

Survey & Regulatory Update 2022 Activity Conference

Mandy Smith, OHCA Regulatory Director - HSE, LNHA, CEAL, CEHCH,
LPTA, LMT, RAC-CTA, WCC

Today's Speakers

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Activities & Immediate Jeopardy ? Are You Putting Your Facility At Risk?

- With the changing environment in facilities due to the COVID-19 pandemic, activities has become a central department. With that increased focus, comes potentially more risk. Whether it be episodes of choking, elopement, or abuse, immediate jeopardies can affect the activities department. Learn the risks and how to ensure your department remains in compliance and safe for your residents.

Objectives

- Answer Questions
- Discuss Issues
- Survey Data
- Immediate Jeopardy Review
- Survey Trends
- And more

What questions do you have?



Hot Topics

- COVID-19
 - Testing
 - Visitation
 - CDC/CMS/OSHA
 - Policies

RCF Regulations

Ohio Revised Code (ORC)

- <http://codes.ohio.gov/orc>

Ohio Administrative Code (OAC)

- <http://codes.ohio.gov/oac/>

SNF/RCF Rules

- <http://codes.ohio.gov/oac/3701-17>
- <http://codes.ohio.gov/oac/3701-16>

Laws Vs. Rules

Laws

- Statute
- Do not have to be reviewed & require legislation to be changed

Rules

- Regulation
- 5 year rule review

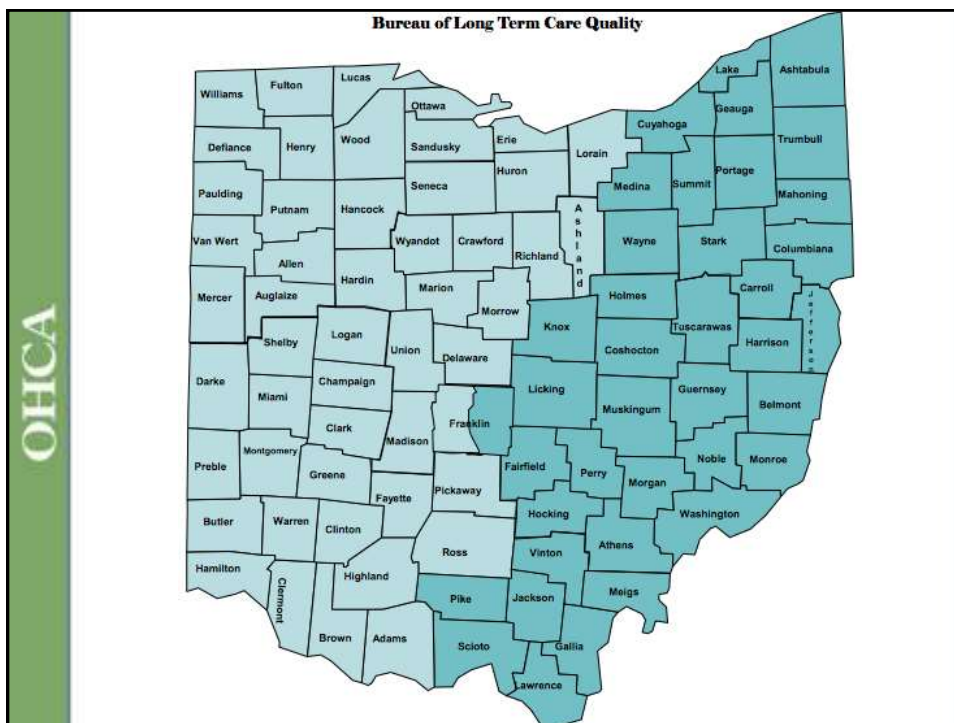
Rule Defined

- Just as a statute is law, a rule is a regulation. Whereas statutes are contained within the Ohio Revised Code, rules are contained within the Ohio Administrative Code. Rules have the full force of law, but are usually more detailed. The key difference between a statute and a rule, however, is that whereas the Ohio General Assembly writes legislation, which becomes law, state agencies (like ODH) are tasked with writing rules. The primary purpose of an administrative rule is to flesh-out or implement a statute.

Rule Review

- Per Ohio law, existing administrative rules must be reviewed at least once every five years. Rule review entails deciding whether a rule should be amended, rescinded, or kept the same, subject to the CSI (Common Sense Initiative) process pursuant to Senate Bill 2 of the 129th General Assembly, and filing it with JCARR, Legislative Service Commission (LSC), and the Secretary of State.
- Rules proposed to be amended, rescinded, adopted as new, or those requiring no change are filed with JCARR, the oversight committee tasked with reviewing rules on behalf of the Ohio General Assembly. Go to [JCARR](#) for more information on the JCARR process; however, it is the primary task of JCARR to ensure proposed rule actions do not conflict with the law.





