New Strategies for Managing Medicare Risk

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1001. Survey and Certification Phase II – The Facility-Wide Assessment

10,50,NS

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Topics

- Why Survey and Certification
- What the new Requirements of Participation did in 2016/2017
  - First big change since 1991/1992
- Effective 11/28/2017 – Phase II and Facility Assessment Required
  - Three Parts
    - Detailed Resident and Services Profile
      - Examples of data and sources of data to report
      - Why a year versus a month or a day?
    - Staff sufficiency and competency
    - Emergency and Disaster planning and Staffing
- Questions

Administration Basis in Law

- Governing Law – Section 1919 **[**42 U.S.C. 1396r**] – (d) (1)(A)**
  - IN GENERAL.—A nursing facility <u>must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain</u> the highest practicable physical, mental, and psychosocial well-being of each resident (consistent with requirements established under subsection (f)(5)).

ROP Central Survey & Certification Themes Challenging the SNF and NF

1) Overarching Theme = Person Centered Care
   - Strategies – look at next three years of
     - Resident Rights
     - QAPI
     - Facility Assessment
     - Compliance & Ethics
     - Infection Control and Prevention
2) Are you maintaining, achieving what your SNF/NF said you were going to do? (M&M Provider Agreement)
3) Plan of action / plan of correction /
   - Can we learn and act to reduce our SNF risk level?

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How many words – Thoughts and Meanings?

- Please understand this analogy --
- Are in the bible?
  - The number of words in the Bible varies according to the version. For example, the King James version has 805,649 words and the NIV version has 741,065
- Are in the Torah?
  - There are 79,847 words in a Torah scroll, and 304,805 letters
    - Number of Pesukim in all the Torah (5 books) 5845.
      Number of Words in all the Torah (5 books) 79,976 ??
      Number of letters in all the Torah (5 books) 304,805
- Are in the Survey and Certification Letter Survey Guidance of November 22, 2017?
  - 703 pages, 205 F-Tags and 284,210 words
- Survey as of Nov 2016?
  - 821 pages 187 F-Tags and 256,009 words

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What is in the Rule and what has Survey Shown?

CFR Paragraph	Title of Section	New ROP Rule Survey Tags		Word Count in Rule 11-2016	Word Count Rule 11/22/2017	Percent of Rule 11/22/17	Historic Citations 3/22/2017	Percent of Citations	Citation per Wor	Relative Importance
483.10	Resident Rights* - Includes Definitions 483.5	24		29221	16898	5.95%	43454	13.7%	1.49	230%
483.12	Freedom from abuse, neglect, and exploitation	10		3708	36488	12.84%	18875	5.9%	5.09	46%
483.15	Admission, transfer, and discharge rights	7		7045	13061	4.60%	2123	0.7%	0.30	15%
483.20	Resident Assessment	11		9428	10872	3.83%	23250	7.3%	2.47	192%
483.21	Comprehensive person-centered care planning	7		2285	11345	3.99%	16921	5.3%	7.41	134%
483.24	Quality of life	6		31740	7584	2.67%	27399	8.6%	0.86	324%
483.25	Quality of Care	17		58227	62478	21.98%	47807	15.1%	0.82	69%
483.30	Physician Services	6		3676	6887	2.42%	1838	0.6%	0.50	24%
483.35	Nursing Services	8		4077	7205	2.54%	4786	1.5%	1.17	59%
483.40	Behavioral health services	6		1521	12170	4.28%	2538	0.8%	1.67	19%
483.45	Pharmacy Services	7		32153	27511	9.68%	39500	12.4%	1.23	129%
483.50	Laboratory, radiology, and other diagnostic services	11		3645	5095	1.79%	3488	1.1%	0.96	61%
483.55	Dental Care	2		1254	2147	0.76%	1480	0.5%	1.18	62%
483.60	Food and Nutrition Services	16		17621	16712	5.88%	27491	8.7%	1.56	147%
483.65	Specialized rehabilitative services	2		1785	2165	0.76%	505	0.2%	0.28	21%
483.70	Administration	15		16806	16506	5.81%	15360	4.8%	0.91	83%
483.75	Quality assurance and performance improvement	4		6160	6066	2.13%	5407	1.7%	0.88	80%
483.80	Infection Control	4		19396	16515	5.81%	21078	6.6%	1.09	114%
483.85	Compliance and Ethics	1		910	910	0.3%	New	0.0%	New	New
483.90	Physical Environment	21		4999	5243	1.84%	14078	4.4%	2.82	240%
483.95	Training Requirements	10		352	352	0.1%	New	0.0%	New	New
	Total	195		256009	284210	100.0%	317378	100.0%	1.24	100%

