

SURVEY QUICK REFERENCE GUIDE

This survey guide has been designed to serve as a quick reference guide and to assist nursing facilities in development their own more comprehensive protocols. This guide is not legal advice, and should not be relied upon as such. Nursing facilities should seek the advice of competent health care legal counsel when designing survey protocols that are meant to comply with the law.

When the surveyors arrive at the facility

1. Notify staff that surveyors are in the building, including the Administrator and the DON if an off-hour survey.
2. Notify the Medical Director -- he/she must be available in person or by telephone during the survey.
3. Gather information that must be provided to surveyors, as identified in the State Operations Manual.
4. Be prepared to discuss any QIs that indicate poor care or a potential problem.

During the survey

1. Accompany the surveyors on tours.
2. Keep documentation.
 - Take detailed notes and/or make copies throughout the survey of questions asked, answers given, events observed, residents interviewed and files/records reviewed and/or copied.
 - Assign someone to specifically document each surveyor's whereabouts at all times to provide a timeline of surveyor activity during the survey, if feasible. For instance, if the surveyors make an assertion on the Statement of Deficiencies that they observed a resident to not be turned or repositioned for a period of time, the facility should have documentation to show when such observation occurred and whether it was continuous.
3. Question findings at the time they are made.
 - Ask the surveyors to show you the law or regulation on which they are relying if you question whether a particular finding constitutes a deficiency.
 - If you continue to question whether the specific finding is a deficiency, you may wish to contact legal counsel for additional assistance. It is always better for a deficiency not to be cited in the first place, than to remove it once it has been cited.
 - Document disagreements with surveyors, as well as what your response was when the issue was brought to your attention, if you believe that a surveyor is mistaken with regard to a particular observation or other finding.
 - Take pictures or ask for a contemporaneous independent expert observation, e.g., from a doctor or enterostomal nurse, as appropriate, if you disagree with something a surveyor has observed, such as the cleanliness of a particular item or the presence or size of a pressure ulcer.
4. Request daily exit conferences.
 - Ask detailed questions regarding the surveyors' findings and reasoning.
 - Do not wait until you receive the Statement of Deficiencies to begin making corrections with respect to any deficiencies that are brought to your attention during the survey.
 - Immediately gather rebuttal documentation to present to the surveyors when they have expressed as concern and have indicated that they might issue a citation relating to that concern.



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5. Do not turn over QA documentation.

- ❑ As a general rule, do not share actual incident investigation material or substantive QA information with the surveyors regardless of how persistent the surveyors are in requesting such information. QA documentation is subject to special confidentiality protections under the law and you are not required to provide it to surveyors. (There may be certain exceptions where abuse or neglect are alleged).
- ❑ Talk to legal counsel prior to providing any QA documentation to surveyors, if you believe it would be beneficial to share such information.
- ❑ Do share summaries or logs of information which reflects that you regularly meet and that you track accidents and incidents. These documents should not mention resident's names (i.e., the names should be coded).

6. Safeguard resident records.

- ❑ Never permit a surveyor to take an actual medical record with them out of the facility, or to take a copy of any facility record personally; copies should only be made by facility staff.
- ❑ Discourage surveyors from making copies of medical records at all, citing confidentiality concerns. However, if records are copied, keep copies of all records that a surveyor takes from the facility.

Exit conference

1. Obtain a copy of the targeted residents and their corresponding identifying numbers.
2. Tape the exit conference.
3. Find out whether the facility is going to be cited, in what areas it will be cited and whether any of the tags may be cited at a severity level of actual harm or above, *i.e.*, at a "G" level or higher.
4. State whether you disagree with particular citations and provide the reasons for your disagreement.
5. Provide additional documentation that supports your position that a citation is not warranted for the surveyors and their supervisors to review prior to writing the deficiency.
6. Transcribe the tape recording and also keep hand written notes for your survey file.

Plan of correction

1. Make sure PoC meets the "minimum" requirements as stated in cover letter enclosing statement of deficiencies.
2. Develop a PoC for every citation, including those with which you disagree and intend to appeal.
3. Make a realistic date of alleged compliance – your facility will not be put back into substantial compliance until all cited deficiencies are corrected, including life safety code citations, keeping in mind on-going penalties (*e.g.*, daily CMPs).
4. Review PoC to make sure that you make no admissions, *e.g.*, put a disclaimer at the beginning of the PoC.
5. Have legal counsel review the plan of correction if you were cited for any citations at a "G" or above, or if you have incurred penalties.
6. Submit the PoC to your ODH district office to the attention of the District Supervisor. If required in the cover letter accompanying the Statement of Deficiencies, submit the PoC to CMS as well.

Informal Dispute Resolution

Nursing facilities should consider IDR whenever they are cited at a "G" level or above, receive a substandard quality of care citation, or there is the potential for a lawsuit based on the underlying citation. In addition, due to the new Medicaid Quality Incentive Payment Program, NFs should consider an IDR for all citations that may be legally or factually incorrect regardless of the scope and severity.