



**Nursing Home Conditions in Los Angeles County:  
Many Homes Fail to Meet Federal Standards for Adequate Care**

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**Prepared for Rep. Henry A. Waxman**

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Special Investigations Division  
Committee on Government Reform  
U.S. House of Representatives**

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## Table of Contents

Executive Summary .....	1
A.    Methodology .....	1
B.    Findings .....	2
I.    Growing Concerns about Nursing Home Conditions .....	3
II.   Methodology .....	6
A.    Determination of Compliance Status .....	6
B.    Determination of Staffing Levels .....	7
C.    Interpretation of Results .....	8
III.  Nursing Home Conditions in Los Angeles County .....	9
A.    Prevalence of Violations .....	9
B.    Prevalence of Violations Causing Actual Harm to Residents .....	9
C.    Potential for Underreporting of Violations .....	10
IV.   Nursing Home Staffing in Los Angeles County .....	10
A.    Minimum Staffing Levels .....	10
B.    Most Nursing Homes Failed to Meet the HHS Staffing Levels .....	12
C.    Many Nursing Homes Failed to Meet the California Staffing Requirement .....	13
D.    Inadequate Staffing is Linked to Inadequate Care .....	13
V.    Conclusion .....	14

## **EXECUTIVE SUMMARY**

Many families are becoming increasingly concerned about the conditions in nursing homes. Federal law requires that nursing homes “provide services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.” But recent studies by the U.S. General Accounting Office and others have indicated that many nursing homes fail to meet federal health standards.

To address these growing concerns, Rep. Henry A. Waxman asked the Special Investigations Division of the minority staff of the Committee on Government Reform to investigate nursing home conditions in Los Angeles County. There are 419 nursing homes in Los Angeles County that accept residents covered by Medicaid or Medicare. These homes serve over 34,000 residents. This congressional report is a follow-up to a report on nursing home conditions that Rep. Waxman released in November 1999. The earlier report found that almost all nursing homes in Los Angeles County failed to meet federal health standards.

This report finds that there continue to be serious deficiencies in many of the nursing homes in Los Angeles County. A total of 382 of the 419 nursing homes (91%) in the county violated federal standards during recent state inspections. Moreover, 14 of the nursing homes had violations that caused actual harm to residents or worse.

### **A. Methodology**

Under federal law, the U.S. Department of Health and Human Services contracts with the states to conduct annual inspections of nursing homes and to investigate nursing home complaints. These inspections assess whether nursing homes are meeting federal standards of care, such as preventing residents from developing pressure sores (commonly known as bed sores), providing sanitary living conditions, and protecting residents from accidents.

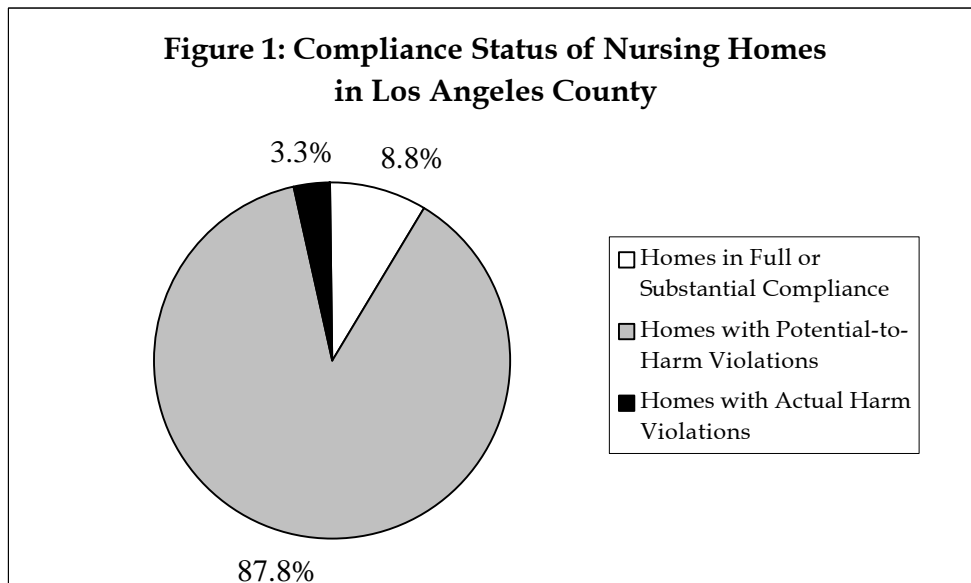
This report is based on an analysis of these state inspections. It examines the most recent annual inspections of nursing homes in Los Angeles County, which were conducted between April 2001 and October 2002. In addition, the report examines the results of any complaint investigations conducted during this time period.

