



A Collective Voice on Quality: Voluntary Industry Standards

INTRODUCTION

The United States faces a complex challenge around aging: More people are living longer and requiring more care.¹ At the same time, seniors and their families expect and deserve an experience in aging whose quality goes far beyond what was available to previous generations. Personalized approaches to care; more options and choices; more independence, dignity, and involvement in society—these are just a few of the factors rightly considered basic to quality of life in aging today.

This evolution opens potential opportunities attractive to investors and operators. Functioning at its best, this cycle advances quality of life in aging, serving residents, families, investors, operators, and society. The senior living industry continually innovates in order to meet these consumer demands.

However, these opportunities come with increased risks if the industry falls short. This risk could come in multiple forms, such as negative media or publicity, increased state regulatory scrutiny, continuing increases in litigation and insurance premiums, onerous federal oversight, and declining occupancy. All stakeholders in senior living can be adversely affected.

As the industry continues to grow in both size and visibility, these risks will grow as well. They can jeopardize progress made today and into the future.

The senior living industry finds itself at a crossroads. In one direction lies inaction and its consequences, perhaps the most alarming of which would be heavy regulation at the federal level, and to the other direction lies action: informed, effective, and sustainable action.

Argentum, its members, and its experts have determined the best way to face these risks is through establishing voluntary, consensus-based standards that can address key issues of importance to the senior living industry and those we serve.

Development of voluntary standards provides an opportunity to drive our own destiny, whereas inaction will defer the issue to other less informed or less well-intentioned stakeholders. Our vision for the industry calls for taking prudent, positive steps to address key operational issues that can directly impact the resident experience and quality of life as well as industry reputation, long-term growth, and profitability.

What follows is an examination of the appropriateness, importance, and benefits of establishing voluntary standards as a solution to address risks to our industry and those we serve.

DEFINING AND DEVELOPING THE STANDARDS SOLUTION

There is some debate and discussion as to definitions related to the development of standards, certification, and accreditation. While a deep dive into specifics related to standards will be addressed later, we can establish the parameters here as they relate to the types of standards and the process by which those standards can be developed. We also describe various options for verifying compliance with standards.

STANDARDS

We use the following definition, adapted from the American National Standards Institute (ANSI) for “standard”:

A standard is a documented agreement, established by a consensus of subject matter experts and approved by a recognized body, which provides rules, guidelines, or characteristics to ensure that materials, processes, and services are fit for their purpose.

Based upon the above definition standards can go by alternate terms such as best practices, guidelines, or even principles, as long as a group of subject matter experts have established and documented specific design, process, or performance objectives.

There are a few basic types of standards, including design standards, procedural standards, and performance standards. Design standards prescribe materials and dimensions of products. As the name implies, procedural standards establish specific procedures to be followed, focusing on how something is accomplished. Performance standards prescribe

1. Centers for Disease Control and Prevention. The State of Aging and Health in America 2013. Atlanta, GA: Centers for Disease Control and Prevention, US Dept of Health and Human Services; 2013.

levels of operation or capacities to be achieved, focusing on the goal to be accomplished without regard for how that goal is achieved.

Standards can also be categorized as mandatory or voluntary. Mandatory standards are the type found in regulations, where compliance is required by law. Conversely, compliance with voluntary standards is optional. The vast majority of standards developed by industry associations are of the voluntary type, typically in an effort to avoid regulation.

Lastly, standards can be categorized on the basis for which they are established. Evidence-based standards are established based on evidence that demonstrates their effectiveness. Consensus-based standards are established based on consensus—a broad agreement among stakeholders that the standards are appropriate.

Argentum will develop voluntary, consensus-based performance standards with a focus on the goals that are necessary to meet in order to achieve an appropriate level of quality in caring for senior living residents. Performance standards will help establish common definitions for industry terms, uniform metrics, and management system components that contribute to quality care. This approach provides community operators with flexibility in establishing policies, procedures, and/or systems that meet standards.

As to process, Argentum is establishing a voluntary, consensus-based approach providing the opportunity for all interested stakeholders to participate in the development and adoption of standards for the senior living industry. An alternate path would be through a closed process lacking transparency, engagement, and ultimately credibility. Consensus-based standards provide the industry with the opportunity to speak collectively when it comes to the best way to address the issues facing senior living.

Through this process these standards can be revised periodically, providing an effective means of driving continual improvement as the industry matures, evolves, and innovates.

