



Not for Profit News¹

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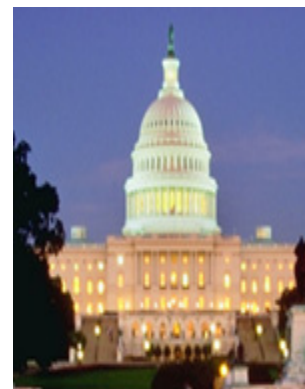
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On the Hill

Sign Up for AHCA/NCAL’s Legislative Action Center!

AHCA & NCAL's Legislative Action Center provides the latest information about legislation and policy pertaining to long term care facilities. Our featured action alerts allows you to easily advocate to Members of Congress on the issues that matter to you the most.



¹ November 20, 2008

To begin receiving alerts, go to <http://capwiz.com/ahca/mlm/signup/> and join your colleagues, who already receive AHCA & NCAL Advocacy Action Alerts. Once you have signed up, we will send action alerts straight to your e-mail inbox. Then, with a few clicks of your mouse, you can tell your Members of Congress what matters to you most - and get them thinking about long term care!

AHCA/NCAL Pledge to Work with Congress for Positive and Effective Reforms

As we have reported, health care reform will be one of the big agenda issues for President-elect Obama and the incoming Congress. Recently, Senator Max Baucus (D-MT), Chair of the Finance Committee, held a briefing on his proposal to overhaul America's healthcare system. We applaud Senator Baucus for presenting a plan that includes long term care - and seeks to address quality, information technology, workforce, access to care and cost - and are reaching out to work collaboratively to enact positive and effective reforms. We anticipate that Senator Ted Kennedy (D-MA) will also release a health care reform proposal soon.

In 2009, we will continue to promote our Long Term and Post-Acute Financing Reform Plan as a solution for Congress to consider. As we move forward, we encourage Senators Baucus and Kennedy, along with President-elect Obama and the entire Congress to work with the long term care profession to ensure that our most vulnerable citizens have access to the critical care and services they need and deserve. For more information, click to contact David Hebert.

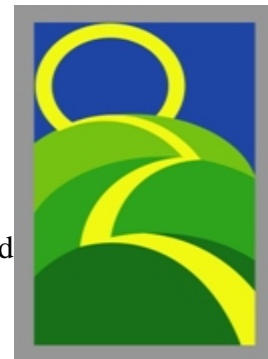
Events Reminder

Make Plans to Attend the First Quality Symposium Feb. 5-6, 2009 in St. Louis

Make plans to attend the inaugural AHCA/NCAL Quality Symposium: Inspiring Excellence in Long Term Care! This intense day-and-a-half conference will be held in St. Louis, Mo., Feb. 5-6, 2009. The symposium will highlight many journeys toward performance excellence and provide a dynamic forum for exchanging ideas and best practices. You will be inspired and empowered to lead your organization to sustain results that meet and exceed the expectations of those you serve.

Attendees can earn 12.5 CEUs. A pre-symposium workshop, Leadership Excellence: The Exceptional Long Term Care Leader Self Assessment, is scheduled for Feb. 4, 2009. This workshop helps leaders benchmark their leadership skills and develop a personal action plan to enhance their abilities. Six CEUs can be earned by attending this special opportunity.

Registration and detailed information for this event will be available soon. For more information, contact Chris Condeelis.



**2009 AHCA/NCAL
QUALITY
SYMPOSIUM:
INSPIRING EXCELLENCE
IN LONG TERM CARE**

NFP Sessions at the 2009 Independent Owner (IO) Leadership Conference

The IO leadership conference will take place in [Fort Lauderdale, Florida](#) on [March 19 and 20, 2009](#). Don't miss out on this opportunity to earn up to 9 CEU credits, network with your peers, and discuss strategies and solutions on the most current long term care (LTC) issues.

Participants will benefit from two days of outstanding education, including these sessions:

- Free Stuff for NFPs: The Foundation Center
- Tax Free Credits for NFPs
- Telemedicine Through Your Computer

And much more!

The advance registration deadline is **Sunday, February 22**, which is a savings of \$75 off the on-site member rate. The hotel reservation deadline at the Hyatt Regency Pier Sixty-Six is also Sunday, February 22. For more information and to register on-line, see the "Events" menu on the top of the page at www.ahcancal.org.

