



THE VOICE

The e-newsletter of National Consumer Voice for Quality Long-Term Care

April 16, 2019

Materials Available from Webinar on Phase 3 Nursing Home Regulations

Materials are now available from Consumer Voice's recent webinar - Overview of Phase 3 Nursing Home Regulations: A Look Ahead. On November 28, 2019 - 3 years after the revised federal nursing home rules were issued - "Phase 3" requirements will go into effect. These include a number of new requirements that nursing homes must implement, and in some cases, new systems that must be put in place. The webinar included presentations from experts from the Center for Medicare Advocacy, Justice in Aging and Consumer Voice on the following topics and more: compliance and ethics program; infection preventionist; trauma-informed care; quality assurance and performance improvement program; and training. Access the webinar recording and all materials [here](#).

Included in the webinar materials is a new Consumer Voice resource - [Summary of Key Changes in the Rule Part III](#). This summary sheet is designed to provide an overview of key changes in regulations going into effect as part of Phase 3. The purpose of the summary is to highlight what is different (new or modified) between the prior rule and the final rule.

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Registration Open: Webinar on Navigating the NORC Website

Registration is now open for the Wednesday, April 24th webinar from the National Long-Term Care Ombudsman Resource Center (NORC) - *Navigating the NORC Website*. The NORC website is filled with information, resources, and news from Ombudsman programs to support and inform programs across the country. This presentation will walk through the NORC website and new [On-Demand Training Center](#). The presentation will show how resources and information are organized on the website and where to go if you need help.

Watch this [short video](#) as an introduction to the NORC website and read the [March NORC Notes](#) to learn more about the NORC website and recent updates. Register for the webinar [here](#).

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Justice in Aging Brief on Older Immigrants and Medicare

Justice in Aging has released an issue brief - [Older Immigrants and Medicare](#) - intended to provide advocates who work with older immigrants a summary of the policies and practices to help immigrants enroll in and pay for Medicare coverage. The issue brief includes examples to illustrate the rules and scenarios older immigrants face, and it covers topics like eligibility and enrollment, with particular attention to rules affecting non-citizens; paying for coverage; post-enrollment issues potentially affecting immigrant beneficiaries; and language access rights and resources in Medicare.

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Calendar of Events

Tuesday, April 16: [National Healthcare Decisions Day](#)

Wednesday, April 24: [Navigating the National Ombudsman Resource Center Website](#), 3:00pm ET, NORC Webinar

Monday, April 29: [Approaching Clients with Cultural Humility](#), 2:00pm ET, Webinar from National Council on Aging

May: [Older Americans Month](#)

Monday, May 20: National Older Adult Mental Health Awareness Day, 1:00-3:30pm ET, RSVP for the in-person event in Washington, DC [here](#) or watch the [livestream](#)

Saturday, June 15: [World Elder Abuse Awareness Day](#) - Lifting Up Voices

October: [Residents' Rights Month](#)

November 3-6, 2019: Consumer Voice Annual Conference, Crystal Gateway Marriott, Arlington, Virginia

Join the conversation and follow us on social media!

Today is National Healthcare Decisions Day

Despite recent gains in public awareness of the need for advance care planning, studies indicate that most Americans have not exercised their right to make decisions about their healthcare in the event that they cannot speak for themselves. [National Healthcare Decisions Day](#)(NHDD) helps raise awareness that making future healthcare decisions includes much more than deciding what care you would or would not want; it starts with expressing preferences, clarifying values, identifying care preferences and selecting an agent to express healthcare decisions if you are unable to speak for yourself. An advance directive is a legal document that tells healthcare providers who it is that you wish to make medical decisions for you and what treatments you would want or not want, if you are ever unable to express your own wishes. National Healthcare Decisions Day exists to remind all people, regardless of age or current health, of the importance of making these decisions known. Please be sure to complete your advance directive today and also encourage all your loved ones to do the same.

