October Reflections

FROM AHCA (DR. DAVID GIFFORD) RELATED TO 2025-2026 COVID VACCINES

"I would not wait to order or start your vaccine clinics.

As you note the vaccine is approved by the FDA for anyone 65 and over as well as adults under 65 who have a high risk condition (note: FDA does not specify what constitutes a high risk condition and the CDC website notes that "*The list of underlying medical conditions is not exhaustive and will be updated as the science evolves. This list should not be used to exclude people with underlying conditions from recommended measures for prevention or treatment of COVID-19*." As Larry noted a number of states are making statements as to what constitutes high risk condition or who they recommend receive the vaccine.

While CDC has not formally endorsed the ACIP recommendations; the ACIP recommendations say any adult can get the vaccine with shared decision making but that those with high risk conditions are most likely to benefit. We already per CMS regulations are required to educate and offer the vaccine, which is basically "shared decision making" since we need to educate them on the risk and benefits. If you provide them with the CDC VIS for COVID-19 vaccine you are also advising them on the risks.

HHS release of ACIP recommendations: (Bold added) "*ATLANTA - SEPTEMBER 19, 2025 - The Centers for Disease Control and Prevention's (CDC) Advisory Committee on Immunization Practices (ACIP) today unanimously recommended that vaccination for COVID-19 be determined by individual decision-making. ACIP's recommendation applies to all individuals six months and older. It includes an emphasis that the risk-benefit of vaccination in individuals under age 65 is most favorable for those who are at an increased risk for severe COVID-19 and lowest for individuals who are not at an increased risk, according to the CDC list of COVID-19 risk factors. Individual decision-making is referred to on the CDC's adult and child immunization schedules as vaccination based on shared clinical decision-making, which references providers including physicians, nurses, and pharmacists. It allows for immunization coverage through all payment mechanisms including entitlement programs such as the Vaccines for Children Program, Children's Health Insurance Program, Medicaid, and Medicare, as well as insurance plans through the federal Health Insurance Marketplace.*"

The impact of CDC endorsing ACIP recommendations is not on who can or can not receive the vaccine but mainly on insurance coverage, outreach and promotional efforts, reporting requirements and measurement. I would not let the delay in CDC's endorsement of the ACIP recommendation hold up your vaccine ordering or administration.

FROM CMS:

Lawsuit Dismissal Permanently Prevents Minimum Staffing Regulations

The U.S. Department of Justice (DOJ) withdrew its appeal of the District Court decision in *AHCA v. Kennedy*. Earlier this year, a District Court in the Northern District of Texas vacated the federal minimum staffing requirements for nursing homes issued by the Biden Administration, including the 24/7 RN requirement and a minimum number of hours per resident per day. The DOJ filed an appeal in June – but yesterday filed an opposed motion to drop the appeal. And as of today, the lawsuit has officially been dismissed.

The DOJ also filed paperwork to withdraw its appeal in *State of Kansas v. Kennedy*. A month after the AHCA

case was filed, this similar lawsuit to challenge the rule was filed in Iowa by 20 state attorneys general. The Iowa District Court issued a similar finding to vacate the regulation.

WHAT THIS MEANS

The DOJ's actions mean the Court rulings will stand. **The statute does not permit CMS to set staffing standards beyond what Congress enacted.** This will prevent future administrations from issuing such a regulation later.

In addition to the Court decision, the One Big Beautiful Bill Act (OBBBA) passed this summer includes a 10-year moratorium on implementing the staffing standards in the rule. The Trump Administration has signaled its intention to repeal the regulations through an interim final rule (IFR), currently at the Office of Management and Budget for review.

It's important to note that the Court ruling and OBBBA do not impact the facility assessment portion of the rule. AHCA will continue to monitor for the release of the IFR to identify the full impact.

