



Investing for tomorrow, delivering today.

Nursing Home: Regulatory Update August 2023

Presenters:

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On the Horizon: Legislature and Licensing Challenges

- Health Care Authority Department

Rename the New Mexico Human Services Department with the purpose of "establishing a single, unified department for health care purchasing, regulation and policy"

- Unlicensed Boarding Homes

(3) Licensed Boarding Homes, limited alternatives to move residents when ANE is identified, psych hospital referral gap, continuous collaboration with APS/Ombudsman/Medicaid

- Assisted Living Facilities

222 Licensed Assisted Living Facilities: (13) surveyors, complaints driven



State Performance Standard System (SPSS)

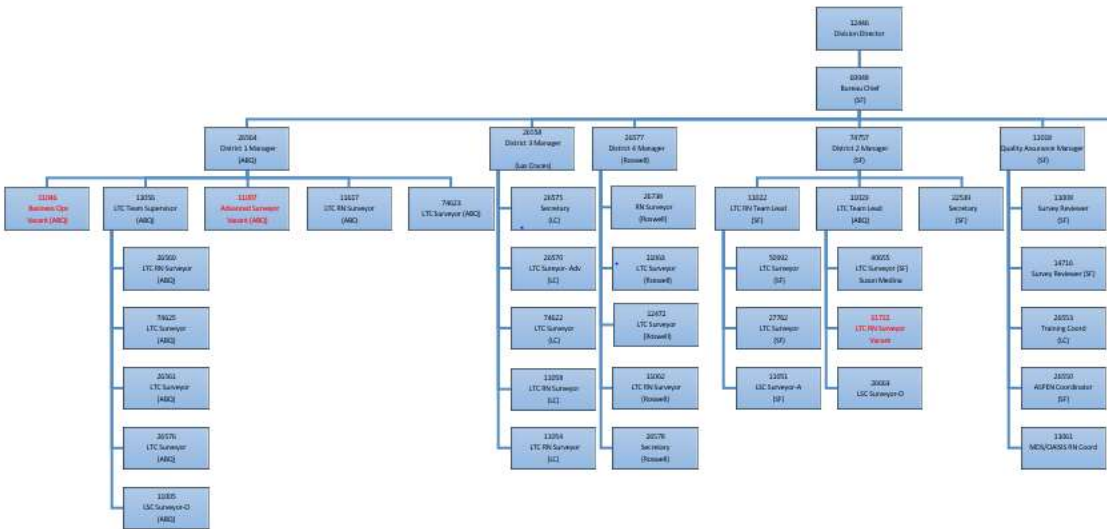
New Mexico SPSS Results 2022	Final Score
S1: Surveys of Nursing Homes SFF	MET
C1: Nursing Homes without COVID FIC	MET
Q1: Focused Concern Surveys	MET
Q2: Federal Comparative Surveys	N/A
Q3: IDR/IIDR downgrade	MET
S2: NH/ACC Uploads	MET
S3: NH IJ Template	MET
S3: ACC IJ Template	N/A
S4: NH/ACC Overdue Investigations	** (data unavailable)
S5: NH Recertifications	MET
S5: ACC Recertifications	MET

New Mexico Nursing Homes and Intermediate Care Facilities (ICF)s

68 Federally Certified Nursing Homes (6782 bed capacity)
 64 Skilled Nursing/Nursing Facilities
 (2) Nursing Facilities
 (2) Skilled Nursing Only
 (1) State Licensed Only Nursing Home

43 Intermediate Care Facilities/Individuals with Intellectual Disabilities (ICF/IID)
 (264 bed capacity)

29 Long Term Care Surveyors, including (4) Managers and (3) LSC surveyors
 6 surveyor vacancies
 13 SMQT surveyors
 Quality Assurance Department, includes Manager, (2) Reviewers, ASPEN Coordinator, Training Coordinator, MDS/OASIS Coordinator



