


Writing Acceptable Plans of Correction

for Intermediate Care Facilities for Individuals with an Intellectual Disability or Related Conditions (ICFs/IID)

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Objectives

Attendees will be able to:

- ❖ distinguish between the terms violation and deficiency;
- ❖ list the three components of a deficiency/violation;
- ❖ distinguish between a systemic and a discrete problem;

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Objectives

Attendees will be able to:

- ❖ recall the five elements required for an acceptable plan of correction;
- ❖ recall the federal and state time frame requirements for submission of an acceptable plan of correction; and
- ❖ recall two possible consequences for failure to submit an acceptable plan of correction.


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Violations & Deficiencies

- ❖ A licensing violation is a failure to meet a state licensing standard.
- ❖ A deficiency is a failure on the part of the facility to meet a federal standard.
- ❖ Both violations and deficiencies are called citations.

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Documentation of Deficiencies/Violations

The Form CMS-2567 and DADS Form 3724 are important because they:

- identify violations of regulations;
- are the official records of the survey;
- are the official documents of compliance/noncompliance;
- identify the impact of the facility's noncompliance on the individuals;
- are available to the public upon request; and
- are used by the facility to write its PoC.

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Structure of a Violation and Deficiency

Deficiencies and violations have three components:

- a regulatory reference;
- a deficient practice statement; and
- relevant findings or evidence.*

* More on these components can be found in the CMS Principles of Documentation.

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When to Start Developing the PoC



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Determining the Root Cause of a Violation/Deficiency

- ❖ Why did the problem occur?
- ❖ Is the problem isolated or discrete?
- ❖ Is the problem system-wide or systemic?

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Discrete Problems

Discrete problems may occur within a system but may only affect a small extent of the entire system.

For example the problem may:

- reflect an isolated incident,
- affect one or fewer individuals or staff, or
- be present at one or a limited number of times or locations.

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Discrete Problems

Even relatively isolated problems could stem from a systemic problem, therefore:

- examine all problems carefully; and
- determine whether there is a system failure before assuming the problem is discrete.

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Systems

ICFs/IID require systems in place to operate and to provide services, for example:

- daily management and operation of the facility;
- provision of active treatment;
- protection of individuals from abuse and neglect;
- delivery of health care to individuals;
- ensuring freedoms and choices are honored; and
- ensuring staff competency.

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Systemic Problems

- ❖ When the failure involves significant or many items within the system, then it is a **system** failure.
- ❖ The system itself may be absent, or facets of an existing system may not be working.

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Systemic Problems

A systemic problem requires a PoC that:

- describes what changes in the system will occur to fix the problem; or
- plans for the development and implementation of a new system.

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Differentiating Between Deficiencies

Differentiating between deficiencies or violations that represent a breakdown in a system and those that represent a discrete problem is not always easy, but if the facility does not identify the source of the failure, it probably will not succeed in correcting it.

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Plan of Correction Elements

Element 1: *How the corrective action will be accomplished for identified affected individuals.*

Element 2: *How will other individuals with the potential to be affected or in similar situations be identified and protected.*

Element 3: *What systemic changes will ensure that the deficient practice will not recur.*

Element 4: *How the facility will monitor its corrective actions/performance.*

Element 5: *When will corrective action be accomplished.*

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Element 1: *Identified Individuals Affected*

Element 1 states:

“How the corrective action will be accomplished for individuals found to have been affected by the deficient practice.”



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Element 1: *Identified Individuals Affected*

Examples of individual-centered deficiencies include:

- failure to provide individuals with training;
- failure to protect the dignity of individuals;
- failure to provide individuals with protection from harm; and
- failure to adequately assess individuals.

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Element 1: *Deficiencies That DO NOT Include Identifiers*

Element 1 also applies to deficiencies or violations that do not affect specifically identified individuals, for example:

- failure to develop policies that prohibit abuse and neglect;
- failure to prohibit the employment of child and/or client abusers;
- failure to ensure quarterly evacuation drills; and
- failure to designate a director of food services.

