

Long Term Care Regulatory Updates: What you need to know to pass survey

Live Webinar: Thursday January 19, 2023 (2:00-3:00pm EDT)
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Description and Speaker:

Many changes have recently occurred with regulatory clarification and updates in the world of skilled nursing facilities. Join food and nutrition expert, **Anna de Jesus, MBA, RD** as she reviews clarifications to the Centers for Medicare and Medicaid Services (CMS) State Operations Manual Appendix PP, survey process, and upcoming changes to the U.S. Food Code. Anna will also share the top survey citations nationwide and share best practices to achieve a positive outcome on your next survey.

Objectives:

After completing this continuing education course, the learner should be able to:

1. Identify the top skilled nursing facility (SNF) citations in food and nutrition annual CMS surveys.
2. Review new changes to the CMS Appendix PP Guidance to Surveyors.
3. Provide best practice systems to ensure deficiency free inspections.

Disclosure: Anna de Jesus has no disclosures to report and certifies that no conflict of interest exists for this program.

Professional Approvals: Becky Dorner & Associates, Inc. has been providing continuing professional education (CPE) since 1983 (Commission on Dietetic Registration provider number NU004).

This webinar is intended for: RDNs, NDTRs and CDMs	CDR Activity Type and Number: Activity Type: 171 Live webinar/175 Recorded Activity number: 174137 Recorded Webinar: 174138 CDM Approval Number: 167358
CPE Hours: 1 Ethics	CDR Level: 1
Suggested CDR Performance Indicators: 1.2.2, 7.3.1, 8.2.4	

Note: Numerous Other Performance Indicators May Apply.

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Today's Webinar



Audio and Webinar <ul style="list-style-type: none">• Please refer to your handout for instructions	Questions <ul style="list-style-type: none">• Live: Use GoToWebinar to ask questions• Recording: Email info@beckydorner.com
Handouts <ul style="list-style-type: none">• Live: Emailed to the person who registered for the program, and posted in the Go To Webinar System• Recording: Available on our website with the recording	Program Length <ul style="list-style-type: none">• 60 minutes
	Credit Hours/Certificate <ul style="list-style-type: none">• Please refer to handouts for details

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Anna de Jesus, MBA, RDN
President, Nutrition Alliance, LLC
President, Food & Nutritional Solutions, LLC

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Anna de Jesus, MBA, RDN



- President, Nutrition Alliance, LLC established in 2000.
- Well respected in the field of nutrition and dining services.
- 30 years experience as consultant, regional dietitian, food service director, expert witness, author and speaker.
- Strong advocate of continuous improvement related to regulations, dining programs, clinical processes & menus.
- Leader with Academy of Nutrition and Dietetics, Dietetics in Health Care Communities Network, Arizona American Healthcare Association, Dietary Manager's Association, Assisted Living Foundation of America and the National Pressure Injury Advisory Panel.

Disclosures: The speaker confirms that there are no disclosures to report and certifies that no conflict of interest exists for this program.

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Learning Objectives

- Identify the top skilled nursing facility citations in food and nutritional annual CMS surveys
- Review new changes to the CMS Appendix PP Guidance to Surveyors affecting Food and Nutrition Services
- Provide best practice systems to ensure deficiency free inspections

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Timeline of Changes



- November 28, 2016
 - F801 Change in requirements of the Director of Food & Nutrition Services
 - 5 years for Food Service Director to meet qualifications if hired before 11/28/2016
- September 30, 2022
 - F801 New pathway to meet qualifications
 - <https://www.cms.gov/files/document/r207soma.pdf>
- Oct 23, 2022
 - <https://www.cms.gov/medicare/provider-enrollment-and-certification/guidanceforlawsandregulations/downloads/appendix-pp-state-operations-manual.pdf>
 - F812 (Rev. 208; Issued:10-21-22; Effective: 10-21-22; Implementation:10-24-22)
 - Pages 641 - 662

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F 801 Qualifications
of the Director of
Food and Nutrition
Services



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F801
(Rev. 207; Issued: 09-30-22; Effective: 09-30-22;
Implementation: 10-01-22)




§483.60(a)(2) If a qualified dietitian or other clinically qualified nutrition professional is not employed full-time, the facility must designate a person to serve as the director of food and nutrition services.