Brief Overview- FY2023

Have Met all Nursing Home/ICF workload in FY22 and FY23 (complaints and recertification surveys)

No Nursing Home closures but many CHOWs

Contracted with HMS to complete (7) recertifications surveys

Cited 97 Deficiencies: Including (4) Immediate Jeopardy and (1) Harm

Nursing Home Data

2022

• Recertification Surveys	30
• Recerts with Complaints	35
• Complaint Surveys	77
• Complaint Intakes	268
• Total Health Citations	1001
• Emergency Preparedness	59
• Life Safety Code	210
• Reporting NHSN	64
• IJ Citations	16
• Actual Harm Citations	23

2023 (until June 30th)

• Recertification Surveys	10
• Recerts with Complaints	20
• Complaint Surveys	33
• Complaint Intakes	103
• Total Health Citations	503
• Emergency Preparedness	25
• Life Safety Code	155
• Reporting NHSN	45
• IJ Citations	14
• Actual Harm Citations	17

Top Deficiencies FY 2023

0880 - Infection Prevention & Control	37
0684 - Quality of Care	37
0657 - Care Plan Timing and Revision	32
0761 - Label/Store Drugs and Biologicals	34
0812 - Food Procurement, Store/Prepare/Serve-Sanitary	38
0656 - Develop/Implement Comprehensive Care Plan	35
0658 - Services Provided Meet Professional Standards	29
0677 - ADL Care Provided for Dependent Residents	17
0842 - Resident Records - Identifiable Information	30
0550 - Resident Rights/Exercise of Rights	21
0655 - Baseline Care Plan	21
0609 –Reporting of Alleged Violation	18
0600 - Free from Abuse and Neglect	20
0580 - Notify of Changes	19
0689 - Free of Accident Hazards/Supervision/Devices	28

Actual Harm Citations

F580: Notify of Changes

Not restarting anticoagulant medication resulting in stroke

Did not notify Physician and POA that resident had fallen. Hospice identified fractured hip 4 days later.

F600: Free from Abuse and Neglect

Staff member popped resident wheelchair (wheelie) and staff member hitting resident baby doll that resident believed was real, resulting in psychosocial harm: fear, crying and anxiety.

Resident complaining of shortness of breath, called 911 (12 times) over 5 hours. Facility staff confirmed oxygen was ok but never treated her anxiety. Resident found deceased next morning.

Staff member making sexual comments to resident

Staff member likely intoxicated, resident reported she was physically abused by staff member.

Multiple incidents of resident to resident sexual abuse on dementia unit.

Ongoing resident to resident verbal abuse and threats

F684: Quality of Care

Staff pushing resident in wheelchair when foot fell and got twisted. Resident was not assessed and was complaining of pain. Fracture identified 3 days later.

Delay in treatment for resident experiencing numbness for 10 days, ended up being diagnosed with stroke. Not providing adequate pain relief. Not identifying chronic constipation resulting in fecal impaction.

Delay in treatment and not identifying a fracture for 4 days after a fall.

F686: Treatment to Prevent/Heal Pressure Ulcer

Not putting on pressure relieving device (boots) resulting in worsening Stage 3 wound.

Not measuring and documenting wound progress and not notifying the Physician of wound decline resulting in worsening pressure wound and development of MRSA

Facility acquired pressure wounds stage 3 and unstageable. Delay in providing wound care orders. Inaccurate skin assessments

Not monitoring for change in condition of surgical wound for 6 weeks, resulting in requirement for debridement in hospital.

Actual Harm Citation Continued

F689: Free of Accidents/Hazards/Supervision

Resident with known behavior, grabbed food from another resident tray, choked and required suctioning and resuscitation.

Not transferring resident with 2 people assist as ordered, resulting in fall and fractured arm.

Resident experienced numerous falls and no interventions resulting in injury.

F697: Pain Management

Resident receiving pain medication, documented as ineffective and no other medication administered

Not providing available prn pain medication and delay in sending resident to hospital following unwitnessed fall for 12 hours despite immediate identification that resident was in pain.

