Office of Health Facilities Licensure and Certification

South Dakota Department of Health

February 2022
Partnership News

Partnership News

& Best Practice

SD Department of Health
600 Capitol Ave
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57501

Phone: 605.773.3356

Please visit our website at:

http://doh.sd.gov/providers/licensure/

Survey and Certification—Due to the deadly COVID-19 pandemic, this is the first edition of our Partnership News and Best Practices since December 2019 . Thank you to each and everyone of you for your dedication, loving care, and flexibility during our response to the pandemic. Your efforts have ensured the health and safety of countless residents and patients in South Dakota.

The mission of the Office of Licensure and Certification is to partner with consumers, families, healthcare providers, healthcare organizations, and other regulatory agencies to ensure the health, safety, and appropriate care of patients and residents in South Dakota. The care of our residents and patients is best met through collaboration with you and others.

The past two years has shown the need for flexibility and patience. Since the beginning of the pandemic, the Department of Health has worked hard to provide guidance, technical assistance, and resources to providers.

OLC has conducted routine touch base calls with Long-Term Care Facilities (LTCF) during outbreaks and held numerous calls and webinars. Survey work was disrupted to a point that all but complaint surveys were stopped. Complaint surveys and Focused Infection Control (FIC) surveys were started in LTCF during outbreaks of COVID. As the surge of COVID subsided, recertification surveys started again. It is the end of January 2022 now and with the recent surge of COVID-19 the past few weeks we are again focusing survey efforts on complaints and FIC surveys until the surge diminishes.

The fluid situation, changes to guidance, and need for flexibility have shown us we need to continue to have patience and to work together for the care of our residents and patients. You have our commitment that we will strive to continue our collaboration with you. Thank you again for the great and important work you do!!

Inside this issue

Omnibus COVID-10 Health Care Vaccination

CMS published an interim final rule with comment period (IFC). This rule establishes requirements regarding COVID-19 vaccine immunization of staff among Medicare- and Medicaid-certified providers and suppliers CMS QSO-22-11-All. In South Dakota, the time frame to meet Phase 1 requirements is February 14, 2022. Phase 2 requirements must be met by March 15, 2022.

Assisted Living Center Update Jennifer Maeschen

As most know, there was a change the public health advisor role for assisted living centers within our office. We would like to thank Deb Carlson for her many years of partnership and guidance to our ALC providers! In November 2020, Jennifer Maeschen assumed the position of ALC public health advisor. Since that time, many of you have already had contact with her for various concerns or COVID-related questions. Please continue to reach out via phone or email with any ALC related questions at 605.995.8147 or Jennifer.Maeschen@state.sd.us.

On another note, the office would like to thank all our wonderful healthcare partners in the assisted living centers. It has been quite a challenging time to work in the healthcare industry. We truly feel we have some of the most compassionate and hard-working people taking care of residents in our South Dakota long-term care facilities! Please know we value our partnership and collaboration to provide high quality of care to our long-term care residents!

New Healthcare Licensing System *Julie Jenssen*

Our office is in the processing of developing a new online licensing system. The new system will be available for the annual medical facility license renewals in May/June 2022. It will also be available for **new** applications for all provider types later this spring. All new license applications and renewals will be required to be completed and submitted online using the new system.

For medical facility renewals, in late April/early May, an email will be sent from the new licensing system to the email address we have on record outlining the new process for providers. In order to access the system, providers will need to have the following information available: e-mail address the licensing letter was sent to, license number, and name of facility. Providers will review the information and make changes as appropriate. Payment for the license will need to be made via credit card or a non-cash voucher. The non-cash voucher is only available for South Dakota state operated facilities. Our licensing credit card system only accepts **Visa** or **Mastercard**.

DOH staff look forward to working with you on your upcoming license renewal. Please don't hesitate to contact our staff at 605.773.3356 or via email at DOHOLCLicensing@state.sd.us with any questions you may have.

Providers interested in joining the OLC listserv can subscribe at
https://listserv.sd.gov/scripts/wa.exe?A0=SDOLC ,
CLIA: **https://listserv.sd.gov/scripts/wa.exe?A0=SDCLIA**
RHC: **https://listserv.sd.gov/scripts/wa.exe?A0=SDRHCLINICS**
Click on the ***Subscribe*** function found on the right side of the page. Receive newsletters as well as updates and information on licensing, survey, certification, rules, and regulations.

Change in ownership? Has this change been communicated to the Office of Licensure and Certification ?