Because this report is based on recent state inspections, the results are representative of current nursing home conditions in the region as a whole. However, conditions in individual homes can change. New management or enforcement activities can bring rapid improvement; other changes can lead to sudden deterioration. For this reason, the report should be considered a representative “snapshot” of overall conditions in nursing homes in Los Angeles County, not an analysis of current conditions in any specific home. At any individual nursing home, conditions could be better – or worse – today than when the most recent inspection was conducted.

**B. Findings**

**The vast majority of nursing homes in Los Angeles violated federal standards governing quality of care.** State inspectors consider a nursing home to be in full compliance with federal health standards if no violations are detected during the annual inspection or a complaint investigation. They consider a nursing home to be in “substantial compliance” with federal standards if the violations at the facility do not have the potential to cause more than minimal harm. Of the 419 nursing homes in Los Angeles County, only 17 facilities were found to be in full compliance with the federal standards; another 20 facilities were in substantial compliance. The other 91% of nursing homes – 382 facilities – were cited for violations that had the potential to cause more than minimal harm to residents or worse. On average, each of these 382 noncompliant nursing homes had almost 11 violations of federal quality of care requirements.

**Some nursing homes in Los Angeles County had violations that caused actual harm to residents.** Fourteen facilities in Los Angeles County had a violation that caused actual harm to nursing home residents or placed residents at risk of death or serious injury (see Figure 1). These 14 nursing homes with actual harm violations or worse serve 1,185 residents and are estimated to receive over \$16 million each year in federal and state funds.



**Most nursing homes in Los Angeles County did not provide adequate staffing.** During recent annual inspections, most nursing homes in Los Angeles County – 320 of 419 facilities (76%) – did not meet the minimum staffing levels identified by HHS in a recent report to Congress. Moreover, 20% of the nursing homes did not meet even the more lenient nurse staffing standards required under California law. Nursing homes that met the HHS minimum staffing levels were over twice as likely to be in full or substantial compliance with federal health standards when compared with nursing homes that did not meet the HHS minimum.

## I. GROWING CONCERNS ABOUT NURSING HOME CONDITIONS

Increasingly, Americans are facing difficult decisions about nursing homes. The decision to move a loved one into a nursing home raises very real questions about how the resident will be treated at the nursing home. Will the resident receive proper food and medical treatment? Will the resident be assisted by staff with basic daily activities, such as bathing and dressing? Will the resident be able to live out his or her life with dignity and compassion? These are all legitimate concerns – and they are becoming more common as America ages.

In 1966, there were 19 million Americans 65 years of age and older.<sup>1</sup> That figure has now risen to 35 million Americans, 12.4% of the population.<sup>2</sup> By 2030, the number of Americans aged 65 and older is expected to increase to 70.3 million, 20% of the population.<sup>3</sup>

This aging population will increase demands for long-term care. In 2000, there were 1.5 million people living in more than 17,000 nursing homes in the United States.<sup>4</sup> The Department of Health and Human Services (HHS) has estimated that 43% of all 65 year olds will use a nursing home at some point during their lives. Of those who do need the services of a nursing home, more than half will require stays of over one year, and over 20% will be in a nursing home for more than five years.<sup>5</sup> By 2050, the total number of nursing home residents is expected to quadruple from the current 1.5 million to 6.6 million.<sup>6</sup>

Most nursing homes are run by private, for-profit companies. Of the 17,023 nursing homes in the United States in 2000, over 11,000 (65%) were operated by for-profit companies.<sup>7</sup> During the 1990s, the nursing home industry witnessed a trend toward consolidation as large

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<sup>1</sup>Centers for Medicare & Medicaid Services (CMS), *Medicare Enrollment: National Trends, 1966 - 2001* (available at [http://cms.hhs.gov/statistics/enrollment/natlrends/hi\\_smi.asp](http://cms.hhs.gov/statistics/enrollment/natlrends/hi_smi.asp)).

<sup>2</sup>U.S. Census Bureau, *Profiles of General Demographic Characteristics: 2000 Census of Population and Housing, United States* (May 2001).

<sup>3</sup>U.S. Census Bureau, *Projections of the Total Resident Population by 5-Year Age Groups, and Sex with Special Age Categories: Middle Series, 2025 to 2045* (December 1999).

<sup>4</sup>American Health Care Association, *Facts and Trends: The Nursing Facility Sourcebook*, vii (2001).

