

NYSDOH Resident Rights, Grievance Process, and Quality Improvement

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- A federally-funded Medicare Quality Innovation Network – Quality Improvement Organization (QIN-QIO)
- 12 regional CMS QIN-QIOs nationally

IPRO:

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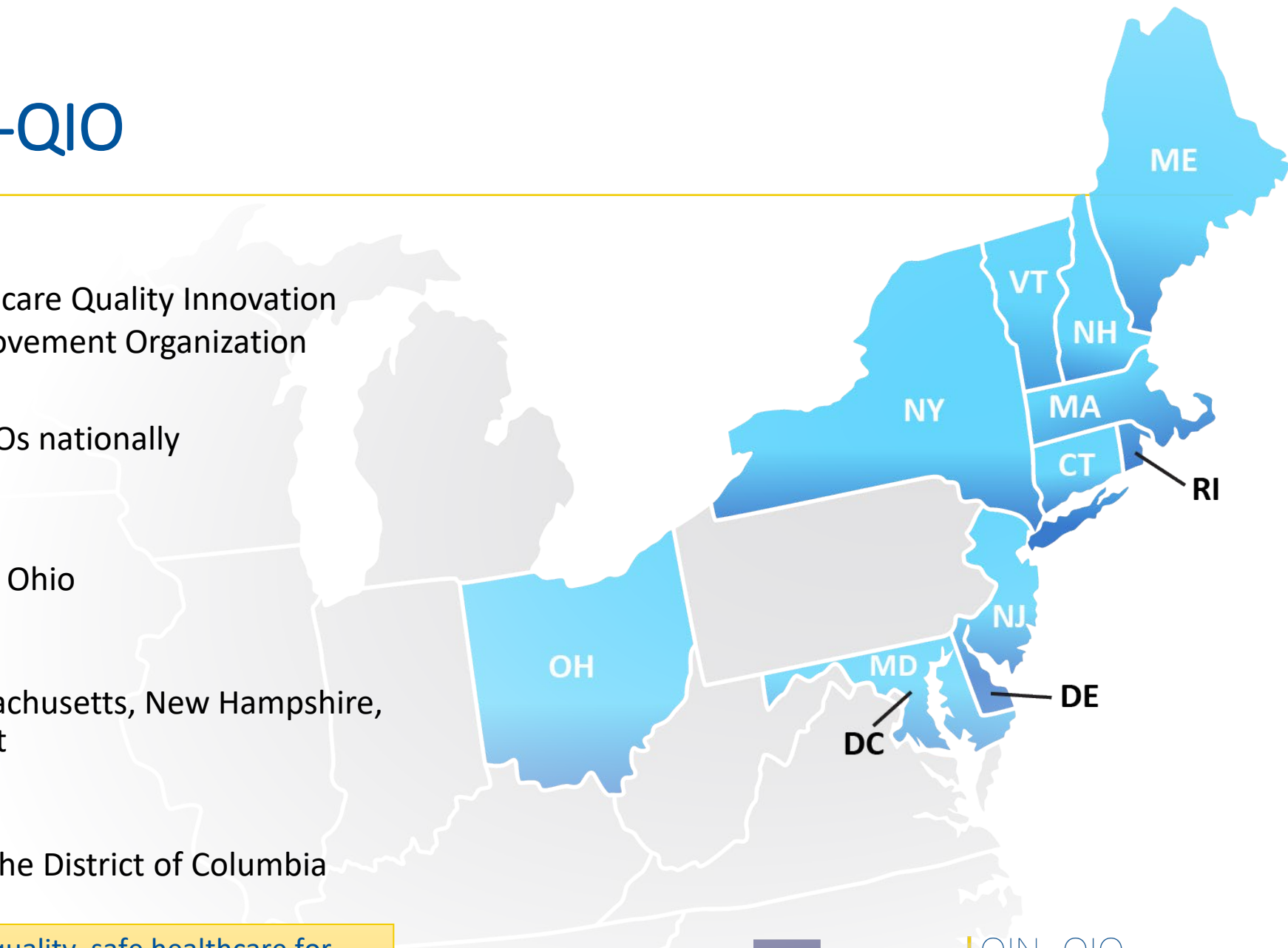
Maryland, Delaware, and the District of Columbia

