



MEMO

DATE: NOVEMBER 15, 2004
TO: LAURIE ARKENS, BQA
CC: KEVIN COUGHLIN
CRIS ROS-DUKLER
FROM: JIM MURPHY, WALA

RE: ALTERNATIVES TO CAREGIVER COMPETENCY TESTING

WALA appreciates the working relationship between BQA and assisted living providers during the current rewrite of HFS-83.

As was evident at the last AL Forum, most - if not all - providers do not favor moving to the proposed competency testing for training. Many providers have told us that they prefer making changes to the current regulations that might make providers, caregivers and trainers more accountable or craft another solution.

To that end, WALA would like to present several working ideas that were discussed at length in WALA committee meetings preceding the November 9 AL Forum. As was expressed at the AL Forum, we did not present these ideas because we were operating under the assumption that we needed to have a perfected proposal ready in order to meet the published rewrite timeline.

In discussing the options we will outline here, the WALA committees were unable to solve several inherent problems. Nevertheless, we do not feel that competency testing is the best option for fixing the current problems with HFS-83.14 and want to submit these ideas in their incomplete form as a starting place to begin a cooperative effort to come up with alternatives.

THEREFORE, please accept these ideas as presented: these are working drafts of concepts to help solve the challenges of providing quality training. We are VERY aware that these are NOT final complete concepts and that there may still be many problems with them.

We expect that any final proposal will use a part of many proposals to develop a final one that meets the goal of BQA as well as our industry of providers: quality care for residents by proving quality training for the caregivers.

NOTE: WALA does not necessarily endorse these ideas but presents them all in the spirit of good will and healthy discussion. We are also very aware of the financial constraints on many providers, especially the small and rural providers whose very existence is in jeopardy with other changes in HFS-83, the changing market, and the cost of doing business rising from insurance, staffing etc. WALA considers itself to be a strong advocate for these small providers. With 49% of CBRF license holders being 8-beds and under, and fully 88% 20-beds and under, all training systems must pass the cost, accessibility and effectiveness tests for both large and small providers.

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OPTION 1 – FIX THE CURRENT SYSTEM

Subject to many changes and revisions

CONCEPT: Fixing problems with the current training regulations.

GOAL: To find ways to rewrite the current regulations to make providers more accountable for the quality of training in concert with BQA.

We are aware anecdotally via BQA of the many problems that BQA experienced with the current system since 1996. However, even Kevin Coughlin has mentioned that citations for inadequate training are down and that much of the fraud and incomplete training has lessened. In other words, is it really necessary to throw out the entire current system, or can it be fixed? Here are some ideas to start that discussion.

1. **No HFS-83 training curriculum can be “grandfathered” into the new system.** Every facility or consultant currently using an approved curriculum needs to provide BQA written confirmation that it is still being used. Given BQA’s desire to “get out of the curriculum approval business” we do not think it feasible to require trainers to resubmit their entire curriculums for approval. However, it is important to know how many of these curriculums are being used currently. We suggest that a simple letter from a current curriculum owner within a set time frame is all that would be necessary. If no response is received in the time frame, BQA will deem that it is no longer being used and delete the approval number from the database.

Regarding this, there are two other possibilities to consider:

- a) No new curriculums can be approved (problematic at best); or
 - b) The process for curriculum approval needs to be much more stringent – weak curriculums can not receive an approval number. (To re-open curriculum approval beyond the current system will be difficult, but would solve the problem of many curriculums which do not meet the intent of face-to-face training, as well as other trainings which may not meet the intent of HFS-83. This also would be controversial.)
2. **No instructor can be grandfathered into the new system.** Instructors need to resubmit their qualifications for being instructors including references and qualifications.
 3. **Yearly CEU’s be more accountable.** A system might be implemented to assure that providers are more accountable for providing CEUs that meet some kind of stricter standard. For example, at least a certain number of the annual CEUs might have to do with acquainting the caregiver with HFS-83 regulations regarding meds management and administration and industry best practices. We suggest that the CEUs directly apply to understanding the HFS-83 regulations and best practices across the board. While providing needed flexibility for on-going training by providers, the current lax system of oversight could be strengthened.
 4. **Caregiver Registry.** We support the concept of the caregiver registry. The issue, as always, is how to pay for registration. More details in Option 2, # 12.
 5. **Increase penalties.** Many providers think that the reason for dropping or not trying to improve the current system is due to a very small percentage of providers who are not fulfilling their training obligation. In other words, is it necessary to toss out the baby with the bathwater? We suggest (and this may be controversial even within our own organization) that penalties for insufficient training and/or problems related to fraud, should be more severe. If the providers do not do their job, slap them lightly on the wrist the first time. A second incident has stronger consequences. A third incident and hit ‘em hard. DO NOT penalize the entire industry for the inadequacies of a few.