FROM CDC:

The Advisory Committee on Immunization Practices (ACIP) recently held its quarterly meeting on September 18th and 19th. In this session, they reviewed COVID-19 vaccines including updates to the vaccine implementation. During the meeting, the committee voted on the following recommendations for the 2025-2026 season:

- **For adults ages 65 and older:** Vaccination is recommended based on individual-based decision-making (also known as shared clinical decision making).
- **Individuals 6 months to 64 years:** Vaccination based on individual-based decision making with an emphasis that the risk-benefit of vaccination is highest for those at an increased risk for severe COVID-19 and lowest for those who are not at increased risk (according to the CDC list of COVD-19 risk factors).

The committee also recommended additional measures to support informed consent: that CDC add language accessible to patients and medical providers to describe risk factors and uncertainties related to the vaccine, and that authorized healthcare providers discuss those risks and benefits with individual patients.

Next steps: ACIP advises CDC, but CDC must still issue its final recommendations. We expect that to happen in the coming days. At the same time, some states are issuing recommendations separate from the federal government, so providers need to check with their state public health agency. Note: ACIP recommendations do not restrict the use of the vaccine if a state has recommendations that expand upon ACIP's recommendations adopted by CDC.

NOTE FROM ACHA Dr. David Gifford: "Note: ACIP recommendations that are endorsed by the CDC impact health insurance coverage, pharmacy practices and some other practices but are neither a mandate or regulation about clinical practice providers must follow. In addition, state's may issue recommendations that extend or "go beyond" the ACIP recommendations as several states have already done so.

CMS regulations require SNFs to educate and offer vaccines (flu, pneumococcal and COVID). Those remain in effect and are NOT impacted by the CDC ACIP recommendations voted on today (sept 19th)."

FROM AHCA:

The Behavioral Health Guide is now available on ahcancalED. It was developed by members of the AHCA Clinical Practice Committee, who have expertise and experience in building successful behavioral programs. Registration is free to AHCA/NCAL members.

The guide aims to assist long term care providers in developing and maintaining effective behavioral health programs, with a focus on regulatory compliance with F740 related to behavioral health services.

The program consists of five modules: each focused on a key area of behavioral health.

1. Acquired Brain Injury/Traumatic Brain Injury
2. Dementia
3. Medical Complexities and Mental Health
4. Substance Use Disorders
5. Rehabilitation Therapies

Each module contains one or more educational videos, corresponding PowerPoint presentations, handouts and an overall key takeaways document. The modules within the guide may be used individually or combined to meet the specific needs of a facility. This means you can use this guide sequentially or utilize individual elements of the guide separately.

Questions about the program may be sent to regulatory@ahca.org. Technical assistance may be directed to educate@ahca.org.

FROM MCKNIGHTS:

"Nearly two years after federal audits of schizophrenia diagnoses began, most skilled nursing targets are still being accused of labeling patients with a major mental illness without proper documentation…

Documentation should demonstrate that patients diagnosed with schizophrenia have two or more of the following symptoms for at least a month:

- Delusions
- Hallucination
- Disorganized speech
- Grossly disorganized or catatonic behavior
- Negative symptoms, such as diminished emotional expression

The DSM also lists ways to rule out schizoaffective disorder and depressive or bipolar disorder, so surveyors may look for evaluations related to that — as well as whether the symptoms could be caused by substance use (including other medications) or ruling out history of autism spectrum disorder.

And they may expect indications of those reviews whether a patient is newly diagnosed or has had schizophrenia for decades before a nursing home admission.

FROM CMS:

Beginning in September, CMS' contractor Healthcare Management Solutions, LLC (HCMS) will randomly select up to 1,500 SNF each FY to submit MDS records for review. HCMS has provided more information on the following key component to the program:

- Selected SNFs will be notified through their iQIES MDS 3.0 Provider Preview Report folder. The initial selection notification that will be uploaded to a selected SNFs iQIES 3.0 MDS Provider Previews Report folder will be titled Skilled Nursing Facility Data Validation Process - Initial Selection