Working to ensure high-quality, safe healthcare for
20% of the nation's Medicare FFS beneficiaries



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Agenda

- Overview of federal and state regulations for residents' rights
- Discuss recent deficiencies related to residents' rights
- Understanding the elements of the facility grievance process
- Review a case study

The Thin Edge of Dignity



<https://scarc.library.oregonstate.edu/oh150/weinman/biography.html>



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Resident Rights



New York Codes, Rules, and Regulations

Updated 2/24/22

[Title: Section 415.3 - Residents' rights | New York Codes, Rules and Regulations \(ny.gov\)](#)



State Operations Manual

[SOM - Appendix PP \(cms.gov\)](#)



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Rights as a Nursing Home Resident

[Your Rights as a Nursing Home Resident in New York State \(ny.gov\)](https://www.ny.gov/your-rights-as-a-nursing-home-resident)



**YOUR RIGHTS AS A
NURSING HOME RESIDENT
IN NEW YORK STATE**

new
york
state Department of Health Office of Primary Care and Health Systems Management
Division of Nursing Homes and ICFID Surveillance

2022



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Residents' Rights

- Dignity, respect, and a comfortable living environment
- Quality of care and treatment without discrimination
- Freedom of choice to make your own, independent decisions
- Be informed in writing about services and fees before you enter the nursing home
- The safeguard of your property and money
- Appeal a transfer or discharge with the New York State Department of Health
- Privacy in communications

Residents' Rights (Cont)

- choose your own schedule, activities, and other preferences that are important to you
- receive visitors of your choosing at the time of your choosing
- an easy-to-use and responsive complaint procedure
- be free from abuse including verbal, sexual, mental, and physical abuse
- be free from financial abuse
- be free from restraints
- exercise all of your rights without fear of reprisals

Dignity and Respect

What does
dignity mean
to you?

What does
respect mean
to you?

Entering



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Dining



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Quality of Care and Treatment without Discrimination

- Equal access to quality care
- Be told in advance about care and treatment, including all risks and benefits
- Receive adequate and appropriate care
- Be informed of all changes in medical condition
- Refuse medication and treatment
- Refuse chemical and physical restraints

Self-Determination

- Be informed of your rights and all rules and regulations regarding resident conduct and responsibilities during your stay in the facility
- Be offered choices and allowed to make decisions that are important to you
- Make personal decisions, such as what to wear, when to sleep, or how to spend free time
- Receive services with reasonable accommodations for individual needs and preferences
- Participate in the planning of your care and services
- Self-administer medications if clinically appropriate
- Accept or refuse care and treatment

Self-Determination

- Manage your own personal finances, or to be kept informed of your finances if you choose to let the facility or someone else manage them for you
- Refuse to perform work or services for the facility
- Choose your attending physician
- Share a room with your spouse if both spouses consent to the arrangement
- Be provided a statement that should you be unable to make your own decisions and be adjudicated incompetent and not be restored to legal capacity, or if a conservator should be appointed for you, these rights and responsibilities shall be exercised by the appointed committee or conservator in a representative capacity
- Be provided a statement at or prior to the time of admission to the facility informing you of your right to make organ, tissue, or whole-body donations, and the means by which you may make such a donation

Freedom of Choice

- Facility schedule events
 - Showering
 - Dining
 - Medication administration
 - Activities

- Consider three examples of when or how the residents have freedom of choice
 - Is there an opportunity to improve?

