(s) (IP)(s) who are responsible for the facility's IPCP. The IP must:

- §483.80(b)(1) Have primary professional training in nursing, medical technology, microbiology, epidemiology, or other related field;
- §483.80(b)(2) Be qualified by education, training, experience or certification;

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F882 - Infection Preventionist, cont.

- §483.80(b)(3) Work at least part-time at the facility; and
- §483.80(b)(4) Have completed specialized training in infection prevention and control.
- §483.80 (c) Be member of QAA committee and report on the IPCP.

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F882 Infection Preventionist, cont.

- 1.6 and 3.8 million infections in nursing homes each year.
- 388,000 deaths attributed to infection each year.
- F880 Infection Prevention and Control Program is Top cited deficiency.

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F882 - Changes

- Federal Register proposal to §483.80(b)(3) to **remove** “at least part-time” and **insert** “sufficient time.” **No delay in implementation.**
- Use facility assessment to develop IPCP.
- Time necessary to devote to the IPCP will vary among facilities.
- Comments solicited in how to determine “sufficient time.”

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F895 Compliance and Ethics Program**Entire tag November 2019 Implementation:**

§483.85 Program must be reasonably capable of reducing the prospect of criminal, civil, and administrative violations under the Act and promoting quality of care and include:

- Appointing a compliance officer for facility and organization.

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F895 Compliance and Ethics Program, cont.

- Alternate method of reporting anonymously.
- Enforcing operating standards.
- Responding to violations.
- Disciplinary measures for failure to detect and report a violation.
- Reviewing annually.

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F895 Compliance and Ethics Program, cont.

Federal Register proposal:

- **Remove** designate compliance office and compliance liaison (5 or more facilities).
- **Assign specific individual** to oversee compliance.
- **Remove** annual review and **propose** Periodic assessment.
- **Remove** “contact person” but **keep** alternate method of reporting anonymously.

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F895 Compliance and Ethics Program, cont.

Federal Register proposal (cont.):

- Remove prescriptive language and delay implementation until one year after effective date of finalization of the rule.
- Include basic elements of a Compliance and Ethics Program.
- Refer to OIG Compliance Program Guidance for Nursing Facilities 2000 and OIG Supplemental Compliance Program Guidance for Nursing Facilities 2008.

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Nursing Home Immediate Jeopardy

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Nursing Home IJ Definition

**Nursing Facility (SNF), Nursing Facility (NF),
and/or dually certified SNF/NF) - §488.301**

Immediate Jeopardy means a situation in which the provider's noncompliance with one or more requirements of participation has caused or is likely to cause serious injury, harm, impairment, or death to a resident.

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Immediate Jeopardy Components

- Noncompliance
- Actual or likelihood of serious injury, harm, impairment or death (serious adverse outcome)
- Need for immediate action

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Florida Nursing Home IJ Trends

- Majority of IJs came from stand-alone complaint investigations
- Two IJs were Life Safety Code
- The majority IJs did not result in actual serious harm
 - Death occurred in all of the CPR cases
- Many of the IJs included noncompliance with neglect (F600)

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F689 - Accidents

- Resident Elopement
- Occurs when a resident leaves the premises or a safe area
 - Without authorization (i.e., an order for discharge or leave of absence) and/or
 - Any necessary supervision to do so

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Strategies to Reduce Risk of IJ Noncompliance for Elopement

- Assess all residents for wandering and elopement risk
 - Newly-admitted, mobile residents have high elopement risk
- Examine staffing resources to ensure sufficient and competent staff
- Examine staffing assignments for ability to monitor residents

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More Ways to Reduce Risk of IJ Noncompliance for Elopement

- Frequently inspect entire premises for hazards and risks
 - Address/manage these hazards and risks
 - Secure units really secure?
- Review facility-wide assessment
 - Address necessary resources to care for
 - Residents with wandering/elopement risk
 - Newly admitted residents, particularly those who are mobile

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Additional Ideas to Reduce Risk of IJ Noncompliance for Elopement

- Staff training
 - Periodically conduct mock elopement drills on all shifts
- QAPI program review
 - Results of formal audits and informal audits

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F678 - Cardio Pulmonary Resuscitation (CPR)

- Failure to perform CPR for residents who wish full code.
- Initiating CPR for residents who wish not to be resuscitated.
- Medical intervention used to restore circulatory and/or respiratory function that has ceased.

