

Past Non-Compliance

When do we write a Past Non-Compliance?

When something has occurred or was identified as being out of compliance with regulatory requirements.

Where do I identify these concerns that would need a Past Non-Compliance?

Grievances: When you receive a resident/family grievance and complete the investigation or follow up, and you conclude that the community was out of compliance with a regulatory requirement, you are taking steps to correct the issue. A Past Non-Compliance is a formal, written way to take credit for what you are doing to correct the issue and ensure quality care is provided to our residents.

Facility Reported Incidents (FRI's): If you have submitted a facility reported incident and throughout your investigation you have concluded that the concern was substantiated.

Incident and Accident Reports (ERSs): In completing the follow up for incidents and accidents and you identify gaps in care or that you are out of compliance with the regulatory requirements.

Survey and Safety Alerts: When survey activity occurs and a community receives an IJ or through the SERT meetings a significant concern is identified that may impact all communities, we will send out the Survey and Safety alerts memo. When you receive these, review what occurred and follow up in your community on the double check section and you identify if you are also not in compliance.

Any other observations, review of notes, discussions with residents or families. If you identify an issue, let's correct it. The more we find and correct ourselves, the less the state will find for us.

Why do I need to write and follow up/complete these?

These are like insurance. We purchase insurance to cover us and hope we never have to use it. We don't like that we have to purchase it, but when something happens, we are certainly glad we have it.

An Ad Hoc QAPI/Past Non-Compliance is our insurance policy for state visits. We don't want to go through doing all the steps. They are a bit of work. And we hope that we will never have to bring them out or need them. We hope we can just file it away as done. BUT - if a state surveyor does come in and asks about the incident, we can use our insurance policy (ad hoc qapi/past non-compliance). Often, if we have written it well and covered all the components, and completed all steps, surveyors will accept them.

Outcomes of an Ad Hoc QAPI/Past Non-Compliance with the state

- They may accept it and not cite you at all. This is our goal for doing these!
- They may cite you, but accept your Past Non-Compliance effective the date they exit. Then you don't have to do any further Plan of Correction (POC) when the 2567 comes.
- Or, if we did not cover everything they thought we should, or we never finished the PNC before they came in, we may still get cited. This is why it is so important to have many people review if possible. Many minds with different perspectives can really help make a solid product. This is where the Support Center Team can help.

Past Non-Compliance

What to write in the Past Non-Compliance

We write these just like a plan of correction (POC). We are essentially citing ourselves. We will include all 4 elements.

Element 1: Identify who was impacted by this non-compliance. Then write what we are doing to correct the issue for that resident (or those residents if more than one).

Element 2: Next identify what other residents could be affected by this same issue. Then write what you are doing to correct the issue for those residents as well. If it happens to one, it has the potential to affect others.

Element 3: Now you write what process changes or actions you will take to correct the issue. This is not a quick band aid but truly correcting the system issue. This will include at minimum:

- Review the policy that addresses the issue of concern. Verify it is appropriate. If it is not and needs modification, then we need to review for modifications.
- Educate or Re-Educate any staff members who would need the information to address the solution. It is best to include a post-test so you can assess understanding. A read and sign is not an effective way of completing this.
- Then address any system issues that need to be addressed and corrected.

Element 4: This is where we will be auditing. What will you need to audit to ensure the corrections you put in place stay in place. This may be visually inspecting things, it may be auditing completion of documentation, or it may be random interviews of staff or residents to ensure they can verbalize expectations or satisfaction.

- Indicate who will audit, what you will be auditing, how many audits will be completed and how frequent you will complete these audits.
- Example: Under the direction of the Quality Assurance Process Improvement Committee, the Director of Nursing (or designee) will complete an audit of 3 residents per week to ensure satisfaction with timeliness of call light response time.

Audits will be submitted and reviewed by the QAPI committee for management of ongoing compliance and will continue until otherwise determined by the QAPI committee.

The Administrator is responsible for ongoing compliance.

Element 5: When will you have all of these elements completed and be back in compliance. If you are writing this in response to a safety issue or something that has caused harm, the Past Non-Compliance needs to be done by end of day or next day. These should be taken very seriously.

Otherwise if the issue does not affect safety but is not in compliance with regulatory requirements, you may give yourself a little more time to complete. Just remember, if the state comes in and you have not completed ALL components including auditing, they likely will not accept it and you will get cited.