Transfer or Discharge

- You cannot be sent to another nursing home or made to leave the nursing home unless the transfer or discharge meets the following:
 - Is necessary for your welfare and your needs cannot be met in the facility
 - Is appropriate because your health has improved sufficiently so you no longer need the services provided by the facility
 - The safety of individuals in the facility is endangered due to your clinical or behavioral status
 - The health of individuals in the facility would otherwise be endangered
 - You have failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or Medicaid) a stay at the facility; *nonpayment rules are clarified.*
 - The facility ceases to operate
 - Receive 30-day written notice of the facility's plan and reason to discharge or transfer you, except in emergencies
 - Appeal a transfer or discharge with the New York State Department of Health

Grievance

F585

- "...may **voice grievances without discrimination or reprisal** for voicing the grievances, and **have a right of action** for damages or other relief for deprivations or infringements of his or her **right to adequate and proper treatment and care** established by any applicable statute, rule, regulation or contract; (ii) **recommend changes in policies and services** to facility staff and/or to any outside representatives, free of interference, coercion, discrimination, restraint or reprisal from the facility and to **obtain prompt efforts by the facility to resolve grievances** the resident may have, including those with respect to the behavior of other residents;"

[SOM - Appendix PP \(cms.gov\)](https://www.cms.gov)



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Facility Grievance Process

- The facility must:
 - Establish a grievance policy
 - Upon request, provide copy of policy to resident
 - Make information on how to file a grievance or complaint available to the resident, including a method to file anonymously
 - Make prompt efforts to resolve grievances
 - Appoint a grievance official
 - Include contact information of independent entities to file grievances with
 - Maintain evidence of result of all grievances for no less than three years from date grievance decision was issued

When a Grievance Turns Into an Allegation

- Carefully review grievances
- If after investigation there is an allegation of abuse
 - Start your abuse procedure, remembering the reporting requirements

Grievance at Resident Council

- The facility must consider the views of a resident or family group and act promptly upon the grievances and recommendations of such groups concerning issues of resident care and life in the facility
 - The facility must be able to demonstrate their response and rationale for such response
 - This should not be construed to mean that the facility must implement as recommended every request of the resident or family group