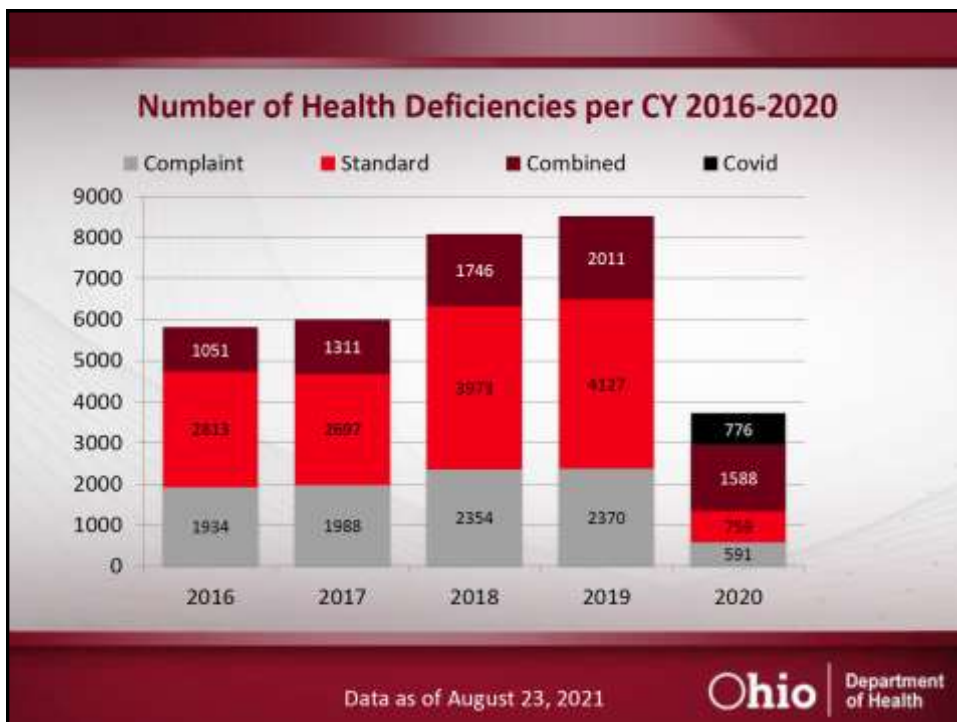
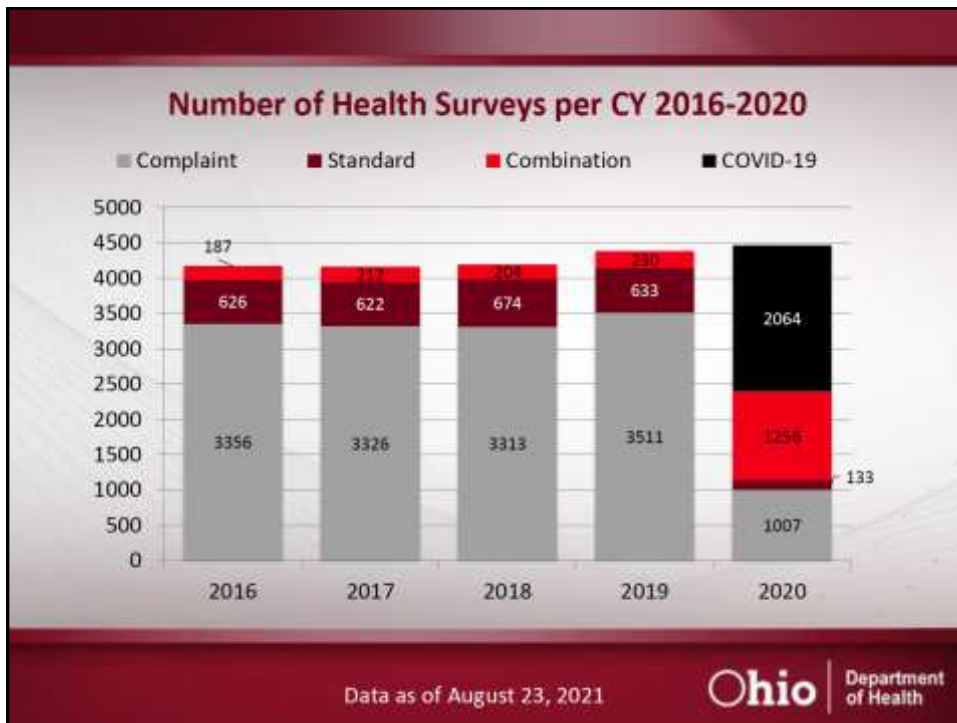
2020 Nursing Home Survey and Enforcement Actions