(i) The director of food and nutrition services must at a minimum meet one of the following qualifications—

- (A) A certified dietary manager; or
- (B) A certified food service manager; or
- (C) Has similar national certification for food service management and safety from a national certifying body; or
- (D) Has an associate's or higher degree in food service management or in hospitality, if the course study includes food service or restaurant management, from an accredited institution of higher learning; or

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F801 (continued)




(E) Has 2 or more years of experience in the position of director of food and nutrition services in a nursing facility setting and has completed a course of study in food safety and management, by no later than October 1, 2023, that includes topics integral to managing dietary operations including, but not limited to, foodborne illness, sanitation procedures, and food purchasing/receiving; and

- (ii) In States that have established standards for food service managers or dietary managers, meets State requirements for food service managers or dietary managers, and
- (iii) Receives frequently scheduled consultations from a qualified dietitian or other clinically qualified nutrition professional.

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F801 (continued)



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How Often Has This Tag Been Cited?



- 2022 – over 150 times
- States most affected
 - CA, IL, TX, OH, PA, MI, FL, WI, WY, OK, OR, NY, NE, KS, MO, WV
- What are the citations?
 - Staff competencies lacking
 - No qualified FSD, no FSD at all, no RDN or
 - Lack of assessments and inadequate food service oversight

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F 812 Food Procedure,
Store/Prepare/Serve –
Sanitary



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Why is F812 Cited So Often?



- 32 pages
 - F602 Abuse & F880 Infection Control
- 28 pages
 - F758 Psychotropic Drugs
- 23 pages
 - F600 Abuse & F686 Pressure Injury & F689 Accidents
- ➔ • 22 pages
 - F812 Food Procure/Store/Prepare/Serve-Sanitary

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Why is F812 Cited So Often?



F812

(Rev. 208; Issued:10-21-22; Effective: 10-21-22; Implementation:10-24-22)

§483.60(i) Food safety requirements.
The facility must –

§483.60(i)(1) - Procure food from sources approved or considered satisfactory by federal, state or local authorities.

- (i) This may include food items obtained directly from local producers, subject to applicable State and local laws or regulations.
- (ii) This provision does not prohibit or prevent facilities from using produce grown in facility gardens, subject to compliance with applicable safe growing and food-handling practices.
- (iii) This provision does not preclude residents from consuming foods not procured by the facility.

§483.60(i)(2) - Store, prepare, distribute and serve food in accordance with professional standards for food service safety.

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Definitions



“Food Distribution” means the processes involved in getting food to the resident. This may include holding foods hot on the steam table or under refrigeration for cold temperature control, dispensing food portions for individual residents, family style and dining room service, or delivering *meals* to residents’ rooms or *dining areas*, etc. *When meals are assembled in the kitchen and then delivered to residents’ rooms or dining areas to be distributed, covering foods is appropriate, either individually or in a mobile food cart.*

“Food Service” means the processes involved in actively serving food to the resident. *When actively serving residents in a dining room or outside a resident’s room where trained staff are serving food/beverage choices directly from a mobile food cart or steam table, there is no need for food to be covered. However, food should be covered when traveling a distance (i.e., down a hallway, to a different unit or floor).*

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Guidance



Nursing home residents risk serious complications from foodborne illness as a result of their compromised health status. Unsafe food handling practices represent a potential source of pathogen exposure for residents. Sanitary conditions must be present in health care food service settings to promote safe food handling. CMS recognizes the U.S. Food and Drug Administration’s (FDA) Food Code and the Centers for Disease Control and Prevention’s (CDC) food safety guidance as national standards to procure, store, prepare, distribute, and serve food in long term care facilities in a safe and sanitary manner.