Please communicate any potential or actual changes in ownership or management to our office prior to the change occurring. The following documentation is required for each facility by the new owner before a change of ownership can be approved:

- Complete the appropriate application for the facility type under Provider Information at this link: https://doh.sd.gov/providers/licensure/
- Note: There is no fee associated with a change in ownership. Fees are collected with initial applications and during annual renewals.
- Submit legal proof of the transfer of the facility to the new operating entity, such as the Bill of Sale, Management Contract, and Articles of Incorporation from the new owner. If the new owner is a partnership or corporation, submit proof of the existence of the operating entity.
- Submit a signed statement whether the new owner WILL or WILL NOT honor and abide by the plan of correction which was submitted following the latest licensure/recertification survey; will adopt all present policies and procedures (or submit new policies); and have no intent of changing the current staffing level.

Please also let us know the planned date of the change of ownership/management. The above information can be submitted via email to Julie.Jenssen@state.sd.us or mailed to South Dakota Department of Health, Office of Licensure and Certification, 600 E Capitol, Pierre, SD 57501.

If you have any questions regarding the change of ownership process, please call 605.773.3356 and the staff will direct you to the appropriate advisor for the facility type.

Special points of interest:

- ***Nursing Home Compare:*** ***http://www.medicare.gov/nursinghomecompare/?AspxAutoDetectCookieSupport=1***
- ***Hospital Compare:*** ***https://www.medicare.gov/hospitalcompare/search.html***
- ***Home Health Compare:*** ***https://www.medicare.gov/homehealthcompare/search.html***
- ***CMS Memos:***
- ***http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Policy-and-Memos-to-States-and-Regions.html***
- ***Licensure and Certification website:*** ***https://doh.sd.gov/providers/licensure/***

New administrator? Has the change in administration been reported to the Office of Licensure and Certification (OLC)?

We would like to remind our health care partners of their obligation to notify our office when a change in administrator occurs.

According to the Administrative Rules of South Dakota (various rules depending on provider type), the "governing body" shall notify the department in writing of any change of administrator. We request this notification be sent prior to the departure of the current administrator, if possible. This will help ensure we have adequate time to update our records.

The OLC and Centers for Medicare and Medicaid Services (CMS) currently communicate via email with providers. For this reason, we would also like to request the administrator's email address be included in the notice.

Acceptable forms of notification to our office for the change in administrator include:

- **Mail** a written notice to Chris Qualm, Administrator, South Dakota Department of Health, 600 E. Capitol, Pierre, SD 57501;
- **Fax** a written notice to Chris Qualm, Administrator, South Dakota Department of health, 605.773.6667;
- **Email** a notice to Chris.Qualm@state.sd.us and Julie.Jenssen@state.sd.us

Although there is no administrator rule governing the notification of changes in the Director of Nursing position, we would like to request the administrator please notify our office of these changes as well.

Emergency Preparedness

Emergency Preparedness Regulations for all Provider and Certified Supplier Types: Interpretive Guidelines: Appendix Z https://www.cms.gov/medicare/provider-enrollment-and-certification/surveycertemergprep/downloads/advanced-copy-som-appendix-z-ep-igs.pdf

Need help with you Emergency Preparedness planning? Need to know how to connect with a **HealthCare Coalition in SD?**
Go to **http://doh.sd.gov/providers/preparedness/hospital-preparedness/system/**

CMS Emergency Preparedness Site:
https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertEmergPrep/index.html

Health Alert Network:
https://doh.sd.gov/providers/preparedness/SDHAN.aspx

CLIA Proficiency Testing - The Do's and Don'ts

Denise Broadbent, MT (ASCP)

Recently, this office has seen an increase in the number of deficiencies cited concerning proficiency testing (PT). Deficiencies related to failure to maintain complete records and failure to document review of the final reported results have increased over the past year.

CMS has published a short brochure on PT do's and don'ts (https://www.cms.gov/Regulations-and-Guidance/Legislation/CLIA/Downloads/CLIAbrochure8.pdf). This brochure is a good resource for frequently asked questions about the CLIA requirements for PT and PT referral. CMS also sent out a memo regarding an increase in the number of reports of PT referral- S&C:18-07-CLIA (https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-18-07.pdf). This memo delineates the various categories of PT referral and the potential enforcement actions CMS could take.

To avoid potential issues with your PT, follow some basic rules when handling and processing your proficiency testing samples.