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Resident CPR IJ Scenario

- A resident is found unresponsive
 - No pulse, no breathing
- Nursing response (or lack of)
 - Nursing staff can't determine code status of resident from record
 - Nursing staff don't perform CPR
 - Nursing staff delay performing CPR
 - EMS not called

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Strategies to Reduce Risk of IJ Noncompliance for Failure to Honor CPR & DNRO

- Determine advance directives/code status of all residents
 - Is the information accurate and easy to find?
 - Be watchful during care transitions (i.e. admission, readmission)
 - Hospice coordination with advance directives
- Staff competency/training
 - Assess nursing staff regarding their competency with code response
 - Conduct mock code drills
 - Train nursing staff about their scope of practice and medical errors

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More Ideas to Reduce Risk of IJ Noncompliance for Failure to Honor CPR & DNRO

- Review policies and standards of care to ensure they are current
- QAPI
 - Review resident death cases

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Quality of Care

- Unsafe tube feeding administration
- Failure to recognize and respond to resident's change in condition
- Lack of care for a surgical wound

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Strategies to Reduce Risk of IJ Noncompliance for Quality of Care

- Sufficient nurse staffing
 - Look at resident acuity and needs
 - Do nursing staff numbers match up to provide individualized safe care?
- Nurse competency/training
 - Assess nursing staff competencies
 - Train nursing staff about their scope of practice and medical errors

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More Advice to Reduce Risk of IJ Noncompliance for Quality of Care

- Managerial oversight
 - Regular, periodic observation of care
- Review policies and standards of care to ensure they are current
- QAPI
 - Care audits

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Infection Control IJ Scenario

- Glucometer Disinfection
 - Nurse failed to clean and disinfect glucometer after use
 - Nurse used an alcohol wipe to disinfect glucometer after use
 - Nurse used disinfectant, but fails to use it properly
 - Nurse not only failed to disinfect glucometer, but contaminates other surfaces & objects with it
- Sharing insulin pen
 - Nurse failed to follow the 5 “Rs” for medication administration
 - No system for safe injection practices

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Strategies to Reduce Risk of IJ Noncompliance for Infection Control

- Staffing Resources
 - Know how many and which residents use glucometers and insulin pens
 - Do all of them need frequent blood glucose monitoring and insulin injections?
 - Do nursing staff numbers match up to provide individualized safe care?

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More Ways to Reduce Risk of IJ Noncompliance for Infection Control

- Staff Competency
 - Training for glucometer disinfection
 - Training for insulin administration and safe injection practices
- Managerial oversight
 - Regular, periodic observation of care
- Review policies and standards of care to ensure they are current with national infection control standards
- QAPI
 - Care audits
 - Integrate Infection Control and Prevention Program

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Ways to Avoid Immediate Jeopardy

- Analyze the care needs of resident population
- Examine your high risk, high volume, or problem-prone areas
- Be proactive – use QAPI as your tool
- Focus on sufficient and competent nursing staff

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Top Deficiencies

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Florida Top 10 Federal Nursing Home Deficiencies (July 1, 2018- June 30, 2019)

Rank	Tag	Federal NH Tag
1	F880**	Infection Control & Prevention Program
2	F812**	Food Procure, Store/Prepare/Serve - Sanitary
3	F656**	Develop & Implement Comprehensive Care Plan
4	F684**	Provide Care/Services For Highest Well Being
5	F761**	Drug Records, Label/Store Drugs & Biologicals
6	F689**	Free of Accident Hazards
7/tie	F677*	ADL Care Provided for Dependent Residents
7/tie	F842**	Resident Records
9	F550*	Exercise of Rights
10	F623	Notice Requirements for Transfer/Discharge

*denotes in Top Ten last year **denotes in Top Ten last two years

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Trends

- Seven of the top ten tags this past year have been in the top ten at least the past two years.
- The top six were in the top ten for at least the past two years.
- Another two were in the top ten last year.
- That means there is only one new top ten tag, F623 at #10.