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Guidance (continued)



Effective food safety systems involve identifying hazards at specific points during food handling and preparation, and identifying how the hazards can be prevented, reduced or eliminated. It is important to focus attention on the risks that are associated with foodborne illness by identifying critical control points (CCPs) in the food preparation processes that, if not controlled, might result in food safety hazards. Some operational steps that are critical to control in facilities to prevent or eliminate food safety hazards are thawing, cooking, cooling, holding, reheating of foods, and employee hygienic practices

- Web sites for additional information regarding safe food handling to minimize the potential for foodborne illness include: National Food Safety Information Network's Gateway to Government Food Safety Information at <http://www.FoodSafety.gov>;
- United States Food & Drug Administration Food Code Web site at <https://www.fda.gov/food/fda-food-code/food-code-2017>

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Guidance (continued)



Much of this guidance is referenced from the 2017 Recommendations of the United States Food and Drug Administration Food Code. While we do not expect surveyors to determine compliance with this Food Code we are providing a link for reference and information only.

<https://www.fda.gov/food/fda-food-code/food-code-2017>

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Guidance (continued)



Hair Restraints/Jewelry/Nail Polish – *According to the current standards of practice such as the Food Code of the FDA, food service staff must wear hair restraints (e.g., hairnet, hat, and/or beard restraint) to prevent hair from contacting food.*

According to the Food Code, food service staff must wear hairnets when cooking, preparing, or assembling food, such as stirring pots or assembling the ingredients of a salad. However, staff do not need to wear hairnets when distributing foods to residents at the dining table(s) or when assisting residents to dine.

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Guidance (continued)



Staff should maintain nails that are clean and neat, and wearing intact disposable gloves in good condition that are changed appropriately to reduce the spread of infection. Since jewelry can harbor microorganisms, it is recommended that staff keep jewelry to a minimum and cover hand or wrist jewelry with gloves when handling food. *According to the Food Code, gloves are necessary when directly touching ready-to-eat food. Additionally, per infection control guidance, gloves are necessary when serving residents who are on transmission-based precautions (See F880 for additional information on transmission-based precautions). However, staff do not need to wear gloves when distributing foods to residents at the dining table(s) or when assisting residents to dine, unless touching ready-to-eat food.*

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Guidance (continued)



Food Distribution - Various systems are available for distributing food items to residents. These include but are not limited to tray lines, portable steam tables transported to dining areas, or *mobile food carts that maintain food in the proper temperature and out of the Danger Zone.* The purpose of these systems is to provide safe holding and transport of the food to the resident's location. Food safety requires consistent temperature control from the *time food leaves the kitchen,* to transport and distribution to prevent contamination (e.g., covering food items). *Timely distribution is essential to ensure food and beverages are served at the proper temperature.*

Dining locations include any area where one or more residents eat their meals. These can be located adjacent to the kitchen or a distance from the kitchen, such as residents' rooms and dining rooms on other floors or areas of the building.

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Guidance (continued)



Food Service - Meal service may include, but is not limited to, the steam table where hot prepared foods are held and served, and the chilled area where cold foods are held and served. A resident's meal may consist of a combination of foods that require different temperatures.

Food preparation or service area problems/risks to avoid include, but are not limited to:

- Holding foods in danger zone temperatures which are between 41 degrees F and 135 degrees F;
- Using the steam table to heat food;
- Serving meals on soiled dishware and with soiled utensils;
- Handling food with bare hands or improperly handling equipment and utensils;
- *Staff distributing meals without first properly washing their hands; and*
- *Serving food to residents after collecting soiled plates and food waste, without proper hand washing.*

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Guidance (continued)



The temperature of **PHF/TCS** foods should be periodically monitored throughout the meal service to ensure proper hot or cold holding temperatures are maintained. If time is being used in place of temperature as a means of ensuring food safety, the facility must have a system in place to track the amount of time a PHF/TCS is held out of temperature control and dispose of it accordingly.

