

B Q A Quarterly Information Update

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Wisconsin Department of Health & Family Services
Division of Disability and Elder Services
P.O. Box 2969, Madison, WI 53701-2969

Bureau of
Quality Assurance
Susan Schroeder, Director
www.dhfs.state.wi.us

Telephone: (608) 266-8481, TTY: (608) 266-7376
FAX: (608) 267-0352

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BQA Annual Provider Conference

Be sure to mark your calendar for Monday, August 4, 2003, to attend "FOCUS ON BUILDING SKILLS FOR QUALITY" to be held at the American Family National Headquarters Training Center located at 6000 American Parkway in Madison.

Caregivers and management personnel from Long Term Care, Assisted Living, and Facilities serving people with Developmental Disabilities will benefit from the Keynote Address, "Dealing with Difficult Behaviors," the breakout sessions, and the many exhibits.

Some of the other exciting and informative topics include: "Domestic Violence and Elder Abuse," "The Nuts and Bolts of Palliative Care," "The Nature of Caregiving," "Norwalk and other Food Borne Illnesses," "Swallowing Problems," "When to Call the Doc," and "Assessment and Documentation of Wounds."

Brochures and registration information will be coming out the week of May 27. Be sure to check

the BQA web site at www.dhfs.state.wi.us/rl_DSL/Training/index.htm for further information on this and other training opportunities.

Recent Division Changes

As part of the state budgetary activities, the Department of Health & Family Services announced some structural changes initiated to improve efficiency and reduce staffing needs. One of these changes is the merger of the Division of Supportive Living (DSL), which oversees BQA, with the Division of Care and Treatment Facilities and the Center for Delivery Systems Development (including Family Care) into a new Division for Disability and Elder Services. Sinikka McCabe, the former Administrator for DSL, will head this new division, effective of March 24, 2003. BQA will continue to operate as a bureau under this new division.

Phone Number Changes for Reportable Deaths

The [DSL-BQA-00-074 memo of November 10, 2000](#) and the [DSL Info Memos 2000-14](#) and [DSL 2001-32](#) describe reporting procedures for statutorily reportable deaths. Within these memorandums is a DSL Reportable Death Reporting Table that indicates where to fax the required [DSL 2470 form](#). They also provide a phone number for information and questions.

The new fax number for submitting the Client/Patient Death Determination form for mental health or substance abuse programs and services is (608) 243-2045. For questions about reporting a death call (608) 243-2055.

BQA Numbered Memos Posted January-March 2003

Access BQA memos via www.dhfs.state.wi.us/rl_DSL/Publications/BQAnodMems.htm for all memos or individual providers' publications pages via www.dhfs.state.wi.us/licensing.htm.

Memo	Title	Providers Affected
03-001	New Federal Requirement to Post the Number of Licensed and Unlicensed Nursing Staff on Duty on Each Shift	Nursing Homes
03-002	Firearms in Hospitals	Hospitals
03-003	Palliative and Supportive Services for Individuals Who Have Not Elected Hospice	Hospices
03-004	Wisconsin Nurse Aide Registry & Competency Testing Services Update	Adult Family Homes, Community Based Residential Facilities, Facilities for People with Developmental Disabilities, Home Health Agencies, Hospices, Hospitals, Nurse Aide Training Programs, Nursing Homes, Residential Care Apartment Complexes
03-005	Health Services Section Complaint Contact Information	Certified Mental Health & AODA Treatment Programs, Home Health Agencies, Hospices, Hospitals

Fire Safety Standards – Life Safety Code (CMS)

The Federal Register of January 10, 2003 published the final rule for fire safety standards and announced the adoption of the 2000 edition of the Life Safety Code. Hospitals (including critical access facilities), long-term care facilities, facilities for people with developmental disabilities, ambulatory surgery centers, and hospices with inpatient services are affected by these changes. BQA has posted a PDF version at www.dhfs.state.wi.us/rl_DSL/Publications/FireSafety.pdf (it can also be found via the Federal Register search www.gpoaccess.gov/fr/index.html). We are planning to publish a BQA memo in April with more information on the code adoption.

Upcoming Seminar/Training Opportunities

Brochures on upcoming training will be mailed to providers and posted on the Internet. Check the Provider or What's Happening sections for individual health care providers on the DHFS Website www.dhfs.state.wi.us via the Licensing pages. For registration questions, contact the Bureau of Quality Assurance Training Coordinator at (608) 267-1438.

