

Agency for Health Care Administration

Protocol for Electronic Signatures on MDS Documentation in Nursing Homes

Overview	<p>Nursing homes are licensed and inspected in accordance with Florida Statutes Chapter 400 and with rules promulgated under the provisions of those statutes governing minimum standards. Certified nursing homes are required to be in compliance with federal requirements in 42 CFR Part 483, Subpart B.</p> <p>Agency surveyors are responsible for conducting both state licensure and federal certification surveys. The purpose of this protocol is to establish surveyor guidance regarding Florida nursing home use of electronic signatures on the Minimum Data Set (MDS).</p>
Background	<p><u>Conflicting References.</u> CMS recognizes that surveyors' will find conflicting references to hard copy and electronic signatures in the State Operations Manual (SOM) at: Appendix PP, 42 CFR 483.20(d) Appendix PP, 42 CFR 483.20(i) Appendix R, RAI Manual, page 1-27 Appendix PP, 42 CFR 483.75(1)(1)</p> <p><u>CMS Memo S&C 05-14</u>, dated 13 January 2005, provides clarification regarding the use of electronic signatures. CMS's final decision is that:</p> <ul style="list-style-type: none">• Nursing homes may use electronic signatures on the MDS when permitted to do so by state and local law and when this is authorized by the long-term care facility's policy.• All state licensure and state practice regulations continue to apply to certified long-term care facilities.• Where state law is more restrictive than federal requirements, the provider needs to apply to the state law standard. <p><u>Section 668, Florida Statutes</u> governs electronic signatures. Unless otherwise provided by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature. § 668.004, Fla. Stat. (2004). The Uniform Electronic Transaction Act governs the use of electronic transactions and signatures between parties who have mutually agreed to conduct transactions by electronic means. A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means.</p> <p><u>Decision.</u> Florida law recognizes the full force and effect of electronic signatures. Nursing homes may use electronic signatures on the MDS when authorized to do so by the facility's written policy. The policy shall ensure that the facility has proper security measures to protect the use of electronic signatures by anyone other than to which the electronic signature belongs. According to CMS, the policy must also ensure that access to a hard copy of clinical records is made available to surveyors and others who are authorized access to clinical records by law.</p>
Survey Staff Responsibilities	<ul style="list-style-type: none">• Electronic Signatures: Surveyors must verify that facilities have written policies in place that provides for the use of electronic signatures by the facility and that those policies include proper security measures to protect the use of an electronic signature by anyone other than to which the electronic signature belongs. (See F514)<ul style="list-style-type: none">○ Electronic Records: A hard-copy of clinical records must be made available to surveyors and others who are authorized access to clinical records by law. Surveyors will not access electronic records during the survey process; but will review hard copies provided by the facility upon request by the surveyor.○ Non-Electronic Records/Signatures: Long-term care facilities that are not capable of maintaining MDS signatures electronically must adhere to the current requirements addressing the need for either a hand-written copy or a computer-generated form.

Effective Immediately

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Division of Health Quality Assurance