Phase 2 Requirements for Final Rule: Ride the Waves

Missouri Health Care Association Mid-Year Conference

Objectives

• Participants will be able to verbalize understanding of the changes related to Behavioral Health

• Participants will be able to verbalize a basic concept understanding the development of a Facility Assessment

• Participants will be able to verbalize understanding of Phase 2 requirements of Infection Control

• Participants will be able to verbalize understanding of Phase 2 requirements for QAPI
Behavioral Health Services Phase 2

- Each resident must receive and the facility must provide the necessary behavioral health care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care. Behavioral health encompasses a resident’s whole emotional and mental well-being, which includes, but is not limited to, the prevention and treatment of mental and substance use disorders.

Behavioral Health Services Phase 2 (cont)

- The facility must have sufficient staff who provide direct services to residents with the appropriate competencies and skills sets to provide nursing and related services to assure resident safety and attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care and considering the number, acuity and diagnoses of the facility’s resident population in accordance with §483.70(e). These competencies and skills sets include, but are not limited to, knowledge of and appropriate training and supervision for:
  - Implementing non-pharmacological interventions
Facility Assessment: Facilities Need to Know Themselves, Their Staff, & Their Residents

- CMS has not yet issued interpretive guidance on how to comply. It will be important to approach the facility assessment in accordance with that guidance, given the lack of specific detail in the regulatory language. This assessment may be used by surveyors in a variety of ways, including to assess your staff competencies and resources in the instance of an adverse event, which underscores the importance of preparing the assessment in accordance with forthcoming guidance. AHCA will provide additional tools and resources to assist Centers in implementing this requirement as guidance is developed. As AHCA identifies and develops additional resources, they will be posted on ahcancalED. Please make sure to visit ahcancalED for the most up-to-date information.

Facility Assessment Requirement

- 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
  - Review and update assessment, as necessary, and at least annually
  - Review and update assessment whenever there is, or the facility plans for, any change that would require a substantial modification to any part of this assessment
Required Components

- Facility’s resident population, including but not limited to:
  - Both number of residents & facility’s resident capacity
  - Care required by the resident population considering:
    - Types of diseases
    - Conditions
    - Physical & cognitive disabilities
    - Overall acuity
    - Other pertinent facts that are present within that population
  - Staff competencies that are necessary to provide the level & types of care needed for the resident population
  - The physical environment, equipment, services & other physical plant
  - Any ethnic, cultural, or religious factors that may potentially affect the care provided by the facility, including but not limited to:
    - Activities
    - Food & nutrition services

Required Components (cont)

- The facility’s resources, including but not limited to:
  - All buildings and/or other physical structures & vehicles
  - Equipment (medical and non-medical)
  - Services provided such as: physical therapy, pharmacy, specific rehabilitation therapies
  - All personnel, including managers, staff (both employees & those who provide services under contract), and volunteers, as well as their education and/or training and any competencies related to resident care
  - Contracts, memorandums of understanding or other agreements with third parties to provide services or equipment to the facility during both normal operations & emergencies
  - Health information technology resources such as systems for electronically managing patient records and electronically sharing information with other organizations
Required Components (cont)

- A facility-based and community-based risk assessment, utilizing an all-hazards approach

Compliance and Ethics

- This RoP may be enforced in either Phase 2 or Phase 3 (still to be determined by CMS)

- The operating organization for each facility must develop, implement, & maintain an effective compliance & ethics program that contains, among other elements, established written compliance & ethics standards, policies & procedures to follow that are reasonably capable of reducing the prospect of criminal, civil, & administrative violations under the Act & promote quality of care, which include but are not limited to:
  - The designation of an appropriate compliance & ethics program contact to which individuals may report suspected violations, as well as an alternate method of reporting suspected violations anonymously without fear of retribution
  - Disciplinary standards that set out the consequences for committing violations for the operating organization's entire staff, individuals providing services under a contractual agreement and volunteers, consistent with the volunteers' expected roles
Compliance & Ethics Requires Components

- Established written compliance & ethics standards, policies & procedures to report prospect of criminal, civil, & administrative violations without fear of retribution
- Assignment of specific individuals within high-level personnel with overall responsibility for compliance with program
- Sufficient resources & authority to assure compliance
- Prohibits delegation to individuals with known propensity to engage in criminal, civil & administrative violations
- Efforts to communicate standards, policies & procedures
- Takes reasonable steps to achieve compliance with program including monitoring & auditing systems
- Consistent enforcement of standards, policies & procedures
- Appropriate response to violations of standards, policies & procedures
- Annual review of compliance & ethics program

Compliance & Ethics

- Additional required components for operating organizations with 5 or more facilities
  - Mandatory annual training program
  - Designated compliance officer for organization
  - Designated compliance liaisons located at each operating organization’s facilities
Phase 2 Requirements for Infection Control