In celebration of NHDD, Consumer Voice has partnered with MyDirectives, a digital emergency, critical and advance care planning service that is secure, easy to understand, and free to consumers to use. Complete MyDirective's Universal Advance Digital Directive (uADD) easily online to record your wishes. The uADD is free to use and can be updated or changed at any time. Access Consumer Voice's MyDirectives partner page at https://mydirectives.com/NCVQLC_NHDD.

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Kaiser Health News and PBS NewsHour Investigate Suicides in Long-Term Care

Kaiser Health News (KHN) and PBS NewsHour have released a new [investigation](#) and [video](#) on suicide in nursing homes, assisted living facilities, and adult care homes. Data from the University of Michigan shows that



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Last Week's Most Popular Post:

Tuesday, April 9:

[It's National Crime Victims Rights Week. Find resources about elder abuse on our website.](#)

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twitter

Last Week's Most Popular Tweet:

Thursday, April 4:

[The theme for Residents' Rights Month 2019 in October is Stand for Quality!](#)

Long-Term Care Resources & News

- [CMS pulls back curtain on how hospital innovators are picking SNF partners](#), McKnight's, April 15, 2019

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each year hundreds of suicides by older adults are related to long-term care, with up to a third of residents reporting suicidal thoughts. Federal regulations do not require reporting on suicides in long-term care. The National Violent Death Reporting System reported nearly 50,000 suicides among people 55 and older from 2003 to 2015. Of these suicides, 2.2% were related to long-term care - meaning the person who died was living in or transitioning to long-term care or the person who died was a caregiver. When KHN extrapolated these findings for 2017, it determined 16,500 suicides would have been reported among people 55 and older and concluded that at least 364 of those suicides would have been among people living in or moving to long-term care settings or people who were caregivers to someone receiving long-term care.

While nursing homes cannot be penalized for a suicide occurring on-site, in some cases nursing homes have been cited for breaking federal rules related to maintaining residents' well-being, preventing avoidable accidents and notifying a resident's doctor and family if they are at risk of harm.

In the [KHN article](#), Dr. Yeates Conwell, director of the Office for Aging Research and Health Services at the University of Rochester, identified the main risks for senior suicide as depression, debility, access to deadly means and disconnectedness. "Pretty much all of the factors that we associate with completed suicide risk are going to be concentrated in long-term care." According to the Centers for Disease Control and Prevention, nearly half of nursing home residents are diagnosed with depression. But, Conwell contends, "Older adulthood is not a time when it's normal to feel depressed. It's not a time when it's normal to feel as if your life has no meaning. If those things are coming across, that should send up a red flag."

Advocates have called for thorough screenings prior to entry to facilities and ongoing monitoring in order to prevent suicides in long-term care facilities. Some have also launched projects to train staff and engage fellow residents to address suicides in long-term care.

If you or someone you know has talked about contemplating suicide, call the National Suicide Prevention Lifeline at 1-800-273-8255, or use the online [Lifeline Crisis Chat](#), both available 24 hours a day, seven days a week.

Read past issues of The Voice [here](#).

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People 60 and older can call the Institute on Aging's 24-hour, toll-free [Friendship Line](#) at 800-971-0016. IOA also makes ongoing outreach calls to lonely older adults.

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Webinar on Approaching Clients with Cultural Humility