Resident did not receive prescribed pain medication from hospital discharge. Received alternative pain meds but was ineffective.

Not receiving pain medication timely from pharmacy resulting in pain 8/10 for several hours. Not identifying foot fracture from hospital and therapy was having him walk.

Not providing prescribed pain medication by accessing medication from pyxis in which resident felt only option for relief was to return to the hospital.

F740: Behavioral Health Services

Resident noted depressed following amputation and not receiving psych services

Psych referral not followed up on; resident experiencing increased aggression, delusions etc.

Resident with increased anxiety and paranoia regarding another resident; not receiving psych services as ordered.

F760: Free from Significant Med Error

Antibiotic order was for 21 days, instead transcribed to 21 doses (6 days). Resident became septic.

Not restarting anticoagulant medication resulting in stroke

F725: Sufficient Nursing Staff

Not enough staff available to administer pain medication timely, resulting in delay in pain relief

Immediate Jeopardy

*13 Facilities

F580: Notify of Changes

Resident was difficult to wake, sternum rub initiated. Did not notify Physician. Resident expired over an hour later

Did not notify Physician of fluctuating blood sugars on 5 separate occasions: CBG ranged from 34-68

Resident more drowsy, difficult to arouse. 3 hours later, resident expired. Physician never called.

Resident with CIC: high blood sugars, high fever, rapid heart rate and pulse, emesis. Physician not notified for couple days. Resident expired in hospital.

Not notifying the physician when resident began to have trouble swallowing, resulting in hospitalization for severe dehydration

F600: Free from Abuse and Neglect

Not monitoring or treating toe injury resulting in infection and amputation

Failed to prevent resident to resident abuse when first started with pushing and adequate supervision was not provided resulting in another altercation in which resident received laceration and fractured arm

F610: Investigate/Prevent/Correct Alleged Violation

Failed to remove staff members from duty after allegation of abuse made

F684: Quality of Care

Resident was difficult to wake, sternum rub initiated. No CIC protocol/vitals initiated. Resident expired over an hour later

Wound care not provided for AKA, resulting in further revision. Antibiotic order for 21 days, transcribed to 21 does (6 days). Resulting in sepsis and death.

Resident with CIC: low oxygen saturations, need for O2. Not implementing additional monitoring (O2) or ensuring cannula in place. Resident passed away next day.

Not identifying when resident had CIC: trouble swallowing and was hospitalized with severe dehydration.

Immediate Jeopardy Continued

F686: Treatment to Prevent/Heal Pressure Ulcers

Resident was admitted into the facility wound care for above knee amputation. Wound care was not immediately initiated. Resident was transferred to hospital 2 weeks later with increased exposed bone, necrotic drainage and needed additional amputation.

Facility acquired Stage 3 and Stage 4 pressure wounds before noticed

F689: Free from Accident Hazards

Unsafe water temperatures ranging 131-140 degrees F

Resident received incorrect meal consistency resulting in choking and need for medical intervention.

F695: Respiratory/Trach Care

Did not have necessary supplies at bedside in the event of life saving emergency and failed to train staff on what to do in an emergency.

F697: Pain Management

Resident experiencing extreme pain following therapy. Minimal pain medication provided/documented as ineffective. Next day transferred to hospital, had femur fracture

F726: Competent Nursing Staff

Staff covered resident trach with plastic bag during shower, resulting in resident losing consciousness.

F880: Infection Prevention and Control

Poor infection control practices including not using appropriate PPE, not sanitizing hand upon leaving covid positive room. Facility in covid outbreak and several residents were transferred to hospital for covid symptoms.