Program(s)	Locations and Dates
2003 Update on ICFs/MR Federal Monitoring and Oversight Contract (see article below)	April 25, 2003, Satellite Broadcast/ Webcast via http://cms.internetstreaming.com – Webcast will be available for one year after this date
Pain Management Training (see Waukesha County Technical College's Spring 2002-03 Noncredit Schedule via www.waukesha.tec.wi.us/home/degpro/tabloid/noncredit.htm - scroll down to "Pain Management")	May 1, 2003, Pewaukee, WI - use "Online Registration" at top to register
OASIS (Outcome and Assessment Information Set) The Basics	May 20, 2003, Wisconsin Dells (see article below)
Minimum Data Set (MDS) Automation	May 2003
2003 Long-Term Care & Assisted Living Providers' Conference (see article on page 1)	August 4, 2003, Madison, WI, American Family Insurance Training Center
Review of Home Health Agency Outcome-Based Quality Management and Outcome-Based Quality Improvement Reports	Fall 2003 (tentative)
Resident Assessment Instrument (RAI)-Minimum Data Set (MDS) Basics	Fall 2003
Beyond Resident Assessment Instrument (RAI) Basics - Assessment and Care Planning	Fall 2003
Minimum Data Set (MDS) Automation	Fall 2003
Assessment and Nutrition Care- Utilizing Quality Improvement & Quality Measures in Clinical Practice	Fall 2003
Home Health 101 – Regulatory Update (State & federal rules/regulations governing home health) – Changes in Conditions of Participation	Fall 2003

Upcoming Training on OASIS Basics

BQA will be conducting a workshop on **OASIS: The Basics** for Medicare-certified HHAs. The workshop will provide a basic knowledge of home health OASIS regulations and the federal survey protocol. It will include information on the OASIS Reduced Burden process and survey protocol enhancements.

Workshop date and location: The all-day workshop will be held May 20, 2003, at the Holiday Inn, Rain Tree Conference Center, Wisconsin Dells.

Training brochure and registration form: A brochure with registration form and information will be mailed to home health agencies approximately 6-8 weeks prior to the workshop. At that time, HHAs may also access this brochure and form on the State OASIS System Welcome Page by clicking on *Bulletins*.

2003 Update on ICFs/MR Federal Monitoring and Oversight Contract

The federal Centers for Medicare & Medicaid Services (CMS) are presenting "2003 Update on ICFs/MR Federal Monitoring and Oversight Contract." The program will discuss this contract and national cumulative data collected for the two-and-a-half years of look-behind surveys for intermediate care facilities for persons with mental retardation (ICFs/MR). The program will consist of pretaped and live presentations given by CMS central office and field experts.

The satellite broadcast program/webcast will be April 25, 2003 from 12:30 to 2:30 (CST). Viewers can sign up either to view on their own computers or via a group telecast. The webcast will be available for one year after the program has been broadcast. To participate, register at <http://surveyortraining.cms.hhs.gov/>. Click on the word "Register" at the upper left for information on signing up as either an individual or as a broadcast site. You will need to contact CMS if you have any questions about accessing this webcast.

There are other CMS webcasts available for you to view on a variety of topics. We encourage you to register even if you do not plan to view any of their current offerings as more will become available in the future on topics of interest.

Hospital Conditions of Participation: Quality Assessment and Performance Improvement (CMS)

The final rule requiring hospitals to develop and maintain a quality assessment and performance improvement (QAPI) program was published in the Federal Register on January 24, 2003. This Hospital Condition of Participation (CoP) was separated from the larger CoP still under development as part of the federal initiative to reduce medical errors in hospitals. BQA has downloaded a [PDF version of the final rule from the Federal Register](#) and will post it to the DHFS Hospital Licensing web pages. The rule can also be retrieved from the Federal Register by following these instructions: Go to the Federal Register search address www.gpoaccessgov/fr/index.html. Make sure there is a check mark in the box for the Federal Register Volume 2003 (Vol. 68); set the Date Range in the Issue Date area from January 24, 2003 to January 24, 2003; and type "Hospital" in the Search Terms box before clicking on the Submit button. The final rule should be one of the selections in the query results.