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#1 - F880

The facility must establish and maintain an infection prevention and control program designed to provide a safe, sanitary and comfortable environment and to help prevent the development and transmission of communicable diseases and infections.

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Why do we keep seeing F880?

- Hand hygiene
- Glucometers
- Respiratory Equipment
- Laundry handling
- Not following isolation precautions

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Let's Turn This Trend Around!!

- Are all hands on deck with infection prevention?
- Is this tied to your facility assessment?
- How does your QAPI team address IP?

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#3 -F656

The facility must develop and implement a comprehensive person-centered care plan for each resident, consistent with the resident rights that includes measurable objectives and timeframes to meet a needs identified in the comprehensive assessment. The comprehensive care plan must describe services that are to be furnished...

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F656 Example cited at IJ

Facility staff did not follow care plan for administration of tube feeding via a gastrostomy tube for one resident. Staff administered 1000 milliliters of tube feeding (the entire container) via gravity in less than 3 hours. The resident subsequently died.

The order & CP were for 70 ml/hr for 20 hr.

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#4 - F684

Quality of care is a fundamental principle that applies to all treatment and care provided to facility residents. Based on the comprehensive assessment of a resident, the facility must ensure that residents receive treatment and care in accordance with professional standards of practice, the comprehensive person-centered care plan, and the residents' choices.

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F684 – Elements of Compliance

- Are services provided to prevent decline?
- Is symptom management provided?
- Do staff recognize and assess risk factors for resident conditions?
- Is response to interventions evaluated and revised (as needed)?
- Are residents informed of options for care and steps to minimize decline?

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Example of Harm at F684

- Failure to address change in condition.
- Resident experienced drop in diastolic blood pressure, elevated temperature, poor appetite, amber colored urine...for three days before notice to MD. Upon notice to MD, not all symptoms reported.
- Resident transferred to hospital unresponsive.

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#5 - F761

Drugs and biologicals used in the facility must be labeled in accordance with currently accepted professional principles, and include the appropriate accessory and cautionary instructions, and the expiration date when applicable.

This was cited 154 times between
July 1, 2018- June 30, 2019!

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Why is F761 cited

- Meds left unsecured (such as syringe of sodium chloride left unattended at bedside and unsecured medications in dialysis suite)
- Meds not stored as required (such as Ativan not in separately locked container)
- Expired medications
- Not storing meds under refrigeration when needed

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**Medical Director
And
Facility Assessment**

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F838 – Facility Assessment

- The facility must conduct and document a facility-wide assessment to determine what resources are necessary to care for its residents competently during both day-to-day operations and emergencies.
- The facility must review and update that assessment, as necessary, and at least annually. The facility must also review and update this assessment whenever there is, or the facility plans for, any change that would require a substantial modification to any part of this assessment.

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Facility Assessment Must Include:

- The facility's resident population;
- The facility's resources; and
- A facility-based and community-based risk assessment, utilizing an all-hazards approach.

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Facility Assessment

- At a minimum, include the administrator, a representative of the governing body, **the medical director**, and the director of nursing in development of facility assessment.
- Assessment of resident population is foundation of the facility assessment. It must include an evaluation of diseases, conditions, physical, functional or cognitive status, acuity of the resident population, and any other pertinent information about the residents that may affect and plan for the services the facility must provide (e.g., MDS data, Facility Characteristics report form CMS 672).

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Facility Assessment, cont.

- A community-based risk assessment should include review for risk of infections (e.g., multidrug-resistant organisms- **MDROs**) and communicable diseases such as tuberculosis and influenza. Appropriate resident tuberculosis screening should be performed based on state requirements.

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F841 – Medical Director

- §483.70(h) Medical director.
- §483.70(h)(1) The facility must designate a physician to serve as medical director.
- §483.70(h)(2) The medical director is responsible for—
 - (i) Implementation of resident care policies; and
 - (ii) The coordination of medical care in the facility.

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Infection Prevention and Control Program

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F880 - Program Must Include:

- A system for preventing, identifying, reporting, investigating, and controlling infections and communicable diseases that:
 - Covers all residents, staff, volunteers, visitors, and other individuals providing services under a contractual arrangement;
 - Is based on the individual facility assessment;
 - Follows accepted national standards;
- Written standards, policies and procedures;
- A system for recording incidents identified under the IPCP and corrective actions taken by the facility; and
- An antibiotic stewardship program.

