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Nursing Home Deficiency Trends and Survey and Certification Process Consistency

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EXECUTIVE SUMMARY

OBJECTIVE

To describe trends in nursing home deficiencies and to assess consistency in the state implementation of the Medicare survey and certification process.

BACKGROUND

All Medicare and/or Medicaid participating nursing homes must be certified as meeting certain federal requirements. This certification is achieved through routine facility surveys, which the Centers for Medicare & Medicaid Services (CMS) contracts with states to perform. Nursing homes are typically surveyed by survey teams within 9-to-15 month intervals.

This inspection uses data from 7 different sources: (1) national data from the Online Survey and Certification Reporting (OSCAR) system; (2) a mail questionnaire of all 51 state survey and certification directors; (3) telephone interviews with staff from all 10 regional CMS offices; (4) observations of nursing home surveys in a purposive sample of 6 states; (5) a review of 310 survey reports from the same 6 states; (6) telephone interviews with a purposive sample of 32 surveyors from 8 states; and (7) telephone interviews with a purposive sample of 32 nursing home administrators from the same 8 states.

FINDINGS

Nursing home deficiencies have increased since 1998

Eighty-nine percent of nursing homes received at least one deficiency, an increase of 8 percentage points. In 2001, 89 percent of all nursing homes that were surveyed received at least one deficiency, an increase from 81 percent in 1998. Only 11 percent, or 1,690 nursing homes, were deficiency-free in 2001. The total number of deficiencies rose from 64,608 in 1998 to 94,131 in 2001. The average number of deficiencies increased from 5.1 in 1998 to 6.2 in 2001.

Seventy-eight percent of nursing homes received a deficiency in one of the categories related to CMS' definition of "substandard quality of care," an increase of 8 percentage points. The proportion of nursing homes that received a deficiency in any of the three categories related to "substandard quality of care" increased by 8 percentage points from 70 percent in 1998 to 78 percent in 2001. The proportion of nursing homes that received an immediate jeopardy deficiency (2.3 percent) has increased slightly from 1998 to 2001.

Wide variation exists among states in the number of deficiencies

Nationally, 11 percent of all nursing homes surveyed in 2001 had no deficiencies. The proportion of deficiency-free nursing homes ranged from 33.5 percent in Virginia to 0 percent in Nevada. Nationally, the average deficiency rate for nursing homes surveyed in 2001 was 6.2 per nursing home; this ranged from 2.9 deficiencies per nursing home in Vermont to 11.2 deficiencies in California.

States differ in how they determine specific deficiency citations

Our review of 310 survey reports reveals that different deficiency tags are being used to cite the same problem. In five of the six standard surveys we observed, we noted instances where surveyors did not consistently cite deficiencies. Further, states differ on how many deficiencies they will cite for a single problem of non-compliance.

Four factors contribute to variability in citing deficiencies

First, state agency directors acknowledge that the nursing home survey process has either a consultative or enforcement focus that affects the scope of the review. Second, unclear guidelines may contribute to different interpretations by surveyors when citing deficiencies. Third, while most states report some level of supervisory review for draft survey reports, the scope of these reviews differs, and states have various additional review processes they follow. Lastly, nearly all states report a high surveyor staff turnover, which contributes to inconsistency.

States report following CMS nursing home survey protocols for staffing, scheduling, and pre-survey preparation; in the six sample states, survey teams completed all on-site survey tasks

All state agency directors report following protocols for survey team size, make-up, and basic CMS training requirements. All state agencies report following protocols for pre-survey preparation and scheduling standard surveys within a 9-to-15 month interval. In

addition, our on-site visits revealed the completion of all six on-site survey tasks and proper use of investigative protocols. Further, our review of survey reports shows that surveyors in the six sample states rely on the same types of evidence to document deficiencies.

CONCLUSION

Our analysis shows an increase in nursing home deficiencies since 1998. The proportion of nursing homes receiving deficiencies, the total number of deficiencies, and the key categories of deficiencies directly related to quality of care have all increased since 1998. In addition, wide variation exists among states in the proportion of deficiency-free nursing homes and in average deficiency rates.