Annual Inspections & Complaint Investigations
Bureau of Survey and Certification (BOSC)

Rebecca Sandholdt
BOSC Chief
Ohio Department of Health

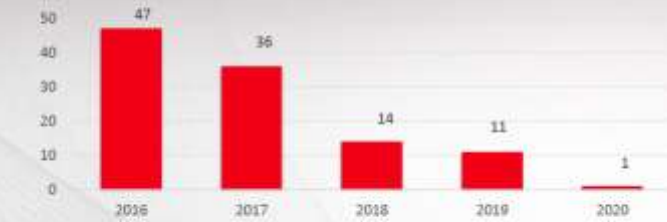
Ohio | Department of Health

August 23, 2021



Number of Deficiency Free Annual Surveys per CY 2016-2020

The facilities having deficiency free health and life safety code surveys in calendar year 2020 are listed below



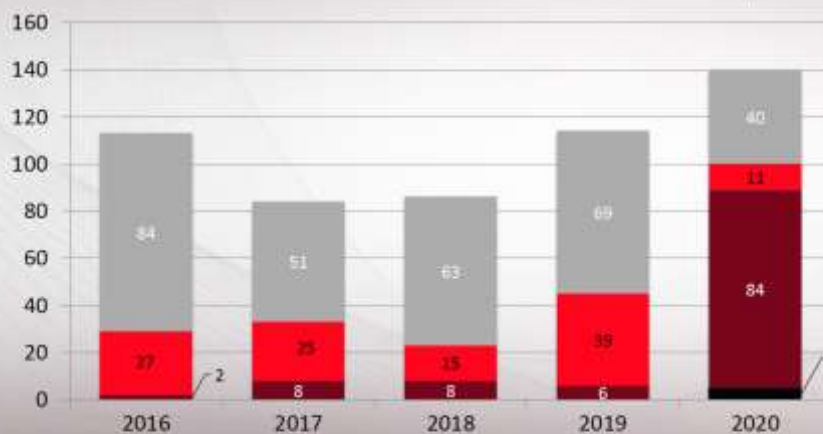
Marion Health St Rita's Medical Center LLC

Data as of August 23, 2021

Ohio | Department of Health

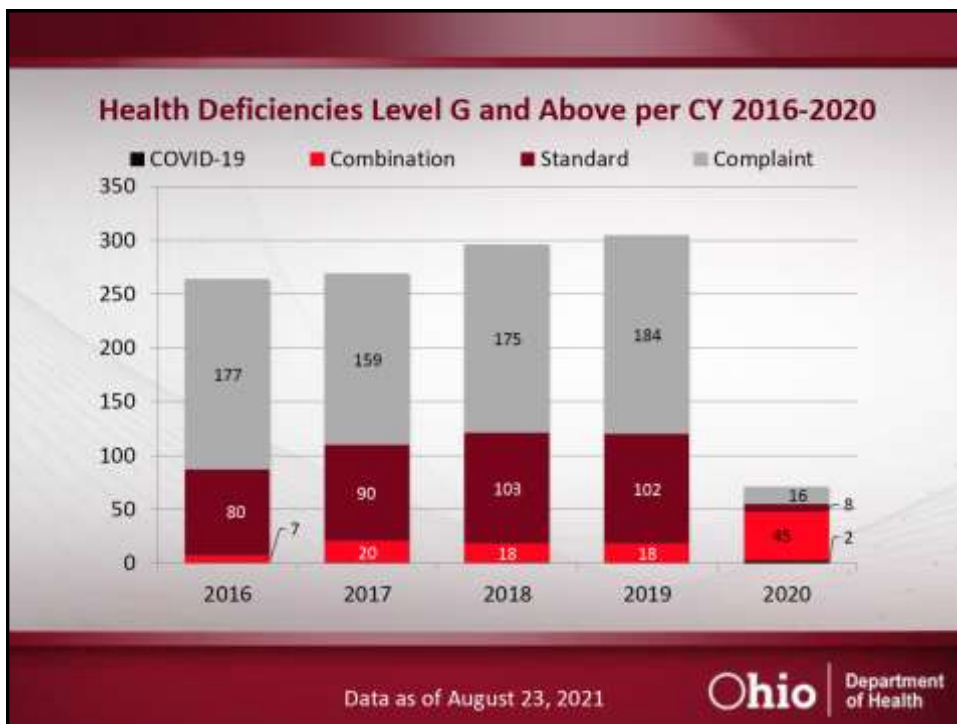
Substandard Quality of Care per CY 2016-2020