MDS/Assessment has 8% of rule and about 12% of Survey Deficiencies
S & C Appendix PP-R173SOMA, November 22, 2017

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F838 - 483.70(e) Facility Assessment

- ***The facility must 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.***
  - *How often is reasonable to update your data?*
- ***The facility must also review and update this assessment whenever there is, or the facility plans for, any change that would require a substantial modification to any part of this assessment.***

The facility assessment has 3 general parts and must address or include:

1) ***The facility's resident population***
2) ***The facility's resources***
3) ***A facility-based and community-based risk assessment, utilizing an all-hazards approach.***

The population component of the facility assessment must address or include: *sections (1)(i-v)*

1) ***The facility's resident population, including, but not limited to,***
   i. ***Both the number of residents and the facility's resident capacity;***
   ii. ***The care required by the resident population considering the types of diseases, conditions, physical and cognitive disabilities, overall acuity, and other pertinent facts that are present within that population;***
   iii. ***The staff competencies that are necessary to provide the level and types of care needed for the resident population;***
   iv. ***The physical environment, equipment, services, and other physical plant considerations that are necessary to care for this population; and***
   v. ***Any ethnic, cultural, or religious factors that may potentially affect the care provided by the facility, including, but not limited to, activities and food and nutrition services.***

Some of the information for i. ii. Iv. and v. is found in the MDS

Implementation Grid

Implementation Date	Type of Change	Details of Change
Phase 1: November 28, 2016 (Implemented)	Nursing Home Requirements for Participation	New Regulatory Language was uploaded to the Automated Survey Processing Environment (ASPEN) under current F Tags
Phase 2: November 28, 2017	F Tag numbering Interpretive Guidance (IG) Implement new survey process	New F Tags Updated IG Begin surveying with the new survey process
Phase 3: November 28, 2019	Requirements that need more time to implement	Requirements that need more time to implement

From CMS July 2017 Presentation

Lessons in "Mega" Rule – now the LTCSP

Phase 2 – 36 Tags Plus

F156 **now** F572
F202 **now** F622
F225 **now** F606 & F609 & F610
F279 **now** F639 & F656
F309 **now** F675 & F684 & F697 & F698 & F744
F319 **now** F742
F328 **now** F687 & F691 & F694 & F695 & F696
F329 **now** F757 & F758
F353 **now** F725 & F726
F361 **now** F801
F411 **now** F790
F412 **now** F791
F428 **now** F756 & F758
F441 **now** F880
F490 **now** F835 & F836 & F837 & F838
F520 **now** F865 & F866 & F867 & F868

Phase 3 – 16 Tags Plus

F226 **now** F647 & F943
F282 **now** F659
F319 **now** F742
F441 **now** F880
F463 **now** F919
F490 **now** F835 & F836 & F838
F493 **now** F837
F498 **now** F726 & F947
F520 **now** F865 & F866 & F867 & F868

Phase 2 of LTC Regulations

- Implement by November 28, 2017
- Providers must be in compliance with Phase 2 regulations
- All States will use new computer–based survey process for LTC surveys
- All training on new survey process needs to be completed before go live date

From CMS July 2017 Presentation

Long Term Care Survey Process (LTCSP)

- Resident-centered, outcome-oriented inspection that relies on a case-mix stratified sample of residents to gather information about the facility's compliance with participation requirements.
- Seven Parts
  1. Offsite preparation – 70% survey sample selected based on MDS indicators residents selected based on MDS provided room number
     - ✓ onsite sample may include vulnerable residents new admissions and those with concerns
  2. Facility entrance – unit assignments made prior to entrance
  3. Initial pool process
  4. Sample selection
  5. Investigation
  6. Ongoing and other survey activities
  7. Potential citations

Facility Entrance

CENTERS FOR MEDICARE & MEDICAID SERVICES

ENTRANCE CONFERENCE WORKSHEET

- ☐ 25. Infection Prevention and Control Program Standards, Policies and Procedures, and Antibiotic Stewardship Program.
- ☐ 26. Influenza / Pneumococcal Immunization Policy & Procedures.
- ☐ 27. QAA committee information (name of contact, names of members and frequency of meetings).
- ☐ 28. QAPI Plan.
- ☐ 29. Abuse Prohibition Policy and Procedures.
- ☐ 30. Description of any experimental research occurring in the facility.
- ☐ 31. Facility assessment.
- ☐ 32. Nurse staffing waivers.
- ☐ 33. List of rooms meeting any one of the following conditions that require a variance:
  - Less than the required square footage
  - More than four residents
  - Below ground level
  - No window to the outside
  - No direct access to an exit corridor

