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State of California—Health and Human Services Agency  
California Department of Public Health



EDMUND G. BROWN JR.  
Governor

May 22, 2012

AFL 12-23

- TO:** All Certified Long-Term Care Facilities, as follows:
- Skilled Nursing Facilities (including Distinct Parts)
  - Intermediate Care Facilities (including Distinct Parts)
  - Intermediate Care Facilities/Developmentally Disabled
  - Intermediate Care Facilities/Developmentally Disabled—Habilitative
  - Intermediate Care Facilities/Developmentally Disabled—Nursing
  - Intermediate Care Facilities/Developmentally Disabled—Continuous Nursing
  - Nursing Facilities

**SUBJECT:** Federal Complaint Process and Plans of Correction

**AUTHORITY:**

- Code of Federal Regulations, Part 483 – Requirements for States and Long Term Care Facilities;
- Code of Federal Regulations, Part 488 – Survey, Certification, and Enforcement Procedures;
- CMS State Operations Manual, Chapter 5 – Federal Complaint Procedures; and
- CMS State Operations Manual, Chapter 7 – Survey and Enforcement Process for Skilled Nursing Facilities and Nursing Facilities.

This All Facility Letter (AFL) informs facilities of the following:

- 1) The Centers for Medicare and Medicaid Services (CMS) requires the California Department of Public Health, Licensing and Certification Program (L&C) to investigate all Long-Term Health Care (LTC) Facility complaints using the federal process. Complaint and facility reported incident investigations will be initiated pursuant to the federal protocols and will be combined with the State citation process.

- 2) This letter also provides notice of the immediate implementation of existing requirements for the content of Plans of Correction (POCs) in response to findings of deficiencies by State survey teams in the facility types listed above.

**Federal Complaint Process.** The goal of the Federal complaint/incident process is to establish a system that will assist in promoting and protecting the health, safety, and welfare of residents, patients, and clients receiving health care services. The L&C is tasked by CMS to ensure that participating providers of health care services continually meet Federal requirements. This requires L&C to promptly review complaints/incidents, conduct unannounced onsite investigations of reports alleging noncompliance, and inform CMS of any certification requirements that are found to be out of compliance. As such, because L&C is now handling complaint investigations by initiating the process using the federal protocol, federal scope and severity determinations are assigned when applicable, and State citations may also be issued in accordance with Health and Safety Code Section 1423.

Chapter 5 of the State Operations Manual (SOM) provides information concerning federal complaint procedures. The link to the portion of the SOM is:

<http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/som107c05.pdf>

**Plan of Correction.** The POC serves as the facility's allegation that it is in compliance with applicable federal regulations. Without an adequate POC for each deficiency, neither the CMS nor L&C will have a sufficient basis to verify that the facility has returned to compliance with the identified violation(s). For that reason, it is essential that each POC description be as complete, comprehensive, and detailed as possible.

The information below provides instructions which must be followed for the "Statement of Deficiencies and Plan of Correction."

**The Five (5) Elements of a Plan of Correction Should Include:**

- Address how corrective action will be accomplished for those residents found to have been affected by the deficient practice;
- Address how the facility will identify other residents having the potential to be affected by the same deficient practice;
- Address what measures will be put into place or systemic changes made to ensure that the deficient practice will not recur;

- Indicate how the facility plans to monitor its performance to make sure that solutions are sustained; and
- Include dates when corrective action will be completed. The corrective action completion dates must be acceptable to L&C. If the POC is unacceptable for any reason, L&C will notify the facility in writing. If the POC is acceptable, L&C will notify the facility by phone, e-mail, etc. Facilities should be cautioned that they are ultimately accountable for their own compliance, and that responsibility is not alleviated in cases where notification about the acceptability of their POC is not made timely. The POC will serve as the facility's allegation of compliance.

Chapter 7, Section 7304.4, of the SOM provides information concerning acceptable POCs. The link to Chapter 7 of the SOM is:

<http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/som107c07.pdf>

**Supporting Evidence and Documentation.** Another aspect of the POC process, as required by federal regulations, is the submission of documentation providing evidence of compliance by the facility (e.g., repair bills, in-service sign-in sheets and curriculum). The types of evidence of POC implementation will vary according to the nature of the particular deficiency. If a District Office reviews a POC and remains concerned regarding the POC implementation, the District Office may request additional evidence to alleviate their specific concerns.

If you have questions regarding any of the matters discussed in this AFL, please contact your local L&C District Office.

Sincerely,

**Original Signed by Debby Rogers**

Debby Rogers, RN, MS, FAEN  
Deputy Director  
Center for Health Care Quality