There are those who say that this is indeed the current system. The fact that BQA has considered dropping the current training system indicates that this is not working and that additional, stronger and more consistent sanctions should be enforced. We feel that a stronger BQA hand in enforcement – regardless of the final system – is necessary to insure compliance quality.

OPTION 2 - COMPETENCY FOR TRAINERS, NOT CAREGIVERS

Subject to many changes and revisions

CONCEPT: Certified instructors using state approved curriculums.

GOAL: To provide a stronger training program with better training for the student and thus better care for the resident by certifying instructors, not caregivers.

1. **Trainer approval expiration.** Within a defined period of time after the revised 83 goes into effect, *say six months*, current approval for all trainers will expire.
2. **Train the Trainer program.** BQA will have previously contracted, via a Request for Proposal (RFP), a third party corporation to provide one or two day Train the Trainer (TTT) programs to certify that trainers are competent not only in the subject matter of HFS-83, but also in the skills and methodology to be excellent teachers. This program will insure the competency of the trainers both with their educational skill and knowledge of the material. Those who do not pass this certification cannot teach HFS-83 training after the announced time frame.

Current thoughts are that to make this cost effective for the third party corporation that only one contract be issued to only one company. This would also be necessary to maintain the databases as detailed below.

3. **On-going training required.** Each certified trainer must take yearly or bi-yearly refresher courses to insure that their knowledge of BQA regulations, memos and best practices are maintained. The instructor must also meet a minimum number of hours of continuing education credits every two years with at least one course in methodology. It is anticipated that both the refresher course and the continuing education course will be available on-line or self-study. Those trainers who do not meet these requirements (*with say a 3 month grace period*), are removed from the database of certified teachers (maintained by the third party corporation), thus insuring only current qualified instructors are on the list. It will be the responsibility of the third party corporation to notify the instructors that their certification is terminated.

Another idea that could be discussed would be a requirement that every trainer must teach a minimum number of hours to retain certification. This would keep the list current.

Teach anyone. Those trainers who are certified can teach anyone they wish, onsite, in regional centers, etc as needed. Trainers can be from any provider company, training organization, regional group, association, consulting firm, educational institution, etc. Larger providers may as many certified instructors as they wish, it would not be limited to only one per provider company. In other words, once you are a certified trainer, you can teach anyone you wish – given the safeguards below.

4. **BQA continue approving curriculums.** Curriculums will still be approved by BQA. It is also possible that the BQA could require verification that currently approved curriculums are still in use and deny approval of any further curriculums (see Option 1 # 1). However, there are many who are concerned that the September 2004 proposed system with no need for curriculum oversight by BQA could dramatically decrease the effectiveness of any training. While we are sympathetic to BQA's

desire to get out of the loop of curriculum approval, we suggest that this system will decrease the already diminished role of the BQA Program Assistant (reviewing curriculums, etc). The third party corporation will do the work of approving instructors. Even now BQA is reviewing only a few new curriculums for approval. In other words, this concept will decrease the cost for BQA.

While I don't encourage it, if there was a fee for BQA approval, it would encourage only serious curriculum applicants. Again, problematic.