■ COVID-19 ■ Combination ■ Standard ■ Complaint

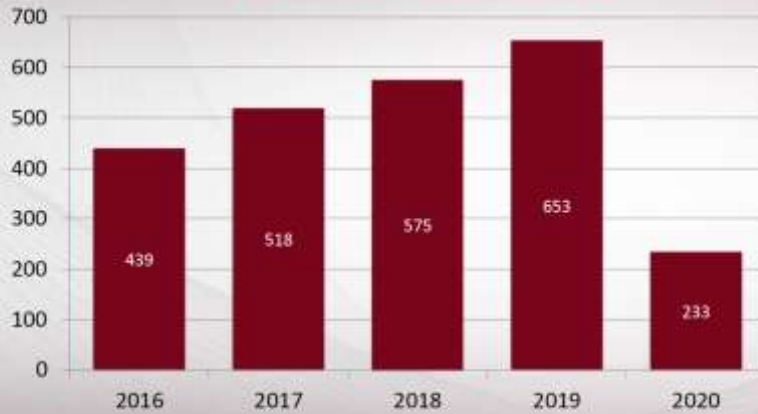


Data as of August 23, 2021

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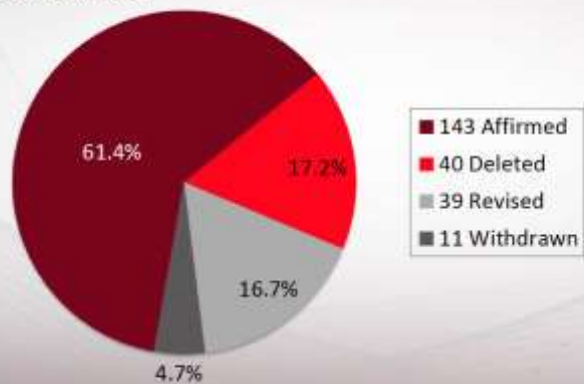
Informal Dispute Resolution (IDR) Number of Deficiencies Disputed per CY 2016-2020



Data as of August 23, 2021

Informal Dispute Resolution (IDR) - CY 2020

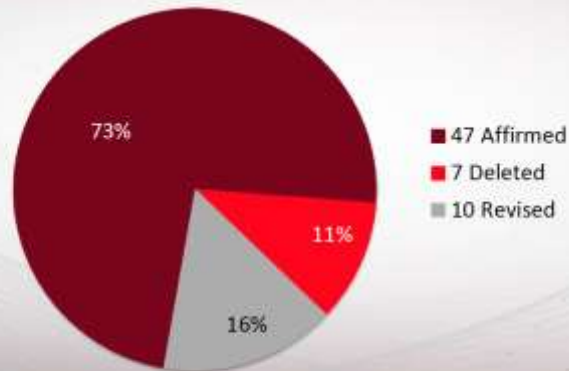
- 233 IDR Deficiencies Disputed
- 169 Event IDs



Data as of August 23, 2021

Informal Dispute Resolution (IDR) Level 2- CY 2020

- 64 IDR Level 2 Deficiencies Disputed
- 50 Events



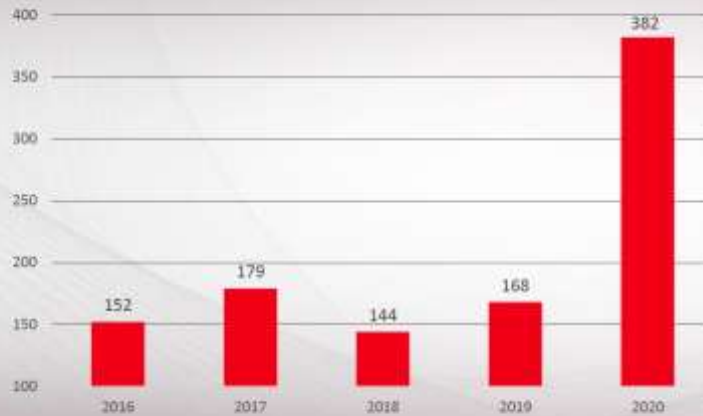
Data as of August 23, 2021

Informal Dispute Resolution (IIDR) CY 2016-2020

	2016	2017	2018	2019	2020
Affirmed	50	43	36	24	12
Deleted	13	6	3	2	8
Revised	13	10	2	6	3
Withdrawn	0	0	0	0	0
Requested	0	0	0	0	0
Total	76	59	41	32	23