Resident Rights - Deficiency Tags

Regulatory Group: Resident Rights

- Deficiency Tags:
- F0151 - Right To Exercise Rights - Free Of Reprisal
 - F0152 - Rights Exercised By Representative
 - F0153 - Right To Access/Purchase Copies Of Records
 - F0154 - Informed Of Health Status, Care, & Treatments
 - F0155 - Right To Refuse; Formulate Advance Directives
 - F0156 - Notice Of Rights, Rules, Services, Charges
 - F0157 - Notify Of Changes (Injury/Decline/Room, Etc)
 - F0158 - Right To Manage Own Financial Affairs
 - F0159 - Facility Management Of Personal Funds
 - F0160 - Conveyance Of Personal Funds Upon Death
 - F0161 - Surety Bond - Security Of Personal Funds
 - F0162 - Limitation On Charges To Personal Funds
 - F0163 - Right To Choose A Personal Physician
 - F0164 - Personal Privacy/Confidentiality Of Records
 - F0165 - Right To Voice Grievances Without Reprisal
 - F0166 - Right To Prompt Efforts To Resolve Grievances
 - F0167 - Right To Survey Results - Readily Accessible
 - F0168 - Right To Info From/Contact Advocate Agencies
 - F0169 - Right To Perform Facility Services Or Refuse
 - F0170 - Right To Privacy - Send/Receive Unopened Mail
 - F0171 - Access To Stationery/Postage/Pens, Etc
 - F0172 - Right To/Facility Provision Of Visitor Access
 - F0173 - Allow Ombudsman To Examine Resident Records
 - F0174 - Right To Telephone Access With Privacy
 - F0175 - Right Of Married Couples To Share A Room
 - F0176 - Resident Self-Administer Drugs If Deemed Safe
 - F0177 - Right To Refuse Certain Transfers
 - F0550 - Resident Rights/Exercise Of Rights
 - F0551 - Rights Exercised By Representative
 - F0552 - Right To Be Informed/Make Treatment Decisions
 - F0553 - Right To Participate In Planning Care
 - F0554 - Resident Self-Admin Meds-Clinically Approp
 - F0555 - Right To Choose/Be Informed Attendg Physician
 - F0557 - Respect, Dignity/Right To Have Prsnl Property
 - F0558 - Reasonable Accommodations Needs/Preferences
 - F0559 - Choose/Be Notified Of Room/Roommate Change
 - F0560 - Right To Refuse Certain Transfers
 - F0561 - Self-Determination
 - F0562 - Immediate Access To Resident
 - F0563 - Right To Receive/Deny Visitors
 - F0564 - Inform Visitation Rghts/Equal Visitation Prvl
 - F0565 - Resident/Family Group And Response
 - F0566 - Right To Perform Facility Services Or Refuse
 - F0567 - Protection/Management Of Personal Funds
 - F0568 - Accounting And Records Of Personal Funds
 - F0569 - Notice And Conveyance Of Personal Funds
 - F0570 - Surety Bond-Security Of Personal Funds
 - F0571 - Limitations On Charges To Personal Funds
 - F0572 - Notice Of Rights And Rules
 - F0573 - Right To Access/Purchase Copies Of Records
 - F0574 - Required Notices And Contact Information
 - F0575 - Required Postings
 - F0576 - Right To Forms Of Communication W/ Privacy
 - F0577 - Right To Survey Results/Advocate Agency Info
 - F0578 - Request/Refuse/Dscntnue Trmnt:Formlte Adv Dir
 - F0579 - Posting/Notice Of Medicare/Medicaid On Admit
 - F0580 - Notify Of Changes (Injury/Decline/Room, Etc.)
 - F0582 - Medicaid/Medicare Coverage/Liability Notice
 - F0583 - Personal Privacy/Confidentiality Of Records
 - F0584 - Safe/Clean/Comfortable/Homelike Environment
 - F0585 - Grievances
 - F0586 - Resident Council With External Entities

Year Type: Fiscal Year Year: 2024 Quarter: Full Year Percent

Deficiency Count Report

Region	Deficiencies by Scope & Severity											
	B	C	D	E	F	G	H	I	J	K	L	Total
<u>New York</u>	7	1	110	38	2	0	2	0	2	1	1	164

Regulatory Group: Resident Rights

- Deficiency Tags:
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Deficiency Tags

F0550	Honor the resident's right to a dignified existence, self-determination, communication, and to exercise his or her rights and in an environment that promoted maintenance or enhancement of quality of life.-- Administration of insulin in hallway, fingerstick in hallway; staff standing while assisting with meals; staff placing on clothing protector without asking permission; did not provide privacy during care (door and/or curtain open during care often, or without covering within view of others often); did not have appropriate footwear for community visits outside the facility and had bed linens that were in poor conditions; restricted from going out on pass without explanation.
F0568	The facility did not ensure individual resident financial records were made available to resident and resident representatives through quarterly statements.
F0580	Failure to immediately tell the resident, the resident's doctor, and a family member of situations (injury/decline/room, etc.) that affect the resident.
F 0561	Support of resident choice. Preferred number of showers per week were not obtained and not provided.
F 0584	Failed to provide residents with a safe, clean, comfortable, and homelike environment.

F0578 - Advance Directives

- Honor the resident's right to request, refuse, and/or discontinue treatment, to participate in or refuse to participate in experimental research, and to formulate an advance directive
 - Not consistent with resident wishes (IV and antibiotics)
 - The facility failed to ensure residents' advance directive (code status) identifiers were consistently documented ¹
 - Staff interviews regarding facility policies posed likelihood of harm ²