Certification and accreditation

Separate from voluntarily complying with standards is certification or accreditation, which are often used interchangeably to reference “a procedure by which a third party gives written assurance that a product, process, or service is in conformity with certain standards (ISO 1996).”

As an example, CARF International provides accreditation for firms providing aging, behavioral health, and child and youth services among other programs. The CARF standards, the basis for CARF accreditation, have been developed over the years by teams of providers, policy makers, and consumers. Similarly, the Joint Commission accredits and certifies thousands of health care organizations and programs based upon a set of standards developed with input from health care professionals, subject matter experts, consumers, government agencies, and employers.

While Argentum is beginning the work of developing voluntary consensus-based standards, such standards could be incorporated into existing or future certification and accreditation programs to support independent third-party verification of compliance.

USES AND BENEFITS OF STANDARDS

According to Jerald Jacobs, author of the *Association Law Handbook*, “Standards development activities are among the most common and most beneficial activities carried on by nonprofit organizations and associations.” And working within the context of an association allows our industry to accomplish goals that would be difficult or impossible to achieve individually.

Following are some of the principal reasons Argentum supports development of industry standards.

Standards and self-regulation: Of significant benefit to establishing standards in senior living is avoiding overly burdensome, irrelevant, or potentially damaging regulations. Increased scrutiny is an anticipated effect of the industry’s continued growth, and a serious debate regarding federal oversight is highly likely at some point in the future. The industry will be better positioned to defend itself in support of a strong state regulatory framework if it can also credibly demonstrate a commitment to voluntary, consensus-based standards.

We need only look at the skilled nursing industry for an example of overly burdensome regulation that could be argued has limited consumer choice and stifled innovation and competition. The delays, inflexibility, lack of depth of expertise, and complex processes endemic to federal regulation and bureaucracy work against the well-being of residents and operators alike.

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The benefit here goes beyond simply avoiding regulation to improving the industry. In many cases, federal and state governments and regulatory bodies recognize the value and effectiveness of standards established by an industry. “When properly conducted, standardization can increase productivity and efficiency in industry, conserve resources, and improve health and safety,” reads guidance from the U.S. Office of Management and Budget.²

Standards and industry subject matter experts: It is preferable to have standards developed by industry personnel—people who have the insight and expertise needed to identify key issues and the most effective means for addressing them. This approach is more likely to result in practices that produce an appropriate level of quality while also maintaining affordability for senior living residents.

The alternative is to have regulations or even standards developed by people from outside an industry, who may lack a thorough understanding of an industry’s operations.

Standards as brand protection: A chief advantage of industry-led standards development is the ability to identify and prioritize those areas which would have the broadest beneficial impacts while addressing areas of greatest risk. The standards development process can identify and promulgate industry best practices for mitigating risk while simultaneously protecting the image of the industry, individual company brands, and most importantly residents themselves.

Other industries have identified “brand killers” which can impact all stakeholders within the industry, not just those with unfortunate incidents. One example is the cruise line industry, which became associated in many customer’s minds with norovirus, after some publicized outbreaks in the 2000s. The Cruise Lines International Association (CLIA), an industry trade association, developed voluntary policies including preboard health screenings.³

Standards may continually evolve: Furthermore, as Jerald Jacobs in the *Association Law Handbook* points out, voluntary industry standards are better suited than regulations to evolution - a factor with great importance in a changing industry such as senior living. Revising a standard is a common practice and relatively easily done; attempting to revise a regulation, on the other hand, is a cumbersome, slow, and unpredictable process, which can stifle and delay industry innovation and entrepreneurialism.

Standards are ubiquitous in senior living: Senior living already operates with many standards embedded in everyday life and activities for directors, workers, and residents. For instance, food safety standards developed by the Conference for Food Protection have been in use in senior living as well as the broader foodservice industry for many years. Also, heating, ventilation, and air conditioning standards help protect against Legionnaires’ disease.

In fact, aging services and senior care are already being incorporated into standards development processes internationally: ANSI, which serves as the U.S. member body to the International Standards Organization (ISO), is currently seeking participants for the ISO Technical Committee on Ageing Societies. The ISO committee’s objective is to enable seniors to remain independent with a sense of value and contribution to their communities. Initially, the work of the committee will focus on dementia-friendly communities, the aging workforce, health promotion and preventative care in older age, integrated support services, universal design, technology, and accessibility to ensure collaboration with existing and future standards development work.