INFORMATION NEEDED BY THE END OF THE FIRST DAY OF SURVEY

Note: For now review the Assessment only if there are staffing or "other concerns"

5 MDS Strategies Summary

1. Use aggregate MDS data to answer QIO SNF Resource FA MS Word Document suggested questions
   a) Sections A, B, C, D, E, F, G, GG, H, I, J, K, L, M, N, O, P, Q, V, Z
2. Audit MDS versus charts
   a) Surveyors have MDS and build 70% of Survey sample from your MDS data – the Survey exposes MDS data – the FA gives perspective and informs
3. Use O, M, K special treatments to alert for competency testing
4. Acuity determined by MDS is used for 5-Star staffing – if you are 1 or 2 staffing star SNFs and why? / explanation – sufficiency & competency
5. Monitor for new or "rare" conditions, diagnosis, treatments and do a new Facility Assessment when "core" data suggests

Mandatory Survey facility task to ask:

- Sufficient and Competent Nurse Staffing
- Use the resources to help residents
- Use the resources effectively and efficiently
  - (assign all surveyors but communicate that one surveyor has primary responsibility)
  - Facility Assessment should answer this question

F838 Facility Assessment

- *KEY ELEMENTS OF NONCOMPLIANCE*
  - *To cite deficient practice at F838, the surveyor's investigation will generally show that the facility failed to do any one of the following:*
  - *Annually and as necessary, conduct, document, review and update a facility-wide assessment; or*
  - *Address or include in the facility assessment the minimum requirements as described in sections (1)(i-v), (2)(i-vi), and (3) above.*

F838 Facility Assessment ties to other citations - 1

- *F662 – Transfer and discharge*
  - *facilities should not admit residents whose needs they cannot meet based on the Facility Assessment. (See F838, Facility Assessment).*
- *F689 – Accidents Physical Plant Hazards*
  - *NOTE: Refer to guidance at 483.70(e) (F838) for facility responsibilities regarding the facility's physical environment.*
- *F725 – Nursing Services*
  - *As required under Administration at F838, §483.70(e) an assessment of the resident population is the foundation of the facility assessment and determination of the level of sufficient staff needed.*

F838 Facility Assessment ties to other citations - 2

- *F726 – Nursing Services*
  - *considering the number, acuity and diagnoses of the facility's resident population in accordance with the facility assessment required at §483.70(e).*
  - *If there are concerns with staff skills and competencies it may be necessary to review the facility's assessment as required at F838, §483.70(e) to determine how competencies are evaluated*
  - *As required under F838, §483.70(e), the facility's assessment must address/include an evaluation of staff competencies that are necessary to provide the level and types of care needed for the resident population.*

F838 Facility Assessment ties to other citations - 3

- *F741 - Determination of Staff Competencies*
  - *The facility must address in its facility assessment under §483.70(e) (F838), the behavioral health needs that can be met and the numbers and types of staff needed to meet these needs.*
  - *As required under §483.70(e) (F838), the facility's assessment must include an evaluation of staff competencies that are necessary to provide the level and types of care needed for the resident population. The facility must have a process for evaluating these competencies.*
- *F802 – Dietary Support Staff*
  - *If a concern with having sufficient staff is identified, determine if the staffing levels provided were based on the facility assessment. If a concern with the facility assessment is identified, see §483.70(e), F838, Facility Assessment.*

F838 Facility Assessment ties to other citations - 4

- *F803 – Menus and nutritional adequacy*
  - *"Periodically" means that a facility should update its menus to accommodate their changing resident population or resident needs as determined by their facility assessment. See F838. This includes ethnic, cultural, or religious factors that may potentially affect the care provided by the facility, including, but not limited to, activities and food and nutrition services.*
- *F837 – Governing Body*
  - *How the administrator and the governing body are involved with the facility wide assessment in §483.70(e) Facility assessment at F838.*