Webinars: A Great Resource for NFP Providers

AHCA/NCAL frequently hold webinars on a variety of LTC issues. These sessions are also archived on our web-site at <http://www.ahcancal.org/events/Pages/Webinars.aspx>. Some future webinars include:

The Seven Disciplines of Governance Excellence

AHCA will host this webinar on Tuesday, December 9 from 2 to 3 pm ET. The webinar will review the seven disciplines of governance excellence from the top-selling governance book, *The Imperfect Board Member*, and will address how each of the seven disciplines contributes to the Board's effectiveness as the high-level decision-makers for the organization. To register and for more information, please click [here](#).

Advancing Excellence Webinar Focuses On Satisfaction

The *Advancing Excellence in America's Nursing Homes* campaign's fifth Webinar will focus on satisfaction and help participants learn the value of the opinions of residents, families and staff in your facility. You will learn how to integrate this information into your quality improvement program to improve care, services, and the work environment. The webinar will be held Wednesday, December 10 from 2 pm to 3:30 pm ET. For complete details about this free resource from the *Advancing Excellence* campaign, please click [here](#).



Centers for Medicare and Medicaid Services (CMS) News

AHCA Continues to Oppose CMS 5-Star Program

AHCA recently sent a [letter](#) to key Congressional leaders requesting that they join us in pressuring CMS to delay the implementation of the Five Star nursing facility rating system. In the letter, we state, "The three primary components - survey & certification results including complaint surveys, staffing data, and quality measures - that will be used to rate nursing homes for the Five Star Program are flawed... "While CMS has not yet provided the weighting of the components, or any other specific detail of the program, we understand that the program is complete and that the agency plans to publicly unveil Five Star no later than December 18. As we do not believe the Five Star program will accurately assess quality or provide a helpful resource to consumers, we will continue to oppose its implementation. Questions? Click to contact [Lyn Bentley](#).



CMS Releases ICD-10 Clinical Modification Coding Fact Sheet

CMS has recently released the International Classification, 10th Edition, Clinical Modification/Procedure Coding System (ICD-10-CM/PCS) [fact sheet](#), which provides general information about the benefits of adopting the system, structural differences between the International Classification, 9th Edition, Clinical Modification/Procedure Coding System (ICD-9-CM/PCS) and the ICD-10-CM/PCS, and implementation planning recommendations. As previously [reported](#), this information is important because CMS recently released, and AHCA commented on, two proposed rules on the topic: [Modification to Medical Data Code Set Standards to Adopt ICD-10-CM](#) and [Modifications to the Health Insurance Portability and Accountability Act \(HIPAA\) Electronic Transaction Standards](#). Questions? Click to contact [Dianne De La Mare](#).

CMS Releases New Draft of MDS 3.0 and Data Specifications

CMS recently released a new draft of MDS 3.0 and the data specifications. The new draft shows some changes from the draft released last January. CMS stresses that all of the materials including the specifications are currently in draft form and are subject to change prior to implementation. The release, approximately one year before MDS 3.0 implementation, is to provide nursing home and swing bed software developers as much lead time as possible to prepare for implementation.

The draft MDS 3.0 and specifications can be found [here](#), under Downloads and select Draft MDS 3.0 Data Specifications. The data specifications zip file contains the Data Specifications Report, Item list by Type, Item List Report by Item, Item Subset Code Report, MDS 3.0 Data Specifications Document, Supplemental Information Report,

Unduplicated Edits Report by ID, and Unduplicated Edits Report by Type. Questions regarding the data specifications should be directed [here](#).

Permanent RACs Rollout Halted by CMS

As we [previously reported](#), CMS had begun to launch the permanent Medicare Recovery Audit Contractor (RAC) Program. Earlier this week however, CMS halted the program so that protests filed by PRG-Schultz and Viant, Inc. with the Government Accountability Office (GAO) regarding their failed bids may be addressed. The GAO has 100 days in which to make a decision; in that time CMS is prevented from continuing to roll out the program. AHCA will continue to monitor this situation and provide updates. For more information, contact [Elise Smith](#).

AHCA Secures CMS Fix for Medicare SNF Billing Denials

AHCA has been working with CMS to clear up a systems problem that has been identified regarding claims processing for skilled nursing facilities (SNFs). We have learned that SNF claims involving reason codes 38067 and 38068 were being rejected because of technical computer programming error in CMS' last system's release. CMS has confirmed with AHCA that they have developed a temporary fix for these claims denials and, as of today, have provided contractors (Fiscal Intermediaries and Medicare Administrative Contractors) formal instruction to override the faulty reason codes. A permanent fix through a new system's release will be completed in early 2009.