<sup>5</sup>Health Care Financing Administration, Report to Congress, *Study of Private Accreditation (Deeming) of Nursing Homes, Regulatory Incentives and Non-Regulatory Initiatives, and Effectiveness of the Survey and Certification System*, §1.1 (July 21, 1998).

<sup>6</sup>*Facts and Trends*, *supra* note 4, at vii.

<sup>7</sup>*Id.* at viii.

national chains bought up smaller chains and independent homes. As of December 2001, the six largest nursing home chains in the United States operated 2,040 facilities with over 243,000 beds.<sup>8</sup>

Through the Medicaid and Medicare programs, the federal government is the largest payer of nursing home care. Under the Medicaid program, a federal-state health care program for the needy, all nursing home and related expenses are covered for qualified individuals. Under the Medicare program, a federal program for the elderly and certain disabled persons, skilled nursing services are partially covered for up to 100 days. In 2003, it is projected that federal, state, and local governments will spend \$67.9 billion on nursing home care, of which \$53.8 billion will come from Medicaid payments (\$34.3 billion from the federal government and \$19.5 billion from state governments) and \$11.5 billion from federal Medicare payments. Private expenditures for nursing home care are estimated to be \$39.2 billion (\$26.9 billion from residents and their families, \$8 billion from private insurance policies, and \$4.3 billion from other private funds).<sup>9</sup> The overwhelming majority of nursing homes in the United States receive funding through either the Medicaid program or the Medicare program, or both.

Under federal law, nursing homes that receive Medicaid or Medicare funds must meet federal standards of care. Prior to 1987, these standards were relatively weak: they focused on a facility's ability to provide adequate care, rather than on the level of care actually provided. In 1986, a landmark report by the Institute of Medicine found widespread abuses in nursing homes.<sup>10</sup> This report, coupled with national concern over substandard conditions, led Congress to pass comprehensive legislation in 1987 establishing new standards for nursing homes. This law requires nursing homes to "provide services and activities to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident."<sup>11</sup>

Implementing regulations were promulgated by HHS in 1990 and 1995. The 1987 law

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<sup>8</sup>Aventis Pharmaceuticals, *Managed Care Digest Series 2002* (available at <http://www.managedcaredigest.com/edigests/inst2002/inst2002.shtml>).

<sup>9</sup>All cost projections come from: CMS, *Nursing Home Care Expenditures Aggregate and per Capita Amounts, Percent Distribution and Average Annual Percent Change by Source of Funds: Selected Calendar Years 1980 - 2011* (available at <http://cms.hhs.gov/statistics/nhe/projections-2001/t14.asp>).

<sup>10</sup>Committee on Nursing Home Regulation, Institute of Medicine, *Improving the Quality of Care in Nursing Homes* (1986). The IOM report concluded: "[I]ndividuals who are admitted receive very inadequate – sometimes shockingly deficient – care that is likely to hasten the deterioration of their physical, mental, and emotional health. They are also likely to have their rights ignored or violated, and may even be subject to physical abuse." *Id.* at 2-3.

<sup>11</sup>42 U.S.C. §1396r(b)(2).

and the implementing regulations limit the use of physical and chemical restraints on nursing home residents. They require nursing homes to prevent pressure sores, which are painful wounds or bruises, caused by pressure or friction, that can become infected. They also establish other health standards for nursing homes, such as requiring that residents are properly cleaned and bathed, receive appropriate medical care, and are supervised to prevent falls and accidents. The regulatory requirements are codified at 42 C.F.R. Part 483.

Recently, investigators have begun to examine whether nursing homes are meeting the requirements of the 1987 law and its implementing regulations. The results have not been encouraging. Certain abusive practices documented by the Institute of Medicine in 1986, such as the improper use of physical restraints and antipsychotic drugs, have been reduced.<sup>12</sup> But health violations appear to be widespread. In a series of 1999 reports, the U.S. General Accounting Office (GAO), an investigative arm of Congress, found that “more than one-fourth of the homes had deficiencies that caused actual harm to residents or placed them at risk of death or serious injury”;<sup>13</sup> that these incidents of actual harm “represented serious care issues . . . such as pressure sores, broken bones, severe weight loss, and death”;<sup>14</sup> and that “[s]erious complaints alleging that nursing home residents are being harmed can remain uninvestigated for weeks or months.”<sup>15</sup>

Other researchers have reached similar conclusions. In July 1998, Professor Charlene Harrington of the University of California-San Francisco, a leading nursing home expert, found that the current level of nursing home staffing is “completely inadequate to provide care and supervision.”<sup>16</sup> In March 1999, the inspector general of HHS found an increasing number of serious deficiencies relating to the quality of resident care.<sup>17</sup> And in March 2002, HHS released a

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<sup>12</sup>The percent of residents in physical restraints dropped from 38% in 1987 to 15% in 1998; the percent of residents being administered anti-psychotic drugs dropped from 33% to 16% during the same time period. Testimony of Michael Hash, Deputy Administrator of HCFA, before the Senate Special Committee on Aging (July 28, 1998).