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**Element 1:
Deficiencies That Include More Than One
Example of Relevant Findings (Evidence)**

The QDDP/QIDP failed to:

- follow up for three months following a recommendation that an individual needed glasses for 1 of 3 sample individuals;
- ensure that individuals' money management programs were carried out at individuals' work sites for 6 of 6 individuals; and
- monitor training and services at the day habilitation center for an individual for six months following the individual's admission into the program for 1 of 2 individuals attending the center.

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**Address EACH Instance of
Noncompliance and ALL Evidence!**

- ❖ Facilities must state what corrective actions they have taken or will take for each instance of noncompliance.
- ❖ To meet the PoC **Element 1**, the facility should address what actions it has or will take to correct all the evidence listed for each deficiency/violation.

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**Element 2
Identify Others Who May Be Affected**

"How the facility will identify other individuals who have the potential to be affected by the same deficient practice and how the facility will act to protect individuals in similar situations."



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**Element 2
Identify Others Who May Be Affected**

To meet **Element 2**, the facility must address:

- how it evaluated or will evaluate other individuals who may be affected by the deficient practice; and
- what actions it has taken or will take to protect individuals identified by the facility from the same negative outcome.

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**Element 2
Identify Others Who May Be Affected**

What actions should a facility take given a deficient practice statement that says:

Based on interviews and record reviews, two of three sample individuals were started on psychoactive medication regimens for inappropriate behaviors before written informed consent was obtained. W263 was cited. There are a total of six individuals at this facility who are on psychoactive medication regimens who could be affected and who have the potential to receive medications without consent. The facility census is 18.

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**Element 2
Identify Others Who May Be Affected**

The facility's plan of correction would need to address the following:

- What actions did the facility take to assess the other individuals of the facility (other than those identified during the survey) for the types of medication they were receiving?
- Are any other consents lacking?
- How will the facility ensure that any lacking informed consents will be obtained for individuals on psychotropic medication regimens?

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Element 3 Changes to Prevent Recurrence

Element 3 states: *“What measures will be put into place or systemic changes made to ensure that the deficient practice will not recur.”*

- ❖ The facility must state and address what it has done and will continue to do to prevent the deficient practice from happening again.
- ❖ Facilities should consider whether they need to develop or modify a system.

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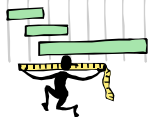
Element 3 Examples of Changes to Prevent Recurrence

- ❖ The Unit Management Team will review all facility incident reports on a daily basis.
- ❖ The Incident Management Team will review incidents that involved injuries (including those of an unknown cause and non-reportable injuries) or allegations of abuse or neglect on the next business day.
- ❖ QDDP/QIDPs are expected to convene interdisciplinary team (IDT) meetings to address all injuries and allegations of abuse or neglect within 24 hours of the date of discovery.
- ❖ The IDT will need to answer specific questions related to each case (e.g., What happened? Why? What will prevent recurrence? etc.).

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Element 4 Monitoring of Corrective Actions

“How the facility will monitor its corrective actions/performance to ensure the deficient practice is being corrected and will not recur, i.e., what program will be put into place to monitor the continued effectiveness of the systemic change to ensure that solutions are permanent.”



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Element 4 Monitoring of Corrective Actions

Monitoring of corrections involves identifying the following:

- does the facility need to develop or modify a monitoring system;
- when will the monitoring occur;
- how often will the monitoring occur; and
- who will conduct the monitoring.

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Element 4 Examples of Monitoring of Corrective Actions

The administrator will verify through daily review of facility incident reports that the QDDP/QIDP is investigating all non-serious injuries of unknown origin.

- ❖ The administrator will maintain a Non-Reportable Injuries of Unknown Origin Log that includes specific information that includes:
 - incident date, individual's name, injury type, suspected cause, IDT intervention, family notification date, investigation completion date, and follow up.