Financial hardship and accelerated payment issues are to be dealt with and approved by the [CMS regional offices](#). For more information, please click to contact [Elise Smith](#).

CMS Releases State Health Official Letter on State False Claims Act

CMS has released a State Health Official (SHO) letter explaining CMS policy regarding the refunding of the Federal share of Medicaid overpayments, damages, fines, and penalties states recover pursuant to legal action under its State False Claims Act (FCA). The letter addresses Medicaid overpayment identification, investigation, and refunds of the Federal share when that overpayment is attributable to fraud and abuse and what amounts must be returned to the Federal Government on any recovery, the proper accounting of the retractor's share and litigation expenses, and the time frame for refunding the Federal share of any State FCA recovery. For more information, click to contact Priscilla Shoemaker.

AHCA/NCAL Trend Tracker

Don't Forget- LTC Trend Tracker™ is Now Available!

We are proud to announce the release of LTC Trend Tracker™, a web-based data collection and analysis product that will supply information to member NFs, allowing them to analyze their performance and assess it against their peers. LTC Trend Tracker™ is designed to assist facilities in identifying target issues they may have in their operations and to provide resources that may enhance their performance. For more information, please click [here](#), or contact [Bill Hartung](#)



Quality Corner

2009 AHCA/NCAL National Quality Award Applications Now Available!

Apply today for the 2009 AHCA/NCAL National Quality Awards! Communities may apply for recognition and awards at three levels, each of which requires a more detailed and comprehensive demonstration of systematic quality.

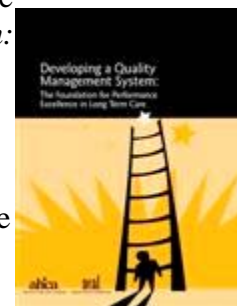


Since its inception in 1996, more than 1,200 facilities have been recognized with a Step I, II or III Quality Award, with more than 340 facilities receiving awards in 2008. All LTC facilities that are members in good standing of AHCA/NCAL are eligible to participate.

To download an application packet, please visit the AHCA/NCAL Quality Award [Web site](#). For more information, please contact [Courtney Krier](#).

AHCA Releases New 2nd Edition of “Developing Quality Management”

Written by one of long term care's leading authorities on quality, Bernie Dana, the new 2nd edition of *Developing a Quality Management System: The Foundation for Performance Excellence in Long Term Care* is a must resource for any facility focused on quality improvement. This manual provides six essential elements of the quality management system that serves as the foundation for continuous improvement. The new edition provides a step-by-step process for developing a long-range plan and creating and using a balance scorecard of key measures to assess organizational performance. There are many resources available on quality improvement, but few that represent a consensus of work from some of the



best minds in long term care management! Order the second edition [online](#) or call 800-321-0343.

My InnerView: Embrace Culture Change with Satisfaction Assessment!

My InnerView's resident, family and staff satisfaction assessment tools are invaluable assets for facility administrators trying to sustain a quality improvement program and address staff concerns. My InnerView will walk you through the basics of its satisfaction assessment program in a free Webinar on Thursday, November 20 at 11:30 am ET. Join the over 60 percent of your AHCA peers that have participated with My InnerView in the AHCA Satisfaction Assessment Initiative. [Register](#) today!

Policy Templates Available In Assisted Living Policy Manual

This two-volume manual gives small and midsized providers the same policy resources the biggest providers enjoy at a fraction of the cost! Customize forms and policies easily with the bonus CD-ROM. Developed in conjunction with Geriatric Nursing Ventures, this Senior Living University, 2003, binder contains 1,016 pages.



Written materials cover the following topics:

- Communications
- Dementia care
- Dining services
- Emergency response

And much more!

To order a copy, [click here](#) or call (800) 321-0343 and ask for Product Number 6926. For NCAL members the cost is \$395.00 and for non-members \$450.00.

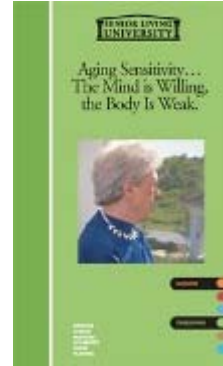
Recognize Physicians That Make A Difference In Your Facility

The American Medical Directors Association (AMDA) invites you to [submit your recommendations](#) for the 2009 Medical Director of the Year Award. This national award recognizes those individuals whose vision, passion, leadership, knowledge and commitment succeed in taking patient care to high levels of quality, excellence and innovation. The 2009 Medical Director of the Year award will be announced on Friday, March 6 at the AMDA Annual Symposium in Charlotte, NC. The deadline for nominations is January 11th. For more information call AMDA at (800) 876-2632 or [click here](#).