<sup>13</sup>GAO, *Nursing Homes: Additional Steps Needed to Strengthen Enforcement of Federal Quality Standards*, 3 (March 1999).

<sup>14</sup>GAO, *Nursing Homes: Proposal to Enhance Oversight of Poorly Performing Homes Has Merit*, 2 (June 1999).

<sup>15</sup>GAO, *Nursing Homes: Complaint Investigation Processes Often Inadequate to Protect Residents*, 2 (March 1999).

<sup>16</sup>Testimony of Charlene Harrington before the Senate Special Committee on Aging (July 28, 1998).

<sup>17</sup>HHS Office of Inspector General, *Nursing Home Survey and Certification: Deficiency Trends* (March 1999).

study that found that over 90% of nursing homes have staffing levels that are too low to provide adequate care.<sup>18</sup>

In light of the growing concern about nursing home conditions, Rep. Henry A. Waxman asked the Special Investigations Division of the minority staff of the Government Reform Committee to investigate the prevalence of health violations in nursing homes in Los Angeles County. Rep. Waxman represents the 30<sup>th</sup> Congressional District of California, which includes a portion of Los Angeles County. This report is a follow-up to a report on nursing home conditions that Rep. Waxman released in November 1999.

## **II. METHODOLOGY**

To assess the compliance records and staffing levels in Los Angeles County nursing homes, this report analyzed three sets of data: (1) the Online Survey, Certification, and Reporting (OSCAR) database maintained by HHS, which compiles the results of nursing home inspections; and (2) the nursing home complaint database maintained by HHS, which contains the results of state complaint investigations.

### **A. Determination of Compliance Status**

Data on the compliance status of nursing homes in Los Angeles County comes from the OSCAR database and the complaint database. These databases are compiled by the Centers for Medicare and Medicaid Services (CMS), a division of HHS.<sup>19</sup> CMS contracts with states to conduct annual inspections of nursing homes and to respond to nursing home complaints. During these inspections and investigations, the inspection team interviews a sample of residents, staff members, and family members. The inspection team also reviews a sample of clinical records. Violations of federal standards observed by the inspectors are cited by the inspection team, reported by the states to CMS, and compiled in the OSCAR and complaint databases.<sup>20</sup>

The OSCAR and complaint databases use a ranking system in order to identify the

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<sup>18</sup>HHS Report to Congress, *Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes Phase II Final Report*, 1-6 (Winter 2001).

<sup>19</sup>Prior to 2001, CMS was known as the Health Care Financing Administration (HCFA).

<sup>20</sup>In addition to tracking the violations at each home, the OSCAR database compiles the following information about each home: the number of residents and beds; the type of ownership (*e.g.*, for-profit or nonprofit); whether the home accepts residents on Medicare and/or Medicaid; and the characteristics of the resident population (*e.g.*, number of incontinent residents, number of residents in restraints). To provide public access to this information, CMS maintains a website (<http://www.medicare.gov/nhcompare/home.asp>) where the public can obtain data about individual nursing homes.



violations that pose the greatest risk to residents. The rankings are based on the severity (degree of actual harm to residents) and the scope (the number of residents affected) of the violation. As shown in Table 1, each violation is given a letter rank, A to L, with A being the least serious (an isolated violation that poses minimal risks to residents) and L being the most serious (a widespread violation that causes or has the potential to cause death or serious injury). Homes with violations in categories A, B, or C are considered to be in “substantial compliance” with the law. Homes with violations in categories D, E, or F have the potential to cause “more than minimal harm” to residents. Homes with violations in categories G, H, or I are causing “actual harm” to residents. And homes with violations in categories J, K, or L are causing (or have the potential to cause) death or serious injury to residents.