5. **Face-to-face teaching required.** Any instructor can use an already approved curriculum or have a new curriculum approved by BQA. A company or instructor who already has an approved curriculum may use it but the focus will now also be on HOW the caregivers are taught. In other words, face-to-face teaching with creative instructional methods with minimal use of videos etc will be required, as will other appropriate teaching methods. The trainer can provide instruction and testing on-site at the provider's facility, in regional classrooms, and other venues, etc, exactly as it is now.
6. **Evaluation tool.** At the end of the training, the instructor administers a strong evaluation tool. Current HFS-83 does not require much in the way of actual evaluation and that is one of its weaknesses. This evaluation tool would cover key concepts and could be developed by a committee headed by BQA. This would allow customization of use to meet the needs of individual caregiver students. Guidelines are detailed below.
7. **Instructor accountability.** This proposed system would strengthen instructor accountability (a major defect of the current system) and the instructor's license would be on the line to insure accountability. This would reward those who currently do provide quality caregiver testing at the end of training. We suggest that this evaluation tool would help meet the need of quality caregiver training that seems to be one of the goals of the September 2004 BQA draft.
8. **Meet objections to caregiver competency.** This system would allow on-site instruction (if so desired by the facility) that could be customized to fit the student's needs, thus eliminating many of our objections to the proposed September 2004 83.14 draft:
 - a. Ability to provide instruction with approved curriculum using a certified instructor on-site (if so desired) or at a local location of their choice, rather than an imposed location in the caregiver certification process.
 - b. Major drawbacks in the September 2004 BQA draft are not using approved curriculum, requiring off site caregiver competency, and continued caregiver competency to meet staff turnover. This proposal addresses all those concerns.
 - c. Ability to customize caregiver training as needed and test as needed for the population, given varied learning styles, English as a second language, shift and weekend instruction issues, etc. A major objection to the September 2004 draft has been the ability to test those caregivers with special needs, as well as those who do not test well in a formal off site sterile testing situation. This proposal addresses those concerns.
 - d. In addition, those who did not pass the course evaluation could be easily provided with needed additional instruction on site without the need to go off site to re-take a formal competency test as proposed in the September 2004 BQA draft. This eliminates major costs of travel, staff replacement costs and re-testing of caregivers off-site. This proposal addresses those concerns.
 - e. This proposal also addresses the need of rural areas with minimal resources to permit on-site training without being required to send caregivers to a central competency location. This proposal addresses those concerns.
9. **Joint instruction and signatures on certificate.** At the end of the trainer's instruction and student's successfully passing the evaluation, the instructor signs off on the certificate and provides the certificate to the facility specific manager/owner/director/nurse/trainer (*if different*) to oversee the

last part of the instruction. The manager/owner/director/nurse/trainer (*if needed*) oversees the facility specific information as detailed in September 2004 proposed 83.14 (1) such as employee's job responsibilities, abuse & neglect, personnel policies, emergency plan and evacuation, ISP for that facility, etc.

As a new item, the facility specific person also oversees a facility specific meds pass and other meds issues to insure that the caregiver has a hands-on understanding of facility specific meds operations. While the facility specific person does not need to be certified, their future ability to sign off would be in jeopardy if there was fraud. Additional oversight is detailed below in # 11, 12, 13 and 14.

10. **Unique certificate number.** Before training, an instructor will purchase from the third party corporation as many uniquely numbered certificates as needed. At the end of the trainer's instruction, the instructor and the manager/owner/director/nurse/trainer both sign the certificate. The certificate is then copied for each of the instructors and given to the employee. Each certificate will cost (*say*) \$15 to pay for the database management by the third party corporation. This process can be further refined to eliminate problems.
11. **Registry information on those trained.** The approved instructor then logs on to the third party corporation's website using the instructor's password and fills in the student's name, date, location, name of the facility's manager/owner/director/nurse/trainer at the appropriate unique certificate number. Only one student ever gets that unique certificate number so it cannot be duplicated, copied or used fraudulently. This process insures no lag time in updating the database or loss of certificates sent to the third party corporation, etc. It also provides additional security to insure successful completion of the approved training process only by certified instructors. When a BQA Surveyor comes to a facility for the survey, they can log on to the public portion of the third party corporation's website and spot check compliance to insure that the certificate in the file is correct. This registry addresses the problems associated with the infamous lost training records of Jim Stoner and this system will also decrease fraud and incomplete training.

In order to protect the privacy of the caregiver, any registry used should include only certificate number, caregiver name, facility name, name of the instructor and facility specific instructor, modules taught, etc. There should not be any addresses listed in order to maintain privacy.