Survey Enforcement

Termination (6 months) from survey exit

DPNA (90 days) from exit date

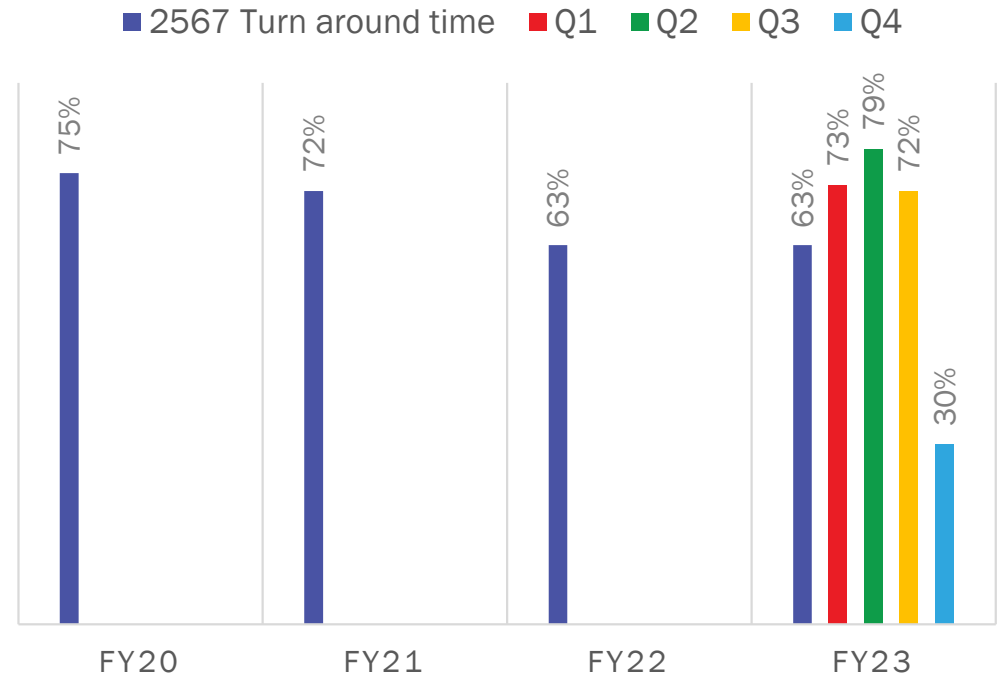
ODPNA/DDPNA (15 days) from letter

- Survey exit: last date surveyors were onsite
- Plan of Correction/IDR: 10 calendar days from enforcement
- Remedies:
 - DPNA (90 days from survey exit) versus DDPNA/ODPNA (15 days from date enforcement received for Harm, SQC, IJ)
 - Termination: 6 months from survey exit
- Revisit: Within 60 days of survey exit
 - Enforcement letters to be revised to reflect compliance date within 30 days from enforcement

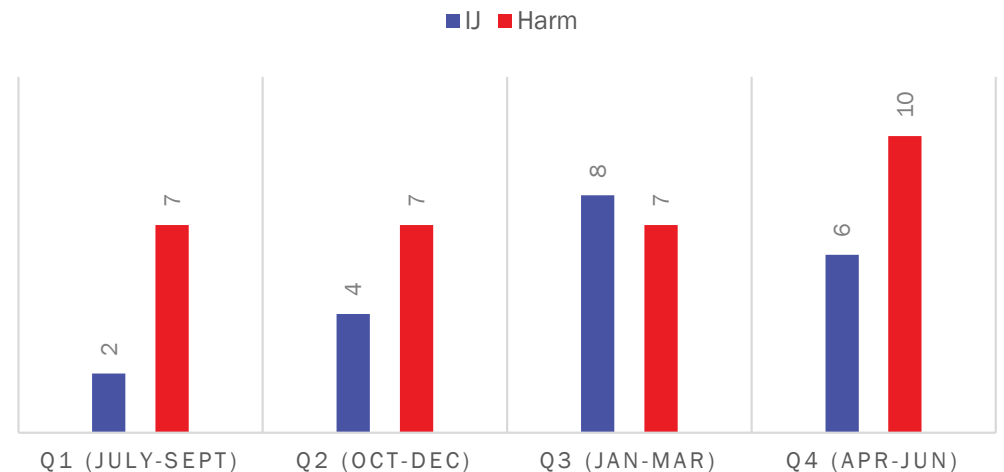
* Facility determines compliance date on POC