- DO have a laboratory PT policy/procedure and follow it.
- DO ensure all newly added testing is added to your next testing event or if necessary, enroll in a new testing event as soon as possible.
- DO have a worksheet which documents the receipt, handling, processing, and evaluation of your PT samples and results.
- DO treat your samples exactly as you would a patient specimen including testing samples in the normal workflow.
- DON'T refer your PT samples to another laboratory, even if you would normally refer a patent's specimens for confirmation or additional testing.
- DON'T discuss or share PT results with another laboratory. If you work for a healthcare system, don't access the PT results of another laboratory in your health care system via the computer. This is considered PT referral.
- DO have the staff that normally process and report patient specimens, process and report the PT samples.
- DON'T run your PT samples multiple times or have multiple staff members process the same samples. The exception is critical results or instrument error codes. If your laboratory policy is to repeat all critical results prior to reporting, you can repeat the PT samples to verify the critical values only. In the case of an instrument error, follow your laboratory's policy/procedure for repeat testing of the affected samples(s). Document the critical result or error as the reason for the repeat testing and keep ALL instrument printouts.
- DO participate in PT at the laboratory at which you are employed. Rotate testing events through all personnel who normally test and report patient specimens.
- DON'T participate in the SAME TESTING EVENT if you work at multiple laboratories. Notify your supervisor if you have completed the survey at another facility. Your supervisor should then assign the survey to another individual to process.
- DON'T electronically submit PT results in multiple laboratories. Often, the technical consultant or laboratory director will submit the PT results to the testing company. Submitting the results for the same event in multiple facilities would be considered PT referral (you could compare

CLIA Proficiency Testing - The Do's and Don'ts *(continued)*

and potentially change the proficiency testing results). If you work at multiple facilities- report the event at only ONE facility.

- DO ensure all attestation statements have been signed by the laboratory director (or their designee) AND by the testing personnel.
- DO report your PT results prior to the submission cutoff date. Print a copy of the electronically submitted results report for your records.
- DO review all PT results not graded as acceptable- this includes ungraded results. Document your review and all corrective actions taken. Even if you scored 100%, you still need to document review of the final report.
- DO compare your PT results to the final reported results, if you fail to submit your results before the deadline. Keep a copy of the result comparison and any corrective action(s) taken.
- DO keep copies of ALL PT documentation (worksheet, analyzer printouts, submitted results, attestation forms, reviewed final results report, and all documentation of corrective actions taken) for a minimum of 2 years.
- DO use your PT samples for competency assessment but only AFTER the cutoff for submission date.
- DO notify this office if you are unable, for whatever reason (analyzer down, unable to obtain reagents, etc.), to process and report a testing event.
- If you do receive PT samples from another laboratory, immediately NOTIFY either this office or your accrediting agency immediately with the referring laboratory's name and details. DO NOT process the samples.

Most importantly, if you have questions, please contact Denise Broadbent (denise.broadbent@state.sd.us). We are here to help you successfully navigate the PT rules and regulations.

COVID Touchbase Calls—Points of Contact

- **Jill Rudloff, RN,** - phone 605-394-1668 or email Jill.Rudloff@state.sd.us
- **Elaine Hanley, RN** – phone 605-773-3497 or email Elaine.Hanley@state.sd.us
- **Tina Muller, LNHA** – phone 605-773-5116 or email Tina.Muller@state.sd.us

COVID Resource Links

- CMS QSO-20-39-NH 9 revised 11.12.21) - Visitation
- CMS QSO-22-11-All (revised 01.20.22) - Vaccination
- CMA QSO-20-38-NH (revised 09.10.21) - Testing
- CMS QSO-22-10-ALL (revised 01.20.22) - Surveyors Vaccination
- Vaccination Mandate Frequently Asked Questions (FAQ)
- COVID-19 Nursing Home Data
- Interim Infection Prevention and Control Recommendations to Prevent SARS-CoV-2 Spread in Nursing Homes
- Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2

Why are we citing F700?

Diana Weiland, RN

In review of F700 Bedrails, the intent of the regulation is to address the use of the bedrails. This means that prior to installing rails for use, or using pre-installed rails, the provider will attempt to identify and document appropriate alternatives, ensure correct installation, use, and maintenance, that includes:

- Assessment and physician acknowledgement of use.
- Assessment of rail(s) and mattress within bedframe for entrapment risk.
- Review of risks and benefits with resident and/or representative.
- Obtaining informed consent prior to installation (or use).
- Ensuring appropriate bed dimensions for resident size and weight; and
- Following the manufacturer's recommendations and specifications for installing, use and maintaining the bed rails.

CMS does not specify appropriate alternatives; the alternative that is attempted should be appropriate for the intended use of the bed rail. An example, a low bed, or concave mattress would most likely not be an appropriate alternative to consider as an enabler for a resident receiving therapy for a hip-replacement. If there is no appropriate alternative that would be suitable for the intended use of the bed rail, the resident record should reflect evidence of the following:

- Purpose of the bed rail and the documentation that no suitable alternative exists.
- Assessment of the resident, the bed and rail for entrapment risk; and
- Risk versus benefits were reviewed with resident and/or representative, and informed consent is given.