**Table 1: CMS’s Scope and Severity Grid for Nursing Home Violations**

Severity of Deficiency	Scope of Deficiency		
	<i>Isolated</i>	<i>Pattern of Harm</i>	<i>Widespread Harm</i>
Potential for Minimal Harm	A	B	C
Potential for More Than Minimal Harm	D	E	F
Actual Harm	G	H	I
Actual or Potential for Death/Serious Injury	J	K	L

To assess the compliance status of nursing homes in Los Angeles County, this report analyzed the OSCAR database to determine the results of the most recent annual inspections of each nursing home in the region. These inspections were conducted between April 2001 and October 2002. In addition, the report analyzed the complaint database to determine the results of any nursing home complaint investigations that were conducted during this same time period.

**B. Determination of Staffing Levels**

Data on the staffing levels in nursing homes in Los Angeles County also comes from the OSCAR database. During the annual inspections, the nursing homes provide the state inspectors with data on their staffing levels for the two weeks prior to the inspections. This information on staffing levels is then reported by the states to CMS and entered into the OSCAR database.<sup>21</sup>

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<sup>21</sup>According to some experts, this data may overestimate the number of staff involved in resident care. Researchers have suggested that nursing homes may increase their staff during the period around the survey, meaning that reported staffing levels would be higher than the staffing levels found at the nursing homes during most periods of the year. Charlene Harrington, et al., *Nursing Home Staffing and Its Relationship to Deficiencies*, 17 (August 1999). HHS research also suggests that the OSCAR data may overestimate actual staffing levels in some instances. HHS compared the staffing data in the OSCAR database with the staffing data contained in “Medicare Cost Reports,” which are audited cost statements that are prepared by nursing homes in order to receive Medicare payments. Although the HHS analysis found that in the aggregate average staffing levels in the OSCAR database and in the Medicare Cost Reports were similar,

The staffing data used in this report is the data gathered during the most recent annual inspections of nursing homes in Los Angeles County. These inspections were conducted between April 2001 and October 2002. The report compared these staffing levels to the minimum staffing level required under California law and the recommended staffing minimum identified by HHS.<sup>22</sup>

### C. Interpretation of Results

The results presented in this report are representative of current conditions in nursing homes in Los Angeles County. In the case of any individual home, however, current conditions may differ from those documented in the most recent inspection report, especially if the report is more than a few months old. Nursing home conditions can change over time. New management or enforcement activities can rapidly improve conditions; other changes can lead to sudden deterioration. According to GAO, many nursing homes with serious deficiencies exhibit a “yo-yo pattern” of noncompliance and compliance: after a home is cited for deficiencies, it briefly comes into compliance to avoid fines or other sanctions, only to slip into noncompliance after the threat of sanctions is removed.<sup>23</sup>

For this reason, this report should be considered a representative “snapshot” of nursing home conditions in Los Angeles County. It is not intended to be – and should not be interpreted as – an analysis of current conditions in any individual nursing home.

The report also should not be used to compare violation rates in Los Angeles County nursing homes with violation rates in other states. Data regarding violation rates comes from state inspections that can vary considerably from state to state in their thoroughness and ability to detect violations. According to GAO, “[c]onsiderable inter-state variation still exists in the citation of serious deficiencies.”<sup>24</sup>

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the analysis also found that for homes with lower staffing levels, the staffing levels reported in the OSCAR database were higher than the staffing levels reported in the Medicare Cost Reports. This indicates that for homes with lower staffing levels, the OSCAR database could overestimate actual staffing levels. See HHS, *Report to Congress: Appropriateness of Minimum Nursing Staffing Ratios in Nursing Homes*, 8-7-8-8 (Spring 2000).

<sup>22</sup>HHS, *Report to Congress: Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes, Phase II Final Report*, 1-6 (December 2001) (hereinafter “*Phase II Final Report*”).

<sup>23</sup>GAO, *Nursing Homes: Additional Steps Needed*, *supra* note 13, at 12-14.

<sup>24</sup>GAO, *Nursing Homes: Sustained Efforts Are Essential to Realize Potential of the Quality Initiatives*, 16 (September 2000).

### III. NURSING HOME CONDITIONS IN LOS ANGELES COUNTY

There are 419 nursing homes in Los Angeles County that accept residents whose care is paid for by Medicaid or Medicare. These nursing homes have 42,288 beds that were occupied by 34,342 residents during the most recent round of annual inspections. The majority of these residents, 23,743, rely on Medicaid to pay for their nursing home care. Medicare pays the cost of care for 3,228 residents. A total of 340 – or 81% – of the nursing homes in Los Angeles County are private, for-profit nursing homes.

The results of this investigation indicate that the conditions in these nursing homes often fall substantially below federal standards. Many residents are not receiving the care that their families expect and that federal law requires.