Quality Improvement Ideas



REVIEW THE
POLICIES



AUDIT

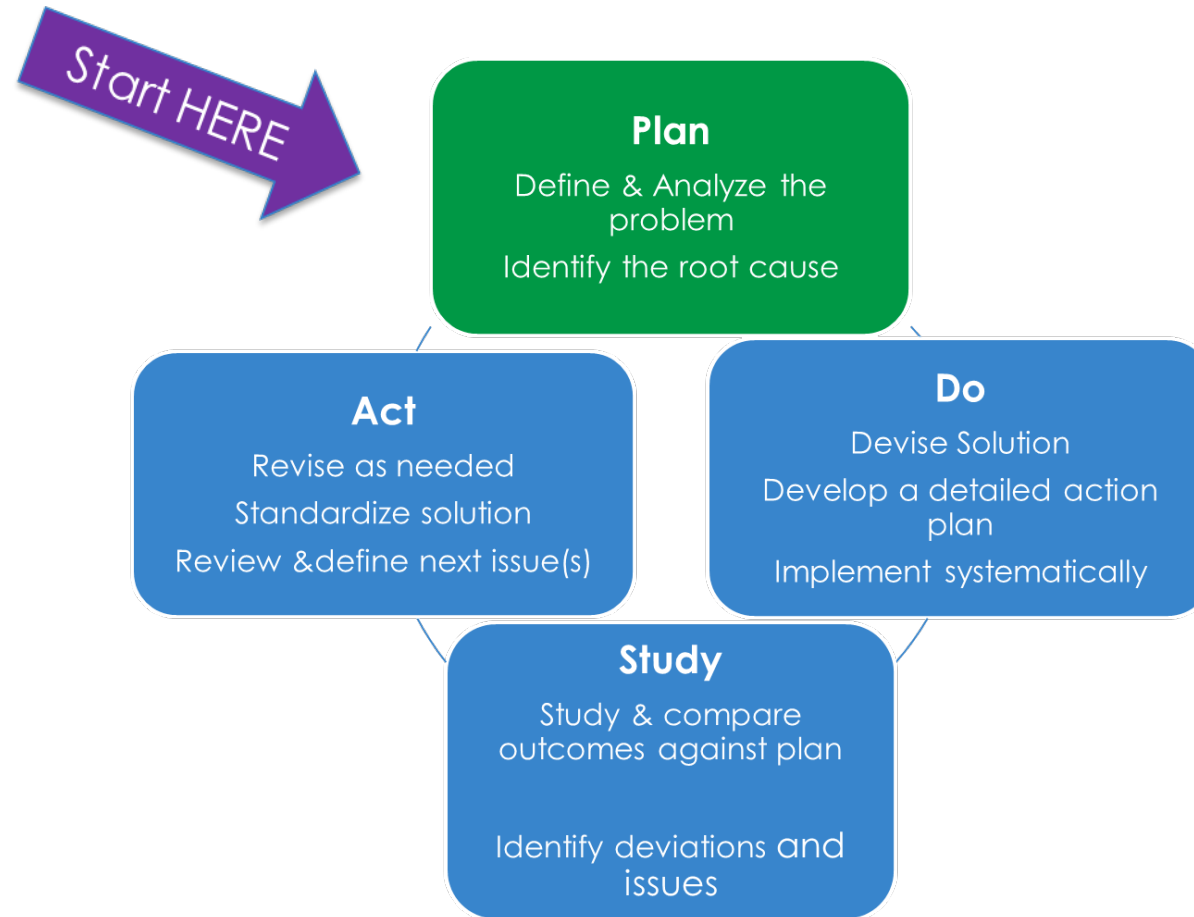


VERIFY



PLAN, DO,
STUDY, ACT

Model for Improvement: Plan, Do, Study, Act



Assess Your Current State

There are many potential factors in healthcare that can have a negative impact on individuals.

Bias manifests differently in different situations, people, and environments and requires a different approaches to address.

Start with looking at your organization's population for staff and the individuals who are cared for.