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F881 – Antibiotic Stewardship

- The intent of this regulation is to ensure that the facility:
 - Develops and implements protocols to optimize the treatment of infections by ensuring that residents who require an antibiotic, are prescribed the appropriate antibiotic;
 - Reduces the risk of adverse events, including the development of antibiotic-resistant organisms, from unnecessary or inappropriate antibiotic use; and
 - Develops, promotes, and implements a facility-wide system to monitor the use of antibiotics.

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Core Elements –CDC Recommendations

- Leadership Support
- Accountability
- Drug Expertise
- Actions to Improve Use
- Tracking-Monitoring Antibiotic Prescribing, Use, and Resistance
- Reporting information to Staff
- Education

*Centers for Disease Control and Prevention: Core Elements of Antibiotic Stewardship For Nursing Homes- June 9, 2017

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Antibiotic Stewardship Program in Relation to Pharmacy Services

- The assessment, monitoring, and communication of antibiotic use shall occur by a licensed pharmacist in accordance with **§483.45(c), F756, Drug Regimen Review.**
- A pharmacist must perform a medication regimen review (MRR) at least monthly, including review of the medical record and identify any irregularities, including unnecessary drugs.

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Surveyor Determination of Compliance

- Infection Control Facility Task
 - Review to determine if program includes antibiotic use protocols addressing antibiotic prescribing practices;
 - Review of laboratory reports to determine if the antibiotic is indicated or needs to be adjusted;
 - An infection assessment tool; or
 - Management algorithm is used when prescribing; and a system to monitor.

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Infection Control Assessment and Response (ICAR)

- Conducted by the Department of Health-email HAI_Program@flhealth.gov if you are interested in participating in an ICAR.
- Non-Regulatory onsite assessment.
- Three components:
 - Policy and procedure review;
 - Unit observations (e.g., hand hygiene, personal protective equipment, cleaning and disinfecting); and
 - Final written report.

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483.12 Freedom from Abuse, Neglect, and Exploitation

- Abuse is the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish.
- Abuse also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being.
- Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain or mental anguish.
- It includes verbal abuse, sexual abuse, physical abuse, and mental abuse including abuse facilitated or enabled through the use of technology.

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483.12 Freedom from Abuse, Neglect, and Exploitation

- Neglect is the failure of the facility, its employees or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish, or emotional distress.

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F-600

- The resident has the right to be free from abuse, neglect, misappropriation of resident property, and exploitation as defined in this subpart. This includes but is not limited to freedom from corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms.
- The facility must not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion;

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Staff to Resident Abuse of Any Type

- It is the facility's responsibility to ensure that all staff are trained and are knowledgeable in how to react and respond appropriately to resident behavior.
- All staff are expected to be in control of their own behavior, are to behave professionally, and should appropriately understand how to work with the nursing home population.
- A facility cannot disown the acts of staff, since the facility relies on them to meet the Medicare and Medicaid requirements for participation by providing care in a safe environment.
- CMS does not consider striking a combative resident an appropriate response in any situation. It is also not acceptable for an employee to claim his/her action was "reflexive" or a "knee-jerk reaction" and was not intended to cause harm.
- Retaliation by staff is abuse, regardless of whether harm was intended, and must be cited.

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Resident to Resident Abuse of Any Type

- A resident to resident altercation should be **reviewed** as a potential situation of abuse.
- Having a mental disorder or cognitive impairment does not automatically preclude a resident from engaging in deliberate or non-accidental actions.

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Visitor to Resident Abuse of Any Type

- Allegations of abuse have been reported between spouses, or residents and their parents or children, in addition to visitors who are not members of a resident's immediate family.
- Abuse by anyone is never acceptable.

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F609 In response to allegations of abuse, neglect, exploitation, or mistreatment

- The facility **must**:
 - Ensure that all alleged violations involving abuse, neglect, exploitation or mistreatment, including injuries of unknown source and misappropriation of resident property, are reported immediately, but not later than **2 hours after the allegation is made**, if the events that cause the allegation involve abuse or result in serious bodily injury, **or not later than 24 hours** if the events that cause the allegation do not involve abuse and do not result in serious bodily injury, to the administrator of the facility and to other officials (including to the State Survey Agency and adult protective services where state law provides for jurisdiction in long-term care facilities) in accordance with State law through established procedures.

