

- A 78 year old with a diagnosis of hypertension, Peripheral Vascular Disease, Diabetes and CVA (cerebrovascular accident) receives anticoagulant therapy. The resident developed a nose bleed. Since the resident is on anticoagulant therapy the MD was notified and an order for PT/INR was ordered and obtained. The INR was noted to be elevated requiring the resident to receive an injection of Vitamin K. When staff were interviewed CNA #1 stated that two days prior she had noted the resident's gums were bleeding during oral care and thought that maybe he just needed his teeth cleaned but she did mention it to the nurse. CNA #2 reports that the resident had a medium black tarry stool the night before but she became busy and forgot to report it to the Charge Nurse. The facility failed to provide staff with the necessary skill set to identify residents at risk for bleeding related to anticoagulant therapy so therefore the facility staff did not meet the needs of the resident.

An example of Level 2 no actual harm with a potential for more than minimal harm that is not immediate jeopardy includes but is not limited to:

- Resident did not have pacemaker check performed via telephone due to lack of knowledge by staff on procedure.

F727

(Rev. 229; Issued: 04-25-25; Effective: 04-25-25; Implementation: 04-28-25)

Social Security Act §1919 [42 U.S.C. 1396r]

§1919(b)(4)(C) Required nursing care; facility waivers.—

§1919(b)(4)(C)(i) General requirements.—With respect to nursing facility services provided on or after October 1, 1990, a nursing facility—

(II) except as provided in clause (ii), must use the services of a registered professional nurse for at least 8 consecutive hours a day, 7 days a week.

Social Security Act §1819 [42 U.S.C. 1395i–3]

§1819(b)(4)(C) REQUIRED NURSING CARE.—

§1819(b)(4)(C)(i) IN GENERAL.—Except as provided in clause (ii), a skilled nursing facility ... must use the services of a registered professional nurse at least 8 consecutive hours a day, 7 days a week.

§483.35(c)(3) Except when waived under paragraph (f) or (g) of this section, the facility must designate a registered nurse to serve as the director of nursing on a full time basis.

§483.35(c)(4) The director of nursing may serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents.

DEFINITIONS

“Full-time” is defined as working 40 or more hours a week.

“Charge Nurse” is a licensed nurse with specific responsibilities designated by the facility that may include staff supervision, emergency coordinator, physician liaison, as well as direct resident care.

“Scope of Practice” describes the services that a qualified health professional is deemed competent to perform and permitted to undertake in keeping with the terms of their professional license.¹

GUIDANCE

Nurse staffing in nursing homes has a substantial impact on the quality of care and outcomes that residents experience. A registered nurse (RN) is typically responsible for overseeing the care provided to nursing home residents by other staff such as Licensed Practical Nurses (LPN) or Certified Nurse Aides (CNA). The RN is generally responsible for more advanced care activities such as resident assessments, *developing and evaluating plans of care*, consulting with physicians, and administering intravenous fluids or medications.

Facilities are responsible for ensuring they have an RN providing services at least 8 consecutive hours a day, 7 days a week. However, per Facility Assessment requirements at F838, §483.71, facilities are expected to identify when they may require the services of an RN for more than 8 hours a day based on the acuity level of the resident population. *For example, the facility may serve a population of residents that require more frequent assessment, as well as care plan development and evaluation of interventions that may not be delegated to the LPN or other healthcare professional.* If it is determined the services of an RN are required for more than 8 hours a day, refer to the guidance at F725 related to sufficient nurse staffing for further investigation.

Facilities may choose to have differing tours of duty (e.g., 8 hour- or 12-hour shifts) for their licensed nursing staff. Regardless of the approach, the facility is responsible for ensuring the 8 hours worked by the RN are consecutive within each 24-hour period. *The requirement for 8 consecutive hours of RN services can be met by any RN or multiples of RNs. The hours worked by the DON would be considered applicable towards the requirement.*

The facility must designate a registered nurse (RN) to serve as the DON on a full-time basis. *Additionally, the* facility may permit the DON to serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents.

INVESTIGATIVE PROCEDURES

Use the Sufficient and Competent Nurse Staffing Critical Element Pathway, along with the above interpretive guidance, and procedures below, when determining if the facility meets the requirements for, or investigating concerns related to Nursing Services.

