



STRATEGIES TO PROMOTE REGULATORY COMPLIANCE IN WISCONSIN ASSISTED LIVING FACILITIES – RESIDENTIAL CARE APARTMENT COMPLEX (RCAC)

Department of Health Services / Division of Quality Assurance
P-00510 (06/2013)

TOP 13 CITATIONS 01/01/12 – 12/31/12

- 1. DHS 89.23(1) Services - General Requirement (5 cites)** A residential care apartment complex shall provide or contract for services that are sufficient and qualified to meet the care needs identified in the tenant service agreements, to meet unscheduled care needs of its tenants and to make emergency assistance available 24 hours per day.

Some Recommended Practices and Strategies to Comply with this Regulation

- Be knowledgeable of the requirements of DHS 89, Wis. Admin. Code, and with all other laws governing the home and its operation. Have a copy of DHS 89 in the facility.
 - Implement a comprehensive Quality Assurance program to ensure:
 - That each tenant is provided with an independent apartment that is home-like.
 - That personal, supportive and nursing service appropriate to the tenants' needs, abilities and preferences is available.
 - That the facility operates in a manner to protect tenant rights, respects privacy, enhances self-reliance and supports autonomy in decision making, including the right to accept risk.
 - Routinely audit tenant records to ensure compliance with these standards. Use results of the audit to institute quality improvement activities.
 - Prior to admission, complete a comprehensive assessment per DHS 89.26 as a basis for developing the service agreement and the risk agreement. Engage the tenant and family in gathering information.
 - Assure that employees who conduct assessment of tenants have expertise in areas related to health and service needs. Obtain training from a qualified professional (e.g., registered nurse, social worker) on the topic of assessment methodology, assessment of changes in condition, sources of assessment information and documentation of the assessment.
 - Ensure that each service agreement identifies the type, amount and frequency of services, including services which will be available to meet unscheduled care needs of each individual tenant.
 - Ensure that facility staff reviews the tenant assessment, service agreement and risk agreement for each tenant.
 - Ensure that all facility staff is properly trained in provision of cares.
 - Be knowledgeable regarding current standards of practice. See the department list (not inclusive) of resources related to standards of practice at http://www.dhs.wisconsin.gov/rl_DSL/Providers/resources.htm.
 - Develop and implement a written procedure for responding to emergency assistance for tenants.
 - Ensure facility staff are trained and knowledgeable in the policy for responding to emergency assistance.
 - Develop policies which identify types of additional services which the facility will make available or assist in arranging for tenants during periods when the tenant may experience temporary needs.
 - Have resources, such as a registered nurse, in your organization for treatment and behavior related questions or assessments.
 - Maintain documentation of cares and treatments provided.
 - Maintain documentation of practitioner orders and any delegated acts conducted.
 - Develop a system to ensure tenant cares are provided as identified in the service agreement and/or as ordered.
 - Routinely assess tenants for any change in condition. Provide training in recognizing and responding to changes in condition.
 - Maintain documentation of tenant's change in condition.
 - Maintain documentation of communication with families, physicians, social workers, etc.
 - Review and update tenant's service agreement when a change in condition occurs or when requested by or on behalf of the tenant.
 - Implement a tenant, family, staff satisfaction survey that includes questions regarding services provided.
- 2. DHS 89.28(1) Risk Agreement (5 cites)** As a protection for both the individual tenant and the RCAC, an RCAC shall enter into a signed, jointly negotiated risk agreement with each tenant by the date of occupancy.

Some Recommended Practices and Strategies to Comply with this Regulation

- Prior to admission, complete a comprehensive assessment per DHS 89.26 as a basis for developing the services agreement and the risk agreement. Engage the tenant and family in gathering information.
- Ensure that all staff members are aware of each tenant's risk agreement and what the facility will and will not do to meet the tenant's needs and preferences, alternatives offered to reduce the risk, and the agreed-upon course of action.