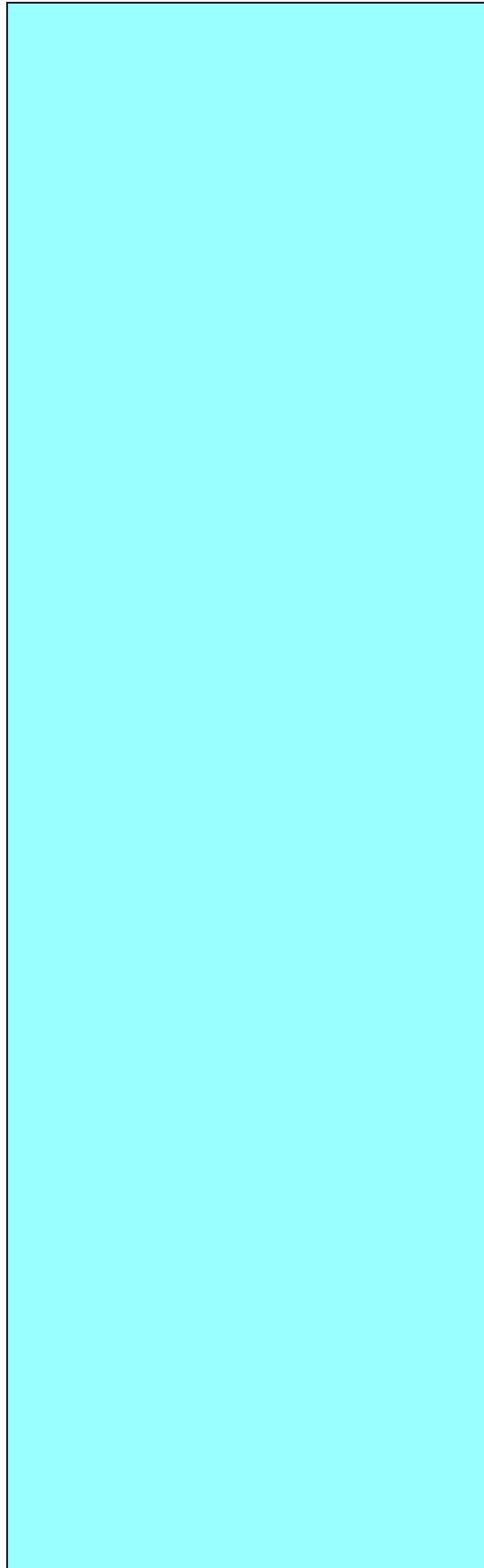
The National Council on Aging is holding a webinar on Monday, April 29th at 2pm ET entitled, *Approaching Clients with Cultural Humility*. The webinar will focus on general perspectives of cultural humility in health and social services, and ways to effectively engage with clients in a respectful and culturally sensitive manner. It will also explore communication frameworks that can be used to help overcome communication and cultural barriers to successfully accomplish client engagement and education. Register [here](#).

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Policy Break: CMS Revised Guidance on Immediate Jeopardy

The recent issue of Consumer Voice's Policy Break provided information on the revised guidance on immediate jeopardy (IJ) citations in long-term care facilities issued by the Centers for Medicare & Medicaid Services (CMS). On March 5, CMS released revised guidelines for determining IJ and a memo outlining the revisions. The guidelines are contained in Appendix Q of the CMS State Operations Manual. The 2019 revised Appendix Q, called "Core Appendix Q," has been modified to apply not just to nursing homes, but to all providers and suppliers that accept Medicare and/or Medicaid funding. CMS has also created a "subpart" to address specific nursing home concerns. According to CMS, the purpose of the revisions is to clarify and increase consistency in identification of IJ.

Read the [Policy Break](#) for a summary of the guidelines and for Consumer Voice's perspective on the changes.



CMS Administrator Announces Five-Part Plan for Ensuring Nursing Home Safety and Quality

In a blog post on April 15, 2019, CMS Administrator Seema Verma wrote that CMS's approach to oversight of nursing homes is constantly evolving, and noted that she has directed her team to review the agency's regulations, guidelines, internal structure and processes related to nursing home safety and quality. As part of this effort, she announced the following five-part plan:

1. Strengthening oversight, including:

- Revising oversight of state survey agencies
- Working to stop abuse by clarifying abuse reporting; examining time frames for state survey agency review of abuse; looking at CMS organizational structure to improve collaboration across regional staff in cases of abuse; and finding ways to more effectively identify workers with a history of abuse
- Exploring possible use of Medicare claims data and other information including "use of artificial intelligence and text mining" in survey and oversight processes

2. Enhancing enforcement, including:

- Requiring surveyors to conducting a certain percentage of surveys after hours and on weekends to focus on potential staffing problems
- Increasing sanctions on nursing homes that have not reduced their usage of antipsychotics and have a history of noncompliance with antipsychotic-related rules
- Requesting more money from Congress for surveys
- Asking Congress for authority to reduce the frequency of surveys to focus more on poor performers