During the entrance conference of a survey, the team will request confirmation of a full-time DON. If at any time during the survey, the team identifies concerns with the availability of a full-time DON, further investigation would be warranted (utilize the probes noted below).

Probes related to the full-time DON requirements:

- *Who does the facility designate as an RN to serve as the DON on a full-time basis?*
 - *If the facility does not provide the name of the person who serves as the DON on a full-time basis, F727 must be cited at a **minimum of scope and of “F.”***
- *If the facility’s average daily census is greater than 60 residents, does the DON serve as the charge nurse?*
 - *If the facility’s average daily census is greater than 60 residents, and the facility indicates that the DON does serve as the charge nurse, F727 must be cited at a **minimum of scope and severity of “F.”***

Use of the Payroll Based Journal (PBJ) Staffing Data Report in determining non-compliance:

The facility is responsible for submitting staffing data through the PBJ (Refer to F851, §483.70(p)). *When completing the offsite preparation for a recertification survey, the team coordinator must obtain the PBJ Staffing Data Report and evaluate PBJ data submitted by the facility. This data is available through facility’s PBJ Staffing Data Report that can be obtained through CMS’ survey system. This reports **must** be utilized by surveyors **on at least every recertification survey. The report** contains information about overall direct care staffing levels as well as if an RN was onsite for 8 hours a day. *If concerns were identified on this report, as well as from other sources, refer to the Sufficient and Competent Nurse Staffing Critical Element Pathway and the probes noted below.**

The PBJ Staffing Data Report identifies if the facility:

1. *Reported no RN hours (F727);*
2. *Reported not having Licensed Nursing Coverage 24 hours/day (F725);*
3. *Reported excessively low weekend staffing (F725);*

4. *Has a one-star Staffing Rating (F725); and*
5. *Failed to submit PBJ data for the quarter (F851).*

Furthermore, the PBJ Staffing Data Report provides specific infraction dates for when the facility reported they had no RN hours and failed to have a licensed nurse on duty for 24 hours in a day.

The surveyor must follow the steps below:

1. *Review the PBJ Staffing Data Report during offsite prep for every standard survey or as applicable for abbreviated surveys.*
2. *If the facility did NOT trigger for lack of RN Hours, surveyors are expected to investigate concerns with compliance that might arise as part of investigations into other, more specific Quality of Life/Quality of Care concerns.*
3. *If the facility triggered for reporting **No RN Hours**:*
 - a. *During the entrance conference, the Team Coordinator (TC) must inform the facility of the infraction dates from the PBJ Staffing Data Report and that a citation at F727 will be issued unless evidence is provided that shows the facility had an RN onsite for 8 consecutive hours a day on those infraction dates. Acceptable evidence is timecards, timesheets, or payroll information that clearly shows RN coverage on the dates in question. A schedule of who was supposed to work is **NOT** acceptable.*
 - b. *If the facility does not provide the acceptable evidence that an RN was onsite for at least 8 consecutive hours for the dates indicated on the PBJ Staffing Data Report, **F727** must be cited at a **minimum of severity and scope of “F,”** unless the facility has a waiver of the RN requirement per §483.35(f) or (g). For information on this waiver, see Chapter 7 of the State Operations Manual (SOM).*

If the surveyor identifies non-compliance, a level of severity must then be determined. Once the surveyor identifies noncompliance based on the data from the PBJ Staffing Data Report, or the probes for the DON requirements as described above, the surveyor needs to determine if the scope and severity of the noncompliance must be raised above an “F” level citation for F727. The surveyor should utilize the Sufficient and Competent Staffing CE Pathway, and the probes below to identify higher levels of severity at F727. If a higher level of severity is identified, the surveyor may need to reduce the scope of the non-compliance.

For example, if the facility failed to provide the services of an RN for at least 8 consecutive hours a day, a citation of F727 at a severity and scope of F (potential for more than minimal harm that is widespread) would be issued. However, if it is

discovered a resident was harmed due to the facility's failure to provide the services of an RN, the citation of F727 would be cited at a severity and scope of G (harm that is isolated).

***Note:** This could assist identifying incidents that occurred directly related to non-compliance with RN staffing requirements, which would warrant an increase in the level of severity of the citation.*

If concerns were identified on this report, as well as from other sources, refer to the Sufficient and Competent Nurse Staffing Critical Element Pathway, and the probes noted below.