- Develop a check list of items to be completed before or at the time of admission.
- Routinely audit tenant records to ensure compliance with these standards. Use results of the audit to institute quality improvement activities.
- Implement a tenant, family, staff satisfaction survey that includes questions regarding risk agreements.

- 3. DHS 89.26(4) Annual Review (4 cites)** A tenant's capabilities, needs and preferences, identified in the comprehensive assessment shall be reviewed at least annually to determine whether there have been changes that would necessitate a change in the service or risk agreement. The review may be initiated by the facility, the county department designated under sub. (3)(c)2, or at the request or on behalf of the tenant.

Some Recommended Practices and Strategies to Comply with this Regulation

- Ensure that employees who are responsible for the comprehensive assessment have expertise in the areas related to the tenant's health and service needs. Ensure that a physician or registered nurse is assessing tenants in the areas related to physical health, medications, and the tenant's ability to self-administer medications.
- Routinely assess tenants for any change in needs, abilities and condition.
- Provide training in recognizing and responding to changes in needs, abilities and condition.
- Based on the audit of records, schedule annual reviews on a regular basis to ensure that reviews are done at least annually.
- Have resources, such as a registered nurse, in your organization for physical health and medication related questions or assessments.
- Contract with, or have a registered nurse in your organization to perform, or to delegate the tasks for medication management and administration.
- Routinely audit tenant records to ensure compliance with these standards. Use results of the audit to institute quality improvement activities.
- Implement a tenant, family, staff satisfaction survey that includes questions regarding provision of services.

- 4. DHS 89.28(6) Risk Agreement - Updating (4 cites)** The risk agreement shall be updated when the tenant's condition or service needs change in a way that may affect risk, as indicated by a review and update of the comprehensive assessment, by a change in the service agreement or at the request of the tenant or facility.

Some Recommended Practices and Strategies to Comply with this Regulation

- Ensure that all identified needs and preferences from the comprehensive assessment are addressed in the Service Agreement, including the type, amount and frequency of the services to be provided to the tenant.
- At least annually, or at the request of facility, county or tenant; assess tenants for any change in needs that would necessitate a change in the service or risk agreement.
- Provide training in recognizing and responding to changes in needs, abilities and condition.
- Update the risk agreement when the tenant's condition or service needs change in a way that may affect risk.
- Make sure the tenant's physician is aware of any change in condition.
- Have resources, such as a registered nurse, in your organization for physical health and medication related questions or assessments.
- Routinely audit tenant records to ensure compliance with these standards. Use results of the audit to institute quality improvement activities.
- Implement a tenant, family, staff satisfaction survey that includes questions regarding risk agreements.

- 5. DHS 89.23(4)(b)1 Services - Service Manager (3 cites)** Each residential care apartment complex shall have a designated service manager who shall be responsible for day-to-day operation of, including ensuring that the services provided are sufficient to meet tenant needs and are provided by qualified persons; that staff are appropriately trained and supervised; that facility policies and procedures are followed; and that the health, safety and autonomy of the tenants are protected. The service manager shall be capable of managing a multi-disciplinary staff to provide services specified in the service agreements.

Some Recommended Practices and Strategies to Comply with this Regulation

- Ensure the service manager has the experience and/or educational background to effectively manage the facility.
- Have a clearly written job description identifying all responsibilities of the service manager.
- As a service manager:
 - Ensure that all identified needs and preferences from the comprehensive assessment are addressed in the Service Agreement, including the type, amount and frequency of the services to be provided to the tenant.
 - Ensure that facility staff reviews the tenant assessment, service agreement and risk agreement for each

tenant.