F838 Facility Assessment ties to other citations - 5

- *F880 Infection Control*
  - *The facility assessment must address or include a facility-based and community-based risk assessment, utilizing an all-hazards approach. See §483.70(e) (F838) for guidance on the facility assessment.*
  - *The results of the facility assessment must be used, in part, to establish and update the IPCP, its policies and/or protocols to include a system for preventing, identifying, reporting, investigating, and controlling infections and communicable diseases for residents, staff, and visitors*

The number of residents and the facility's resident capacity;

- How shall we do this?
  - Count Residents served in 12 months? What choices can we make?
- You can use spreadsheets, presentation and documents to contain facility assessment data or
- Use basic QIO Facility Assessment Tool which is a publically available MS Word document
  - http://www.qioprogram.org/facility-assessment-tool
- In this presentation today, we are going to share how you can use features of one data source from MDS to complete Part I of the Facility-Wide Assessment.

Remember Project Strive – This slide is from CMS

(https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/SNFPPS/TimeStudy.html)

- The case mix system at the core of the Medicare SNF PPS consists of three components:
  - Staff time measures (STM)
  - Resident assessments
  - Cost calculations of resources
- Resource Utilization Groups
  - RUG-III
  - Each group represents a level of resource utilization and is quantified with a case mix index score
  - Links resource utilization to payment rates

Iowa Foundation for Medical Care
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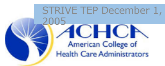
STRIVE TEP December 1, 2005



Acuity and Staffing

- The measure of acuity in Case Mix is based on the Project Strive from CMS and is directly associated with predicted need for staffing at a certain level to provide care.
- CMS invested heavily in collecting the data on the staffing time required for nursing facilities' activities in resident care.
- This measure of acuity was then applied by CMS as data for statistics to support, in part, the cost of staff needed in a case mix level to justify payment. *(other factors include wage index, geographic adjusters, cost of living, etc.)*
- How does your unified care team determine staffing based on resident acuity?
- How does staffing levels relate to the burden of care presented by each person?

Staffing

- Mega Rule ROP now has specific policy/guidance citing staffing
- A staffing deficiency would be a minor deficiency without any care issue involved
  - Surveyors should look for the more important care issues and not focus on staffing numbers
  - **Staffing numbers are now to be cited if there is lack of clarity on competency – STAFF RESPONSIVENESS!**
  - Insufficient staff with care issues can be labeled abuse
- Beware of big issue, such as no RN or no licensed staff on duty
- Staffing numbers are a moving target.
- You can have a smaller number of staff that do a great job or an abundance of staff that do a terrible job.
  - How do you identify, measure, prioritize, intervene?
- Bottom line: are the resident's needs being met?

What the Rule Says – July 25, 2017 Question to CMS

From: John Sheridan [mailto:John.Sheridan@ABILITYNetwork.com]
Sent: Tuesday, July 25, 2017 3:19 PM
To: CMS NH Survey Development <NHSurveyDevelopment@cms.hhs.gov>
Subject: an additional question on Facility Assessment

Given that the intent of the Facility Assessment states

The intent of the facility assessment is for the facility to evaluate its resident population and identify the resources needed to provide the necessary care and services the residents require.

What support will CMS provide SNFs when state Medicaid Programs do not provide the resources to provide the necessary care?

It is especially concerning that some centers in Illinois especially are so stretch on resources limitation due to timeliness of payment that this requirement is in effect punitive for providers who can no longer borrow, beg or even steal resources to meet needs.

Several states require 50% higher minimum staffing than do others.

How if CMS does not support a uniform staffing can CMS assure the resources, specifically funds are made available to meet resident needs?

John Sheridan
Vice President, Enterprise Business Development

August 22, 2017 - CMS Answer to Staffing Question

Dear Mr. Sheridan,

Thank you for your question in regards to Facility Assessment. You specially asked "What support will CMS provide SNFs when state Medicaid Programs do not provide the resources to provide the necessary care?" "How if CMS does not support a uniform staffing can CMS assure the resources, specifically funds are made available to meet resident needs?"

Your first question concerns funding of the state Medicaid Programs. Your question would need to be addressed to your state Medicaid Agency. The Division of Nursing at CMS is the agency that is responsible for the enforcing the requirements of the New Long Term Care Rule.

Each facility determines the type of residents and services they will offer therefore CMS does not require a uniform staffing. It is the responsibility of each facility to provide how much staff they need to provide the type of care and resources needed in their facility to meet the requirements of the New Long Term Care Rule.

We appreciate you taking the time to send us your questions.