Eliminating Stigma Toolbox

Implicit bias and stigma are potential factors in perpetuating healthcare disparities and have a negative impact on the patients who experience them. Organizations committed to advancing health equity will make it a priority to acknowledge and mitigate these forms of discrimination. Each manifests differently and requires a different approach to address.

QUICK PRIMER

What is implicit bias?



Implicit bias is the unconscious collection of stereotypes and attitudes that are developed toward certain groups of people or situations that affect understanding, actions, and decision-making.¹ All humans have a natural tendency to make assessments based on characteristics such as race, ethnicity, age, gender, sexual orientation, and disability status. These assessments, which can be favorable and unfavorable, are triggered involuntarily in as little as a tenth of a second.^{2,3} While this process saves cognitive resources, it also allows bias to influence how we register the information without our awareness. This makes implicit bias difficult to control and fix.

Implicit biases often do not reflect our declared core values and beliefs. As a result, our decisions and actions will contradict our stated intentions, no matter how strongly we are committed to them.⁵ What we say about ourselves, to ourselves and to others, is not consistent with what is happening internally. This universal phenomenon can lead to discriminatory behaviors or actions that perpetuate healthcare disparities.

Organizational Assessment

To assess your organization and determine if there are gaps in providing respect, dignity, and equitable care for all your residents.

Organizational assessment and step-by-step guide to address gaps.

Health Equity Organizational Assessment (HEOA)

Executive Audience: How the HEOA can lower your financial risk and help achieve the Triple AIM



Be Deliberate in Improving Your Scores

Achieving Health Equity is about taking a strategic approach to integrating equity across all quality improvement initiatives to ensure that all patient populations receive the same level of care, regardless of demographic characteristics.

When you identify any groups of patients with quality, outcomes, safety or experience scores lower than the rest, concentrate on these groups and take deliberate action to improve their scores.

Disparities occur across many dimensions, so look for differences by race, ethnicity, and language (REaL), as well as factors such as socioeconomic status, housing, access to transportation, food security, income, education level, occupation, and geographic location.

"There can be no progress on health care quality and population health without health equity."⁴

Health systems are increasingly focused on managing the health of populations as new payment structures hold them accountable for partial or full risk for the health of every patient they serve. It is more important than ever to consider the financial risk associated with allowing health disparities to persist. According to a 2018 study, health disparities cost \$93 billion in excess medical costs and \$42 billion in lowered productivity each year in the U.S.¹

Racial/ethnic minorities and individuals with limited English proficiency (LEP) in the U.S. are more likely to suffer an adverse event, have inappropriate and often costly tests, have longer hospital stays, be readmitted to the hospital, and incur ambulatory-sensitive hospitalizations. Racial/ethnic minorities and individuals with lower socioeconomic status are more likely to have multiple chronic health conditions, and thus higher health care costs.² It is projected that people of color will account for over half of the population in our country by 2050, making it imperative to address disparities.³

Leaders should ask themselves...

- "How do I know if we have disparities and how can I prevent disparities that exist in our patient outcomes?"
- "How can I create a culture and system that reduces disparities to improve quality, save lives and reduce cost?"

According to a 2021 poll of U.S. healthcare professionals conducted by the Institute for Healthcare Improvement (IHI), the top barrier to advancing health equity cited by C-Suite leaders is inconsistent collection of equity-related patient data. The HEOA will help you assess your organization's ability to collect, validate and stratify patient demographic data, as well as evaluate the capability of your existing organizational infrastructure to prioritize and take action on disparities to ensure equitable outcomes across all patient populations your organization serves.