- Ensure that all staff providing services to tenants have experience or complete training in the physical, functional and psychological characteristics associated with aging.
- Maintain documentation, including experience for each employee, or dates and topics of training received for each employee.
- Routinely audit personnel records to ensure compliance with this standard. Use results of the audit to institute quality improvement activities.
- Have resources, such as a registered nurse, in your organization for physical health and medication related questions or assessments.
- Implement a tenant, family, staff satisfaction survey that includes questions regarding the overall day-to-day operation of the facility, services, staffing and staff training

- 6. DHS 89.29(1)(b) Admission and Retention of Tenants - Admission (3 cites)** No residential care apartment complex may admit any of the following persons, unless the person being admitted shares an apartment with a competent spouse or other person who has legal responsibility for the individual: (b) A person who has an activated power of attorney for health care under ch.155, Wis. Stats.

Some Recommended Practices and Strategies to Comply with this Regulation

- Be knowledgeable of the requirements of DHS 89. Have a copy of DHS 89 in the facility.
- Conduct a thorough assessment per DHS 89.26(2) for each tenant to ensure that all needs and preferences have been identified and the facility has the capability to provide appropriate services to meet the needs and preferences identified.
- Have resources, such as a registered nurse, in your organization for physical health and medication related assessments to ensure that tenants will be safe in independent apartment settings, with limited support.
- Ensure staffing patterns are sufficient to meet the needs of potential tenants being served.
- Ensure that all identified needs and preferences from the comprehensive assessment are addressed in the tenant's service agreement, including the type, amount of services desired by the tenant, as well as the frequency of monitoring the tenant's condition requires.
- Do not admit or retain tenants with complex needs and/or declining cognitive status if the facility is not able to provide needed services.

- 7. DHS 89.23(4)(a)2 Services - Provider Qualifications (2 cites)** Nursing services and supervision of delegated nursing services shall be provided consistent with the standards contained in the Wisconsin nurse practice act. Medication administration and medication management shall be performed by, or as a delegated task, under the supervision of a nurse or pharmacist.

Some Recommended Practices and Strategies to Comply with this Regulation

- Be knowledgeable of the requirements of DHS 89 and Nurse Practice Act N6. Have a copy of DHS 89 and N6 in the facility.
- Conduct a thorough assessment per DHS 89.26(2) for each tenant to ensure that all needs and preferences have been identified and the facility has the capability to provide appropriate services to meet the needs and preferences identified.
- Utilize department's web-based Medication Management resource at http://www.dhs.wisconsin.gov/ri_dsl/MedManagement/asstlvqMMI.htm .
- Be knowledgeable regarding current standards of practice. See the department list (not inclusive) of resources related to standards of practice at http://www.dhs.wisconsin.gov/ri_DSL/Providers/resources.htm .
- Have resources, such as a registered nurse, in your organization for physical health and medication related questions or assessments.
- Contract with, or have a registered nurse in your organization to perform, or to delegate the tasks for medication management and administration.
- Maintain documentation of practitioner orders and any delegated acts conducted.

- 8. DHS 89.27(4) Service Agreement - Review and Update (2 cites)** The service agreement shall be reviewed when there is a change in the comprehensive assessment or at the request of the facility or at the request or on behalf of the tenant and shall be updated as mutually agreed to by all parties to the agreement.

Some Recommended Practices and Strategies to Comply with this Regulation

- Provide training in recognizing and responding to changes in needs, abilities and condition.
- Routinely assess tenants for any change in needs, abilities and condition, and at least annually.

- Ensure that facility staff reviews the service agreement for each tenant, at least annually.
- Maintain documentation of communication with families, physicians, social workers, etc.
- Make sure tenant's physician is aware of any change in condition.
- Update the service agreement as indicated by an update of the comprehensive assessment or by a change in the type, amount, frequency and/or cost of services received.
- Routinely audit resident records to ensure compliance with these standards. Use results of the audit to institute quality improvement activities.
- Utilize the department's web-based Medication Management resource at http://www.dhs.wisconsin.gov/ri_DSL/MedManagement/asstlvqMMI.htm.