The Division of Nursing Homes

Center for Clinical Standards & Quality

Survey & Certification Group

7500 Security Blvd

Baltimore, MD 21244

Staffing Requirement – example

Level of Care	Days of Care	Possible Required Hours per Day	Do the Math Hrs Required per Year
Skilled Care	XX	3.8	3.8 * XX
Intermediate Care	XX	2.5	2.5 * XX

How do you define the Minimum Additional Staff Hours needed per 24 hour Day	
Minimum Licensed Nursing Hours / 24 hours	15%
Minimum Registered Nursing Hours / 24 hours	10%
Additional Direct Care Hours / 24 hours	75%

Can you support the minimum Total Direct Care Hours per Shift Staffed?

Daily Shift Periods	Example Percent	Different Example Percent
7-3	45%	40%
3-11	35%	40%
11-7	20%	20%
Total	100%	100%

Assessment of Resources

2) The facility's resources, including but not limited to,

- ***i. All buildings and/or other physical structures and vehicles***
- ***ii. Equipment (medical and non-medical)***

i. And ii. Can be addressed in a review of the Budget!

- ***iii. Services provided, such as physical therapy, pharmacy, and specific rehabilitation therapies***
- ***iv. All personnel, including managers, staff (both employees and those who provide services under contract), and volunteers, as well as their education and/or training and any competencies related to resident care***

Care Area Assessments, Triggers and Decisions

Care Area Assessments Mandated by MDS Care Area Assessment Triggers	Care Symptom Triggered	Care Plan Decision = Yes	Care Symptom Not Triggered	Care Plan Decision = No	Care Symptom and No Decision or (No Symptom and Care Plan)
Delirium	6	1	419	424	0
Cognitive Loss/Dementia	179	159	246	266	0
Visual Function	131	84	294	341	0
Communication	168	168	257	310	(53)
ADL Potential	339	338	86	86	1
Urinary	421	354	4	71	0
Psychosocial Well-Being	35	22	390	403	0
Mood State	9	4	416	421	0
Behavioral Symptoms	29	27	396	398	0
Activities	8	44	417	381	0
Falls	423	402	2	23	0
Nutritional Status	332	381	93	44	0
Feeding Tube	6	5	419	420	0
Dehydration	40	39	385	386	0
Dental Care	202	160	223	265	0
Pressure Ulcer	423	401	2	24	0
Psychotropic Drug Use	259	241	166	184	0
Physical Restraints	0	0	425	425	0
Pain	34	32	391	393	0
Return to Community Referral	1	0	424	425	0

Know where your supporting documentation is

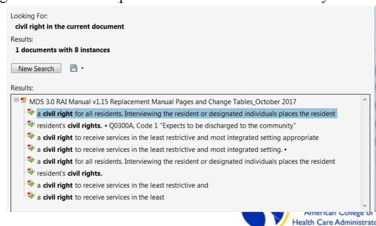
Accommodate Resident Rights

SECTION Q: PARTICIPATION IN ASSESSMENT AND GOAL SETTING

Intent: The items in this section are intended to record the participation and expectations of the resident, family members, or significant other(s) in the assessment, and to understand the resident's overall goals. Discharge planning follow-up is already a regulatory requirement (CFR 483.21(c)(1)). Section Q of the MDS uses a person-centered approach to ensure that all individuals have the opportunity to learn about home- and community-based services and to receive long term care in the least restrictive setting possible. This is also a civil right for all residents. Interviewing the resident or designated individuals places the resident or their family at the center of decision-making.

Resident Civil Rights

Now clearly defined in October 1, 2017 MDS



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All staff, employees, contractors and volunteers

- ***Education and/or training***
- ***Competencies related to resident care***
- ***Is there Sufficient Staff to meet Resident Care Needs***
  - ***Minimum Staffing***
  - ***Acuity Based Staffing***
  - ***Sufficiency of Staff***
  - ***5-Star Staffing***

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Institute of Medicine Core Competencies

- **Provide patient-centered care**
- **Work in interdisciplinary teams**
- **Employ evidence-based practice**
- **Apply quality improvement**
- **Utilize informatics**

From *Health Professions Education: A Bridge to Quality.* Institute of Medicine, 2003.