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Hot Tip

3-501.19 Time as a Public Health Control.



(A) Except as specified under ¶ (D) of this section, if time without temperature control is used as the public health control for a working supply of TIME/TEMPERATURE CONTROL FOR SAFETY FOOD before cooking, or for READY-TO-EAT TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is displayed or held for sale or service:

(1) Written procedures shall be prepared in advance, maintained in the FOOD ESTABLISHMENT and made available to the REGULATORY AUTHORITY upon request that specify: ^{PI}

<https://www.fda.gov/media/110822/download>

(a) Methods of compliance with Subparagraphs (B)(1)-(4) or (C)(1)-(5) of this section; ^{PI} and

<https://www.fda.gov/media/164194/download>

(b) Methods of compliance with § 3-501.14 for FOOD that is prepared, cooked, and refrigerated before time is used as a public health control. ^{PI}

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Time as a Food Safety Control

POLICY:

Time as a food safety control may be used for certain Time and Temperature Controlled for Safety Foods (TCS) and Ready To Eat (RTE) potentially hazardous foods held for immediate service. Although time may be used as a control, it is important to maintain food quality and palatability.

PROCEDURE:

Hot Foods

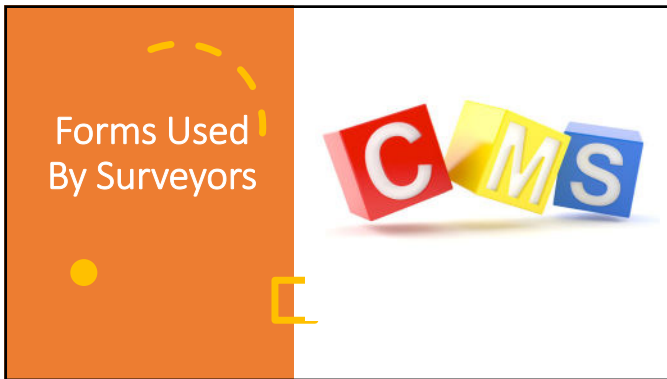
- The following food items are examples of hot foods that may use time as a food safety control:
French fries, later fries, pizza, sausage, hamburgers and other food items that may not retain hot holding temperature of 135° F or higher.
- The food item shall be marked with:
 - START TIME - the time it was removed from the hot holding temperature control of 135° F or higher AND
 - DISCARD TIME - the time it will be discarded. The discard time is 4 hours after the START TIME.
- Stickers may be used on pans, to indicate "Start Time" and "Discard Time." Alternatively, Time as a Control Logs may be used.
- The food item must be thrown out within the marked "Discard Time." Food items may not be stored as a leftover.
- For the Highly Susceptible Populations: Time may not be used as a food safety control for unpasteurized eggs.



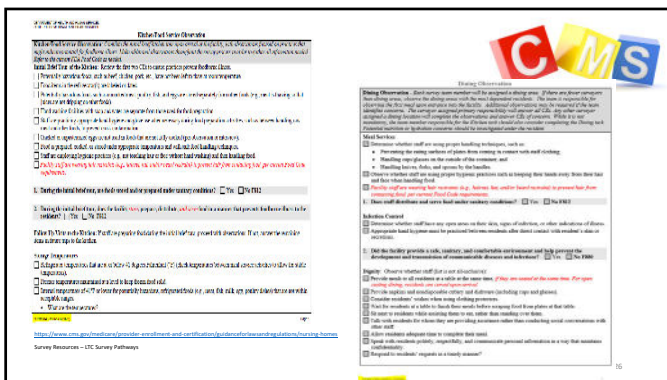
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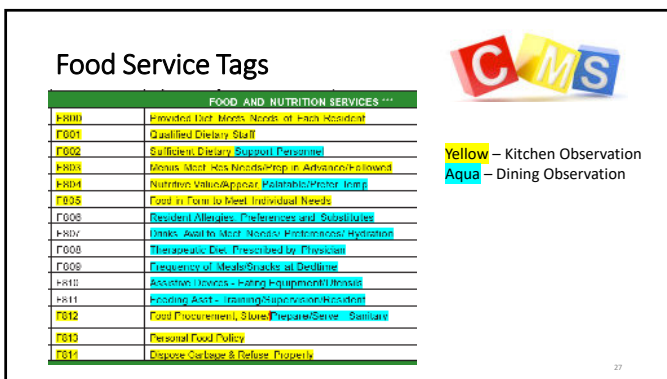
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Food Service Citations - National (%)