9. DHS 89.29(2)(b)1 Admission and Retention of Tenants - Retention (2 cites) A residential care apartment complex may retain a tenant who becomes incompetent or incapable of recognizing danger, summoning assistance, expressing need or making care decisions, provided that the facility ensures all of the following:

1. That adequate oversight, protection and services are provided for the individual.

Some Recommended Practices and Strategies to Comply with this Regulation

- Assure that employees who conduct assessment of tenants have expertise in areas related to health and service needs. Obtain training from a qualified professional (e.g., registered nurse, social worker) on the topic of assessment methodology, assessment of changes in condition, sources of assessment information and documentation of the assessment.
- Ensure that each service agreement identifies the type, amount and frequency of services, including services which will be available to meet unscheduled care needs of each individual tenant.
- Ensure that facility staff reviews the tenant assessment, service agreement and risk agreement for each tenant.
- Ensure that all facility staff is properly trained in provision of cares.
- Be knowledgeable regarding current standards of practice. See the department list (not inclusive) of resources related to standards of practice at http://www.dhs.wisconsin.gov/ri_DSL/Providers/resources.htm.
- Develop and implement a written procedure for responding to emergency assistance for tenants.
- Ensure facility staff are trained and knowledgeable in the policy for responding to emergency assistance.
- Develop policies which identify types of additional services which the facility will make available or assist in arranging for tenants during periods when the tenant may experience temporary needs.
- Have resources, such as a registered nurse, in your organization for treatment and behavior related questions or assessments.
- Maintain documentation of cares and treatments provided.
- Maintain documentation of practitioner orders and any delegated acts conducted.
- Develop a system to ensure tenant cares are provided as identified in the service agreement and/or as ordered.
- Routinely assess tenants for any change in condition. Provide training in recognizing and responding to changes in condition.
- Maintain documentation of tenant's change in condition.
- Maintain documentation of communication with families, physicians, social workers, etc.
- Review and update tenant's service agreement when a change in condition occurs or when requested by or on behalf of the tenant.
- Implement a tenant, family, staff satisfaction survey that includes questions regarding services provided.

10. DHS 89.34(16) Rights of Tenants - Medications (2 cites) Except as provided for in the service agreement or risk agreement, to have the facility not interfere with the tenant's ability to manage his or her own medications or, when the facility is managing the medications, to receive all prescribed medications in the dosage and at the intervals prescribed by the tenant's physician and to refuse a medication unless there is a court order.

Some Recommended Practices and Strategies to Comply with this Regulation

- Conduct a comprehensive assessment per DHS 89.26(2)(c) to identify and evaluate factors relating to the tenant's need and preference to self-administer medications, or for the need for medication management and administration.
- Identify in the service agreement under DHS 89.27(2)(a) the type, amount and frequency of medication services needed by the tenant.
- Identify in the risk agreement under 89.28(2)(a) any situation or condition involving a course of action taken or desired to be taken by the tenant contrary to the medication policies and procedures of the facility.
- Ensure that medication administration and management is performed by, or delegated as a task, under the supervision of a nurse or pharmacist.

- Develop and implement a written procedure that addresses medication administration and management. Provide staff in-service training regarding the written procedure.
- Utilize department's web-based Medication Management resource at http://www.dhs.wisconsin.gov/ri_dsl/MedManagement/asstlvvgMMI.htm .
- Maintain the practitioner's order for all medications administered and ensure that the order includes all required information.
- Develop and implement a Quality Assurance program to include:
 - A system to ensure that all medication received from the pharmacy is the correct medication, in the correct dosage, and for the correct tenant.
 - A system that audits changes in physician's orders to ensure the most current order for medication is being administered.
 - A system that audits tenant records to ensure compliance with these standards. Use results of the audit to institute quality improvement activities.
- Record all medications, dosage, times administered, and who administered on a medication administration record (MAR).
- Record all changes in practitioner's orders on the MAR in a legible manner. Communicate any changes in orders with all staff.
- Record medication refusals on the MAR.
- Notify the tenant's practitioner if medications have been refused for two consecutive days or otherwise as directed by the prescriber.
- Implement a tenant, family, staff satisfaction survey that includes questions regarding medications.
- Identify a person responsible for monitoring continued regulatory compliance.