#### A. Prevalence of Violations

Only 17 nursing homes in Los Angeles County were found by the state inspectors to be in full compliance with federal health requirements; another 20 facilities were found to be in substantial compliance. The other 382 nursing homes (91%) had at least one violation that had the potential to cause more than minimal harm to their residents. Fourteen of these facilities had violations that caused actual harm to residents or worse, including one nursing home that was cited for violations that had the potential to cause death or serious injury. Table 2 summarizes these results.

**Table 2: Nursing Homes in Los Angeles County Had Numerous Violations that Placed Residents at Risk**

Most Severe Violation Cited by Inspectors	Number of Homes	Percent of Homes	Number of Residents
Complete Compliance (No Violations)	17	4%	1,498
Substantial Compliance (Risk of Minimal Harm)	20	5%	1,088
Potential for More than Minimal Harm	368	88%	30,571
Actual Harm to Residents	13	3%	1,113
Actual or Potential Death/Serious Injury	1	2%	72

A total of 40 nursing homes were cited for 20 or more violations, 16 nursing homes were cited for 25 or more violations, and 6 nursing homes were cited for 30 or more violations. State inspectors found a total of 4,150 violations in the 382 facilities that were not in full or substantial compliance with federal requirements – an average of almost 11 violations per noncompliant home.

#### B. Prevalence of Violations Causing Actual Harm to Residents

According to GAO, some of the greatest safety concerns are posed by nursing homes with violations that cause actual harm to residents or have the potential to cause death or serious

injury. These are homes with violations ranked at the G-level or above. As shown in Table 2, 14 nursing homes in Los Angeles had violations that caused actual harm or worse; one facility was cited for violations that had the potential to cause death or serious injury. These 14 facilities serve 1,185 residents and are estimated to receive over \$16 million in federal and state funds each year.

### **C. Potential for Underreporting of Violations**

The report's analysis of the prevalence of nursing home violations was based in large part on the data reported to CMS in the OSCAR database. According to GAO, even though this database is "generally recognize[d] . . . as reliable," it may "understate the extent of deficiencies."<sup>25</sup> One problem, according to GAO, is that "homes could generally predict when their annual on-site reviews would occur and, if inclined, could take steps to mask problems otherwise observable during normal operations."<sup>26</sup> A second problem is that state inspectors often miss significant violations. A recent GAO report found that when federal inspectors inspect nursing homes after state inspectors, the federal inspectors find more serious care problems than the state inspectors in 70% of the nursing homes. The federal inspectors also find many more violations of federal health standards.<sup>27</sup> Consequently, the prevalence of violations causing potential or actual harm may be higher than what is reported in this study.

## **IV. NURSING HOME STAFFING IN LOS ANGELES COUNTY**

### **A. Minimum Staffing Levels**

Nursing homes cannot provide a high level of care unless they have enough well-trained staff to care for their residents. However, the staffing requirements under the 1987 federal nursing home law are minimal. In general, the law allows each nursing home to decide for itself how many hours of nursing care to provide to residents each day.

The 1987 federal law recognizes three types of nursing staff: registered nurses; licensed nurses; and nursing assistants. Different standards apply for each type of nursing staff:

- Registered nurses, who are often in a supervisory position, are nurses who have gone

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<sup>25</sup>GAO, *Nursing Homes: Additional Steps Needed*, *supra* note 13, at 30.

<sup>26</sup>GAO, *California Nursing Homes: Care Problems Persist Despite Federal and State Oversight*, 4 (July 1998).

<sup>27</sup>*Nursing Homes: Sustained Efforts Are Essential*, *supra* note 24, at 43.

through two to four years of nursing education.<sup>28</sup> Under the 1987 law, all nursing homes must have a registered nurse on duty for at least eight hours per day.<sup>29</sup> This standard applies regardless of the size of the nursing home or the number of residents. The law does not specify a minimum registered nurse-to-resident ratio.

- Licensed professional nurses provide a level of care between the nursing assistant and the registered nurse. Licensed nurses generally undergo a 12 to 18 month period of training in basic bedside nursing in order to provide care under the supervision of a registered nurse.<sup>30</sup> Under the 1987 law, nursing homes must have a licensed nurse on duty 24 hours a day.<sup>31</sup> Again, this standard applies regardless of the size of the nursing home or the number of residents and does not specify a minimum licensed nurse-to-resident ratio.
- Nursing assistants provide the majority of care in most facilities. Federal law requires that nursing assistants receive a minimal amount of special training.<sup>32</sup> The law does not, however, contain any requirements regarding the level of staffing by nursing assistants. Rather, each nursing home is permitted to determine for itself how many hours of nursing assistant care it will provide residents each day.