Our review of the survey process reveals states differ in how they determine both the number and type of deficiencies. We identified four factors that contribute to this variability in citing deficiencies: (1) an inconsistent survey focus; (2) unclear guidelines; (3) the lack of a common review process for draft survey reports; and (4) high surveyor staff turnover. As a result, we conclude that nursing home survey results are not always consistent among states, therefore limiting the comparability of the data. Further, we cannot conclude whether trends in deficiencies are due to deteriorating care, variations in the survey process, and/or increased enforcement. However, deficiencies are a key indicator of care in nursing homes and, therefore, the number of deficiencies and the increase in the number of deficiencies over the past four years raise concerns.

RECOMMENDATIONS

The Centers for Medicare & Medicaid Services should continue to improve its guidance to state agencies on citing deficiencies by providing guidelines that are both clear and explicit. Based on our findings, we recommend that CMS provide more specific guidance to states on quality of life deficiency tags and clearer directives on when to cite single or multiple deficiencies. We also recommend that CMS more clearly communicate to states that the focus of the nursing home survey process is not consultative. They should remind states of the dual function of this process, as specified in the Interpretive Guidelines. These two functions are: (1) to ensure compliance; and (2) to enter into a non-consultative information exchange for the purpose of information dissemination that may be of assistance to the facility in meeting long term care requirements.

The Centers for Medicare & Medicaid Services, together with states, should develop common review criteria for draft survey reports. While most states incorporate some level of supervisory review for draft survey reports, they do not follow a standard process with common evaluation criteria. A more standard review process that utilizes the same criteria for assessing draft reports will help to ensure greater consistency across states. The CMS could incorporate this standardized assessment criteria as part of the Nursing Home State Performance Measures: Review Protocol Guidance, which all states are now required to follow.

AGENCY COMMENTS

We received comments on our draft report from the Centers for Medicare & Medicaid Services (CMS). The CMS concurred with our recommendations that it should continue to improve guidance to state agencies on citing deficiencies by providing guidelines that are both clear and explicit and that it should develop, together with states, a common review criteria for draft survey reports. The CMS also highlighted several actions they have taken to improve such guidance. The full text of CMS' comments are contained in Appendix G.

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INTRODUCTION

OBJECTIVE

To describe trends in nursing home deficiencies and to assess consistency in the state implementation of the Medicare survey and certification process.

BACKGROUND

Survey and Certification Process

All Medicare and/or Medicaid participating nursing homes must be certified as meeting certain federal requirements. Certification is achieved through routine facility surveys, which the Centers for Medicaid & Medicare Services (CMS) contracts with states to perform. Nursing homes are subject to unannounced standard surveys no later than 15 months after the date of the previous standard survey. If, during the standard survey, a nursing home is found to have provided substandard quality of care, an additional extended survey is conducted within 2 weeks. Nursing home surveys are typically conducted by a team of surveyors, with a team leader assigned to manage the process while on site. The survey team conducts various pre-survey tasks, such as reviewing existing program data, before going to the facility.

When a nursing home fails to meet a specific requirement, the facility receives a deficiency citation. These deficiencies are categorized into 1 of 17 major areas, such as quality of care and physical environment. A total of 190 deficiencies with different tag numbers can be cited. Surveyors also consult a scope and severity matrix in determining the level of each deficiency. Survey data are entered into the Online Survey and Certification Reporting System (OSCAR).

OBRA 1987

The Omnibus Budget Reconciliation Act (OBRA) of 1987 (P.L. 100-203) expanded requirements that nursing homes had to comply with prior to Medicare certification, altered the principles for enforcement, and defined the state survey and certification process for determining compliance with federal standards of care. The CMS had several process goals for the implementation of the survey and enforcement systems: promoting consistency through extensive training, linking appropriate remedies to deficiencies, and avoiding unnecessary procedures.

1998 Nursing Home Oversight Improvement Program

Ten years after the passage of OBRA 1987, a series of research studies and Senate hearings called attention to serious concerns about residents' well-being. In response to these concerns, the 1998 Nursing Home Oversight Improvement Program,[1] designed to improve enforcement of nursing home quality, was announced. To implement the Nursing Home Oversight Improvement Program, CMS initiated steps to improve nursing home survey procedures, including:

- staggering nursing home inspections, and starting a certain number on weekends and evenings;
- more frequently inspecting nursing homes that are repeat offenders;
- enhancing CMS review of nursing home surveys conducted by states;
- terminating federal nursing home survey funding to states that fail to perform adequate surveys;
- imposing immediate sanctions for a second violation of harming residents; and
- ensuring that state agencies enforce sanctions and that sanctions are not lifted until compliance is verified.