Notification. **SNFs selected for the data validation process will be notified through their Internet Quality Improvement and Evaluation System (iQIES) Provider folder only.**
    - *SNFs will receive notifications throughout the year. There is no formal timeline at this time.*
    - *SNFs are encouraged to begin checking their iQIES folders weekly starting in September 2025.*
- Selected SNFs are required to submit requested medical chart documentation to support validation of 10 MDS assessment records.
- Any selected SNF that fails to submit requested medical chart documentation **within 45 calendar days of the audit notification** will be considered noncompliant, resulting in the SNF losing 2% of Medicare reimbursement for the applicable fiscal year.
    - *SNFs may file for reconsideration if they believe the finding of noncompliance is in error through that process. Please keep in mind that the FY2025 data validation process is only penalizing SNFs for not submitting requested documentation within 45 days of the selection notification.*

CMS has a webpage where additional information is available, including resource materials. This includes a Frequently Asked Questions document providing comprehensive information about the program.

FROM AHCA:

A new Medication Reconciliation program is now available on ahcancalED. It was developed by members of the AHCA Clinical Practice Committee, who have expertise and experience in the development and management of clinical programs.

Registration is free to AHCA/NCAL members.

This education series explains how medication reconciliation is vital for elderly patients, who are more vulnerable to specific medication adverse effects than younger patients, and are particularly vulnerable to adverse drug events.

The program consists of five modules: each focused on a key area of area of medication reconciliation.

1. What is Medication Reconciliation?
2. Medication Reconciliation Impact on Hospitalizations
3. Steps for Medication Reconciliation
4. Role of the IDT in Medication Reconciliation
5. Medication Reconciliation Regulatory Review

Each module contains an educational video, a corresponding PowerPoint presentation, handouts, and an overall key takeaways document. The modules within the guide may be used individually or combined to meet the specific needs of a facility. This means you can use this guide sequentially or utilize individual elements of the guide separately.

Questions about the program may be sent to regulatory@ahca.org. Technical assistance may be directed to educate@ahca.org.

Average Number of Deficiencies for Standard Surveys in Kansas FY2025 to date:

175 Facilities
1688 Citations/Tags
9.6 avg/facility

Top 10 Deficiencies Cited in Kansas FY2025 to date

Most cited resurvey tags

46.9%	or	82	F 880
39.4%	or	69	F 812
37.1%	or	65	F 689
28.0%	or	49	F 757
27.4%	or	48	F 761
24.6%	or	43	F 756
20.0%	or	35	F 686
19.4%	or	34	F 628
19.4%	or	34	F 657
19.4%	or	34	F 677

G+ Deficiency Citations for Standard Surveys in Kansas FY2025 to date:

	G								G Total	J					J Total	K		K Total	L	L Total	Grand Total
Row Labels	600	689	677	686	760	692	688	697		600	684	689	610	697		689	584		689		
NE		4		1	2	1			8	1		1	1		3	1	1	2	1	1	14
NW		3		1		1	1		6	1		1			2						8
SE	1	3				1		1	6		1				1						7
SW		3	1	2	1	3			10			2		1	3						13
Grand Total	**1**	**13**	**1**	**4**	**3**	**6**	**1**	**1**	**30**	**2**	**1**	**4**	**1**	**1**	**9**	**1**	**1**	**2**	**1**	**1**	**42**

G+ Deficiency Citations for Complaint Surveys in Kansas FY2025 to date:

	G											G Total	J										J Total	K	K Total	L	L Total	Grand Total
Row Labels	600	684	689	686	725	760	610	692	550	697	726		600	689	760	610	626	678	742	805	604	675	806		678		689		
NE			3	1			1	1				6	5	5									1	11					17
NW	3	1	3	1	1	1			1	1	1	13	1	4				1						6	1	1			20
SE										1		1	2	1	1	1			1		1			7					8
SW			2	1								3		3	1		1			1		1		7			1	1	11
Grand Total	**3**	**1**	**8**	**3**	**1**	**1**	**1**	**1**	**1**	**2**	**1**	**23**	**8**	**13**	**2**	**1**	**1**	**1**	**1**	**1**	**1**	**1**	**1**	**31**	**1**	**1**	**1**	**1**	**56**

If I can help you in any way, please feel free to contact me.

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