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Utilize informatics

- Use information technology to:
  - Communicate
  - Manage knowledge
  - Mitigate error
  - Support decision making

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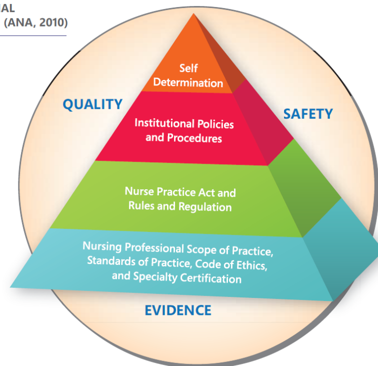
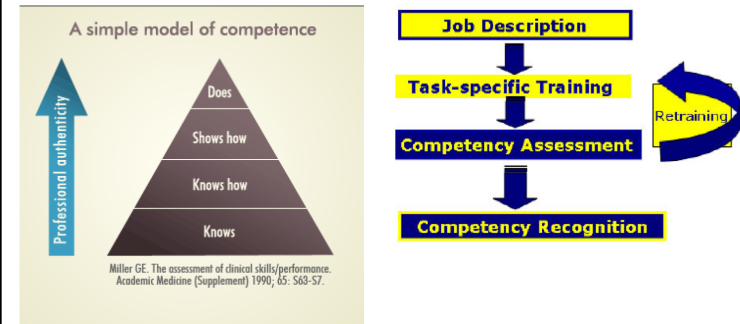
Care Plan, Care Competencies



Process for establishing staff competency



Demonstrate Staff Competency / Capability in Practice

- References
- **Measuring Work Environment and Performance in Nursing Homes**
- https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2663940/
- **Benefits and challenges experienced by elderly living in nursing homes**
- https://www.theseus.fi/handle/10024/51343

The facility assessment must address or include:

3) A facility-based and community-based risk assessment, utilizing an all-hazards approach.

Be based on and include a documented, facility-based and community-based risk assessment, utilizing an all-hazards approach.*

- *[*For LTC facilities at §483.73(a)(1):*]
  - **(1) Be based on and include a documented, facility-based and community-based risk assessment, utilizing an all-hazards approach, including missing residents.**
  - **(2) Include strategies for addressing emergency events identified by the risk assessment.**

Emergency Preparedness

- Facilities are encouraged to utilize the concepts outlined in the
  - National Preparedness System, published by the United States Department of Homeland Security's Federal Emergency Management Agency (FEMA)
  - Guidance provided by the Agency for Healthcare Research and Quality (AHRQ).

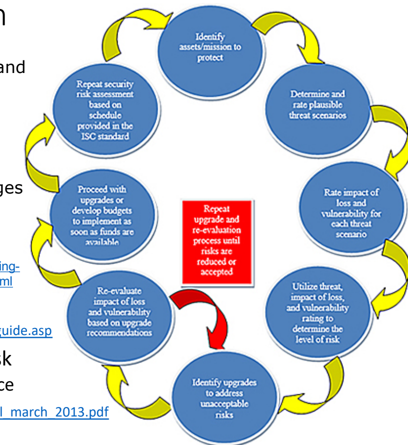
All Hazards Approach

NFPA 1600 Standard on Disaster/Emergency Management and Business Continuity Programs lists some 45 separate categories of potential hazards.

The third Principle of Emergency Management, risk-driven, encourages the use of risk analysis to assign priorities and resources.

http://www.govtech.com/em/emergency-blogs/managing-crisis/Allhazards-Doesnt-Mean-Plan-for-Everything.html

- FEMA
- https://emergency.cdc.gov/planning/responseguide.asp
- Facility and Community Based Risk
  - Center for Disease Control Reference
- https://www.cdc.gov/phpr/documents/ahpg_final_march_2013.pdf
- https://emergency.cdc.gov/planning/
- https://emergency.cdc.gov/planning/responseguide.asp



And so what can we learn from Facility Assessment

- If information you do not like is in your data, then?
- If Staff are exhausted, stressed and burned out, then?
- If Surveyors find us having a bad day, then?
- Add to this list ???

Thank you

From the Federal Register

- *We require facilities to conduct, document, and annually review a facility-wide assessment to determine what resources are necessary to care for its residents competently during both day-to-day operations and emergencies. Facilities are required to **address in the facility assessment the facility's resident population (that is, number of residents, overall types of care and staff competencies required by the residents, and cultural aspects)**, resources (for example, equipment, and overall personnel), and a facility-based and community-based risk assessment.*
- *https://www.federalregister.gov/documents/2016/10/04/2016-23503/medicare-and-medicaid-programs-reform-of-requirements-for-long-term-care-facilities#h-30*