2. Office of Management and Budget, Office of Federal Procurement Policy, OMB Circular No. A-119, issued at 45 *Federal Register* 4326 (January 21, 1980); revised, with minimal procedural requirements withdrawn, at 47 *Federal Register* 49496 (November 1, 1982).

3. <https://cruising.org/about-the-industry/policy-priorities/public-health-and-medical>

Standards through third-party vendors: As standards become adopted, they can affect related industries and third-party vendors, ultimately becoming embedded in products, services, and solutions utilized by operators from third-party vendors, such as training, technology, employee screening, etc.

Standards developed by the Plumbing-Heating-Cooling Contractors Association (PHCC), for instance, were incorporated into software that helped contractors schedule projects and improve bid accuracy, ultimately benefiting the industry and customers.

Standards as a “safe harbor”: With incidences of litigation and liability costs already on the rise in senior living, standards, for communities that meet them, can serve as a “safe harbor” or defensive legal strategy in cases of litigation.

Insurance coverage changes: Standards may also function as a means to reduce rate increases on liability coverage. Insurers typically take into account an applicant’s risk-mitigation activities, such as standards compliance and accreditation, when evaluating insurance applications and setting rates. For example, health care organizations that have been accredited by the Joint Commission may have better access to and reduced costs for liability insurance coverage.

Standards and accreditation: Standards can form the basis of, or even complement, existing accreditation programs. One such program is the Utilization Review Accreditation Commission (URAC), an independent organization whose accreditation programs include review of health care management and health insurance plans. Their health plan accreditation standards are approved by the U.S. Department of Health & Human Services and valid in all 50 states and the District of Columbia.

Standards and deemed status: A potential use of standards—and one of potentially great benefit to our industry—is in their use to pursue “deemed status” among state regulatory agencies. Such status can reduce the number of required on-site surveys and allows agencies to better focus limited resources where most needed.

Currently several states allow for deemed status for senior living communities including Arizona, Georgia, Iowa, Maryland, Nebraska, and Texas. Other states, such as New Jersey and New York, have considered it in the past, and

Idaho and North Carolina are actively considering it now. In addition, New Jersey has an “Advance Standing” program, while Wisconsin has the “Diamond” program, both of which allow for an abbreviated survey process for providers who meet higher standards. Existing accrediting bodies such as CARF can serve as the basis for achieving such status, with voluntary standards serving as a catalyst to encourage operators to pursue accreditation.

Standards and individual community autonomy: The intent of standards development is not to create uniformity. We all know our states, regions, and ways of doing business have great and necessary diversity that must be maintained. Instead, standards would inoculate us against trouble in the few key areas that impact all operators, those issues most likely to have a problematic impact. A prescriptive, inflexible approach would be a detriment to individual communities, regions, and the industry, particularly at a time when many see the industry as becoming more niche-focused and differentiated. Publicly available, voluntary, and performance-driven standards offer opportunities to create and innovate, not a requirement to conform.

Standards do not drive federal regulation. Federal regulation is most likely to be motivated through other means, such as demonstrated failure of state regulation or adverse press reports. In fact, standards can deter federal regulation efforts.

In addition, it is rare that voluntary standards are adopted by the federal government; more often, they function to make federal regulation unnecessary. However, if the federal government were to seek to regulate the industry, it would be far preferable to have those regulations based on voluntary industry standards that reflect a broad consensus and were already largely implemented across the industry.

Standards engagement and collaboration: Finally, today’s senior living industry is somewhat fragmented, with stakeholders often pulling in different directions. Argentum’s standards development initiative provides an opportunity for stakeholders at all levels—operators, investors, insurers, regulators, associations, related fields, and consumer advocates—to participate in and contribute to the development and maintenance of these standards over time, establishing stronger relationships with common goals.

Developing broader consensus around industry issues is viewed as a longer-term benefit of an open standards development process. Food companies came together to solve problems of waste in 2017, developing a voluntary initiative to streamline the standard date language on food labels to “best if used by.” The Grocery Manufacturers Association and the Food Marketing Institute did the consumer research and testing, achieving more than 80 percent usage.

In another example, the Cruise Lines International Association (CLIA) partnered with the American College of Emergency Physicians to develop and implement guidelines for cruise ship medical facilities related to house calls, examination rooms, equipment for processing labs, health monitoring, and medication administration among others.