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What does this mean?

- The facility **must report alleged violations** related to mistreatment, exploitation, neglect, or abuse, including injuries of unknown source and misappropriation of resident property and report the results of all investigations to the proper authorities within prescribed timeframes.

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F610 In response to allegations of abuse, neglect, exploitation, or mistreatment

- The facility **must**:
 - Have evidence that all alleged violations are **thoroughly investigated**.
 - Prevent further potential abuse, neglect, exploitation, or mistreatment while the investigation is in progress.

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Memo: QSO-20-01-NH

- Consumer Alerts added to Nursing Home Compare website and Five Star Quality Rating System.
- Addition of “abuse icon” to facilities cited for abuse. (October 23, 2019)
- Abuse is never acceptable, and CMS is concerned about incidents of abuse, including neglect and exploitation.

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Assisted Living Facility Updates

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Appropriateness of Placements 429.26 F.S.

- The owner or administrator of a facility is responsible for determining the appropriateness of admission of an individual and for determining the continued appropriateness of residence of an individual in the facility.

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Admission Criteria
59A-36.006 F.A.C.

A determination shall be based on:

- An assessment of the strengths, needs and preferences of the resident.
- The care and services offered or arranged for by the facility in accordance with the facility policy to meet the resident's needs.

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Admission Criteria
59A-36.006 F.A.C.

- Any limitations related to type of license held by the facility.
- **Medical examination required by section 429.26, F.S.**
- Facility ability to meet fire safety standards.

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Admission Criteria
59A-36.006 F.A.C.

- At least 18 years old,
- Free from communicable disease,
- Can perform activities of daily living (ADLs), independently, with supervision or with assistance.

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Admission Criteria**59A-36.006 F.A.C.**

- Be able to transfer, with assistance (can be more than one person but must be appropriate to safely reside in facility).
- Total physical assistance with transfer is not permitted.
- A resident in a standard licensed ALF may be bedridden for up to 7 days. In an ALF with an Extended Congregate Care license (ECC), the resident may be bedridden up to 14 days.

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Definitions**59A-36.002 F.A.C.**

- Definition of “**bedridden**” means confined to bed because of inability to ambulate or transfer to a wheelchair even with assistance or to sit safely in a chair or wheelchair without personal assistance or physical restraint.

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Admission Criteria**59A-36.006 F.A.C.**

- Be capable of taking medication with or without assistance or administered medication by a nurse
- Is not a danger to self or others
- Not require 24-hour nursing supervision or 24-hour professional mental health treatment

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Admission Criteria
59A-36.006 F.A.C.

- Not have stage 3 or 4 pressure ulcers.
- Stage 2 pressure ulcers must be getting treatment and improving within 30 days as documented by a health care provider.
- A resident enrolled in and receiving hospice services may be admitted to an ALF as long as the resident meets resident admission criteria.

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AHCA Form 1823-Resident Health Assessment

- Health Assessment
 - Know Allergies
 - Medical History and Diagnoses
 - Physical or Sensory Limitations
 - Cognitive or Behavioral Status
 - Nursing/Treatment/Therapy Services
 - Special Precautions
 - Elopement Risk
 - Activities of Daily Living

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AHCA Form 1823-Resident Health Assessment, cont.

- Special Diet
- Communicable disease
- Any Stage 2, 3 or 4 pressure ulcer
- Danger to self or others
- Ability to perform self-care tasks
- General Oversight
- Self-Care and General Oversight-Medications

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Medical Certification	
NOTE: MEDICAL CERTIFICATION IS INCOMPLETE WITHOUT THE FOLLOWING INFORMATION	
Name of Examiner (please print):	
Medical License #:	
Telephone Number:	
Title of Examiner (check box) MD DO ARNP PA	
Address of Examiner:	
Signature of Examiner:	Date of Examination:

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Contact Information
<p>ahca.myflorida.com (“contact us”)</p> <p>Kimberly Smoak 850-412-4516 <u>Kimberly.Smoak@ahca.myflorida.com</u></p>

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