On July 13, 2015, the Centers for Medicare & Medicaid (CMS) issued a proposed rule that would revise the requirements that long-term care (LTC) facilities must meet to participate in the Medicare and Medicaid programs.

The Proposed Rule “Medicare and Medicaid Programs; Reform of Requirements for Long-Term Care Facilities”, represents the first comprehensive change to the conditions of participation (CoPs) since 1991. As CMS notes, the population of nursing homes has changed substantially since 1991, becoming more diverse and more clinically complex. CMS stated that the revisions were generally aimed at aligning requirements with current clinical practice standards to improve resident safety along with the quality and effectiveness of care and services delivered to residents.

The following is a summary of the proposed changes to these regulations:

Transitions of Care
- Proposes to require that a transfer or discharge be documented in the clinical record, and that specific information, such as history of present illness, reason for transfer and past medical/surgical history be exchanged with the receiving provider or facility (acute care hospital, LTC hospital, psychiatric facility, another LTC facility, hospice, home health agency, or another community-based provider or practitioner) when a resident is transferred.
- CMS notes several state-developed universal transfer forms, the Society for Post-Acute and Long-Term Care Medicine’s (AMDA) form and INTERACT.
- Even though no form or format is required, CMS is proposing specific data elements or set of information that must be communicated during the transfer process.

Resident Assessments
- Makes several technical corrections and proposes to expand the current assessment from merely understanding the resident’s needs to communicating their strengths, goals, life history and preferences. The Improving Medicare Post-Acute Care Transformation Act of 2014 (IMPACT Act) requires post-acute care (PAC) providers to report standardized patient assessment data and patient preferences and requires that this data be standardized to allow for the exchange of the data among providers and that preferences be taken into account in discharge planning.
- Proposes to clarify what constitutes appropriate coordination of a resident’s assessment with the Preadmission Screening and Resident Review (PASARR) program under Medicaid.

Comprehensive Person-Centered Care Planning
- New Section
- Proposed to require facilities to develop a baseline care plan for each resident within 48 hours of their admission, which includes the instructions needed to provide effective and person-centered care that meets professional standards of quality care.
- Proposes to add a requirement to include as part of a resident’s care plan any specialized services or specialized rehabilitation services the nursing facility will provide as a result of PASARR recommendations.

Resident Rights
- Comprehensive restructuring of all existing residents’ rights but updates the language and organization regulatory provisions. Acknowledges the ability for residents to have access to personal medical records, and facility specific information in electronic form.

Specialized Rehabilitative Services
- Adds respiratory services to those services identified as specialized rehabilitative services.
- Clarifies what constitutes rehabilitative services for mental illness and intellectual disability.

Outpatient Rehabilitative Services
- Establishes new health and safety standards for facilities that choose to provide outpatient rehabilitative therapy services to residents that do not reside at the facility.

Physician Services
- An in-person evaluation of a resident by a physician, a physician assistant, nurse practitioner or clinical nurse specialist must be conducted expeditiously before an unscheduled transfer to a hospital unless the transfer is emergent and obtaining the in-person evaluation would endanger the health or safety of the individual or
Facility Responsibilities — New Section
- Adds a new section that focuses on the responsibilities of the facility (that is, protecting the rights of their residents, enhancing a resident’s quality of life) and brings together many of the facility responsibilities that currently exist throughout regulations.
- Revises visitation requirements to establish open visitation.
- Prohibits abuse, neglect, and exploitation by proposing to: Specify that facilities cannot employ individuals who have had a disciplinary action taken against their professional license by a state licensure body as a result of a finding of abuse, neglect, mistreatment of residents or misappropriation of their property. Require facilities to develop and implement written policies and procedures that prohibit and prevent abuse, neglect, and mistreatment of residents or misappropriation of their property.

Quality of Care and Quality of Life
- This section is reorganized to reflect person-centered, quality of care and life for residents.

Quality Assurance and Performance Improvement (QAPI) — New Section
- Proposes to require all LTC facilities to develop, implement, and maintain an effective comprehensive, data-driven QAPI program that focuses on systems of care, outcomes of care and quality of life for residents and staff. The QAPI program would be designed to monitor and evaluate performance of all services and programs of the facility, including services provided under contract or arrangement.