In September 2000, the General Accounting Office (GAO) reported that more deficiencies in nursing homes were being detected by state survey agencies, although it remained unclear if this was due to more skillful enforcement or deteriorating care. The GAO also reported that wide variation existed among states with regard to the proportion of homes cited for serious care deficiencies, ranging from 10.5 percent in Maine to 58 percent in Washington.[2] This gap suggests "variability within and between states in the consistency of adherence to survey interpretive guidelines in deficiency citations is problematic, at least on the basis of interstate variability in the number and types of deficiencies cited in the survey process."[3] Additionally, a 2000 interim report from CMS on the Nursing Home Oversight Improvement Program noted some positive progress (such as more surveys being conducted during off-hours), but also identified areas where stronger efforts were needed. For example, the report found that "significant variation in state deficiency citations may indicate problems with the state survey process. [Further],

[1] Enacted in 1998 during the Clinton administration as the *Nursing Home Initiative.*

[2] GAO, "Sustained Efforts are Essential to Realize the Potential of Quality Initiatives," (GAO/HEHS-00-197), September, 2000

[3] Wunderlich, G., Kohler, P., *Improving the Quality of Long Term Care*, (Editors: Committee on Improving Quality in Long Term Care, Division of Health Care Services, National Institute of Medicine), 2001

this degree of variation suggests that we need to be cautious when comparing results across states."[4]

CMS Oversight

The CMS has various ongoing initiatives that address the issue of consistency and accuracy in the survey and certification process. These initiatives include: a national automated tracking system for surveyor training; an improved scope and severity matrix; cross regional surveys to assess consistency; the redesign of surveyor training; the development of surveyor performance measures; and contracting out for more comparative surveys.

The CMS is also currently funding the second year of a contract to improve interpretive guidelines for scope and severity and deficiency tags. To date, CMS has reviewed five sets of tags and is beginning work for the next grouping of tags.

METHODOLOGY

This inspection uses data from 7 different sources: (1) national data from the Online Survey and Certification Reporting (OSCAR) system; (2) a mail questionnaire of all 51 state Survey and Certification Directors; (3) telephone interviews with staff from all 10 regional CMS offices; (4) observations of nursing home surveys in a purposive sample of 6 states; (5) a review of 310 survey reports from the same 6 states; (6) telephone interviews with a purposive sample of 32 surveyors 8 states; and (7) telephone interviews with a purposive sample of 32 nursing home administrators from the same 8 states.

Analysis of OSCAR data

We analyzed national data from OSCAR, which includes the results of all state nursing home surveys. This system contains the most current survey and the three previous surveys for every nursing home that is certified for Medicare and/or Medicaid. We downloaded all surveys conducted in 1998, 1999, 2000, and 2001.

Our analysis is based on data we downloaded in May 2002. If a nursing home had more than one standard survey in a particular year, we included only the most recent standard survey for that year. We determined the total number of nursing homes surveyed, the

[4] Michael Hash, Deputy Administrator of the Centers for Medicare & Medicaid Services, "Interim Report on Nursing Homes," 2000.

total number of deficiencies cited in those surveys, and the total number of nursing homes surveyed that had no deficiencies. We then calculated average deficiency rates by dividing the number of deficiencies by the number of nursing homes surveyed.

Observations of nursing home surveys

In order to get a wide variety of states, we selected a purposive sample of six states based on the following four criteria: 1) the number of nursing homes in the state, 2) the average deficiency rate, 3) the CMS regional office jurisdiction, and 4) geographical location. The six states include: Alabama, California, Maryland, Missouri, New York, and South Dakota. In five of the six sample states, we observed the final 2 days of a standard nursing home survey; in the sixth state, the survey ended earlier than anticipated, and we, therefore, observed only the final day. To reduce observer bias and enhance comparability across cases, we developed field instrumentation for observing and recording events. This included a structured checklist for the observation of survey activities and survey team interaction. We were especially interested in observations related to survey Task 5 (information gathering) and Task 6 (information analysis for deficiency determination). Further, we used a common interview guide to ask surveyors about their experiences and perspectives on the survey process.