HEOA Assessment Categories:

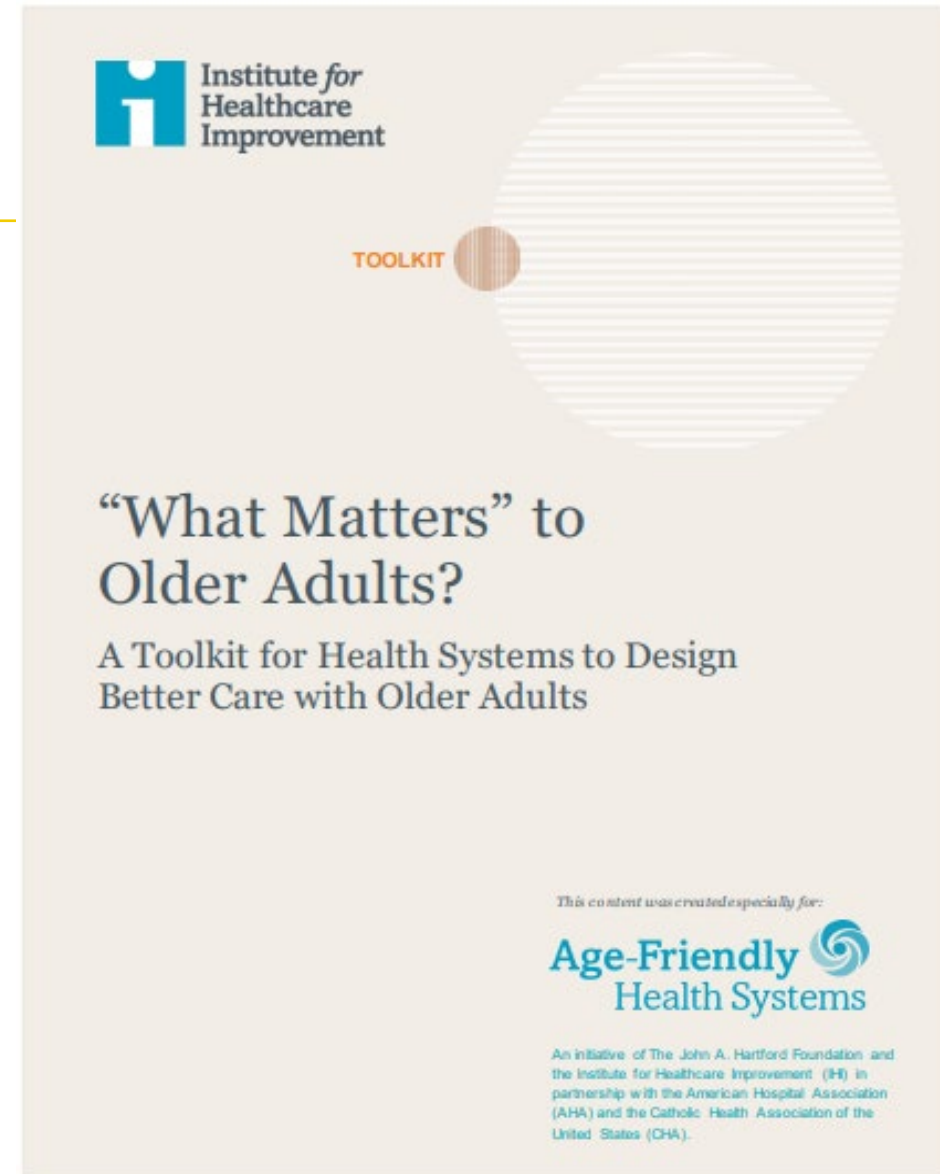
1. Data Collection
2. Training on Data Collection
3. Data Validation
4. Data Stratification
5. Communicate Findings
6. Address and Resolve Gaps in Care
7. Organizational Infrastructure & Culture

1. Turner A. (2018). *The Business Case for Racial Equity: A Strategy for Growth*. W.R. Kellogg Foundation and Altarum. Access at <https://wkkf.issuelab.org/resource/business-case-for-racial-equity.html>.

2. Wyatt R, Laderman M, Botwinick L, Mate K, Whittington J. (2016). *Achieving Health Equity: A Guide for Health Care Organizations*. IHI White Paper. Cambridge, Massachusetts: Institute for Healthcare Improvement. Access at <http://www.ihl.org/resources/Pages/IHIWhitePapers/Achieving-Health-Equity.aspx>.