Administrative Rules Update

HFS 124 – “Hospitals”

- An emergency rule went into effect on March 20, 2003 for Subchapter VI, “Critical Access Hospitals.” The Department is planning subsequent permanent rules for this subchapter. You may view the emergency rule on the DHFS website at:
www.dhfs.state.wi.us/News/Rules/Emergency_Rules/Emergency_Rules.htm

Other Rule Revisions - “Omnibus Rulemaking Order”

- In the interest of keeping our administrative rules up to date, the Department’s Rules Unit is in the process of sending its first annual “Omnibus” Rulemaking Order to the Legislative Council Rules Clearinghouse for comments. The omnibus package includes relatively minor revisions to the following BQA rules: HFS 83 (CBRFs), HFS 124 (Hospitals), HFS 132 (Nursing Homes), HFS 133 (Home Health Agencies), and HFS 134 (Facilities for the Developmentally Disabled). You may view the Statement of Scope for the “Omnibus Rule” on the DHFS website at **www.dhfs.state.wi.us/News/Rules/Rules_Under_Development/Rules_Under_Development.htm**

For questions about BQA-related rules, contact Cheryl Bell-Marek at (608) 264-9896 or e-mail at **bellmcj@dhfs.state.wi.us**

Latest CMS Survey & Certification Letters

Below is a list of the Survey and Certification Letters distributed by the federal Centers for Medicare and Medicaid Services (CMS) during the last quarter. Please be aware that some letters pertain only to state agency operations. If you have questions about individual letters, contact Susan Hespens of BQA at (608) 266-0582 or E-mail **hespesj@dhfs.state.wi.us**.

Title	Number	Date
Revised Resident Assessment Instrument User’s Manual Release Effective January 1, 2003	03-09	1/9/03
Binding Arbitration in Nursing Homes	03-10	1/9/03
BIPA 941 Nursing Home Requirement Effective January 1, 2003; Follow-up to S&C-03-03 Memorandum of October 10, 2002 – ACTION (see BQA memo 03-001)	03-11	1/9/03
Coordinated Survey Approach For Critical Access Hospitals Having Multiple Affiliated Providers	03-12	2/13/03
Home Health Survey Protocol Enhancements (posted to the Internet at www.dhfs.state.wi.us/rl_DSL/HHAs/s&c03-013.htm , and see below)	03-13	2/13/03
Clarification of Instructions for form CMS-671, Long Term Care Facility Application for Medicare and Medicaid	03-14	2/13/03
Review of Protected Health Information and Applicability of Business Associate Agreements Under the Health Insurance Portability and Accountability Act (HIPAA) for the Purposes of Survey and Certification (see article below)	03-015	3/14/03

CMS: State Agencies Not Considered HIPAA Business Associates

The Centers for Medicare and Medicaid Services (CMS) recently issued a [Survey and Certification Letter \(S&C 03-15\)](#) confirming that state survey and certification agencies such as DHFS and BQA are not business associates of regulated health care providers under the terms of the Health Insurance Portability and Accountability Act (HIPAA) or the HIPAA privacy rules. BQA has received a number of inquiries from providers on this issue and has been asked to sign Business Associate Agreements with providers, including hospitals and nursing facilities. BQA has declined to do so, given an interpretation of the HIPAA privacy rules which holds that the activities BQA performs constitute health care oversight activities and are not functions that BQA is performing on behalf of the providers we regulate.

As a health care oversight agency, BQA has the authority to collect protected health information from providers during surveys or other authorized activities, and providers are not required to obtain authorization from the individuals they serve before disclosing such information to BQA. Providers seeking further clarification on this issue should check their appropriate Provider information pages via the DHFS Licensing section at www.dhfs.state.wi.us.

Home Health Survey Protocol Enhancements

The CMS provided guidance to regional office and state agency personnel regarding the implementation of enhancements to the existing home health survey protocols. This guidance is found in S&C memorandum 03-13, dated February 13, 2003. You may access this memorandum at www.dhfs.state.wi.us/rl_DSL/HHAs/s&c03-013.htm

The memorandum includes specific guidance on how surveyors will utilize the Outcome-Based Quality Monitoring (OBQM) reports, the Outcome-Based Quality Improvement (OBQI) reports and provider online reports to help identify areas of focus in individual HHA surveys or types of patients to include in the sample selection. The CMS expects the enhanced survey protocols, effective May 1, 2003, to improve the consistency of these activities.