Data as of August 23, 2021

Facilities with Imposed Remedies CY 2016-2020



Data as of August 23, 2021

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Imposed Remedy Summary CY 2016-2020

Remedy Description	2016	2017	2018	2019	2020
CMPs	161	191	115	118	382
Denial of Payment (Discretionary and Mandatory)*	14	14	53	66	78
Directed In-Service	0	2	31	16	2
Termination	2	2	1	0	2
State Monitoring	1	1	0	1	3
Transfer of Residents	2	0	0	0	1
Directed Plan of Correction	N/A	N/A	N/A	N/A	513

*Denial of Payment in Effect

Data as of August 23, 2021

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Top Ten 2020 Health Deficiencies

- F880 - Infection Prevention & Control (604)
- F689 - Free of Accident Hazards/Supervision/Devices (161)
- F684 - Quality of Care (133)
- F842 - Maintain Medical Records (89)
- F609 - Reporting of Alleged Violations (88)
- F580 - Notify of Changes (Injury/Decline/Room, etc.) (81)
- F677 - ADL Care Provided for Dependent Residents (79)
- F686 - Treatment/Svcs to Prevent/Heal Pressure Ulcer (79)
- F812 - Food Procurement, Store/Prepare/Serve-Sanitary (79)
- F755 - Pharmacy Services/Procedures/Pharmacist/Records (77)

Tag F884 - Reporting - National Health Safety Network. Any enforcement remedies imposed as a result of this cited Data Tag have been removed from this report as this Data Tag is only cited by CMS.

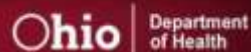
Data as of August 23, 2021



Top Ten 2020 Life Safety Code Deficiencies

- K353 - Sprinkler System - Maintenance and Testing (102)
- K345 - Fire Alarm System - Testing and Maintenance (66)
- K918 - Electrical Systems – Essential Electric Systems (64)
- K222 - Egress Doors - Unobstructed (58)
- K920 - Utilities - Gas and Electric (58)
- K521 - HVAC (51)
- K372 - Subdivision of Building Spaces – Smoke Barrier (47)
- K712 - Fire Drills (47)
- K321 - Hazardous Areas – Enclosure (43)
- K741 - Smoking Regulations (43)

Data as of August 23, 2021



2020 RCF Survey Data

of Surveys:

- Annuals: 282
- Complaints: 445
- Combined: 45

of Violations:

- Annuals: 416
- Complaints: 219
- Combined: 137

data identified has not be officially released as it is still under review by the Ohio Department of Health

Top 10 RCF citations 2020

1. R614 –Fire Drills and Self Evacuation (78)
2. R559 –Food Storage and Contamination (68)
3. R339 –Medications Given as Prescribed (36)
4. R392 –Infection Control (36)
5. R397 –Changes in Resident Health Status (36)
6. R391 –Resident Incidents (26)
7. R615 –Disaster Preparedness Drills (22)
8. R400 –Tuberculosis Control Plan (21)
9. R677 –Building Maintenance, Equipment, Supplies (18)
10. R563 –Kitchen and Dining Sanitation & Disposal of Waste (18)

data identified has not be officially released as it is still under review by the Ohio Department of Health

Immediate Jeopardies																							
Year	99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21
January	5	3	3	0	1	2	6	2	2	2	3	1	1	2	3	1	8	6	6	6	3	3	7
February	3	3	3	0	0	0	1	3	2	3	2	1	2	5	4	3	4	20	11	5	5	7	13
March	2	3	6	3	0	0	3	3	3	6	5	4	1	7	3	1	8	3	9	18	13	6	12
April	8	5	2	7	1	2	3	3	0	12	4	1	4	1	4	2	5	20	6	5	6	2	2
May	3	1	4	2	3	4	4	5	1	3	5	3	1	0	2	2	4	10	7	9	17	2	6
June	4	3	2	3	2	2	2	0	1	3	2	1	4	1	2	5	5	15	8	7	12	2	4
July	7	0	1	1	6	4	3	2	6	4	3	2	6	3	5	12	3	8	8	11	3	8	8
August	5	2	6	0	1	2	2	2	5	2	2	3	7	13	8	8	6	13	11	11	11	16	8
September	3	2	3	7	1	3	1	5	3	1	1	2	6	11	11	2	6	9	3	3	3	3	8
October	1	4	2	1	5	2	2	0	3	3	3	0	2	6	4	3	4	3	8	6	13	19	
November	2	1	1	1	1	5	0	1	1	3	3	1	1	5	5	8	4	4	7	10	10	17	
December	2	2	2	1	2	1	0	5	4	4	2	3	3	2	5	12	4	3	12	5	4	13	
Total	45	29	35	26	23	27	27	31	31	46	35	22	38	56	56	59	61	114	96	96	100	98	68