Special Care Issues
- Skin integrity – Care must be consistent with professional standards of practice and clarifies that foot care includes care to prevent complications.
- Range of Motion – Proposing to add language to require that residents with limited mobility receive appropriate services and equipment to maintain or improve mobility unless reduced mobility is unavoidable based on the resident’s clinical condition.
- Tube Feeding – Proposes that enteral nutrition also includes gastrostomy tubes with nasogastric tubes, both percutaneous endoscopic gastrostomy and percutaneous endoscopic jejunostomy. Proposes to require both assisted nutrition and hydration and specifies that the facility must ensure that the resident maintains acceptable parameters of nutritional status, such as usual body weight or desirable body weight range and protein levels, unless the resident's clinical condition demonstrates that this is not possible and that the resident receives sufficient fluid intake to maintain proper hydration and health.
- Pain – Proposes a new requirement that facilities must ensure that residents receive necessary and appropriate pain management.

Compliance and Ethics Program — New Section
- Compliance and Ethics Program: Proposes to require the operating organization for each facility to have in operation a compliance and ethics program that has established written compliance and ethics standards, policies and procedures that are capable of reducing the prospect of criminal, civil, and administrative violations.

Behavioral Health Services — New Section
- Proposes to add a new requirement to provide the necessary behavioral health care and services to residents in accordance with their comprehensive assessment and plan of care.

Pharmacy Services
- Proposes to require that a pharmacist review the resident’s medical record coincident with the drug regimen review at least every 6 months and when the resident is new to the facility, when a prior resident returns or is transferred from a hospital or other facility and during each monthly drug regimen review when the resident has been prescribed or is taking a psychotropic drug, an antibiotic or any drug the Quality Assessment and Assurance (QAA) Committee has requested be included in the pharmacist’s monthly drug review.

Laboratory, Radiology & Other Diagnostic Services — New Section
- Clarifies that a physician assistant, nurse practitioner or clinical nurse specialist may order Laboratory, radiology, and other diagnostic services for a resident in accordance with state law, including scope of practice laws.
- Proposes to allow flexibility to provide that other practitioners have the ability to receive laboratory, radiology and other diagnostic results if these practitioners ordered the tests.
- Clarifies that the ordering physician; physician assistant; nurse practitioner or clinical nurse specialist, be notified of abnormal laboratory results when they fall outside of clinical reference ranges, in accordance with facility policies and procedures for notification of a practitioner or per the ordering physician’s, physician assistant’s; nurse practitioner’s or clinical nurse specialist’s orders.

Food & Nutrition Services
- Proposes to require facilities to employ sufficient staff with the appropriate competencies and skills sets to carry
out the functions of the dietary service while taking into consideration resident assessments, and individual plans of care, including diagnoses and acuity, as well as the facility’s resident census.

- Use of Feeding Assistants: Proposes to require that facilities document the clinical need of a feeding assistant and the extent to which dining assistance is needed in the resident’s comprehensive care plan.

Administration
- Facilities to 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. The facility must review and update that assessment, as necessary, and at least annually.
- Proposes several provisions on binding arbitration agreements.

Infection Control
- Infection Prevention & Control Program (IPCP): CMS proposes to require facilities to have a system for preventing, identifying, reporting, investigating, and controlling infections and communicable diseases for all residents, staff, volunteers, visitors, and other individuals providing services under an arrangement based upon its facility and resident assessments that is reviewed and updated annually.

Physical Environment
- For facilities initially certified after the effective date of this regulation:
  - Rooms to accommodate no more than two residents in a bedroom.
  - Rooms have a bathroom equipped with at least a toilet, sink and shower in each room.

Training Requirements – New Section
- Sets forth all the requirements of an effective training program that facilities must develop, implement, and maintain for all new and existing staff, individuals providing services under a contractual arrangement, and volunteers, consistent with their expected roles. Training topics must include:
  - Communication: Requires facilities to include effective communications as a mandatory training for direct care personnel.
  - Resident Rights and Facility Responsibilities: Requires facilities to ensure that staff members are educated on the rights of the resident and the responsibilities of a facility to properly care for its residents as set forth in the regulations.
  - Abuse, Neglect, and Exploitation: Requires facilities, at a minimum, to educate staff on activities that constitute abuse, neglect, exploitation, and misappropriation of resident property, and procedures for reporting these incidents.
  - QAPI & Infection Control: Requires facilities to include mandatory training as a part of their QAPI and infection prevention and control programs that educate staff on the written standards, policies, and procedures for each program.
  - Compliance and Ethics: Requires the operating organization for each facility to include training as a part of their compliance and ethics program. Proposes to require annual training if the operating organization operates five or more facilities.
  - In-Service Training for Nurse Aides: proposes to require dementia management and resident abuse prevention training to be a part of 12 hours per year in-service training for nurse aides.
  - Behavioral Health Training: We propose to require that facilities provide behavioral health training to its entire staff, based on the facility assessment at §483.70(e).

This proposed rule was published in the July 16, 2015 Federal Register. Comments are due by September 14, 2015.