OASIS Reduced Burden

The Centers for Medicare and Medicaid Services (CMS) introduced the Outcome and Assessment Set (OASIS) Reduced Burden on December 16, 2002. The federal Office of Management and Budget granted final approval effective January 22, 2003. Medicare-certified home health agencies (HHAs) have a choice to implement the Reduced Burden OASIS now or wait until the Fall; however, HHAs are required to implement the Reduced Burden OASIS by October 1, 2003.

CMS published a set of questions and answers after the November 2002 satellite broadcast, which introduced the OASIS Reduced Burden protocol. You may access these Q&As at either of the following sites:

- the State OASIS System Welcome Page. Click on *Bulletins* and “November 22 Satellite Broadcast”, or
- www.qtso.com/hhafaq.html. Click on “November 22 Satellite Broadcast”.

Home Health Quality Initiative

The Home Health Quality Initiative (HHQI), announced by U.S. Department of Health & Human Services (HHS) Secretary Tommy Thompson in February 2003, aims to improve the quality of care for people who use home health services. HHQI is part of a larger HHS and Centers for Medicare & Medicaid Services (CMS) goal to enhance the quality of health care for all Americans, including those covered by the Medicare and Medicaid programs. CMS will publish quality information that consumers can use to compare the quality of care provided by home health agencies. By providing this information to consumers and the home health industry, HHQI is designed to stimulate and support providers and clinicians to improve the quality of health care.

In the Spring of 2003, Wisconsin will be one of eight states that will implement Phase I of HHQI with public reporting on 11 quality measures tracked in the Outcome Assessment Instrument Set (OASIS), a federal database on which home health agencies (HHAs) receiving Medicare and Medicaid funds are required to enter information about the services they provide to patients.

In the Fall of 2003, CMS expects to begin Phase II with the national release of quality measures for all Medicare-certified HHAs. Also, Quality Improvement Organizations (QIOs) will provide assistance to HHAs seeking to improve performance on the quality measures. QIOs are peer review organizations that CMS contracts with to run a variety of quality initiative programs. Wisconsin's QIO is Metastar (formerly WIPRO).

The following CMS website provides additional information on HHQI, www.cms.hhs.gov/quality/hhqi/, including a list of the 11 quality measures.

BQA Facilities Performing Waived Testing

Under the authority of Section 353 of the federal Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988 (CLIA) require all facilities performing tests on human specimens to have a CLIA certificate.

If employees of a facility, or individuals contracted by the facility, perform testing on human specimens, the facility or contracted individual must have a CLIA certificate. Outside of hospitals and rural health clinics, most laboratory tests being performed in facilities regulated or licensed by BQA are covered under the CLIA Certificate of Waiver. Generally, this is whole blood glucose or sometimes fecal or gastric occult blood testing. Chapter 50 of the Wisconsin Statutes requires licensed facilities to be in compliance with applicable federal and state regulations.

For questions, or to obtain an application for CLIA certification, please contact the Clinical Laboratory Unit, (608) 243-2023.

Retiring Wisconsin Brochures "Choosing a Nursing Home" and "Nursing Home Checklist"

BQA has over the years distributed many copies of its publications assisting families and advocates in selecting nursing homes for their relatives or clients. Over time, these documents have become outdated, especially their lists of state contacts. After evaluating the effort needed to revise and republish these publications, we have decided to discontinue offering them. Instead, we refer viewers to alternative documents available on the Internet and for free through the mail from the Centers for Medicare and Medicaid Services (CMS). CMS's guide "Choosing a Nursing Home," a 59-page document (including a "Nursing Home Checklist"), is available at this address <http://www.medicare.gov/Publications/Pubs/pdf/02174.pdf>. Viewers will need to have Acrobat Reader loaded on their computer's hard drive to read onscreen or print their own copy. This publication can also be ordered by calling 1-800-MEDICARE (1-800-633-4227) and requesting publication number CMS – 02174. It can take three weeks to arrive in the mail.

The Nursing Home page in the DHFS Programs & Services section at www.dhfs.state.wi.us/bqaconsumer/NursingHomes/NHindex.htm contains links to similar publications from other organizations. These may also prove useful.

The CBRF Checklist will continue to be made available at <http://dhs.wisconsin.gov/publications/p6/p60579.pdf> and can be ordered in quantity as well. Please call (608) 267-3808 for pricing information.