3. Increasing transparency, including:

- Exploring ways to highlight violations concerning abuse and misuse of antipsychotic medications on Nursing Home Compare
- Publishing termination of provider agreements due to poor care online
- Making survey reports more accessible

4. Improving quality, including:

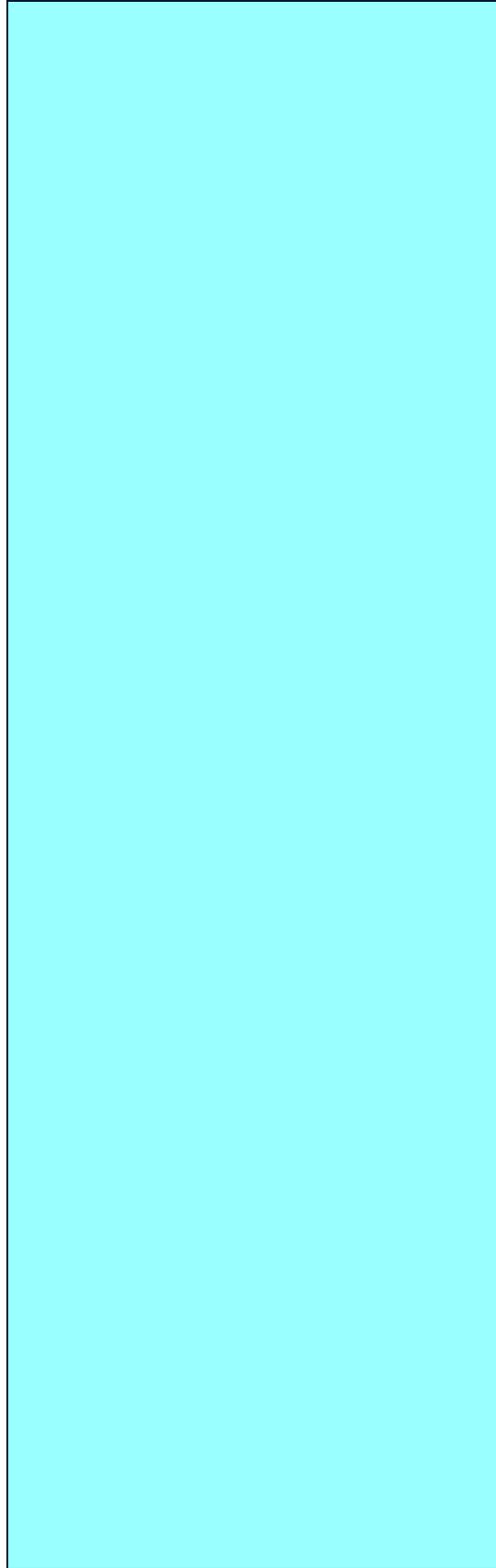
- Developing quality measures that focus on improving outcomes while minimizing burden
- Investing federal civil monetary penalty money in initiatives related to staffing quality, dementia care, adverse events and other quality issues
- Basing part of skilled nursing facility (SNF) reimbursement on performance (SNF Value-Based Purchasing)

5. Putting Patients Over Paperwork

- Evaluating how to minimize burden every time a new rule or requirement is implemented, including a focus on “minimizing administrative burdens on providers” in the 2016 nursing home regulations
- Streamlining processes to eliminate obsolete, unnecessary or duplicative provisions
- Releasing a newly developed free online training about infection control and prevention to help facilities meet new requirements to be implemented in November 2019

You can read the entire blog post [here](#).

Consumer Voice supports efforts to ensure safety and quality in our nation’s nursing homes. Some of the measures mentioned in the blog, such as increasing oversight of state survey agencies, conducting surveys targeting staffing problems, and clarifying abuse reporting are steps in the right direction. However, we are concerned that many of the initiatives identified by the Administrator would do little to improve safety and quality or even possibly result in harm to residents, such as the review of nursing home regulations based on reducing provider burden and the effort to reduce the frequency of surveys. Consumer Voice will continue to monitor CMS activities and



advocate as necessary on behalf of nursing home residents.

