Overview of Nursing Home Licensure, Certification and Inspection

Presentation to Advisory Board on Nursing Home Oversight and Accountability

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Joseph Hilbert
Deputy Commissioner,
Governmental and Regulatory Affairs
Virginia Department of Health

Presentation Outline

State Licensure

Federal Medicare and Medicaid Certification

Investigation of Complaints

Objectives of the Office of Licensure and Certification (OLC)

- Protect and improve the health, safety and welfare of Virginia's nursing home residents
- Conduct nursing home licensure inspections and certification surveys in a timely manner
- Respond to and investigate complaints in a timely manner, especially those triaged as Immediate Jeopardy
- Ensure nursing homes comply with Virginia and federal regulations

Nursing Home Overview

- Total licensed nursing homes in Virginia: 289
  - Majority are certified for both Medicare and Medicaid (CMS)
  - 8 nursing homes are "private pay" (licensed but not CMS certified)
  - 32,488 nursing home beds
- VDH OLC conducts:
  - Biennial state licensure inspections
  - Federal certification and recertification surveys in nursing homes on behalf of CMS
  - Complaint investigations

Nursing Home Regulations of Significance

Topic	Virginia Requirement	Federal Requirement
Quality of Care	Includes provisions for: nursing services, resident assessment and care planning, infection control, resident rights, special rehabilitative services, dental services, diagnostic services, pharmaceutical services, and physician services	Ensure residents receive treatment and care in accordance with professional standards of practice, care plan and resident's choices, including but not limited to: vision and hearing, skin integrity, mobility, accidents, incontinence, colostomy care, assisted nutrition and hydration, parenteral fluids, respiratory care, prostheses, pain management, dialysis, trauma informed care and bed rails
Dietary / Food-service Requirements	Food Service Manager (dietitian or nutritionist) reviews special diets every 6 months. Therapeutic diets must exactly conform to prescription. Minimum of 4 hours between breakfast/lunch and lunch/supper. Nutritional snacks must be available (other than vending machines). Current week's menu must be posted. Food programs are inspected annually by VDH's Office of Environmental Health Services which notifies OLC of significant deficiencies.	If a qualified dietician is not full-time, a designated person with appropriate competencies may serve as the Food Service Manager. The attending physician is responsible for diet orders. Substantial snacks at bedtime. Inspections are conducted in conjunction with recertification surveys.
Staff Background Checks	Must be completed upon hire prior to working with residents	Facilities must have validation processes in place to ensure staff competency and safety
Electronic Monitoring of Residents	Permitted if desired. Allowed in semi-private room only if roommate agrees. Specific guidance on maintenance and retention/access of recordings.	Allowed per specific state requirements. Guidance for retention and access.

Nursing Home Regulations of Significance

Topic	Virginia Requirement	Federal Requirement
Safety & Emergency Procedures	Disaster planning, partnership with local coalition for emergency exercises. Facility equipment for emergencies.	Life Safety Code, Emergency Preparedness, FDA and OSHA requirements. Regular maintenance requirements and ongoing Facility Assessment, Generator requirements, food and water supplies.
Resident Restraints	Only allowed with specific diagnosis and assessment quarterly for reduction	Assessment required, consent, specific diagnosis, cannot be per resident or family request. Includes physical, chemical restraints. Must start restraint reduction quarterly at a minimum.
Environment of Care	Promotes needs, homelike environment	Homelike environment, more specific to include room size, types of furniture, space requirement
Advanced Medication Aides (AMAs)	*Eff. 11/15/25*, AMAs registered by the Board of Nursing (BoN) may administer certain medications in accordance with regulations of the BoN and Board of Pharmacy and in accordance with facility policy and prescriber instructions including dosage, frequency, and manner of administration.	No specific federal requirements regarding advanced medication aides. Advanced medication aides qualifications, skills, etc. are governed by the Virginia Board of Pharmacy and the Board of Nursing.

