

DHSS UPDATE



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Missouri Department of Health and Senior Services
www.health.mo.gov

MISSOURI DEPARTMENT OF
**HEALTH &
SENIOR SERVICES**

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Section Update

- Tracy Niekamp has accepted the Section Administrator position and will officially begin in that role on September 16th.
- My last day in the office will be December 22nd.

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DHSS Provider Meetings

- **September 6, 2023:** Region 7 (Bridgeton)
- **September 7, 2023:** Region 2 (Cape Girardeau)
- **September 13, 2023:** Region 1 (Springfield)
- **September 14, 2023:** Region 6 (Jefferson City)
- **September 27, 2023:** Region 5 (Moberly)
- **October 4, 2023:** Region 4 (St. Joseph)
- **October 5, 2023:** Region 3 (Blue Springs)

Agenda and locations at <https://ltc.health.mo.gov/>

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LICENSURE AND CERTIFICATION

Closures Since 2020

- SNF/ICF PERMANENT closures: 20 (17 SNF and 3 ICF) (1 of 17 merged with another facility on the same premises)
- SNFs currently under TEMPORARY closure/CMS vaccine requirements/staffing: 8
 - Rules will remain in effect until all homes under temporary closure either reopen or permanently close. No new homes allowed temporary closure due to elimination of vaccination requirement.
- RCF: 53 (3 of the 53 merged either merged with another level of care on the premises or merged into one facility)
- ALF: 14 (one of 14 merged with another facility on the premises)

Total: 87 permanently closed facilities and 8 temporary closures

New Facilities since 2020

5- RCF, 32 ALF, 4 SNF = 41 facilities

Certified Facilities 2020 – 522, Current - 506

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STATE AND FEDERAL WORKLOAD ACCOMPLISHMENTS

Overdue Certification surveys (15.9 months)	July 2021	July 2022	August 2023	# of SLO locations with no inspection in FY 22 or FY23	August 2022	December 2022	June 30, 2023
Total overdue surveys (SNF/NF-506)	404	297	139	(~778 total required)	498	354	276

- Contract surveys being performed by CertiSurv, HMS and Ascillon – will likely continue through May, 2024
- Focused Infection Control Surveys (Required in 20% of certified homes= 103) Completed 100
 - 20% requirement will end this federal fiscal year

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COMPLAINTS

Fiscal Year 2023: 12,206
 Calendar Year 2022: 11,659
 Calendar Year 2021: 10,577
 Calendar Year 2019: 9,147

Total # of complaints pending onsite investigation:

- February 2023 - 1,276
- August 2023 - 567

Roadblocks to returning to “normal”:

- IJ complaints- 194% increase (585 to 1,722) in 2022 from pre-pandemic (2019); FY2023 1,630
- Non IJ High complaints - 20% increase (6,532 to 7,849) from pre-pandemic (2019); FY2023 8,194
- Increase in volume of complaints received- 14% increase in 2021 and an additional 10% increase in 2022; additional 4.7% increase in FY2023

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FACILITY REPORTED INCIDENTS

Requirements for Certified Homes (but can be used by all homes)

- Revised FRI reporting requirements sent out on the listserv on October 21, 2022 and forms for reporting sent out on December 16, 2022.
 - Forms are not required, but content in forms is required.
 - Please be as specific as you can and update as often as needed.
- The **[FRI Initial Reporting Form](#)** can be sent to the Adult Abuse and Neglect Hotline fax number (listed on the form) or to the regional office.
- The **[FRI Follow-Up Investigation Form](#)** should be sent directly to the regional office. **Please do not send the follow-up investigation to the Adult Abuse and Neglect Hotline.**
- Forms and information can be found on LTC blog at <https://ltc.health.mo.gov/> by typing Facility Reported Incidents in search bar.

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PHASE 3 - F609 REPORTABLE TYPES OF ABUSE

Physical Altercations	
Willful Action*	That Results In
Willful actions include, but are not limited to, the following: <ul style="list-style-type: none"> • Hitting • Slapping • Punching • Choking • Pinching • Biting • Kicking • Throwing objects • Grabbing • Shoving *This action itself was deliberate or non-accidental not that the individual intended to inflict injury or harm	Physical Injury <ul style="list-style-type: none"> • Death • Injury requiring medical attention beyond first aid • Fractures, subdural hematoma, concussion • Bruises • Facial injury(ies) Mental Anguish <ul style="list-style-type: none"> • Fear of a person or place or of being left alone or of being in the dark, disturbed sleep, nightmares • Changes in behavior, including aggressive or disruptive behavior toward a specific person • Running away, withdrawal, isolating self, feelings of guilt and shame, depression, crying talk of suicide or attempts Pain <ul style="list-style-type: none"> • Complaints of pain related to the altercation • Onset of pain evidenced by nonverbal indicators, such as: <ul style="list-style-type: none"> ○ Groaning, crying, screaming ○ Grimacing, clenching of the jaw ○ Resistance of being touched ○ Rubbing/guarding body part
* 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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COMPLAINT AND FRI INVESTIGATION TIMEFRAMES – BEGINNING 10/1/23