Deaths Reported																							
Year	99	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21
January	1	0	1	0	0	0	1	2	1	2	0	0	0	0	0	0	2	2	0	1	1	0	1
February	2	0	1	0	0	0	0	3	0	0	0	0	0	1	1	3	0	1	2	0	1	2	3
March	1	1	1	1	0	0	1	1	2	1	1	1	0	1	2	0	0	1	4	2	2	2	10
April	5	2	0	5	1	2	0	3	0	4	3	0	0	1	5	2	0	2	1	1	1	0	1
May	0	1	0	1	2	3	0	1	1	1	3	0	0	0	0	1	0	4	3	2	1	1	1
June	0	1	2	0	0	1	1	0	1	1	0	0	2	0	1	1	1	3	2	4	2	0	1
July	2	0	1	0	1	1	1	1	2	2	2	1	1	1	0	2	1	0	3	0	1	1	3
August	1	1	3	0	0	0	1	1	1	0	0	1	3	0	2	1	1	1	3	3	2	4	3
September	1	1	2	2	0	2	0	2	0	0	0	1	5	0	0	0	1	1	1	1	1	0	1
October	0	2	0	1	0	1	1	0	1	1	1	0	1	0	1	1	0	1	2	3	2	3	
November	0	0	1	1	0	3	0	1	1	1	1	0	1	2	1	2	0	0	2	0	1	2	
December	0	2	1	1	1	0	0	1	2	1	2	0	1	1	1	2	0	0	0	1	1	14	
Total	13	11	13	12	5	13	6	16	12	14	12	4	14	7	14	15	6	16	23	18	16	29	30

Issues	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81
Falls	4	1	3	1	1	1	4	2	3	4	1	1	1	1	1
Eligements	3	7	5	2	1	4	5	14	12	16	9	19	18	22	6
Safe falls	1	1	2	1	1	3				1	1				
Necessary Care & Services - (CPI)	1	4	6	5	1	5	4	3	4	14	6	5	3	8	
Necessary Care & Services - Other					1	1	2	1	8	1	3				
Restraints	1	2	4	3	2	2				2	3				
Hot Water/Burns/Scalds	1	1	1	2	2	2			2	2	1				
Pressure Ulcers	1	1	3				3	2	8	2	4	1	1		
Medication Errors/Unnecessary Meds	1	8	5	3	3	1	6	1	6	3	7	4	2	8	
Accidental Hazards Supervision	1	2	1	2	3		4	4	1	1	1	1	2	1	
Abuse / Neglect	4	11	5	5	8	15	5	7	11	19	15	13	16	15	4
Fail to protect after abuse allegation															
Fail to report abuse							2	5	4	3	12	9	2	7	3
Fail to develop/follow PAF for Abuse							1	5	4	4	1	14	13	5	2
Fail to investigate Abuse											1	4	7	2	
Reporting of a Crime															
Successful Appeal							1	1	1	1	1	1	3	1	
Special Needs															
Dietary Services (if MS)	1	2					1								
Unsupervised eating/ Choking	1	2	1	1	1	1	1	3	1	2	3	1	2	5	1
Smoking/Fire	2	2	1	1			3	3	3	5	3	4	3	1	
Rights	1														
Taste	1														
Pain/feeding assistant	4														
Quality of care	2											2	1	1	2
Quality Assurance	1														
Food Sanitation FSP	1														
Infection Control															
Violation															
Timing (COWS)															
Discharge Notice															
Safe Discharge															
K tag															
Weight/Loss Nutrition															
Behaviors															
Pain Management															
Sufficient Staffing															
Deceased Writ															
Effective Administration															
Medical Director															
Emergency Temperature															
Portable Space Heaters F tag															
Privacy/Confidentiality															
National Services															
Respite Care															
Duties															
Physician Notification															
Facility Assessment															
Preventive/Vaccine Policy															
Antibiotic Stewardship															

