



Client Alert

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Nursing Facilities Should Update Policies and Procedures To Comply With New Closure Notification Rules

In the March 2, 2011, edition of the *AGG Healthcare Authority*,¹ we alerted long-term care providers to a new Interim Final Rule (76 Fed. Reg. 9503-9512, February 18, 2011) issued by the Centers for Medicare & Medicaid Services (CMS), outlining the notification requirements for nursing facility closures. Since the Interim Final Rule became effective on March 23, 2011, both federal and state agencies have begun working with providers to implement processes to address these new notification requirements found at 42 C.F.R. § 483.75(r). However, with limited guidance from CMS, except for the Preamble to the Interim Final Rule, state agencies and providers are finding themselves in the position of creating new state guidelines and plans as they move through the process.

While the specific notification procedures are an immediate concern only to those providers considering an impending closure, all long-term care providers should have developed policies and procedures to address the facility administrator's duties and obligations in regards to such closure notices. Indeed, state regulators have requested to see such policies and procedures during the review process of a nursing facility closure, indicating that state agencies are familiarizing themselves with the new requirement and actively looking for compliance. While the Preamble to the Interim Final Rule states that facilities cannot be sanctioned for non-compliance with this requirement, providers should be aware that the failure to have appropriate policies and procedures in place may be cited as a deficiency in the survey process. Thus, even if facility closure is not on the horizon, providers should confirm that their policies and procedures have been appropriately updated to ensure regulatory compliance.

¹ <http://www.agg.com/media/interior/publications/Rubinger-Nguyen-CMS-Issues-Rule-on-Notification-Requirements-for-Nursing-Facility-Closure.pdf>

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