Instructional Video Sensitizes Caregivers To Seniors' Perspective On Aging

This 15-minute DVD, produced by Senior Living University, is entitled "The Mind Is Willing, the Body is Weak." It provides caregivers with an insightful perspective into the physical and emotional realities of aging. Caregivers will gain a deeper understanding of the aging process and declines seniors experience.

Costs for NCAL Members is \$80 and non members is \$95. To order a copy [click here](#). Or call (800) 321-0343 and ask for product number: 6930D.



Corporate Compliance

OIG Finds Little CMS HIPAA Security Rule Oversight

In a recent report, *Nationwide Review of the Centers for Medicare & Medicaid Services Health Insurance Portability and Accountability Act of 1996 Oversight*, the Office of Inspector General (OIG), found that CMS has taken limited action to ensure that covered entities, including long term care facilities, adequately implement the Health Insurance Portability and Accountability Act (HIPAA) Security Rule. CMS has only relied on complaints to identify Security Rule problems, according to the report, and subsequently has no effective mechanism to ensure that electronic protected health information (PHI) is adequately protected. For more information, please contact [Dianne De La Mare](#).

OIG Releases Updated Exclusions List - Be Sure To Check It Out!

The OIG has posted the monthly update to its List of Excluded Individuals and Entities (LEIE) that identifies individuals and entities excluded from participation in any Federal health care program as of July 2008. The [updated LEIE](#), which can be downloaded, contains a complete list of all exclusions currently in effect. Individuals and entities that have been reinstated to Federal health care programs are not included in the LEIE file.

Long term care providers should routinely check the OIG's LEIE as Federal law prohibits providers from employing or contracting with any individual or entity who is excluded from participation in Federal health care programs (*e.g.*, Medicare/Medicaid) for the provision of items or services for which payment may be made by those programs. For long term care providers that means all employees—unless the provider employs individuals who work strictly with private pay patients and do not furnish any items or services to Federal program beneficiaries. A provider who employs or contracts with an excluded individual or entity in violation of the law is subject to the imposition of a civil monetary penalty by the OIG. Again, to ensure compliance, long term care providers should routinely check either the online, searchable format or the downloadable OIG LEIE database. [Instructions](#) for accessing either format can be found on the OIG website [here](#).

Funding Opportunities

Capital Sources - November Edition

In cooperation with NCB Capital Impact, AHCA/NCAL offer a summary of grant and related funding opportunities available to long term care professionals.

Capital Sources is based on a scan of federal, state, and local funding opportunities, and covers a wide range of topics, including funding for quality improvement, culture change, health information technology, and direct care staff development.

The funding opportunities include both public (e.g., federal and state government) and private sources (such as foundations and other charitable organizations). Click [here](#) to view the November edition of Capital Sources. For more information, click to contact [Todd Smith](#).

Opportunity for Executive Nurse Fellows - Apply Today

The *Robert Wood Johnson Foundation Executive Nurse Fellows* program is seeking applications for their three-year fellowships, which allow participating nurses to remain in their current positions while they gain the experiences, insights, competencies and skills necessary to advance in executive leadership positions in a health care system that is undergoing unprecedented change. The program is designed to give nursing and nurses a more influential role across many sectors of the economy. Up to 20 fellowships will be awarded in this grant cycle with fellowship resources of \$35,000 over three years. The application deadline is January 15, 2009. For detailed information on the selection criteria, please click [here](#). To learn more about the fellowship opportunity, click [here](#).

Homeland Security

DHS Releases No Match Rule

In late October, the U.S. Department of Homeland Security, Immigration and Customs Enforcement (DHS) issued a supplemental final rule, *Safe Harbor Procedures for Employers Who Receive a No-Match Letter: Clarification; Final Regulatory Flexibility Analysis*, that provides additional background and analysis to the agency's No-Match rule. The regulation clarifies what steps responsible employers can take to resolve discrepancies identified in "no-match" letters issued by the Social Security Administration (SSA). The rule also provides guidance to help businesses comply with legal requirements intended to reduce the illegal employment of unauthorized workers. The rule calls for immediate implementation; however, DHS acknowledges it must refrain from enforcing the rule until the injunction is lifted in current litigation. To obtain a more complete history and explanation of the supplemental final rule, please see AHCA's Legislative Counsel, GreenbergTraurig's *Immigration Alert*. Questions? Click to contact [Dianne De La Mare](#).