	IJ	Non-IJ High	Non-IJ Medium	Non-IJ Low
Complaints	SA must initiate an onsite survey within 3 business days of receipt of the initial report	SA must initiate an onsite survey within an annual average of 15 business days of receipt of the initial report, not to exceed 18 business days	SA must initiate an onsite survey within 45 calendar days of receipt of the initial report.	SA must track/trend for potential focus areas during the next onsite survey, or initiate a new complaint survey.
FRI	With inadequate resident protection, SA must initiate an onsite survey within 3 business days of receipt of the initial report. With potentially adequate resident protection, SA must initiate an onsite survey within 7 business days of receipt of the initial report.	SA must initiate an onsite survey within an annual average of 15 business days of receipt of the initial report, not to exceed 18 business days.	With an inadequate facility response, SA must initiate an onsite survey within 45 calendar days of receipt of the initial report.	With a potentially adequate facility response, SA must track/trend for potential focus areas during the next onsite survey, or initiate a new complaint survey

The above are federal requirements for certified homes – Complaint and Facility Reported Incidents information found in the State Operations Manual Chapter 5 - <https://www.cms.gov/regulations-and-guidance/guidance/manuals/downloads/som107c05pdf.pdf>

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REGULATION AND COMPLIANCE UNIT

2023

- Immediate Jeopardy/Class I- 129
- Past Non Compliance/IJ- 20
- Uncorrected Class II Notice of Noncompliance- 99

2022

- Immediate Jeopardy/Class I- 132
- Past Non Compliance/IJ- 16
- Uncorrected Class II Notice of Noncompliance- 82

2021

- Immediate Jeopardy/Class I- 99
- Past Non Compliance/IJ- 9
- Uncorrected Class II Notice of Noncompliance- 62

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CLASS I/IMMEDIATE JEOPARDY

- CPR – Certified Homes
 - CPR is performed when required, unless obvious clinical signs of irreversible death (e.g., rigor mortis, dependent lividity, decapitation, transection, or decomposition) are present; or initiating CPR could cause injury or peril to the rescuer
 - CPR certified staff on duty on all shifts – have tracking system in place
 - Consistent orders in medical record
 - Staff are aware where to find code status
 - All staff have appropriate certification, including agency staff. Certification must be for Healthcare Providers and include a hands-on practice and in-person skills assessment. Online-only certifications do not meet the requirement.
- Quality of Care
 - Continuity of care between care settings
 - Changes in condition
 - Implementing physician orders

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CLASS I/IMMEDIATE JEOPARDY

- Staffing
 - No RN/LPN on duty
 - Staffing shortages resulted in immediate jeopardy, i.e., elopement, abuse
- Abuse
 - Staff to resident
 - Resident to resident

Immediate Jeopardy Language in SOD

The administrator was notified on 5/9/19 at 3:45 PM. of an Immediate Jeopardy (IJ) which began on 5/8/19. The IJ was removed on 5/9/19, as confirmed by surveyor onsite verification.

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PAYROLL BASED JOURNAL

■ F85I – Payroll Based Journal

- The surveyors can obtain PBJ data from the Certification And Survey Provider Enhanced Reports (CASPER) report to determine if the facility submitted the required staffing information based on payroll data in a uniform format.

- Reports include information regarding:
 - Excessively low weekend staffing
 - 4 or more days with no RN
 - 4 or more days with less than 24 hours of licensed nursing staff
 - 1 star staffing rating
 - No data submitted for the last quarter

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EMERGENCY PREPAREDNESS

- Certified Homes – Emergency Preparedness Requirement E-0015
- Policies and procedures. Facilities must develop and implement emergency preparedness policies and procedures, based on the emergency plan set forth in paragraph (a) of this section, risk assessment at paragraph (a)(1) of this section, and the communication plan at paragraph (c) of this section. The policies and procedures must be reviewed and updated annually. At a minimum, the policies and procedures must address the following:
- (1) The provision of subsistence needs for staff and patients **whether they evacuate or shelter in place**, include, but are not limited to the following:
 - (i) Food, water, medical and pharmaceutical supplies
 - (ii) Alternate sources of energy to maintain the following:
 - (A) Temperatures to protect patient health and safety and for the safe and sanitary storage of provisions.
 - (B) Emergency lighting.
 - (C) Fire detection, extinguishing, and alarm systems.
 - (D) Sewage and waste disposal.