Interviews

If there is no RN coverage for at least 8 consecutive hours each day, (e.g., four or more days with no RN hours as indicated by the PBJ Staffing Data Report), or for even just one day if identified through other investigations), conduct the following interviews:

Facility Residents and Resident Representatives

- Has the facility informed you that care could not be provided because there wasn't an RN available (e.g., IV medication)?*

Front Line Staff (i.e., nurse aides, LPNs/LVNs):

Interviewing front line staff is a good way to determine how well facility administration and supervisors communicate staffing patterns or needs to other members of staff.

- Are you aware if the RN is on duty for at least 8 consecutive hours a day?*
- Are you aware of a resident who needed care or services that only an RN can provide (i.e., intravenous medications, assessment) and did not receive it? If so, please explain.*

Director of Nursing or Administrator

- How often are there days with no RN available to provide care for residents?*
- What types of services or care are not provided when there is not an RN onsite for 8 hours a day?*

DEFICIENCY CATEGORIZATION

An example of Level 4, immediate jeopardy to resident health and safety includes, but is no limited to:

- The annual recertification survey of a facility indicates that it provides care for residents with high acuity needs including residents that receive medications and fluids via central intravenous lines (IV) and ventilator dependent residents. The *PBJ Staffing Data Report triggered an investigation that* revealed an RN was not onsite for at least 8 consecutive hours during the day. During the period when there was no RN, the LPN had to perform assessments and maintain central line (IV) infusions, which is out of the scope of practice for an LPN in the absence of supervision of the RN. The facility's failure to have an RN on duty for at least 8 consecutive hours a day as required by the regulation, created the likelihood for serious injury, harm, impairment or death. Specifically, the RN was not present to meet the critical needs of these high acuity residents.

Examples of Level 3, actual harm that is not immediate jeopardy include, but is not limited to:

- Investigation of falls occurring in the facility with a census greater than 60 residents revealed the monthly fall evaluation for one resident was not completed with the interdisciplinary team after the resident experienced 2 falls. Interview with the Director of Nursing (DON) revealed this was the DON's responsibility; however, because she had been serving as the charge nurse, there was no time to complete the evaluation for this resident who experienced another fall resulting in a sprained wrist. Record review revealed that the resident experienced a fall after the DON failed to complete the fall evaluation in response to the two initial falls. Staff ultimately determined the resident was falling due to a change in the resident's condition (deteriorating eyesight) that was not timely identified because of the DON's failure to complete a monthly fall evaluation.
- *During the offsite preparation of a recertification survey, the team coordinator identified the facility triggered for "No RN" when reviewing the PBJ Staffing Data Report. Further review of the report revealed a listing of 6 dates throughout the last quarter the facility did not report an RN on duty. During investigations the team identified that the lack of an available RN to perform assessments and develop or revise interventions to prevent falls, contributed to resident falls. Two of those falls resulted in injury, one with a hematoma to the wrist and one with a sprained finger.*

Examples of Level 2, no actual harm, with potential for more than minimal harm, that is not immediate jeopardy include, but are not limited to:

- Review of the PBJ Staffing Data Report revealed concerns related to the facility's requirement to have a Registered Nurse on duty for at least 8 consecutive hours a day. The *facility failed to provide evidence through timecards or payroll information that an RN was onsite for 8 consecutive hours on the dates noted on the PBJ Staffing Data Report.* No actual harm or immediate jeopardy for serious harm to residents was identified. *The scope of the deficiency is considered*

widespread (“F”) as all residents in the facility were at risk for more than minimal harm.

- Review of the PBJ Staffing Data Report, other staffing documentation, and staff interviews revealed that the Director of Nursing routinely served as a charge nurse when the facility had an average daily occupancy of between 65-70 residents. No actual harm to residents was identified. However, there was a potential for more than minimal harm resulting from the Registered Nurse’s dual role in simultaneously serving as both the Director of Nursing and the Charge Nurse for greater than 60 residents.

Severity Level 1: *no actual harm with potential for minimal harm*

- The failure of the facility to provide an RN creates a risk that is more than minimal harm. Therefore, Severity Level 1 does not apply for this regulatory requirement.

¹ *American Nurses Association*