Update: Increased Stay for Professional Workers from Canada and Mexico

DHS' Bureau of Citizenship and Immigration Services (BCIS) has released a final rule that increases the maximum period of time for the nonimmigrant North American Free Trade Agreement (NAFTA) Professional (TN) Visa, including healthcare workers from Canada or Mexico. This final rule changes the initial TN Visa period from one to three years, making it equal to the initial period of admission given to H-1B professional workers. This final rule will ease administrative burdens and costs regarding TN Visa employees, as well as benefit employers by increasing the amount of time that these non-immigrants can work before having to seek an extension of status. For more information, please contact Dianne De La Mare.

Disaster Update

Disaster Tip - New Tools & Resources

The Florida Health Care Association (FHCA), in partnership with the John A. Hartford Foundation and the University of South Florida, has released *Emergency Management Guide for Nursing Homes*, a comprehensive 290-page guide that provides an overview of how to develop an emergency plan, details for creating policies and procedures and a template for conducting training and exercises. FHCA also developed the *Comprehensive Emergency Management Software Application for Nursing Homes*, a software program designed to develop nursing home emergency management plans. For more information on these resources, please click here.

AHCA Participates In Disaster Medicine Work Group

AHCA recently participated in the National Biodefense Science Board (NBSB) Disaster Medicine Working Group NDMS Assessment Panel. The panel report included the following recommendations:

- The definition of an “NDMS patient” should be reviewed and expanded, with long term care patients specifically mentioned parenthetically;
- Reimbursement for care should also include all hospitals, outpatient clinics, nursing homes, alternate care facilities, shelters, etc;
- HHS/NDMS should endorse a standard patient movement concept of operations such as that under development by the Region IV Unified Planning Coalition; and
- Criteria should be developed to specify when health-related federal regulations should be considered for temporary suspension in areas affected by a disaster.

Recommendations will be evaluated by HHS NDMS staff and a written response will be provided to the NBSB by summer 2009. For more information, please contact Janice Zalen.

FTC Red Flags Rule

A Federal Trade Commission Red Flag Rule Effective Nov. 1, 2008

On Nov. 1, 2008, the Federal Trade Commission (FTC) will start enforcing one of its Red Flags Rules that requires assisted living providers to develop “reasonable policies and procedures” to respond to any notice of an address discrepancy that providers receive from a consumer reporting agency.

In a document prepared for AHCA/NCAL by its general counsel Reed Smith, providers need to compare the address in the credit report with the address furnished by an individual on an employment or admission application. The Reed Smith document includes a model checklist template that providers can use to comply with the “address discrepancy” rule.

NCAL encourages its members to review the Reed Smith document and AHCA’s memo summarizing the FTC’s Red Flags Rule. The address discrepancy rule is one of three rules the FTC has issued to protect consumers from identity theft.

Two of the three pertain to the health care industry and have implications for assisted living and nursing homes. The two rules that apply are:

1. an address discrepancy rule, which applies to all users of credit reports, to be implemented on Nov. 1, 2008; and
2. the “creditor” red flag requirements rule, which could potentially apply to long term care providers; and will be implemented on May 1, 2009, instead of the original implementation date of Nov. 1, 2008

Recently, the FTC announced that it will delay until May 1, 2009, enforcement of the second red flag rule called “creditor” red flag requirements rule, which could apply to assisted living providers. AHCA/NCAL is working with the FTC to clarify the applicability and intent of the “creditor” rule.

For questions, please contact Elise Smith.

NF/AL Residence Rates

MetLife Releases Annual Report on NH and AL Rates

MetLife recently released their annual report on nursing facility and assisted living residence rates, *The MetLife Market Survey of Nursing Home & Assisted Living Costs*. The report found that the national average rates for a private room in a nursing home

remained essentially unchanged from 2007, while a semi-private room increased modestly by 1.1%, from \$189 daily or \$68,985 annually in 2007, to \$191 daily or \$69,715 annually in 2008. National average assisted living rates increased by 2.1%, from \$2,969 monthly or \$35,628 annually in 2007, to \$3,031 monthly or \$36,372 annually in 2008. AHCA/NCAL will use the new report to reemphasize the need for long term and post acute care financing reform - and further encourage every American that they should begin planning for their own long term care needs and take more personal responsibility for their retirement.

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