There is a widespread consensus among nursing home experts that current federal staffing requirements need to be improved. To assess the need for new staffing standards, HHS released the final results of a ten-year study, entitled *Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes*, in April 2002.<sup>33</sup> In order to determine whether minimum nursing home staffing ratios could be identified, researchers analyzed detailed staffing and resident data from over 5,000 nursing homes. The analysis examined the ratio of nursing assistants, licensed nurses, and registered nurses to nursing home residents, and assessed whether staffing ratios affected resident outcomes, such as the risk of hospitalization or the risk of developing pressure sores.

The report found there are minimum staffing levels below which nursing homes are at

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<sup>28</sup>Institute of Medicine, *Nursing Staff in Hospitals and Nursing Homes: Is It Adequate?*, 69, 74-75 (1996) (hereinafter “IOM Report”).

<sup>29</sup>42 U.S.C. § 1396r(b)(4)(c)(i).

<sup>30</sup>IOM Report, *supra* note 28, at 76.

<sup>31</sup>42 U.S.C. § 1396r(b)(4)(c)(i).

<sup>32</sup>The 1987 federal nursing home law requires that nursing assistants receive 75 hours of training and testing for competency within four months of employment. Nursing assistants must also receive 12 hours of additional training annually. IOM Report, *supra* note 28, at 157.

<sup>33</sup>*Phase II Final Report*, *supra* note 22.

substantially greater risk for quality of care problems. The report found that facilities that fell below these standards were significantly more likely to have high numbers of residents with problems such as urinary tract infections, respiratory infections, pressure sores, and unexpected weight loss.

Based on these findings, the HHS report identified minimum staffing levels necessary to provide adequate care for residents. For nursing homes that predominantly housed residents with long-term stays of 90 days or more, the staffing levels identified by HHS would require that each resident receive at least 4.1 hours of individual care per day, including at least 2.8 hours of individual care by nursing assistants and 1.3 hours of individual care by registered or licensed nurses, with at least 0.75 hours of care by registered nurses.<sup>34</sup> According to the HHS report, nursing homes that fail to meet these staffing levels for short- and long-term residents can have “markedly increased quality problems.”<sup>35</sup>

In addition, California has a state law regulating nursing home staffing. The law, which took effect on January 1, 2000, requires that all residents in California nursing homes receive a minimum of 3.2 hours of care each day from a registered nurse, licensed vocational nurse, or certified nurse assistant.<sup>36</sup> This minimum staffing level is supposed to increase to 3.5 hours by 2004.<sup>37</sup>

#### **B. Most Nursing Homes Failed to Meet the HHS Staffing Levels**

The minimum staffing levels identified by HHS recommend that each nursing home resident receive a minimum of 4.1 hours of daily nursing care. In total, 320 of the 419 nursing homes (76%) failed to provide the recommended 4.1 hours of care to residents each day (see Figure 2). These nursing homes provide care for over 29,000 residents.

The HHS recommended staffing levels require a minimum of 2.8 hours of individual care each day by nursing assistants. In Los Angeles County, 343 of the 419 nursing homes (82%) failed to meet the recommended standard for nursing assistants.

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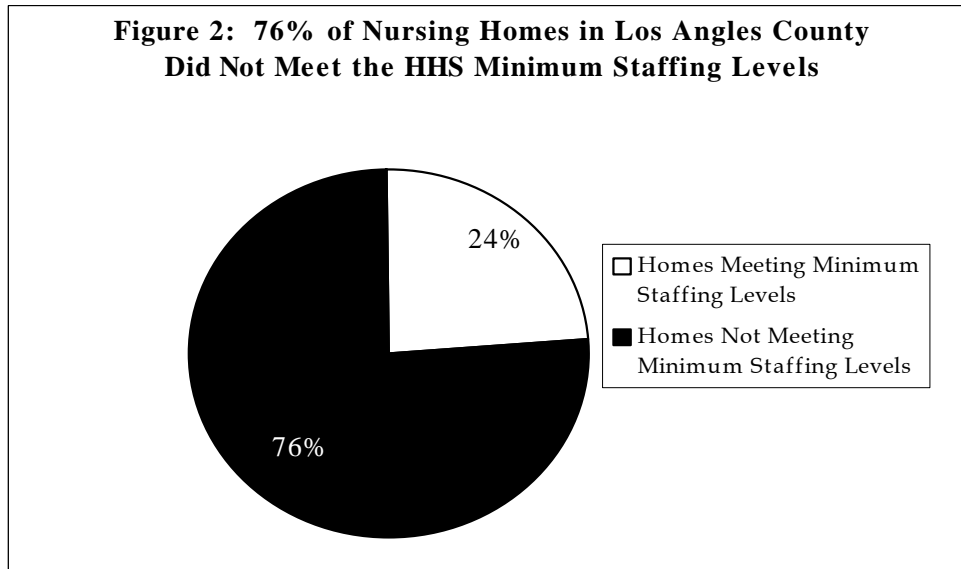
<sup>34</sup>*Id.* at 1-6. The HHS report also identified minimum staffing levels for a nursing home with a mix of residents that are predominantly in the facility for short-term stays. The HHS report found that these nursing homes must have sufficient staff to provide each short-term resident at least 3.55 hours of individual care per day, including at least 1.15 hours of individual care by registered or licensed nurses, and at least 0.55 hours of care by registered nurses, in order to meet the minimum staffing level. *Id.*

