
F353**§483.30 Nursing Services**

The facility must have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care.

Intent §483.30

To assure that sufficient qualified nursing staff are available on a daily basis to meet residents' needs for nursing care in a manner and in an environment which promotes each resident's physical, mental and psychosocial well-being, thus enhancing their quality of life.

Procedures §483.30

§483.30(a) and (b) are to be reviewed during the standard survey whenever quality of care problems have been discovered (see Appendix P, Survey Protocol, Task 4, for further information and Task 5C for the investigative protocol to complete this review). In addition, fully review requirements of nursing services during an extended survey or when a waiver of RN and/or licensed nurse (RN/LPN) staffing has been requested or granted. Except as licensed nursing personnel are specifically required by the regulation (e.g., an RN for 8 consecutive hours a day, 7 days a week), the determination of sufficient staff will be made based on the staff's ability to provide needed care to residents that enable them to reach their highest practicable physical, mental and psychosocial well-being. The ability to meet the requirements of §§483.13, 483.15(a), 483.20, 483.25 and 483.65 determines sufficiency of nurse staffing.

§483.30(a) Sufficient Staff

§483.30(a)(1) The facility must provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans:

- (i) Except when waived under paragraph (c) of this section, licensed nurses; and**
- (ii) other nursing personnel.**

§483.30(a)(2) Except when waived under paragraph (c) of this section, the facility must designate a licensed nurse to serve as a charge nurse on each tour of duty.

For Interpretive Guidelines and Probes on §483.30(a) see Tag F354

F354**§483.30(b) Registered Nurse**

§483.30(b)(1) Except when waived under paragraph (c) or (d) 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.

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

§483.30(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.

Interpretive Guidelines §483.30(a) and (b)

At a minimum, "staff" is defined as licensed nurses (RNs and/or LPNs/LVNs), and nurse aides. Nurse aides must meet the training and competency requirements described in §483.75(e).

"Full-time" is defined as working 35 or more hours a week.

Except for licensed staff noted above, the determining factor in sufficiency of staff (including both numbers of staff and their qualifications) will be the ability of the facility to provide needed care for residents. A deficiency concerning staffing should ordinarily provide examples of care deficits caused by insufficient quantity and quality of staff. If, however, inadequate staff (either the number or category) presents a clear threat to residents reaching their highest practicable level of well-being, cite this as a deficiency. Provide specific documentation of the threat.

The facility is required to designate an RN to serve as DON on a full time basis. This requirement can be met when RNs share the position. If RNs share the DON position, the total hours per week must equal 40. Facility staff must understand the shared responsibilities. The facility can only be waived from this requirement if it has a waiver under subsection (c) or (d).

Probes: §483.30(a) and (b)

Determine nurse staffing sufficiency for each unit:

- Is there adequate staff to meet direct care needs, assessments, planning, evaluation, supervision?
- Do work loads for direct care staff appear reasonable?
- Do residents, family, and ombudsmen report insufficient staff to meet resident needs?
- Are staff responsive to residents' needs for assistance, and call bells answered promptly?
- Do residents call out repeatedly for assistance?
- Are residents, who are unable to call for help, checked frequently (e.g., each half hour) for safety, comfort, positioning, and to offer fluids and provision of care?
- Are identified care problems associated with a specific unit or tour of duty?
- Is there a licensed nurse that serves as a charge nurse (e.g., supervises the provision of resident care) on each tour of duty (if facility does not have a waiver of this requirement)?
- What does the charge nurse do to correct problems in nurse staff performance?
- Does the facility have the services of an RN available 8 consecutive hours a day, 7 days a week (if this requirement has not been waived)?
- How does the facility assure that each resident receives nursing care in accordance with his/her plan of care on weekends, nights, and holidays?
- How does the sufficiency (numbers and categories) of nursing staff contribute to identified quality of care, resident rights, quality of life, or facility practices problems?

F355 – Nursing Waivers

§483.30(c) Nursing facilities

Waiver of requirement to provide licensed nurses on a 24-hour basis.