Actual Examples - Activities

- Immediate Jeopardy began when the DON allowed an unvaccinated activity aide/STNA to work her eight-hour shifts after she notified the DON that her son, who lived with her, had tested positive for COVID-19. She tested positive for COVID-19 four days later, and following the positive test results, 38 of 56 residents in the facility tested positive for COVID-19.
- Immediate Jeopardy began when a resident diagnosed with dysphagia and cerebral infarction with an order for a mechanically altered diet was left unsupervised while consuming a sandwich obtained from an outside vendor that had not mechanically altered the food according to the physician's order. The resident was cognitively intact and was previously known to be non-compliant with their diet. Fifteen minutes later, staff found the resident choking in the activity room. The LPN performed the Heimlich maneuver and called Emergency Medical Service (EMS). The resident was pronounced dead by the emergency department at the hospital.

- Immediate Jeopardy began when two residents were admitted to the facility under quarantine status from a hospital and placed among six other residents who were not in a quarantine status. Observations at the facility revealed seven additional residents under a quarantine status placed throughout the facility in rooms with residents who were not under quarantine. Additionally, the facility did not implement any interventions, increase monitoring, or test any residents after possible exposure to an LPN who tested positive for COVID-19. Two Activities Assistants were observed not using proper PPE before entering a quarantine room under droplet precautions and did not perform hand hygiene appropriately after leaving the room. Surveyors observed an STNA donning PPE to go into a room, which had signage indicating the resident was on droplet precautions, without goggles or a face shield. Surveyors also made several observations on the Memory Care Unit of a resident under quarantine status, walking throughout the unit and entering other resident rooms without donning any PPE.

- Immediate Jeopardy began when the Activity Director notified the facility she experienced the loss of taste and smell and was permitted to continue to work with direct resident contact for eight days. Observations revealed staff members were not changing all PPE, particularly N95 and KN95 respirators when exiting resident rooms that had tested COVID-19 positive.
- Immediate Jeopardy began when the facility failed to provide evidence of a comprehensive infection control plan to prevent or contain the spread of COVID-19 to residents residing in the facility following notification that an Activities Assistant was symptomatic and then tested positive for COVID-19. The facility failed to operationalize the COVID-19 plan when subsequent residents tested positive, in that they did not isolate the infected residents to a separate part of the facility. The facility also did not designate staff to provide care to only those residents who were COVID-19 positive. Throughout the facility's five nursing units, residents intermingled who were positive, in isolation, and negative. Observations revealed other continued ongoing infection control concerns, including ten residents who surveyors observed in rooms under isolation (droplet) precautions for COVID-19 intermingled with residents who were not in isolation for COVID-19. Staff failed to properly utilize personal protective equipment (PPE) when caring for residents in isolation (droplet) precautions. The lack of a comprehensive infection control program in addition to the continued observations of infection control concerns placed all residents at risk for contracting COVID-19 and experiencing the potential for actual harm associated with COVID-19, including hospitalization and death.

Areas of Concern

- The inability to continue many group activities and the essential prohibition on visitation due to the COVID-19 pandemic may cause many resident behaviors to increase, especially those who may have violent or sexual behaviors. This has placed increased urgency on the need to assure the facility assesses residents for such behaviors, and develop appropriate care plan interventions and monitoring related to those behaviors.
- The inability to continue many group activities and the essential prohibition on visitation due to the COVID-19 pandemic may cause many resident behaviors to increase, especially those who may want to exit to see families or friends. This has placed increased urgency on the need to assure the facility assesses residents for wandering, exit seeking behavior, and develop appropriate care plan interventions and monitoring.

IJs – Impact Activities

- Elopement
- Infection Control
- Choking
- Staffing
- Abuse
- Falls
- CPR

F880 – Infection Control (COVID)

- Facilities must have and follow their policies for infection control and prevention. This requirement is essential with the COVID-19 pandemic due to the virus's highly contagious nature and the risk of death. Facilities must make every effort to remain informed of all CMS, CDC, and ODH guidance and recommendations regarding COVID-19. Following the guidance can be extremely difficult with the continuing changes in CMS guidance and CDC recommendations regarding COVID-19 and the ODH's interpretation and application of some of the recommendations, often not published or adequately communicated to providers until a survey occurs. Facilities should maintain documentation of all of its efforts, including communication and advice from local health departments, the Bridge Team, Medical Directors, and ODH, and the rationale for any of its procedures that may not comport exactly with CDC recommendations (e.g. conservation of PPE).
- The CMS Focused Infection Control survey tool found in QSO-20-38-NH concisely lists infection control expectations.