What Matters?

- What Matters to Older Adults?
- How to incorporate this information into the care plan



[Template for Corporate and Internal Documents \(IT Manual, Board Meeting Materials\) - Accessible \(ihi.org\)](#)



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Process

- How often does your organization interview the individuals who live there to receive feedback?
 - What is the response to the interviews?
 - Does your organization re-interview to determine if the issue was resolved?
- Does your organization wait for grievances or complaints?

Expectations and Experiences

- What is the expectation for each individual?
- Does your organization have a system for measuring how the individual is feeling?
- What experience are we providing?
- What experience do we want to provide?

[The Difference Between Patient Experience and Customer Experience, and Why It Matters - Patient Safety & Quality Healthcare \(psqh.com\)](https://www.psqh.com)



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Using Data



[A Deeper Dive into LEGO Bricks and Data Stories \(effective-datastorytelling.com\)](http://www.effective-datastorytelling.com)



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Community Involvement

- Past relationships
- New relationships



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Name (or anonymous): _____
Date: _____

Travel and Leisure:

Watching videos about new places

Learning about different cultures and places

Arts, Crafts and Creativity

Painting Drawing Cooking Collage

Woodwork Music Scrapbook Win

Lifelong Learning

Photography Weather Science

Computer/Inter Book club Stars/Sp

Guest Speakers: History Military

Voting Assistance

Games

Yahtzee Board Games Contr

Card games Checkers /Chess Brid

Other:

Movie night with follow-up hobby, activi

Farmers market Scenic rides B

Comedy Restaurants T

Plays/Musicals Fishing C

Casino

Facility Events:

Happy hour Group d

Bands/concerts/singers Karaoke

Clubs

Nursing Home Fraternity/Sorority

Culturally specific Club (Italian/Spa)

Other interests not discussed:

PARTICIPATE IN THE Neighborhood Enrichment Team

Your organization is invited to participate in a dynamic program that brings the skills and resources of community leaders to residents of nursing homes.

Join us as we begin a new program, led by the **Neighborhood Enrichment Team**. This team is composed of staff, residents, families, and community members who share a vision of integrating community resources into activities for nursing home patients, with a focus on health equity, cultural diversity, and health literacy.

Our goal is to make healthcare better for everyone. Your participation will help improve the quality of life for nursing home residents and their families and will be a reminder to the community that we are all working and living together.

Contribute your expertise, skills, and experiences to support us in enriching the lives of nursing home residents. Your involvement will make a difference!

Please complete below to indicate your interest in participating.

Your name: _____

Name of designee (if applicable): _____

Organization name: _____

Organization address: _____

Phone number: _____

Email address: _____

How would you like to be involved? (please check as many as apply)

Engage other community leaders in participating as members of the Neighborhood Enrichment Team.

Offer your time to share a skill, your expertise, or a resource.

Participate in meetings as a community member.

Other – Please specify below.

For more information contact the facility

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Case Study

- Resident Sally Smith lives in a long-term care facility. She moved to a new room to be closer to her friends last month. The Room 201 is on the shower list for Tuesdays at 1100 AM. Mrs. Smith's favorite activity of the week is on Tuesday at 1100.
 - Do you have any concerns?
 - Could this be a scenario that you have witness in your experience?
 - We talked about residents' rights today; do you have a concern for rights issue in this case study?

Case Study - Resident Council

- Mrs. Smith is feeling a lot of stress over shower days. Her regular caregiver is wonderful and gives her shower before 10 AM but the caregiver is off every other Tuesday. Mrs. Smith mentions in resident council that she is missing her favorite activity because of the timing of her shower and would really like to have her shower on a different day.
 - What would your next step be?
 - What could have the caregiver done differently?
 - Can this issue be solved?
 - Would you file this as a grievance?
 - Review for a widespread issue

Questions:



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Thank You!

<https://qi.ipro.org/>

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