To the extent that a facility is unable to meet the requirements of paragraphs (a)(2) and (b)(1) of this section, a State may waive such requirements with respect to the facility if--

(1) The facility demonstrates to the satisfaction of the State that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel;

(2) The State determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility;

(3) The State finds that, for any periods in which licensed nursing services are not available, a registered nurse or a physician is obligated to respond immediately to telephone calls from the facility;

(4) A waiver granted under the conditions listed in paragraph (c) of this section is subject to annual State review;

(5) In granting or renewing a waiver, a facility may be required by the State to use other qualified, licensed personnel;

(6) The State agency granting a waiver of such requirements provides notice of the waiver to the State long term care ombudsman (established under section 307 (a)(12) of the Older Americans Act of 1965) and the protection and advocacy system in the State for the mentally ill and mentally retarded; and

(7) The nursing facility that is granted such a waiver by a State notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.

Intent §483.30(c)

To give the facility flexibility, in limited circumstances, when the facility cannot meet nurse staffing requirements.

Interpretive Guidelines §483.30(c)

The facility may request a waiver of the RN requirement, and/or the 24-hour licensed nurse requirement. If the facility is Medicaid-certified only, the State has the authority to grant the waiver. If the facility is dually-participating, CMS has the delegated authority to grant the waiver. (See guidelines for §483.30(d).)

A survey of Nursing Services must be conducted if a waiver has been granted or requested.

Probes: §483.30(c)

Before granting a continuation of this waiver, or during the annual review, at a minimum, determine:

- Is a continuing effort being made to obtain licensed nurses?
- How does the facility ensure that residents' needs are being met?
- Are all nursing policies and procedures followed on each shift during times when licensed services are waived?
- Is there a qualified person to assess, evaluate, plan and implement resident care?
- Is care being carried out according to professional practice standards on each shift?
- Can the survey team ensure the State that the absence of licensed nurses will NOT endanger the health or safety of residents?
- Are there trends in the facility, which might be indicators of decreased quality of care as a result of insufficient staffing to meet resident needs (e.g., increases in incident reports, the infection rate, hospitalizations)?
- Are there increases in loss of function, pressure sores, tube feedings, catheters, weight loss, mental status?
- Is there evidence that preventive measures (e.g., turning, ambulating are taken to avoid poor quality of care outcomes and avoidable sudden changes in health status)?
- Is there evidence that sudden changes in resident health status and emergency needs are being properly identified and managed by appropriate facility staff and in a timely manner?
- If the facility has a waiver of the requirement to provide licensed nurses on a 24-hour basis, have they notified the ombudsman, residents, surrogates or legal representatives, and members of their immediate families of the waiver, and are there services residents need that are not provided because licensed nurses are not available?
- Is there an increase in hospitalizations because licensed personnel are not available to provide appropriate services?
- Does the facility meet all applicable requirements to continue to receive a waiver?

- Does the staff indicate that an RN or physician is available to respond immediately to telephone calls when licensed nurses are not available?

§483.30(d) SNFs

Waiver of the requirement to provide services of a registered nurse for more than 40 hours a week.

§483.30(d)(1) The Secretary may waive the requirement that a SNF provide the services of a registered nurse for more than 40 hours a week, including a director of nursing specified in paragraph (b) of this section, if the Secretary finds that --

(i) The facility is located in a rural area and the supply of skilled nursing facility services in the area is not sufficient to meet the needs of individuals residing in the area;

(ii) The facility has one full-time registered nurse who is regularly on duty at the facility 40 hours a week; and

(iii) The facility either--

(A) Has only patients whose physicians have indicated (through physicians' orders or admission notes) that they do not require the services of a registered nurse or a physician for a 48-hours period or;

(B) Has made arrangements for a registered nurse or a physician to spend time at the facility, as determined necessary by the physician, to provide necessary skilled nursing services on days when the regular full-time registered nurse is not on duty;

(iv) The Secretary provides notice of the waiver to the State long term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) and the protection and advocacy system in the State for the mentally ill and mentally retarded; and

(v) The facility that is granted such a waiver notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.

(2) A waiver of the registered nurse requirement under paragraph (d)(1) of this section is subject to annual renewal by the Secretary.

