

Center for Medicaid and State Operations

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Ref: S&C-03-11

**DATE:** JANUARY 9, 2003

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** BIPA 941 Nursing Home Requirement Effective January 1, 2003; Follow-up to S&C-03-03 Memorandum of October 10, 2002 - **ACTION**

**TO:** Survey and Certification Regional Office Managers (G-5)  
State Survey Agency Directors

On December 24, 2002, an announcement was made regarding a provision of the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) requiring nursing facilities to post the number of licensed and unlicensed nursing staff directly responsible for resident care. That announcement is available on the Centers for Medicare & Medicaid Services (CMS) website at <http://cms.hhs.gov/media/press/release.asp?Counter=672>. In addition, Tom Scully, Administrator of CMS, sent a letter to all nursing homes in response to their requests for guidance on complying with the BIPA staffing provision. That letter can be viewed on the CMS website at <http://cms.hhs.gov/medicaid/bipa/bipaltr.pdf>.

Effective January 1, 2003, nursing homes across America must publicly post the number of nursing staff they have on duty to care for patients on each daily shift. Licensed and unlicensed nursing staff includes: registered nurses, licensed practical nurses and nurse aides. CMS will publish a regulation later in this fiscal year defining this required format and content.

**Staff Posting Display**

In the meantime, attached to this memorandum is a format that CMS recommends nursing homes use in the interim. It is not a required format, and facilities may choose to use their own format. The required facility nursing staff numbers must be prominently displayed in a public area. CMS suggests the size of the report be at least 8.5 x 14 inches, and printed in a size font/print large enough to be easily read. This information must include the actual number of licensed and unlicensed nursing staff directly responsible for the care of residents for that particular day on each shift. This may mean that the nursing facility would post each shift staff numbers very close to the beginning of the shift in order to ensure that the posted numbers are the actual staff working the shift. The nursing home may choose to delineate the above-mentioned categories of staff in addition to others, e.g., volunteers on the template.

**Enforcement**

State Survey Agencies are expected to verify that the nursing staffing information is posted. This will be done for all surveys performed on or after January 1, 2003. Nursing homes that do not post statutorily mandated staffing data can be cited as noncompliant with Federal requirements. States would use tag F492(b) Compliance with Federal, State and local laws and professional standards under 42 CFR 483.75 (Administration).

**Effective Date**

The effective date for this requirement is January 1, 2003.

**Training**

This policy should be shared with all survey and certification staff, their managers and the State/Regional Office training coordinator.

/s/  
Steven A. Pelovitz

Attachment

## Name of Nursing Home

### Report of Nursing Staff Directly Responsible For Resident Care

Date: xx/xx/xx

<b>SHIFT</b>	<b>LICENSED NURSING STAFF</b>	<b>UNLICENSED NURSING STAFF</b>
DAY	# FTEs	# FTEs
EVENING	# FTEs	# FTEs
NIGHT	# FTEs	# FTEs

Daily posting of this information is required for nursing homes participating in Medicare and Medicaid.