State Licensure System

Online Licensure Portal

- Initial application
- Application renewal
- Midyear changes (i.e., administrative changes, ownership changes)
- Payments are made online
- *https://www.vdh.virginia.gov/licensure-and-certification* provides instructions for licensure portal

State Licensure Inspection Process and Timelines

- All inspections unannounced
- Conducted biennially
- Verify compliance with state laws and regulations
- State agency report due to facility 10 business days after survey exit
- Plan of correction due to OLC 10 calendar days after receipt of the inspection report.
  - Facility's "allegation of compliance" date should be within 45 days of survey exit. The facility must become compliant by that date.
- OLC verifies compliance with POC by conducting revisit (on-site or off-site at OLC's discretion)

CMS Certification Process

- Submission of documentation including ownership
  - The facility must update CMS regarding any changes in ownership
- Current state licensure
- Quality Assurance and Performance Improvement Program (QAPI)
  - Designed to ensure continuous improvement of quality of care
- Surveys
  - Life Safety Code survey (Federal)
  - Emergency Preparedness survey (Federal)
- Certification by the CMS Location (region)
  - Review of survey results
  - Review of facility's compliance with civil rights requirements

Federal Certification Survey Process and Timelines

- While a facility must initially apply for Federal certification, the recertification process occurs without re-application
- All surveys unannounced
- Target: 12-15 months interval between surveys
- Purpose: To ensure compliance with federal requirements and verify provision of quality care, protection of residents and their rights
- Survey deficiencies are scored in terms of scope and severity

Scope and Severity Matrix

SEVERITY	SCOPE		
	Isolated	*Pattern*	*Widespread*
Immediate jeopardy to resident health or safety	J	K	L
Actual harm that is not immediate jeopardy	G	H	I
No actual harm with potential for more than minimal harm that is not immediate jeopardy	D	E	F
No actual harm with potential for minimal harm	A	B	C

Notes:

- A, B, and C are substantially compliant and constitutes compliance with Conditions of Participation
- Solid shaded boxes indicate substandard quality of care (SQC)
- Level F deficiencies may, but not always, indicate SQC

Federal Certification Survey Process and Timelines (continued)

- Survey reports are due to the facility 10 business days after survey exit
- Life Safety Code Inspections closely follow (or may coincide with) recertification surveys
- Plans of Corrections are due to OLC 10 calendar days after receipt of the survey report
  - Facility's "allegation of compliance" date should be within 45 days of survey exit . The facility must become compliant by that date.
- If a revisit is required, goal is to initiate within 60 days after survey exit. This may be extended in unusual circumstances.

Investigation of Complaints

- 1,332 complaints received 2025 YTD
- Takes precedence over Certification Surveys and are unannounced
- Triaged according to CMS guidelines to assess severity and priority level based on serious injury, harm or neglect
- Time requirements for "initiating investigation" (entry into facility):
  - Immediate Jeopardy (IJ) - 3 business days
  - Non-IJ High – 18 business days (and maintain average of 15 business days or less)
  - Non-IJ Medium – 45 calendar days
  - Non-IJ Low – whenever VDH is next onsite

Investigation of Complaints

- Complaints are evaluated for possible violations of federal and state law
  - VDH will investigate under federal authority first unless state requirement is more stringent
- OLC assesses evidence and determines if allegation is substantiated
- If violation of federal requirements, the facility is required to develop and forward a plan of correction to OLC
- Investigation report is due to the facility by the 10th business day after exit
- The plan of correction is due to OLC 10 calendar days after receipt of the investigation report.
- Initiate revisit within 60 days of initial complaint survey
- Complainant receives summary record of investigation

Program Information Transparency

OLC posts on its website all certified nursing facility federal survey reports

- Includes the COVID-19 Focused Infection Control surveys
- Includes hospital distinct part SNFs, SNF/NFs, and NFs
- Includes Plans of Correction (POCs)

OLC also posts:

- State inspection reports and POCs for 8 nursing homes that are not certified

Administrative Penalties

Violations of State Law

Plan of correction (POC)

Restricting new admissions

License suspension or revocation

Chapters 166 and 180 of the 2025 Acts of Assembly allow VDH to implement the following sanctions:

Mandated training at facility expense;

Civil Monetary Penalty of $500/day, up to $10k for a series of violations; and

Placing a license on probation

Violations of Federal Law

POC

Directed POC

Directed in-service

State monitoring

Temporary management

Civil monetary penalties

Discretionary denial of payment for new admissions

Denial of payment for all individuals

Termination

Nursing Home Accountability for Protecting the Health and Safety of Residents

- OLC is developing procedures to utilize its existing statutory authority to suspend / restrict new admissions or to suspend / revoke licenses
- At present, any sanctioning action by VDH must comply with Administrative Process Act requirements. This can result in significant time lapse between an incident/event and any resulting sanction. VDH has no summary authority, even for egregious situations.
- VDH has initiated a regulatory action to implement intermediate sanctions as authorized by 2025 legislation
- Board of Health approved an emergency regulatory action to establish a new licensure fee structure for nursing homes, as authorized by 2025 legislation – currently in Executive Branch Review

Questions?