Interpretive Guidelines §483.30(d)

CMS is delegated the waiver authority for SNFs, including dually-participating facilities (SNF/NFs). The Medicare waiver authority is far more limited than is the States' authority under Medicaid since a State may waive any element of the nurse staffing requirement, whereas the Secretary may waive only the RN requirement. The requirements that a registered nurse provide services for 8 hours a day, 7 days a week (more than 40 hours a week), and that there be an RN designated as director of nursing on a full-time basis, may be waived by the Secretary in the following circumstances:

- The facility is located in a rural area with an inadequate supply of SNF services to meet area needs. Rural is defined as "all areas not delineated as `urban` by the Bureau of Census, based on the most recent census;
- The facility has one full-time registered nurse regularly working 40 hours a week. This may be the same individual, or part-time individuals. This nurse may or may not be the DON, and may perform some DON and some clinical duties if the facility so desires; **and either**;
- The facility has only residents whose physicians have noted, in writing, do not need RN or physician care for a 48 hour period. This does not relieve the facility from responsibility for providing for emergency availability of a physician, when necessary, nor does it relieve the facility from being responsible for meeting all needs of the residents during those 48 hours;

OR

- A physician or RN will spend the necessary time at the facility to provide care residents need during the days that an RN is not on duty. This requirement refers to clinical care of the residents that need skilled nursing services.
- If a waiver of this requirement has been granted, conduct a survey of nursing services during each certification survey. Dually-participating facilities must meet the waiver provisions of the SNF.

Probes: §483.30(d)

If the SNF has a waiver of the more than 40 hours a week RN requirement:

- Is there an RN on duty 40 hours a week?
- If more than one RN provides the 40 hour per week coverage, how is information exchanged that maintains continuity of resident care?
- Does each clinical record have documentation by the physician that the resident does not need services of a physician or an RN for a 48 hour period each week.
- Are there any emergency or routine services that should be, but are not, provided to residents during the days that a registered nurse is not on duty?
- If specific skilled care is necessary for a resident during the time that an RN is not on duty, does an RN or physician provide that service on an “as needed” basis?
- Did the facility notify residents (or their legal guardians) and their immediate families about the waiver and the ombudsman?

See also probes at §483.30(c).

If the SNF requests continuation of the waiver to provide the services of a registered nurse for more than 40 hours a week, the survey team is to provide the Secretary with information needed to grant this continuation.

- Does the SNF meet all requirements necessary for continuation of the waiver?

Procedures §483.30(a)-(d)

If the facility has an approved nurse staffing waiver, it is **not** considered a deficiency. The facility does not need to submit a POC.

The following procedure should be used to document that a facility has a waiver of nurse staffing requirements.

When a facility does not meet the nurse staffing requirements, cite the appropriate tag. If the facility does have a waiver, reference the tag number based on the type of facility. The type of facility (SNF, NF, or SNF/NF) determines what type of waiver is granted:

- For SNFs and SNF/NFs which may be waived from the requirement to provide more than 40 hours of registered nurse services a week, and for NFs which have been granted a waiver from the 56 hour registered nurse requirement, cite F354;
 - For NFs that have a waiver of the 24-hour licensed nursing requirement, cite F353, or
 - Both facility types could be waived for the requirement to designate a registered nurse as the director of nursing on a full-time basis. Cite F355.

When the Form CMS-2567 is entered into OSCAR, code the waived tag as a “W.” Enter the tag number, leave the correction date blank, and enter a “W” in the CP field. This will indicate that this is not a deficiency--that the requirement has been waived.

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§483.30(e) Nurse Staffing Information--

- (1) Data requirements. The facility must post the following information on a daily basis:
 - (i) Facility name.

- (ii) The current date.
- (iii) The total number and the actual hours worked by the following categories of licensed and unlicensed nursing staff directly responsible for resident care per shift:
 - (A) Registered nurses.
 - (B) Licensed practical nurses or licensed vocational nurses (as defined under State law).
 - (C) Certified nurse aides.
- (iv) Resident census.
- (2) Posting requirements.
 - (i) The facility must post the nurse staffing data specified in paragraph (e)(1) of this section on a daily basis at the beginning of each shift.
 - (ii) Data must be posted as follows:
 - (A) Clear and readable format.
 - (B) In a prominent place readily accessible to residents and visitors.
 - Public access to posted nurse staffing data. The facility must, upon oral or written request, make nurse staffing data available to the public for review at a cost not to exceed the community standard.
 - Facility data retention requirements. The facility must maintain the posted daily nurse staffing data for a minimum of 18 months, or as required by State law, whichever is greater.