

F727

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§483.35(b) Registered nurse

§483.35(b)(1) Except when waived under paragraph (e) or (f) of this section, the facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.

§483.35(b)(2) Except when waived under paragraph (e) or (f) of this section, the facility must designate a registered nurse to serve as the director of nursing on a full time basis.

§483.35(b)(3) 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 §483.35(b)

“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.

PROCEDURE AND GUIDANCE §483.35(b)

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, 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, §483.70(e), 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. 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 facility must designate a registered nurse (RN) to serve as the DON on a full-time basis. The facility can only be waived from this requirement if it has *obtained* a waiver under subsections §483.35(e) or (f). *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.*

The facility is responsible for submitting staffing data through the PBJ (Refer to F851,

§483.70(q)). This data is available through PBJ reports that can be obtained through the Certification and Survey Provider Enhanced Reports (CASPER) reporting system. These reports, titled PBJ Staffing Data Report will be utilized by surveyors and contains information about overall direct care staffing levels as well as licensed nurse staffing, and if an RN was onsite for 8 hours a day, 7 days a week. If concerns were identified on this report, as well as from other sources, refer to the Critical Element pathway Sufficient and Competent Staffing, and the probes noted below.

Probes:

- Review the facility's posted daily staffing data.
- Does the facility have an RN on duty at least 8 consecutive hours a day, 7 days a week?
- Does the facility have an RN to serve as the DON on a full time basis?
- Does the facility ensure that the DON serves as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents?
- If there is no RN coverage for at least 8 consecutive hours each day, (e.g., as indicated by the PBJ Staffing Report), interview:
 - front line staff (i.e., nurse aides, LPNs/LVNs)

Is there an RN providing services to the residents for at least 8 consecutive hours in the day?

Are you ever made aware when there is no RN available in the facility?

Are you ever aware of a resident who needed care or services only performed by an RN (i.e., intravenous medications, assessment) and did not receive it?

- Director of Nursing or Administrator;

How often are there days with no RN onsite?

What does the facility do when there is not an RN available to work the required 8 consecutive hours each day?

How does the facility provide care to residents that require an RN if one is not available to work?

Deficiency Categorization:

Example of Severity Level 4 Noncompliance: Immediate Jeopardy to Resident Health or Safety includes but is not 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 investigation 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.*

Example of Severity Level 3 Noncompliance: Actual Harm that is not Immediate Jeopardy includes, 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.*

Example of Severity Level 2 Noncompliance: No Actual Harm with Potential for More Than Minimal Harm that is Not Immediate Jeopardy includes, but is 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 surveyor verified an RN was routinely on duty for only 7 consecutive hours a day last quarter. No actual harm to residents was identified. However, there was a potential for more than minimal harm due to the facility's failure to have an RN on duty for at least 8 consecutive hours a day, 7 days a week in order to ensure that all the residents' clinical needs were met either directly by the RN or indirectly by the LPNs or CNAs for whom the RN was responsible for overseeing resident care.*
- *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.*