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Element 4 Ongoing Monitoring

Monitoring should continue after the deficient practice is corrected.



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Element 5 Date of Completion

Element 5 states: *"When corrective action must be accomplished."*

- ❖ The PoC must identify the date of completion or the expected date of completion for each deficiency.
- ❖ The amount of time for correction should vary, depending upon the nature of the deficiency.

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Element 5 Date of Completion

- ❖ For all deficiencies or violations, an anticipated date of completion must be provided for each tag on each form.
- ❖ Each deficiency/violation may have its own anticipated date of completion.

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Responsible Persons

- ❖ The PoC must identify the title of the staff person responsible for any actions or processes implemented.
- ❖ The PoC must identify how corrections will be monitored and the staff person responsible for the monitoring.

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Use of Names

The PoC must not:

- include proper names,
- allude to another provider, or
- malign an individual.

It is acceptable to use staff designated titles.

Some example titles include:

- the facility LVN, the QDDP/QIDP, the program director, the facility administrator, or the facility's contracted psychologist.

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Date and Signature

The PoC must also be dated and signed by the administrator or other authorized official. His/her title must be included.

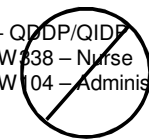


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Staff Contributing to Deficient Practice

Staff who have been determined to have contributed to a deficient practice should not be solely responsible for implementing the corrective action(s), or for monitoring the corrective processes or actions.

- W 159 – QDDP/QIDP
- W 331, W 338 – Nurse
- W 102, W 104 – Administrator



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In-Service Training as Part of PoC

When identifying in-service training as part of a PoC, the facility should indicate:

- who will conduct the training;
- what the content of the training will include;
- when and how often the training will be provided; and
- how performance will be monitored to ensure elements addressed in the training were implemented accurately and consistently.

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Realistic PoCs

- ❖ Facilities should submit realistic plans of correction.
- ❖ Facilities should not submit plans of correction that they are not able to implement.

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PoCs Must Be Specific

- ❖ The PoC must state exactly how the deficient practice has been or will be corrected.
- ❖ The PoC must identify the nature of the corrective action. A general statement indicating that compliance has been achieved or will be achieved is not acceptable.

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All Parts of the PoC Must Be Acceptable

When more than one deficiency/violation is cited, the plan of correction for each deficiency must be acceptable in order for the overall plan of correction to be deemed acceptable.

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PoC and Maintaining Compliance Process Summary

Achieving and maintaining compliance relies on:

- detecting problems;
- implementing actions to correct the problems; and
- monitoring and evaluating the corrective actions to ensure that the problems won't recur.

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Examples of Unacceptable and Acceptable PoCs

In your materials, you have examples of deficiencies that have unacceptable and acceptable proposed plans of correction.



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Submission Time Frames

- ❖ Facilities receiving the Form CMS-2567 must submit an acceptable PoC within 10 **calendar** days.
- ❖ Licensed facilities receiving a DADS Form 3724 must submit an acceptable PoC within 10 **working** days.

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Submission Time Frames

Licensed ICFs/IID may submit their PoCs using DADS Form 3724 and Form CMS-2567 at the same time, and if submitted within the shorter time frame of 10 calendar days after the date the facility receives the forms, they will both be considered timely.

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Submission Time Frames

- ❖ However, if a licensed ICF/IID submits a PoC on Form CMS-2567 beyond 10 calendar days, it will be considered late.
- ❖ The facility is encouraged to submit a PoC as soon as possible and to implement its corrective action as soon as possible.

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Consequences

- ❖ Failure to submit a PoC or failure to submit an acceptable PoC within specified time frames could result in vendor hold and/or termination of the provider agreement.
- ❖ Licensed ICFs/IID may also be assessed administrative penalties.

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If the PoC is NOT Acceptable

If a facility submits an unacceptable PoC, the DADS regional office contacts the facility and conveys the following:

- why the PoC was unacceptable;
- the title of the person responsible for implementing the corrective action; and
- a statement that failure to submit an acceptable PoC within the specified time frame could lead to more stringent actions.