For beds with rails that are incorporated or pre-installed, the provider must determine if disabling the bed rail poses a risk for the resident. CMS regulations do not specify that bed rails must be removed or disabled when not in use. Please note, if bed rails are not appropriate for the resident and the provider chooses to keep the bed rail on the bed, but in a down position, raising the rail even for episodic use during care, would be considered noncompliance if all the requirements (assessment, consent, inspection, and maintenance) are not met prior to the episodic use for the resident.

Conclusion –

⇒ Providers should have a process in place for determining whether beds and their bed rails are appropriate for the individual resident.

⇒ Assessment and regular re-assessment for use and risk vs. benefits of bed rail should be done, whether with quarterly MDS and significant change or at a minimum annually.

⇒ A change of resident occupying the bed or mattress may call for an inspection of the bed and mattress to determine if any areas of possible entrapment are present based on the individual in and on the bed and mattress.

New Medicare Provider Type

Jean Koch, RN, Acute Care Advisor

In December 2020 Congress took an important step to preserve access to hospital emergency and outpatient services by passing the Consolidated Appropriations Act, 2021, establishing a new Medicare provider type, "Rural Emergency Hospitals" (REH). This will be the first new Medicare provider type that Congress has approved of since 1997 and will go into effect on January 1, 2023. This law created a new, voluntary Medicare payment designation that allows a critical access hospital (CAH), or a small, rural hospital with less than 50 beds to convert to a REH. The REH will not provide inpatient care, but will provide 24-hour emergency services.

The REH comes as a response to an ongoing period of hospital closures in rural communities and concerns of access to emergency services in rural areas. The REH will provide an option for communities that are perhaps too small to support a full-service hospital but need more than ambulatory care. The REHs will be permitted to provide certain outpatient hospital and emergency department services without providing inpatient care. This will allow them to be eligible for Medicare reimbursement at rates higher than those that would apply to services furnished in a hospital. Some of the services the REH can also furnish are:

- Observation care
- Outpatient hospital services
- Telehealth services
- Ambulance services
- Skilled nursing facility services

During these interim months, the Centers for Medicare & Medicaid Services (CMS) will be creating and finalizing regulations for the REH. Per law, the REHs will need to meet the CMS Conditions of Participation (COPs) applicable to and not all inclusive:

- Have no more than 50 beds and located in a rural area
- Not provide acute care inpatient services
- Have a transfer agreement with a Level I or Level II trauma center
- Maintain a staffed emergency department, including staffing 24-hours a day, seven days a week by a physician, nurse practitioner, clinical nurse specialist or physician assistant
- Meet CAH-equivalent COPs for emergency services
- Meet applicable state licensing requirements

HB 1123 in the 2022 Legislative session proposes establishing licensure for REHs. If passed, regulations and rules will be established. Our goal is to prepare appropriate state rules and/or make changes to other proposed rules soon after CMS regulations are developed. This new law is great and exciting news for our state. The SD Department of Health looks forward to working with the providers on any upcoming changes that may occur with the CAHs from the implementation of this new federal law.

Office of Licensure and Certification—RAI Coordinator

Please feel free to contact Elaine Hanley with questions relating to MDS assessments. Questions may be submitted using the email at **DOHOLCMDS@STATE.SD.US** or Elaine.Hanley@state.sd.us. Please note all reimbursement issues should be referred to DSS.

Office of Licensure and Certification Staff Contact

https://doh.sd.gov/providers/licensure/StaffContacts.aspx

Chris Qualm, Administrator
Email: Chris.Qualm@state.sd.us Phone: 605-773-3356

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Pain Management SOM and CDC guidelines

Bob Coolidge, RPh

Did you know there are 297 references to "PAIN" in the CMS Long Term Care State Operations Manual? Link: Appendix PP - November 22, 2017 (cms.gov)

Examples:

- Healthcare-associated infections (HAIs) can cause significant pain and discomfort for residents in nursing homes and can have significant adverse consequences.
- "Abuse," is defined at §483.5 as "the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish.
- Neglect is the failure of the facility, its employees or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish, or emotional distress.
- Facility staff should attempt to determine the reason for the refusal of care, including whether a resident who is unable verbalize their needs is refusing care for another reason (such as pain, fear of a staff member, etc.), and address the concern, if possible.
- Physician's, nurse's, social worker's and other staff members progress notes, as applicable; (e.g. for investigation of drug diversion, whether there was indication of unrelieved pain during certain times of the day for residents who were prescribed the allegedly diverted medication).
- If there is evidence and/or potential outcomes such as unrelieved pain. For example, there may be evidence that on a particular shift, or when a particular staff member is working, a resident's pain symptoms are not relieved to the extent possible, but the pain symptoms are relieved on other shifts, based upon validated evidence (see also tag F697 for concerns related to pain management)