Year	800	801	802	803	804	805	806	807	808	809	810	811	812	813	814
2019	1.2	2.1	1.6	4.8	6.3	1.9	2.2	0.4	1.4	1.6	1	0.1	34.6	1	2.7
2020	0.6	1	0.7	2.5	3.2	1	1.2	0.3	0.6	0.7	0.4	0.1	17	0.5	1.2
2021	1.2	3.0	1.6	5.3	6.4	2.4	2.0	0.4	1.2	1.4	1.1	0.2	37.7	1.1	2.9
2022	1.1	1.7	1.9	5.9	7.6	2.5	2.8	0.4	1.3	1.5	1.1	.07	40	1.1	3.6

- #1 F812 - Food Procurement/Store/Prepare/Serve - Sanitary
- #2 F804 - Nutritive Value/Appearance/Palatable/Temperature
- #3 F803 - Menus Meet Res Needs/Prep in Advance/Followed
- #4 F814 - Dispose Garbage
- #5 F806 - Res Allergies/Food Pref/Subs
- #6 F805 - Food in Form to Meet Individual Needs
- #7 F802 - Sufficient Dietary Support Personnel
- #8 F801 - Qualified Dietary Staff
- #9 F809 - Frequency of Meals/Snacks at Bedtime
- #10 F808 - Therapeutic Diet

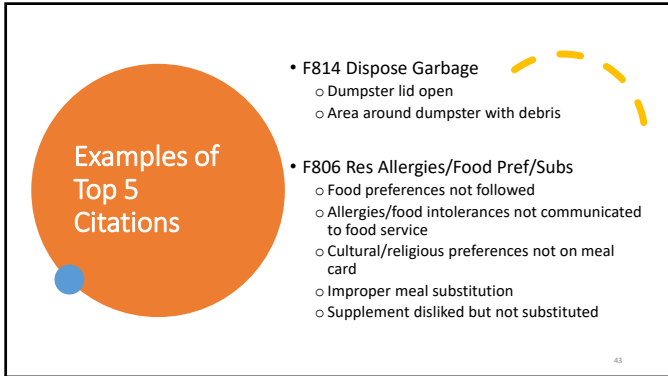
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Examples of Top 5 citations

- F804 Nutritive Value/Appearance/Palatable/Temperature
 - Food not served at the proper temperature
 - Unpalatable/Unappetizing food
- F803 Menus Meet Res Needs/Prep in Advance/Followed
 - Menu not followed
 - Recipes not followed
 - Improper portion sizes and/or scoops
 - Those on a puree diet did not get the same food as those on a regular diet

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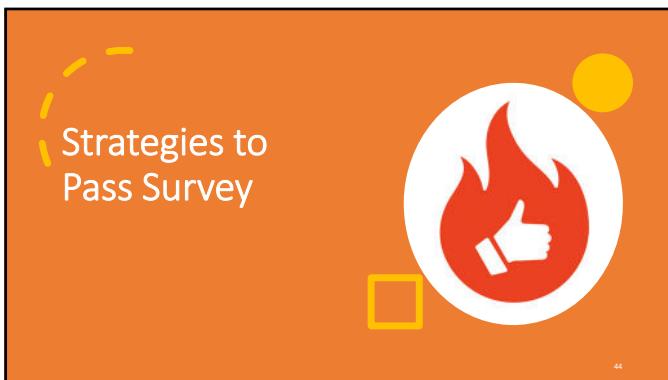


