

emphasize the need for a feeding assistant to call for help immediately, and then, if necessary, begin a procedure like the Heimlich.

Comment: One commenter suggested that, if a facility uses a feeding assistant under an arrangement with another organization, the facility must verify that the feeding assistant has successfully completed the training.

Response: Section 483.35(h)(2) already provides for this. It says that, if a facility uses a paid feeding assistant, the facility must ensure that the individual has completed a State-approved training course. The burden of proof is on the facility to ensure that any feeding assistant it uses is properly trained.

Comment: Commenters suggested a number of additions to the general training requirements. One suggestion was to require that training programs explicitly include feeding problems of the cognitively impaired, since 60–70 percent of nursing home residents are cognitively impaired. Other suggestions included training in dementia, food and drug interactions, diet consistencies, how much and how to feed, resident preferences, difficulty swallowing, and emphasis on performing only feeding tasks for which training has been provided. A consistent concern of commenters was a need for a training emphasis on recognition and prevention of emergency situations associated with feeding, such as dysfunctional swallowing, tracheal aspiration, esophageal obstruction, and other potentially severe emergency situations.

Response: It is important to note that the training course requirements proposed in § 483.160 are minimum requirements. States and facilities are free to add to those requirements. However, many of the training additions suggested by commenters appear to be more useful in the training of nurse aides than feeding assistants, who will feed residents without any significant eating problems.

Comment: Several commenters suggested that we address payment for training in the same way that we do in the regulations for nurse aides. One commenter asked that we prohibit facilities from charging potential feeding assistants for training. Another asked if a facility may require that a trained feeding assistant repay the facility for training if he or she leaves? A commenter asked if a facility can require that a trained feeding assistant work for a set period of time.

Response: Judging from provider comments received, there will be a strong demand for feeding assistants and it is unlikely that facilities will

want to charge for training. Generally, these positions will be part time and will not require extensive training that would be costly for the facility. We think it is unnecessary to amend the regulations to provide for payment provisions similar to those for nurse aides. With regard to a facility entering into a contract with a feeding assistant that would require that individual to work for a certain period of time, there is nothing in our regulations that would prohibit this practice. This is strictly between the facility and the feeding assistant.

Qualifications of Instructors

Comment: Many individual organizations asked that we establish standards or qualifications for instructors of the training program. Commenters suggested numerous licensed or certified health care professionals who could conduct the training, including RNs, registered dietitians, licensed physical therapists, licensed speech therapists, and occupational therapists. Dietitians argued that they have the expertise in food and nutrition issues in long-term care settings, are trained to teach self-help feeding devices, and basic restorative feeding services, citing established manuals and materials that would support this practice. Occupational therapists argued that they are trained to match an analysis of disabilities with effective interventions, resources and adaptations.

Several commenters strongly recommended that we prohibit feeding assistants from teaching each other on-the-job.

Response: It is apparent that a number of options are available in terms of the variety of licensed or certified health care professionals that may be qualified to conduct training for feeding assistants. Some, RNs and LPNs, are employed full time in facilities and would be available without additional cost to conduct the training. Dietitians may be employed by a facility full time, part time, or on a consultant basis. Other health care professionals may be available at additional cost; however we believe that it would be inappropriate to permit a feeding assistant to train another. Consistent with the flexibility for States to develop a State-approved training program, we are deferring to States the decision as to which individuals would be qualified to teach the feeding assistant training.

Maintenance of Records

Comment: Several commenters pointed out that there is no requirement

for states to maintain a formal registry of feeding assistants or to check with other states for background information. One commenter suggested that states report information on feeding assistants to the nurse aide registry and provide this information to facilities for hiring purposes. Others suggested that we require facilities to check with the nurse aide registry before employing individuals as feeding assistants in case the individual had worked as a nurse aide previously.

Response: We have decided to include only nurse aides in the nurse aide registry, largely because the law is so specific about the requirements. Also, we believe it is not necessary to further burden States by requiring them to establish and maintain a separate registry for feeding assistants. As we explain later in the preamble, states are already required by § 488.335 to review and investigate all allegations of abuse, neglect, and misappropriation of resident property. This information can be accessed by any hiring facility. Facilities need to screen feeding assistants, as any other employee, to try to ensure that individuals have no history that would preclude their interaction with frail elderly residents.

Comment: Several commenters reported that there is no provision for feeding assistants trained in one facility, city, or state to carry that training forward so that it does not have to be repeated. There is no requirement for a facility to request a copy of an individual's training record before he or she is hired as a feeding assistant. A commenter suggested that we establish a requirement for states to have reciprocity agreements within each state or between states.

Response: It is not our intent that individuals repeat training when moving to another facility. However, we believe that it is unnecessary to establish extensive regulatory provisions for requesting records or for state reciprocity agreements in this case. As with any other job applicant, a feeding assistant should indicate where he or she was last employed and a hiring facility may contact the former employer to verify employment and training. States are currently required to review allegations of abuse, neglect, or misappropriation of resident property. A hiring facility should be able to contact the state for that information.

Reporting Abuse, Neglect, and Misappropriation of Residents' Property

Comment: Commenters had a number of suggestions concerning proposed § 483.160(c), which requires a facility to report to the state all incidents of a paid