- Designed to provide a safe, sanitary, & comfortable environment and to help prevent the development & transmission of communicable diseases & infections
- Use the facility assessment to re-evaluate the system for your IPCP & make changes as needed
- Adds a Phase 2 element to include “following national standards”
- Adds an antibiotic stewardship program that includes antibiotic use protocols & a system to monitor antibiotic use
  - Antibiotic use protocols
  - Monitoring system for antibiotic use

QAA...QAPI

- Present its QAPI plan to the State Survey Agency no later than 1 year after the promulgation of this regulation; §483.75(a)(2) will be implemented beginning November 28, 2017
- Present its QAPI plan to a State Survey Agency or Federal surveyor at each annual recertification survey and upon request during any other survey and to CMS upon request
- Present documentation and evidence of its ongoing QAPI program’s implementation and the facility’s compliance with requirements to a State Survey Agency, Federal surveyor or CMS upon request.
Miscellaneous Phase 2 Changes: ANE

- Reporting of crime as part of policy & procedure
- Ensure reporting of crimes occurring in facility in accordance with the Act including but not limited to
  - Annual notifying covered individuals of that individual’s obligation to comply with reporting requirements
    - Each individual shall report to State Agency & one or more law enforcement entities for political subdivision in which facility is located any reasonable suspicion of a crime against any individual who is a resident of or is receiving care from the facility
    - Each covered individual shall report immediately, but not later than 2 hours after forming the suspicion, if the events that cause the suspicion result in serious bodily injury, or not later than 24 hours if the vents that cause the suspicion do not result in serious bodily injury
  - Posting a conspicuous notice of employee rights of the reporting rights
  - Prohibiting & preventing retaliation for reporting

Miscellaneous Phase 2 Changes: Dentures

- Loss or damage of dentures
  - Facility must have a policy identifying:
    - Those circumstances when the loss or damage of dentures is the facility’s responsibilities
    - Facility may not charge a resident for the loss or damage of dentures determined in accordance with facility policy to be the facility’s responsibilities

  - NOTE: the RoP does not require facilities to have a policy about dental services but it does outline the types of dental services & actions the facility must take to provide dental services & care for dentures
Miscellaneous Phase 2 Changes: Smoking

- Smoking
  - The facility must establish policies in accordance with applicable Federal, State, & local laws & regulations regarding smoking, smoking areas, and smoking safety that also take into account non-smoking residents.

Miscellaneous Phase 2 Changes: Pharmacy Services

- Residents do not receive PRN psychotropic meds unless necessary to treat a diagnosed specific condition that is documented in record.
- PRN orders for psychotropic drugs limited to 14 days unless ordering physician document rationale in record & indicate duration for PRN order.
- PRN orders for anti-psychotic drugs are limited to 14 days & cannot be renewed unless attending physician evaluates the resident for appropriateness of that medication.
- “Distressed behavior” may be treated with meds but should also be addressed through nonpharmacological approaches & certain meds may also cause or contribute to distressed behavior.
- Must arrange staffing to optimize familiarity & consistency for a resident with symptoms of dementia.
Miscellaneous Phase 2 Changes: Pharmacy Services (cont)

- Drug Regimen Review must include a review of resident’s medical chart

Miscellaneous Phase 2 Changes: Disaster & Emergency Preparedness November 15, 2017

- Must develop & implement emergency preparedness policies & procedures based on emergency plan, risk assessment & communication plan; plan must be reviewed annually
- Must include use of volunteers in an emergency or other emergency staffing strategies including role for integration of State or Federally designated health care professionals
- Development of arrangements with other LTC facilities other providers to receive residents in event of limitations of cessation of operations
- Address role of 1135 waiver in provision of care & treatment at alternate care site
Miscellaneous Phase 2 Changes: Disaster & Emergency Preparedness November 15, 2017 (cont)

• Provision of subsistence needs for staff & residents if they evacuate or shelter in place including but not limited to:
  • Food, water, medical & pharmaceutical supplies
  • Alternate sources of energy to maintain:
    • Temperatures to protect resident health & safety & for safe & sanitary storage of provisions
    • Emergency lighting
    • Fire detection, extinguishing & alarm systems
    • Sewage & waste disposal
  • System to track location of on-duty staff & sheltered residents in center’s care during & after emergency
  • Specific name & location of receiving facility or other location if alternate placement used
  • Safe evacuation policy & procedure including staff responsibilities, transportation, ID of evacuation locations & primary & alternate means of communication with external sources of assistance
  • Means to shelter in place
  • System for medical documentation that preserves resident information, protects confidentiality of resident information & secures & maintains availability of records

We can do this…together
Reach out to us

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- AHCA/NCALed
- AHCA Quality Awards
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