Examples of Top 5 Citations


- F814 Dispose Garbage
 - Dumpster lid open
 - Area around dumpster with debris
- F806 Res Allergies/Food Pref/Subs
 - Food preferences not followed
 - Allergies/food intolerances not communicated to food service
 - Cultural/religious preferences not on meal card
 - Improper meal substitution
 - Supplement disliked but not substituted

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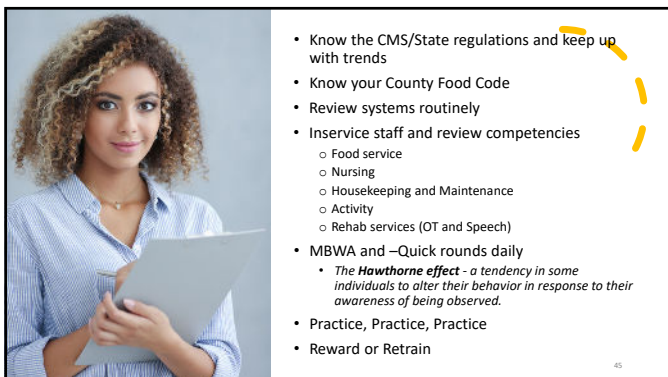


Strategies to Pass Survey



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- Know the CMS/State regulations and keep up with trends
- Know your County Food Code
- Review systems routinely
- Inservice staff and review competencies
 - Food service
 - Nursing
 - Housekeeping and Maintenance
 - Activity
 - Rehab services (OT and Speech)
- MBWA and –Quick rounds daily
 - *The Hawthorne effect* - a tendency in some individuals to alter their behavior in response to their awareness of being observed.
- Practice, Practice, Practice
- Reward or Retrain

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As Soon as Surveyors Walk In

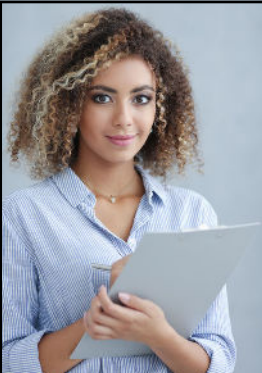
- Immediate Sanitation Rounds including Dumpster and Nourishment rooms
- Text RD Consultant
- Daily Staff Huddle and pep talk – nursing too
- Dining Rounds
 - One per location
 - Don't forget room service

Always

- Answer what is asked; or show them where the info can be found
- Correct issues immediately and inservice staff
- Clarify points with surveyor respectfully

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Use Your Resources

- RDN Consultant or in-house RDN
- Corporate consultants
- Vendors, Manufacturers
- Bring in extra staff

Daily


- Rounds, rounds, rounds
- Huddle with team daily then
- Communicate with Administrator
- Always anticipate, correct, educate

Potential Tags

- Show Administrator/RDN any records/policies requested by surveyor
- Always make 2 copies
- Be ready to IDR

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Key Takeaways

- Know your residents
- Review systems routinely
- Management by walking around
- Complete audits routinely
- Inservice staff and praise them
- Work as a TEAM and use your RDN as a resource
- Revise what is not working
- Report results at QAPI monthly

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Food Code 2022

- Biden-Harris Administration's National Strategy on Hunger
 - Food that is stored, prepared, packaged, displayed and labeled according to Food Code safety provisions can be donated.
- Sesame is the 9th major food allergen
- Consumers must be informed in writing, of major food allergens as ingredients in unpackaged food
- Bulk food that is available for self-dispensing, need to have major food allergens labeled.
- New requirements for pet dogs in outdoor dining areas
- Intact meat definition revised and time/temp cooking requirements clarified

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References from Long Term Care Regulatory Updates: What you need to know to pass survey with Anna de Jesus, MBA, RD Thursday January 19, 2023



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- Kathy Warwick, RD, CDE, Owner, Professional Nutrition Consultants, LLC, Madison, Mississippi