CHARACTERISTICS AND BENEFITS OF THE ANSI PROCESS FOR STANDARDS DEVELOPMENT

To fully realize the above and other benefits of a standards program, industries are best served by choosing an accredited standards development process, one that will carry credibility with legislators, regulators, and courts as well as be valid in the industry and among other industries.

To this end, Argentum has pursued status as an Accredited Standards Developer with ANSI. Representing over 200 accredited standards developing organizations that in turn publish over 11,000 standards, ANSI is recognized as one of the world’s leading standards organizations.

Founded in the early 20th century, ANSI initially focused on standards for engineering and manufacturing. As the U.S. service sector has continued to grow, many standards developers have leveraged the ANSI framework to develop standards in such industries as finance, education, foodservice, tourism, healthcare, and retail. Accredited standards developers include the American Dental Association, Behavior Health Center for Excellence, Building Owners & Managers Association, Commission on Accreditation of Ambulance Services, Emergency Management Accreditation Program, RIMS – the risk management society, and the Society for Human Resources Executives, to name a few.

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ANSI’s recommended standards processes have the following characteristics⁴:

- » Participation is open to all interested stakeholders.
- » A balance of interests is sought.
- » Consensus must be reached by representatives from materially affected and interested parties in an environment that is free from dominance by any party.
- » Standards are required to undergo public reviews, during which any member of the public may comment.
- » Comments from the consensus body and public review period must be responded to in writing.
- » All unresolved objections, attempts at resolution, and substantive changes to text are provided to an independent standards commission for review prior to final vote.
- » There is an appeals process through the standards developer to address procedural concerns.

There are benefits of the open process described above:

- » Broader participation in standards development activities typically results in broader recognition, usage, and acceptance for the standards themselves.
- » Regulators may defer to standards developers and rely on the standards process, as opposed to establishing regulations.
- » The standards typically carry more weight with the courts.

4. American National Standards Institute: American National Standards—Value of the ANS designation. Brochure, undated, retrieved August, 2019, from https://www.ansi.org/news_publications/other_documents/other_doc?menuid=7#Documents

One important benefit of using this type of consensus-based process is that it has standing with regulators. The National Technology Transfer and Advancement Act of 1995⁵, as amended in 2001, allows federal agencies to use consensus-based industry standards in lieu of duplicate federal regulation. This Act encourages federal agencies to forgo separate regulation when there are suitable standards that are developed or adopted by voluntary consensus standards bodies.

CONCLUSION: THE TIME AND THE WAY TO ACT

The timing of this standards effort is deliberate. The industry is continuing to grow, while resident acuity continues to increase. The public and legislators are becoming more aware of the senior living industry, which faces increasing scrutiny.

The necessity for action increases with our effect on the nation. Our industry has nearly a quarter of a trillion dollars in total economic impact. We are responsible for providing over 1.6 million jobs. We have a direct and significant impact on major national industries, including construction, hospitals, employment services, restaurants, and real estate.⁶ Not only residents, but workers, communities, and the nation depend on us.

Our association and its members have grown as well—developing the capacity, the depth of expertise, and the partnerships that make this standards program possible.

As an industry matures, it is typical to confront greater scale of risk—and industry associations typically provide a valuable service in creating consensus on how to handle this. Gathering our voices to address these risks in the most effective ways is a responsibility owed to our industry, our operators and investors, and most of all, residents and families.

Through analysis of the benefits and risks cited in this paper and in other research and meetings, Argentum and many other stakeholders in senior living have concluded that developing voluntary industry standards is the right move at the right time for our industry.

While this effort can serve as a protective action to reduce risk, it is not solely a defensive action. The greater result of developing accredited standards is an advancement in quality. For providers, standards improve efficiency and enhance performance. For residents and other consumers, standards provide better quality and can help in evaluating options.

This effort is an outgrowth of Argentum's quality initiative, Senior Living IQ (seniorlivingiq.org), with standards serving as the foundation for moving forward. The necessary governance structure, systems, and human capital have been put in place over the past year and as a result, standards development activities are progressing with enthusiasm.

Ultimately, Argentum is doing what it can, and should, to best serve residents and their family members, while simultaneously positioning the industry for continued growth and profitability.

5. The National Institute of Standards and Technology (NIST): <https://www.nist.gov/standardsgov/national-technology-transfer-and-advancement-act-1995>

6. seniorlivingimpact.org