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COVID

- Homes with outbreaks increasing in last few weeks
 - July 31 – 17
 - August 7 – 32
 - August 14 – 55
 - August 21 – 66
 - August 28 – 85
- Homes should continue to follow CDC Guidance - https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fhcp%2Flong-term-care.html
 - Place a patient with suspected or confirmed SARS-CoV-2 infection in a single-person room. The door should be kept closed (if safe to do so). Ideally, the patient should have a dedicated bathroom. **If cohorting, only patients with the same respiratory pathogen should be housed in the same room.**
- Residential Care and Assisted Living may follow community guidance - https://www.cdc.gov/coronavirus/2019-ncov/your-health/covid-by-county.html?CDC_AA_refVal=h

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F880 ENFORCEMENT

- Non-compliance with both Infection Prevention and Control (F880) concurrent with COVID-19 Vaccine Immunization Requirements for Residents Staff (F887) requirements cited at D, E, F
 - Directed Plan of Correction that includes Root Cause Analyses and working with a Quality Improvement Organization or another qualified consultant;
 - Discretionary Denial of Payment for New Admissions with a 30-day notice period to achieve substantial compliance.
- Non-compliance for Infection Prevention and Control (F880) cited at G, H, I
 - Directed Plan of Correction that includes Root Cause Analyses and working with a Quality Improvement Organization or hiring an Infection Control Consultant to develop and implement a corrective action plan;
 - Discretionary Denial of Payment for New Admissions with a 15-day notice period to achieve substantial compliance;
 - Civil Money Penalty imposed according to the CMP Analytic Tool with a ten percent increase adjustment.
- Non-compliance for Infection Prevention and Control (F880) at J, K, L
 - Directed Plan of Correction that includes Root Cause Analyses and working with a Quality Improvement Organization or hiring an Infection Control Consultant to develop and implement a corrective action plan;
 - Discretionary Denial of Payment for New Admissions with a 15-day notice period to achieve substantial compliance;
 - Civil Money Penalty imposed according to the CMP Analytic Tool with a twenty percent increase adjustment.

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COMPASSIONATE CARE VISITATION ACT (191.1400, RSMO.)

“Compassionate Care Visitation Act” and “No Patient Left Alone Act” became law on August 28, 2022.

- Allows a resident or guardian of such, to permit in-person contact with a compassionate care visitor during visiting hours.
- Compassionate care visitation is a visit necessary to meet the physical or mental needs of the resident, including end-of-life care, assistance with hearing and speaking, emotional support, assistance with eating or drinking, or social support.

Action Item: Facilities are required by statute to make informational material accessible upon admission or registration and on the primary website of the facility. DHSS developed Compassionate Care Visitation Guidance to meet the required informational material requirement.

The handout is posted to the following webpages for LTCF:

- <https://health.mo.gov/seniors/nursinghomes/providerinfo.php>
- <https://health.mo.gov/seniors/nursinghomes/appsforms.php> (Under “Other Long Term Care Resources”)

Compassionate Care Visitation Act statute 191.1400, RSMo <https://revisor.mo.gov/main/OneSection.aspx?section=191.1400&bid=51115&hl>.

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CANNABIS USE IN LONG TERM CARE

- Facilities should establish policies and procedures for allowing or not allowing its use. It is still illegal federally- so there may be risk to a facility for allowing the use and/or the facility controlling it.
- CMS is unable to “approve” marijuana use (recreational or medical) in Medicare and Medicaid certified facilities in federally certified providers since it continues to be considered a Schedule I drug. It is up to the facility on whether or not they want to take the chance on allowing it in their home.
- The facility needs to decide if they will allow medical or recreational marijuana on their property or not and communicate that decision to current and new admissions.
- Drug interactions between marijuana and common types of medications.
- Medical provider awareness.
- Retail vs Street purchased concerns
- Medical marijuana
 - - the facility cannot hold it- control it- provide it to the resident
 - the facility CANNOT be a designated care giver for medical marijuana.

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CENTERS FOR MEDICARE AND MEDICAID SERVICES (CMS)

QSO 23-06-ALL: Provider and Supplier Compliance Education Through Quality in Focus (QIF) Trainings

CMS developed a series of short (10–15 minutes), Quality in Focus interactive videos tailored for specific provider types. The series aims to increase the quality of care for people with Medicare and Medicaid by reducing the deficiencies most commonly cited during the CMS survey process.

- o Treatment and Prevention of Pressure Ulcer Citations
- o Free of Accident Citations
- o Medication Error Citations

See the full memo for complete details at <https://www.cms.gov/medicare/provider-enrollment-and-certification/surveycertificationgeninfo/policy-and-memos-states/provider-and-supplier-compliance-education-through-quality-focus-qif-trainings>

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CENTER OF EXCELLENCE FOR BEHAVIORAL HEALTH IN NURSING FACILITIES

The Center of Excellence focuses on increasing the knowledge, competency and confidence of nursing facility staff to care for residents with behavioral health conditions.

- Provides mental health and substance use trainings, customized technical assistance and resources at no cost
- Services are available to all CMS certified nursing facilities throughout United States
- Established by the Substance Abuse and Mental Health Services Administration (SAMHSA) in collaboration with the Centers for Medicare and Medicaid Services



For assistance, submit a request at
nursinghomebehavioralhealth.org

Contact us:
National Call Center: **1-844-314-1433**

Email: coeinfo@allianthealth.org

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Visit the website:

nursinghomebehavioralhealth.org

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LTCF RESOURCES

- For Long-Term Care updates, subscribe to our weekly listserv at <https://cntysvr1.lphamo.org/subscribe/tc.html>
- LTC Blog: <https://ltc.health.mo.gov/>
- Rules, Statutes, Provider Information and Directories: <https://health.mo.gov/safety/nursinghomesinspected/index.php>

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THANK YOU

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