

VA Moving to Changes in Civilian Nursing Facility Contracts
By Patti Cullen, CAE
National news

The American Health Care Association (AHCA) has been working for many years with the Department of Veterans Affairs (VA) Central Office on a new contract vehicle between the VA and civilian (non VA) nursing facilities (NFs) that serve veterans. The document will be called an “agreement” and will rectify numerous onerous requirements in current VA/NF “contracts,” including:

- eliminating the Dept. of Labor requirement for government contractors to have affirmative action plans,
- eliminating requirements for the facility to follow life safety code standards more stringent than the Centers for Medicare and Medicaid Services (CMS) mandates,
- eliminating IT security requirements beyond those in HIPAA, etc.

After over 5 years of advocacy by AHCA, we’ve been told that the proposed rule to implement “agreements” will be released for public comment by April of this year. Notably, the proposed rule also includes implementing “agreements” between the VA and other civilian healthcare providers, including home health and hospice providers, as well as adult day care centers. (This change can not happen too soon. Many of you are aware of the challenges with the VA contracting process that recently occurred in Minnesota. Nearly forty nursing facilities just spent a very frustrating few months with our local VA. The VA had a changeover in their contracting staff and with that transition the lengthy process for contract renewal did not start until the contracts were about to expire. As a result nearly 40 MN nursing homes couldn’t admit anyone with VA benefits for nearly 90 days. We were assured the usual 120 day + process was being expedited but the expedited process still took three months!)

While the VA has been working on a proposed rule to implement these “agreements” for the last few years, but it looks like significant traction has finally been made, specifically:

- VA General Counsel’s office has approved the proposed rule. It will now go to the Secretary for his review.
- The proposed rule will be released for public comment by March/April of this year.
- Notably, the proposed rule also includes implementing “agreements” between the VA and other civilian healthcare providers, including:
 - home health agencies,
 - hospices,
 - adult day care centers, and
 - (potentially) respite providers.

It is AHCA’s understanding that once the rule is final, the following will occur:

- VA reimbursement to NFs will be under the RUG IV system.
- If a facility currently has a VA “contract,” it will remain in effect until the VA Medical Center (VAMC) switches to using “provider agreements.”

- Although the final rule will allow VAMCs that contract with civilian NFs to use the new “agreement,” VA Central Office cannot require VAMCs to use it. However, the VA anticipates that VAMCs will eventually use the agreement as their local civilian NFs will not be willing or able to admit veterans otherwise.

When the proposed rule is released, we will seek members’ comments for inclusion in our comment letter, and to forward to AHCA for their comments. We have already notified AHCA about our contracting issues to ensure that current hard-fought contracts will not end during the transition. .