INDEPENDENT INFORMAL DISPUTE RESOLUTION (IIDR) AGREEMENT
BETWEEN
FLORIDA, SOUTH CAROLINA, NORTH CAROLINA
Effective March 1, 2014

(Days are counted from the date of the IIDR request. All referenced dates are calendar days.)

Federal Certification regulation 42 CFR 488.331 and 488.431 require states to offer providers the opportunity for an Independent Informal Dispute Resolution (IIDR) process. The IIDR process applies to all standard and/or complaint surveys that began on or after January 1, 2012 that initiate an enforcement action for which a civil money penalty is imposed and is subject to being placed in escrow. This document outlines the agreement for completion of health or fire life safety related IIDRs for the Florida, North Carolina and South Carolina State Survey Agencies.

Each of the three states will develop their own IIDR policy that reflects the new process and is made available to their nursing homes.

Upon receipt of notification of request for IIDR, the State Survey Agency where the requesting facility is located (hereinafter referred to as the “Requesting SA”) will update ASPEN Enforcement Manager (AEM).

The Requesting SA will ensure the request meets IIDR criteria and notify the CMS enforcement representative. The Requesting SA will e-mail the State Survey Agency that will be conducting the IIDR (hereinafter referred to as the “Reviewing SA”), and copy the third state survey agency (this is so that we can keep up with how many reviews each state is receiving and take turns/manage the workload). The e-mail will include the date of the initial notice of imposition from CMS, the date of the IIDR request, and the date the overnight package was mailed or will be mailed to the Reviewing SA.

The Requesting SA’s IIDR Coordinator will notify the State Ombudsman of the IIDR request to give her/him an opportunity to provide written comments. The notification will include the facility name, facility address and the deficiencies. This will be done no later than the 5th day after receiving the IIDR request.

In cases of complaints, the Requesting SA will communicate with the resident or resident’s representative/concerned party, as appropriate, to give them an opportunity to provide written comments within 1-5 days.

By day 10, the Requesting SA will send overnight documents to the Reviewing SA. The documents will include provider documentation, CMS Form 2567, resident and staff identifier list, the ombudsman’s statement and any resident or representative statements. The Requesting SA may send the Ombudsman or resident/representative statements electronically via encrypted e-mail. The Reviewing SA will confirm receipt of all information from the Requesting SA.
Each of the three states has established criteria for reviewers. All health survey reviewers will be subject matter experts, management staff, training staff, and/or quality assurance staff. Each health survey review will consist of three reviewers. Only experienced Life Safety Code Surveyors will review Life Safety Code IIDRs. All reviewers will comply with CMS defined conflict of interest per Medicare State Operations Manual § 7202.2. A roster of the pool of eligible reviewers is attached to each state’s IIDR process.

IIDR reviewer activity: Only those deficiencies identified in the facility’s request will be reviewed in IIDR. There will be no contact made with the survey team, Requesting SA or the provider.

The Reviewing SA will complete the IIDR review by day 30.

Decision:

The IIDR panel may decide that:

1. A deficiency or finding is upheld;
2. A deficiency or finding is deleted;
3. A deficiency is upheld with deletion of a finding(s);
4. The scope and severity of the deficiency(ies) is higher or lower;
5. Deficiencies need to be added to the statement of deficiency;
6. The deficiency in question needs to be moved to a different federal requirement.

The decision will be submitted in writing electronically to the Requesting SA IIDR coordinator no later than day 30. The written decision will include the result for each deficiency challenged and a brief summary of the rationale for that result. The written decision will reference specific documents submitted by the facility that demonstrate a deficiency should not have been cited or that demonstrates a change in scope and severity. The written decision will explain the panel’s rationale to support additional tags or a change in the federal requirement. The written decision will also reference the statements provided by the involved resident, resident representative and/or ombudsman, if those documents influenced the decision.

The Requesting SA will confirm receipt of the written decision to the Reviewing SA. If the Requesting SA agrees with the decision, the IIDR coordinator will ensure that the facility and CMS is notified in writing of the decision no later than day 35.

If the state survey agency does not agree with the decision(s), the complete record will be forwarded to CMS for the final decision. The complete packet will consist of the facility submitted information, any written statements from the involved resident, the resident representative and/or the ombudsman, the written statement from the reviewers, and a written document from the Requesting SA clearly explaining the reason for disagreement. The packet will be sent via overnight mail by day 35.
CMS will complete their review and provide a final decision by day 55.

Final decisions are made within 60 days of receipt of the facility request. After receiving a final decision from CMS, the Requesting SA IIDR coordinator will ensure that the process is completed. Completed means that a final decision from the IIDR process has been made, a written report generated, the Requesting SA has provided written notice of this decision to the facility, and the federal computer system has been populated. Final decisions are also shared with the State LTC Ombudsman.

The Reviewing SA will shred all documents once the written decision has been forwarded to the Requesting SA and receipt has been confirmed. The Requesting SA will maintain a copy of all pertinent documents per policy.

The process will be assessed at six months for the efficacy of the process and the participating State Agencies will implement any improvements identified.

Signatures of the Parties:

**FLORIDA:**

\[Signature\]

Polly Weaver, State Survey Agency Director

Date 2-28-14

**NORTH CAROLINA:**

\[Signature\]

Patsy Christian, State Survey Agency Director

Date 2-28-14

**SOUTH CAROLINA:**

\[Signature\]

Sara Granger, State Survey Agency Director

Date 3-3-14