Did you know in April 2019, CDC Advised Against Misapplication of the *Guideline for Prescribing Opioids for Chronic Pain*
Link: https://www.cdc.gov/media/releases/2019/s0424-advises-misapplication-guideline-

Pocket Guide: Tapering Opioids for Chronic Pain - Opens in a new window : Quick-reference tool for when and how to taper and important considerations for safe and effective care.

CDC Opioid Prescribing Guideline Mobile App - Opens in a new window : Apply the recommendations in clinical practice, including a morphine milligram equivalent calculator, key recommendations, motivational interviewing techniques, resources, and glossary.

Applying CDC's Guideline for Prescribing Opioids Series - Opens in a new window : Interactive, web-based training featuring 11 self-paced learning modules with case-based content, knowledge checks, and integrated resources.

Avoid Opioid
https://www.avoidopioidsd.com/
South Dakota Opioid Resource Hotline 1.800.920.4343

South Dakota Recruitment Assistance

RURAL HEALTHCARE FACILITY RECRUITMENT ASSISTANCE PROGRAM

https://doh.sd.gov/providers/ruralhealth/recruitment/

This state program provides a $10,000 payment to eligible health professionals after three years of full-time practice in an eligible healthcare facility. The $10,000 payment to the selected health professional will be divided among the employing facility and the state. The amount the facility pays will depend on the population of its community. Eligible SD facilities must be located in a community with a population of 10,000 or less.

Applications for the program can be submitted to the SD Office of Rural Health beginning on May 1st for each program year. Applications must be submitted by the employing facility, with a limit of three participants per facility. Slots are limited and the program operates on a first come, first serve basis. Applying health professionals must be employed less than nine months at the time the application is received.

Eligible Occupations:
Dietitian or Nutritionist
Nurse (LPN or RN)
Occupational Therapist
Respiratory Therapist
Pharmacist
Physical Therapist
Paramedic
Radiologic Technologist
Medical Laboratory Professional
Healthcare Social Worker
Speech Therapist

Eligible Facilities:
Hospitals
Nursing Facilities
Federal Certified Home Health Agencies
Chemical Dependency Treatment Facilities
Community Support Providers
Community Mental Health Centers
ESRD Facilities
Community Health Centers (FQHCs)
Ambulance Services
Intermediate Care Facilities Intellectual/Developmental Disabilities

RECRUITMENT ASSISTANCE PROGRAM

The Rural Assistance program (RAP) provides qualifying physicians, dentists, physician assistants, certified nurse practitioners, certified nurse midwives, or certified registered nurse anesthetists incentive payment in return for three continuous years of practice in an eligible rural community. Requests for participation in this recruitment program are reviewed on a first-come-first-served basis. A community or facility representative should contact the Office of Rural Health, 600 E. Capitol, Pierre, SD 57501, phone 1-800-738-2301 to request an assessment to determine eligibility.

Centers for Disease Control and Prevention

National Center for Injury Prevention and Control
Division of Overdose Prevention

CDC is committed to supporting patient care and safe and effective pain management options. **CDC's National Center for Injury Prevention and Control (NCIPC)** is in the process of updating the **2016 CDC Guideline for Prescribing Opioids for Chronic Pain**. Both healthcare professionals and members of the public who experience acute or chronic pain have expressed interest in understanding the recommendations outlined in the draft updated Guideline, and CDC highly values public and partner engagement in this process.

CDC anticipates the draft Guideline update will post in the Federal Register for a 60-day public comment period in the coming weeks. Public comment provides valuable insight from the populations we serve. Please take the following steps to stay engaged:

See our **webpage** detailing the process of updating the Guideline.

- Encourage those in your network who have direct experience with the role of opioids in pain management and the importance of the patient-clinician relationship to participate.

Stay tuned! We anticipate the draft update to the Guideline will post in the **Federal Register** soon.

Biannual Nursing Facility Regulation Report

The Biannual Nursing Facility Regulation Report is available at https://doh.sd.gov/documents/Providers/Licensure/NursingFacilityRegulationReport_2022.pdf The purpose of this report is to provide statistics and information regarding the regulation of nursing facilities in South Dakota. The deficiency data includes all Long-Term Care health surveys.

SOUTH DAKOTA DEPARTMENT OF HEALTH
Every South Dakotan Healthy and Strong

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