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If the Revised PoC is NOT Acceptable

- ❖ If the revised PoC is unacceptable, the DADS regional office contacts the Regulatory Services ICFs/IID and NF Contracts Unit with the name and provider number of the facility and why the PoC is unacceptable.
- ❖ The ICFs/IID and NF Contracts Unit sends a notice to the facility indicating the actions to be taken against it.

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Additional Time for Submission

- ❖ A facility administrator can request additional time to develop a PoC.
- ❖ DADS may ask that the plan be completed as precisely as present information permits and that it be followed by a more specific plan as early as possible.

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Informal Dispute Resolution

- ❖ If the facility chooses to refute deficiencies/violations, it can request an Informal Dispute Resolution (IDR).
- ❖ The facility is still required to submit an acceptable PoC (even if requesting an IDR).

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Informal Dispute Resolution

If the facility is contesting deficiencies/violations and is considering whether to delay sending in the PoC until the dispute is resolved, the facility is taking a risk because:

- the enforcement process will continue even without an acceptable PoC; and
- vendor hold or termination of the provider agreement may be recommended for failing to submit an acceptable PoC within specified time frames.

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Multiple Visits Multiple Documents

- ❖ It is possible for facilities to receive multiple documents (Form CMS-2567 or DADS Form 3724) due to the multiple purposes of visits.
- ❖ The documents may include the same tags or different tags.
- ❖ Each document received requires a PoC.

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Receive/Return All Pages of All Documents

- ❖ Facilities need to ensure that they received all the pages of the Form CMS-2567 and DADS Form 3724 (including blank last pages).
- ❖ All pages (including blank pages) must be returned to the Regulatory Services office specified in the PoC letter that accompanied the Form CMS-2567 and DADS Form 3724.

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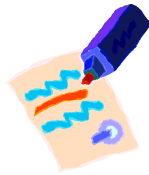
On-site Follow-up Revisits

- ❖ Regulatory Services staff will follow-up on all deficiencies cited in the Form CMS-2567 and all violations cited in the DADS Form 3724, including the State Standards for Participation.
- ❖ The purpose of the follow-up visit is to verify the facility has regained compliance and has the ability to remain in compliance.

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Other Points to Consider

*The PoC
must
be
legible!*



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Other Points to Consider

Do not obscure
any part of the
form,
citation
or PoC.



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Summary

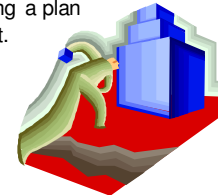
The PoC should involve:

- proactive processes or actions to identify system failure;
- interventions and actions the facility will develop/revise and implement to address the issues;
- an ongoing system to evaluate the effectiveness or progress of implemented systems;
- a person who will be responsible for the system/actions; and
- a person who will be responsible for evaluating the effectiveness of the implemented systems.

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More than Correcting Deficiencies

Maintaining compliance involves more than just reading a deficiency and developing a plan to correct it.



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PoC as a Management Tool

- ❖ The importance of developing a good, acceptable plan of correction cannot be over-emphasized.
- ❖ Submitting and following an acceptable plan of correction goes a long way toward ensuring continued quality care for the individuals receiving the facility's services.

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Resources

- Centers for Medicare and Medicaid Services (CMS) Principles of Documentation
- State Operations Manual, Appendix J
- State Operations Manual, Chapter 2, The Certification Process, 2728B
- Provider Letter 01-50
- Provider Letter 2006-30
- Provider Letter 08-29
- S&CC 07-14

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Thanks For Attending!

DADS Educational Services offers a more comprehensive, in-depth instructor-lead course about PoCs for ICFs/IID.

A computer-based training (CBT) version of this course is available.

Registration for the class or access to the CBT are accomplished at the DADS Educational Services website:

- <http://www.dads.state.tx.us/providers/training/index.cfm>