F880 – Infection Control (COVID) Cont.

- Areas that place facilities at risk for IJ citations include:
 - Allowing exposed staff to work rather than quarantining them at home can be a high risk when the survey conflicted with current CDC guidance. Current guidance may allow fully vaccinated, asymptomatic health care workers to work rather than quarantine after exposure. Unvaccinated staff must quarantine.
<https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assessment-hcp.html>
 - Staff not wearing or correctly donning/doffing PPE based on the resident's COVID-19 status or suspected status, including following CDC guidance to optimize PPE use when supplies are less than optimal, particularly N95 masks; including inappropriate use of vented N95 respirators. Particular weaknesses noted related to eye protection PPE requirements, lack of sanitization of eye protection (goggles, face shields) as per guidance;
 - Residents not being cohorted properly in rooms (e.g., COVID-19 positive residents may only share a room with COVID-19 positive residents. They may not share a room with an exposed resident who has not received a diagnosis. Such moves are to be made promptly upon learning of test results. Quarantined residents (new admissions or exposed residents) should be in a private room for the full quarantine period);

F880 – Infection Control (COVID) Cont.

- Failing to internally contact trace to identify exposed residents and staff when a staff member or resident tests positive, resulting in a failure to quarantine exposed residents;
- Having exposed residents and COVID-19 positive residents scattered throughout the facility rather than cohorted in the same area of the building, so that the facility can use dedicated staff for each patient group (e.g., COVID-19 positive, COVID-19 negative, and quarantine);
- Failing to adequately screen staff for symptoms and allowing them to continue to work with COVID-19 symptoms;
- Failing to adequately identify which residents are on transmission-based precautions and have the necessary PPE readily available to enter the unit/room to care for the residents;
- Failing to dedicate resident care equipment such as BP cuffs or provide education and monitoring staff sanitizing such equipment between residents in isolation or quarantine;
- Failing to dedicate staff to care for residents in isolation;

F880 – Infection Control (COVID) Cont.

- Failing to assure that residents in quarantine and isolation remained in their rooms or only were in hallways while wearing masks;
- Failing to post signs at the entry of quarantine and isolation areas that clearly outline PPE necessary to be worn to enter room or unit;
- Inadequate or lacking visitor screening, including surveyors;
- Failing to provide any facility-specific COVID-19 training to agency staff;
- In some instances, failing to adhere to basic infection control practices – hand hygiene, PPE use, etc.;
- Failing to segregate positive and uninfected residents and appropriately managed dining and activity settings regarding appropriate mask use and social distancing;
- Failing to provide sufficient evidence of a PPE crisis to support the use of N95 masks in both COVID-19 positive and COVID-19 negative resident rooms and failing to provide sufficient evidence of a staffing crisis to support lack of dedicated staff assignments for infected vs. non-infected residents;
- Failing to complete prompt testing, quarantining, and use of PPE upon a staff member outbreak positive case;

F880 – Infection Control (COVID) Cont.

- Failing to notify local health department of positive cases, COVID related deaths, and other related COVID-19 issues occurring in the facility;
- Failing to follow its own COVID-19 management related policies;
- As part of CMS guidance in several QSOs, they made the Focused Infection Control Survey tool available to every provider to make them aware of Infection Control priorities during this time of crisis. CMS recommends the providers use this tool as a self-assessment of their ability to meet these priorities.
- Several facilities received a directed plan of correction that included engaging a consultant infection control preventionist.

Social Media

Facebook



- www.facebook.com/OHCA.Ohio

Twitter



- https://twitter.com/OHCA_Ohio

Linked In



- [www.linkedin.com](https://www.linkedin.com/company/ohio-health-care-association) (*Ohio Health Care Association*)

Instagram



- www.instagram.com/ohiohealthcareassociation

Resources

OHCA

- <http://www.ohca.org/>

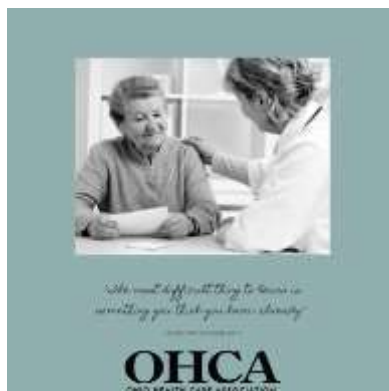
NCAL

- <https://www.ahcancal.org/ncal/Pages/index.aspx>

ODH

- <http://www.odh.ohio.gov/>

Questions



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