Enforcement Challenges

- Late 2567 Turnaround time
- Initial Determination: Ability to revise CMS_2567 reports for up to (1) year
- CMS feedback: wrong Scope/severity and missed IJs
- CMS feedback resulting in 2567 revisions
- Medicaid Only Enforcement Authority
- Inability to impose CMP for non-compliance identified before last recert
 - Timely revisits if outstanding complaints
- Conducting timely revisits
 - 60 days from survey exit
 - Outstanding complaints prior to recert enforcement



FY23 (JULY 2022-JULY 2023): IJ AND HARM CITATIONS



Past Non-Compliance

States are expected to cite all noncompliance with federal requirements and cite past noncompliance at any level of scope and severity when criteria is met.

1. The facility was not in compliance with the specific regulatory requirement(s) (as referenced by the specific F-tag or K-tag) at the time the situation occurred;
2. The noncompliance occurred after the exit date of the last standard (recertification) survey and before the survey (standard, complaint, or revisit) currently being conducted; and
3. There is sufficient evidence that the facility corrected the noncompliance and is in substantial compliance at the time of the current survey for the specific regulatory requirement(s), as referenced by the specific F-tag or K-tag.

Note: A nursing home does not provide a plan of correction for a deficiency cited as past noncompliance because the deficiency is already corrected; however, the survey team documents the facility's corrective actions on the CMS-2567.

Nursing Home Defensible Citations FY23 (July 2022-June 2023)

Informal Dispute Resolution (IDR)

- 45 Citations disputed
 - (8) Removed during IDR
 - (13) Removed before sending to committee
 - 53% of IDR citations supported
 - MOU w/ Louisiana: completed (2) IIDR reviews

CMS Enforcement Review

- (31) Surveys for 25 facilities
- Resulting in
 - (17) IJ Citations
 - (33) Harm Citations
- 29/31 surveys supported with CMP; 93%
- Resulting in approximately \$1.7 million plus imposed CMPs (minus 35% reduction for waiving appeal)

CMP Grant Balance: approx. \$3.8 million

For Consideration

Emphasis Behavioral Health and Psychosocial harm

Facility Initiated Discharges: Reviewed by CMS and may impose CMP

Consider higher scope/severity for Unnecessary Medications

DPOC changes: only required when F880 is cited with F887 and F880 s/s G and above

When F880 is cited, consider also citing IP

Emergency Preparedness

Nursing Home Compare: review affiliations prior to licensure and CHOWs

Impeding investigation; provide records timely/access

With increased covid case, reminder to report weekly to NHSN

CMP Grant on Hold

Provider QSEP Training available

State Dementia Training update

Complaints

In FY23, we received 914 consumer complaints.

- 499 of those were assigned for onsite investigation= 55%
- 40% substantiated for Nursing Homes

Follow up Investigations:

5,856 out of 6,791 incident reports were completed with approved corrective action plans (follow up reports)= 86%

- We also conducted 46 facility reporting trainings.
- There have also been major improvements in the last 2 years to the online reporting system to enhance accuracy for reporting.

Changes to SOM Chapter 7:

- Quicker investigation time from receipt
- Substantiated/Unsubstantiated to Deficiencies cited/Compliance

This Form Will Not Be Submitted Until You Have Completed All The Required Fields On Each Page.