12. **Confidential instructor evaluation.** At the end of the training, each student sends a confidential evaluation form (pre-paid envelope provided) back to the third party corporation listing only the trainer's name, date, location of training, etc. This anonymous evaluation helps to insure the quality of the trainers. It also provides one more check to insure that training actually occurred and only certified trainers were used. A process could be developed to review trainer qualifications, impose intermediate sanctions if needed and even remove BQA approval if necessary.
13. **Sanctions for inadequate training.** Each approved instructor facility can do self caregiver certification until material deviation from the intent of self-testing is discovered. At such time, the facility will be required to arrange with a professional training company (?) to administer training and caregiver competency. See Option 1 for need for strong BQA response for those who do not comply.

14. Cost?

- o We have been told that similar Train the Trainer programs are often \$150 - \$200 or so per day (plus travel, hotel, staff replacement, etc). Final cost would depend on length of training offered, locations in which it is offered, frequency of training, cost of course development, etc. Cost would cover training cost by the third party corporation as well as their development and maintenance of the database for approved trainers and students. To make this effective statewide, classes would need to be held statewide in a consistent and timely manner. Care will need to be exercised to insure this cost is kept as low as possible.

- Cost of approved training curriculum would not change if a current approved curriculum meets the concept of student specific training. However, it is our understanding that there are a number of currently approved curriculums that do not meet this standard.
 - Cost of on-site training would not change dramatically from current system as in practice it is not different than the current system, but with the additions mentioned in this concept.
 - WALA contends that even if the September 2004 draft were approved, there would be minor cost savings for many facilities. It is our contention that many of the current assisted living operators would continue to train most employees with much of their entire training program to insure that each employee understands the company system of care, record keeping, and accountability. The BQA proposed savings by the September 2004 draft would not be realized.
 - There will be much less instructor turnover than there will be at the caregiver level. Because the major cost is in certifying the instructor and not the caregiver, **we anticipate that the cost of this system will be dramatically cheaper over the long run** – say five years – than the September 2004 draft’s ongoing costs of competency training for caregivers. Long-term costs will be dramatically less.
15. **Can current approved trainers be “grandfathered?”** It is our suggestion that to totally change the current system that there not be any grandfathering of current approved trainers. We are aware that is controversial, but it is critical to maintain the focus on HOW caregivers are taught. The 1996 HFS-83 focus emphasized only curriculum and that is its weakness, causing – we feel – the many inadequacies that moved BQA to propose caregiver competency. This proposal addresses those concerns.
16. **Reference to September HFS-83.14 draft using this model:** *(may change after discussion)*
- (1) Appropriate orientation – see above
 - (2) Training – see above
 - (3) Competency Testing – change as noted above, retain supervision clause in (C)
 - (4) Exemptions - keep as is after revisions – thus new system will take place only for new caregivers.
 - (5) Change per above
 - (6) No change
 - (7) No change
17. **In summary**, this system meets most of the objections to BQA’s September 2004 PowerPoint listing the problems with the current training system:
- a. Better accountability for trainers, caregivers and owners.
 - b. Registry for caregivers as well as trainers.
 - c. Minimizes BQA approval role.
 - d. Initial facility cost will be higher, but with much less turnover with trainers than with caregivers, the facility cost will be much less in the long run compared to the proposed caregiver competency.
 - e. A comprehensive system to minimize fraud.
 - f. Addition of meds pass and other meds demonstration.
 - g. Dual signatures on unique certificates to provide better oversight and avoid duplications.
 - h. In other words: a better system to provide better training and thus better care.**
18. **Who pays?** While there are those who maintain that BQA should be the agency that pays to set this system up, we are aware of the fiscal constraints on all of DHFS. We are more than willing to explore other ways to fund the development of this system and not just via increased costs for assisted living providers.

Your comments, suggestions and ideas for this – or other alternatives – are welcome.

So the final question: can some version of this concept be developed or a completely new idea be developed that is better than the September 2004 version proposed by BQA?

OPTION 3 – MANAGER CERTIFICATION. Another option might be to require manager certification. While we feel that some combination of the strategies detailed above would not require this, this also is controversial but might be an option to research.

OPTION 4 – What other ideas do you all have?