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Spotlight on Resources

Issue Briefs

Consumer Voice, in partnership with Justice in Aging and the Center for Medicare Advocacy, is developing a series of briefs entitled "A Closer Look at the Revised Nursing Facility Regulations."

- **Why the Recently-Revised Nursing Home Regulations are Vital for Nursing Home Residents.** This fact sheet provides a quick overview of some of the important new provisions, so that stakeholders and policymakers can better understand the revised regulations' important role in improving nursing facility care. The revised regulations provide many benefits to nursing facility residents, including an increased focus on addressing a resident's needs and preferences.
- **Assessments, Care Planning, and Discharge Planning.** This brief provides an overview of the regulations in these areas and highlights provisions that can be useful in advocating for improved quality of care and quality of life. For instance, the revised assessment process must now gather information about a resident's preferences, goals, and there is greater emphasis on the participation of the resident and resident's representative participants in the care planning team. Also, care planning must include planning for discharge, to give residents an increased ability to move out of the facility into the community. The brief gives information on effective ideas how to find the regulations, and concludes with practical tips for residents and advocates.
- **Unnecessary Drugs and Antipsychotic Medications.** This brief outlines the recent changes in unnecessary drug regulations, including substitution of a broader category of psychotropic drugs, along with new controls over "as needed" (PRN) psychotropic drugs. The revised regulations also expand requirements for drug regimen reviews.
- **Involuntary Transfer and Discharge.** This brief explains the minor changes in transfer and discharge regulations, which include increasing the facility's ability to have a transfer/discharge on a suspended ability to meet the resident's needs, by requiring increased documentation by the resident's physician. The regulations also limit transfer/discharge for nonpayment.
- **Nursing Services.** This brief explains the recent changes in nursing services regulations, which include placing a greater emphasis on establishing minimum competencies and skill sets for all nursing personnel. In addition, the regulations have increased requirements for in-service training of nursing personnel.
- **Admission.** This brief explains the changes in admission, bed/hold and return regulations, which include broadly prohibiting facilities from using admission agreements or other documents that waive a resident's rights. The revised regulations also prohibit pre-discharge arbitration agreements, but this consumer protection is currently blocked by a court order.
- **Visitation Rights.** This brief explains changes in visitation rights including the right to receive visitors, written policies and procedures and other facility requirements, notice requirements, and visitation privileges.
- **Rehabilitation Services.** This brief covers how the substantive requirements for specialized rehabilitative services are largely unchanged from the prior version of the regulations, with the exception of "respiratory therapy" which is added to the list of services that a facility must provide to its residents who need them.
- **Return to Facility After Hospitalization.** This brief explains bed hold rights when a resident returns to a facility after a hospitalization. The brief provides information on advance modification of bed hold rights and residents' rights if they return to a facility after a bed hold period has been exceeded.
- **Grievances and Resident/Family Councils.** This brief covers the resident's right to file grievances and the facility's requirement to look to resolve those concerns promptly. Each facility must have a grievance policy and provide residents with information on how to file a grievance. Also, residents have a right to form a resident council, and family members and resident representatives have the right to form a family council. The facility must have a council member elected and implemented.

Consumer Voice and the National Ombudsman Resource Center have a multitude of resources available online covering a

wide range of long-term care topics. Visit the [Consumer Voice](#) and [NORC](#) websites to explore all the available resources. Check out this week's highlighted resource:

Revised Federal Nursing Home Regulations Issue Briefs on Specific Topics

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About The Voice

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Consumer Voice is the leading national voice representing consumers in issues related to long-term care, helping to ensure that consumers are empowered to advocate for themselves. We are a primary source of information and tools for consumers, families, caregivers, advocates and ombudsmen to help ensure quality care for the individual. Consumer Voice's mission is to represent consumers at the national level for quality long-term care, services and supports.

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