HEALTH FACILITY INCIDENT REPORT (SFY 2017)

Case #:

Fields in red are required

SECTION 1 – CONSUMER INFORMATION

Name of Consumer: **First:** **Middle:** **Last:**

Social Security #: Gender: Male Female DOB:

Residence Address: **Street Address:** **City:** **Zip:** **Phone:**

Consumer Competency Level **ADLs (Resident Needs Assistance With) Check All That Apply**

High Moderate Low Walking Wheelchair Bathing Eating Transfer
 Total Care None **Verbal** Yes No

Diagnosis(es):

Name of Consumer's Doctor: Doctor's Phone:

SECTION 2 – DESCRIPTION OF INCIDENT (Staff person with the most direct knowledge of incident fills out this section)

TYPE OF ALLEGED INCIDENT

Abuse Neglect Exploitation Injuries of Unknown Origin

Person responsible for individual's care at time of incident:
 Name: Title: Phone:

Has this happened before? YES NO

Was anyone else present at the time of the incident? YES NO If YES, Identify below:

Name: Title or Relationship: Phone:

Name: Title or Relationship: Phone:

Date Of Incident: **Time Of Incident:** AM PM Unknown

Describe what you saw and/or what you heard in order of occurrence:

Before the Incident:

During the Incident:

After the Incident:

Person Completing Sections 1 & 2

Confidentiality Desired:	Name:	Agency:	Title/Relationship:	Phone:	Date Completed:	Time Completed:
<input checked="" type="radio"/> YES <input type="radio"/> NO	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

This Form Will Not Be Submitted Until You Have Completed All The Required Fields On Each Page.

When To Report To Licensing

Providers need to contact licensing when the following changes are made:

- Change of Administrator
- Change of Address
- Change of Capacity
- Change of Facility Name
- Change of Ownership
- Remodeling
- No Residents Occupy the Facility
- Closure

The licensing department should be notified of all above changes, with the exception of the change of administrator, through a letter of intent emailed as a PDF to facility.license@doh.nm.gov at least 30 days in advance.

Changes of administrator do not need a letter of intent, but do need to submit a change of administrator application, \$300.00 fee, and the following documents:

- Copy of Driver's License (must be at least 21 years old)
- Proof of Education (high school or college diploma or final transcript)
- Resume
- 3 Original, Notarized Letters of Reference (from persons unrelated)
- Proof of Completion of a State Approved Certification Program for Assisted Living Administrators
- NM Caregiver's Criminal History Screening Clearance Letter **and** Accompanying Report (EAR/COR Final Registry Report)

The administrator packet should also be submitted 30 days prior to the official start date of the administrator or in the event of an unplanned change of administrator the packet should be sent immediately upon hire of the new administrator.

**The facility should reach out to the clerk assigned to their district if they have had a change of contact information or if they have undergone a change not listed above. We will contact them with a renewal reminder about 60 days before their license expires so keeping us up to date on their email and phone number is important.

Upcoming Changes for MDS

Effective October 2023

- Section A: Identification information
- Section B: Hearing, Speech, and Vision
 - Whether the resident is comatose
- Section C: Cognitive Patterns – Signs or symptoms of delirium
- Section D: Mood – Social isolation
- Section GG: Functional Abilities and Goals – Prior function, admission performance, discharge goals, discharge performance, functional limitations in range of motion, current and prior device use
- Section N: Medication – Indication of high-risk drug classes, antipsychotic use and drug regimen review to identify potentially significant medication issues

**MDS/OASIS Education
Coordinator**

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Virtual Training commencing September 2023



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Satisfaction Survey Results

DHI staff:	
Professional/courteous	79% Agree/Strongly Agree
Fair/Unbiased	87% Agree/Strongly Agree
Trained/Knowledgeable	93% Agree/Strongly Agree
Team Leader kept you informed	73% Agree/Strongly Agree

* 15 Nursing Home responses

- One surveyor lied to staff to try to get the answer he wanted.
- Actually, this survey was one of the smoothest, well-organized survey in recent memory. Good Job!
- Some interpretations were just that - interpretations not supported by CMS guides
- We are always looking for ways to improve so the learning experience is welcomed.
- It was a good experience in an unfortunate IJ situation. it was handled professionally and with grace.
- He was very knowledgeable and able to answer all pertinent questions. He was very fair and reasonable in his request.
- Extremely patient with the staff
- All aspects of the survey process were conducted appropriately