<sup>35</sup>*Id.* at 2-22.

<sup>36</sup>Cal. Welf. & Inst. Code §14110.7.

<sup>37</sup>Cal. Health & Safety Code §1276.7(b).

The HHS recommended staffing levels require a minimum of 1.3 hours of individual care each day by registered or licensed nurses. In Los Angeles County, 368 of the 419 nursing homes (88%) failed to meet the recommended standard for registered or licensed nurses.



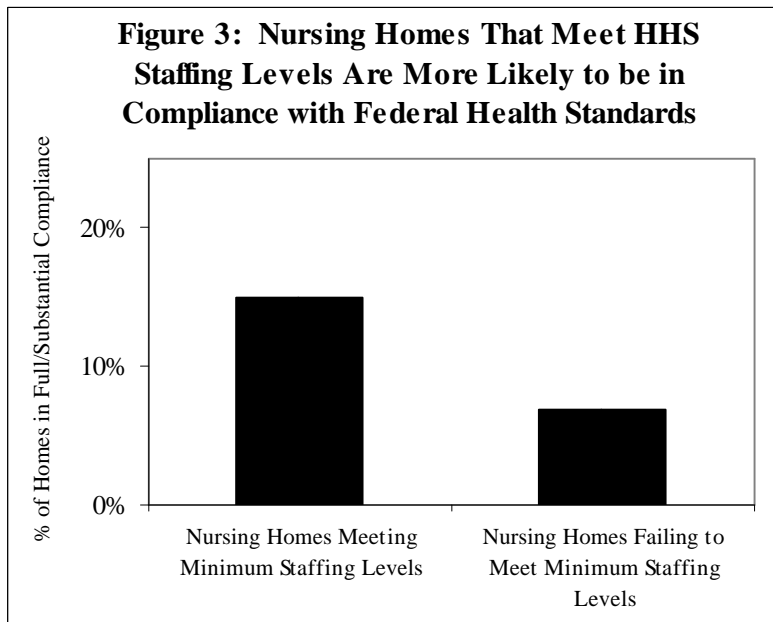
**C. Many Nursing Homes Failed to Meet the California Staffing Requirement**

Under California law, all nursing homes in the state are required to provide a minimum of 3.2 hours of nursing care per day to each resident. However, 85 nursing homes in Los Angeles County (20%) failed to meet this state legal requirement. These facilities provide care for over 8,000 residents.

**D. Inadequate Staffing Is Linked to Inadequate Care**

There was a direct correlation between inadequate staffing and inadequate care. The nursing homes that did not meet the minimum staffing levels identified by HHS were more likely to be cited for violations of federal health standards than nursing homes that met the minimum staffing levels.

There are 99 nursing homes in Los Angeles County that met the minimum staffing levels identified by HHS. Fifteen of these facilities that met the minimum staffing levels (15%) were in full or substantial compliance with federal standards. In contrast, only 22 of the 320 facilities (6.9%) that failed to meet the HHS minimum staffing levels were in full or substantial compliance with federal standards. The nursing homes that satisfied the HHS minimum staffing level were over twice as likely to be in compliance with federal health standards than nursing homes that did not meet the HHS minimum (see Figure 3).



## V. CONCLUSION

The 1987 nursing home law was intended to stop abuses in nursing homes by establishing stringent federal standards of care. Although the law and its implementing regulations require appropriate standards of care, compliance by the nursing homes in Los Angeles County has been poor. This report reviewed the OSCAR and complaint databases, as well as nurse staffing data. The same conclusion emerges from both analyses: many nursing homes in Los Angeles County are failing to provide the care that the law requires and that families expect.