11. DHS 89.34(17) Tenants' Rights - Safe Environment (2 cites) Tenants have a right to a safe environment in which to live.

Some Recommended Practices and Strategies to Comply with this Regulation

- Develop a Building and Safety Committee whose role is to anticipate, identify, and address hazards in the building as well as building maintenance and fire safety. Include a tenant on the committee, if applicable.
- Use "Fresh Eyes" Approach; have someone who is not familiar with the building/environment make observations to help identify hazards that may be overlooked by a person who is familiar with the environment/building.
- Routinely monitor the facility for the existence or continuation of a condition which places the health, safety or welfare of a tenant at substantial risk of harm.
- Contract with reputable service providers (when necessary) to complete repairs.
- Implement a resident, family, staff satisfaction survey that includes questions regarding building maintenance.
- Develop a corrective action plan and system changes to ensure violations are corrected and regulatory compliance is maintained.
- Identify a person responsible for monitoring continued regulatory compliance.

12. DHS 89.34(18) Tenants' Rights - Freedom from Abuse (2 cites) To be free from physical, sexual or emotional abuse, neglect or financial exploitation or misappropriation of property by the facility, its staff or any service provider under contract with the facility.

Some Recommended Practices and Strategies to Comply with this Regulation

- Review the criminal history records maintained by the department of justice for each caregiver.
- Review each caregiver records for credentialing.
- Review information contained in the registry regarding any findings for each caregiver.
- Refer to Wisconsin Caregiver Program Resources for information on background checks, rehabilitation reviews, and substantiated findings against Nurse Aides and other non-credentialed caregivers at <http://www.dhs.wisconsin.gov/publications/p0/p00121.pdf> .
- The Caregiver Program Manual may also be a helpful resource at <http://www.dhs.wisconsin.gov/publications/p0/p00038.pdf> .
- For caregivers who have lived outside of Wisconsin during the past three years, a good faith effort must be made to obtain a background check from that state or states. Refer to the Manual for additional details.
- Conduct a comprehensive assessment per DHS 89.26(2)(c) to identify and evaluate factors relating to the tenant's vulnerability to abuse.
- Identify in the risk agreement under 89.28(2)(a) any situation or condition involving a course of action taken or desired to be taken by the tenant contrary to the tenant abuse prevention policies and procedures of the facility.
- Be knowledgeable of the requirements of DHS 89 and all other laws governing the RCAC and its operation.

- Have a copy of DHS 89 and Chapter 12 in the facility.
- Develop and implement a written procedure for reporting and responding to allegations of caregiver misconduct.
- Ensure that all staff are trained on policies and procedures related to caregiver misconduct. Conduct annual training on reporting and responding to allegations of caregiver misconduct.
- Immediately investigate any allegations of caregiver misconduct.
- Document the investigation and results, and steps taken to ensure tenant protection while a determination is being made. Maintain all documentation.
- Visit the Caregiver Training page at <http://dhs.wisconsin.gov/caregiver/training/trgIndex.HTM> .
- Routinely audit records to ensure compliance with these standards. Use results of the audit to institute quality improvement activities.

13. DHS 89.54 Reporting of Changes (2 cites) A certified residential care apartment complex operator shall report to the department any change which may affect its compliance with this chapter, including change in the residential care apartment complex ownership, administration, building or continued operation, 30 days prior to making the change. The department may require that the facility reapply for certification when any of these changes take place.

Some Recommended Practices and Strategies to Comply with this Regulation

- Be knowledgeable of the requirements of DHS 89. Have a copy of DHS 89 in the facility.
- Ensure that service manager who is responsible monitoring continued regulatory compliance has a comprehensive knowledge DHS 89 and reporting requirements.
- Develop and implement a written procedure that addresses reporting changes to the department. Provide staff in-service training regarding the written procedure.