Review of survey reports

From the 6 sample states, we reviewed 310 survey reports for standard surveys completed in calendar year 2001. We asked each of the 6 states to send us reports that included one or more citations for 13 specific deficiency tags. We focused our review on these 13 tags, either because they were among the top 10 deficiencies in 2000, and/or because we identified them as being potentially vulnerable to inconsistent citation. These 13 tags and the number of survey reports for each are identified in Appendix B.

For each report, we used a standardized review protocol to determine the scope and severity of the deficiency cited, the nature of the problem cited, the sample size used in survey, and the type of evidence given to support the citation.

State survey agency directors mail questionnaire

We mailed a questionnaire to state nursing home Survey and Certification Directors in April and May 2002. All states and Washington D.C. responded to the questionnaire. We asked about each state agency's program staffing and structure, survey process, state surveyor training and education, and state initiatives and experience with federal nursing home surveys. In addition, we asked respondents to rate the quality of care in nursing homes in their state and whether it has improved, declined, or remained about the same in

the last 3 years. Many of our questions were based on federal nursing home survey regulations and the State Operations Manual surveyor guidelines.

Telephone interviews with CMS regional offices

We interviewed staff from all 10 regional offices of the CMS in May 2002. In most cases, we interviewed the branch chief or regional administrator responsible for state operations and/or long term care survey and certification. During these interviews, we asked CMS staff about their oversight and monitoring activities. We specifically inquired about their regional staffing, the data they use to review state agencies' performance, their survey protocols for Federal Oversight and Support surveys (FOSS) and comparative surveys, and their state training activities.

Telephone interviews with state surveyors and nursing home administrators

For the telephone interviews with state surveyors and nursing home administrators, we used the same purposive state sample selected for the on-site visits and survey report reviews. In addition, we selected one state that had a large increase (Connecticut) and one state that had a large decrease (South Carolina) in quality of care deficiencies over the last 4 years.

State Surveyors. We asked each of the state survey agencies for a list of all surveyors in their state who had been a nursing home surveyor for at least 3 years. We then selected a random sample of 4 surveyors in each of our 8 sampled states for a total of 32 respondents. We asked the same questions that we asked state survey agency directors in addition to other questions about their observations in nursing homes.

Nursing Home Administrators. To select a sample of nursing home administrators, we generated a list from OSCAR of nursing homes in each of our eight sampled states that had at least four standard surveys. We then randomly selected 4 nursing homes in each state for a total of 32 respondents. We asked these administrators the same set of questions that we asked state surveyors so that we could compare their responses.

Limitations

This inspection has several limitations. First, we only examined the survey process for standard surveys; we did not include extended surveys, follow-up surveys, initial certification surveys, or complaint surveys in our review. Second, we did not independently verify all of the information reported to us by state agencies in the mail

questionnaire. Third, our more detailed review of eight states is based on a purposive sample and, therefore, cannot be generalized to the universe of all states.

Standards

This inspection was conducted in accordance with the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

FINDINGS

In 2001, 89 percent of nursing homes received at least one deficiency, an increase from 81 percent in 1998. Total deficiencies increased by 46 percent to over 94,000, and the average number of deficiencies per nursing home rose from 5.1 to 6.2. Our analysis of OSCAR data also shows wide variation among states in the proportion of deficiency-free nursing homes and in average deficiency rates.

Our review of the survey process further reveals that states differ in how they determine both the number and type of deficiencies. We identified four factors that contribute to this variability in citing deficiencies: (1) an inconsistent survey focus; (2) unclear guidelines; (3) the lack of a common review process for draft survey reports; and (4) high surveyor staff turnover. As a result, we conclude that nursing home survey results are not always consistent among states, therefore limiting the comparability of the data. Further, we cannot conclude whether trends in deficiencies are due to deteriorating care, variations in the survey process, and/or increased enforcement. However, deficiencies are a key indicator of care in nursing homes, and therefore, the number of and the increase in deficiencies over the past four years raise concerns.

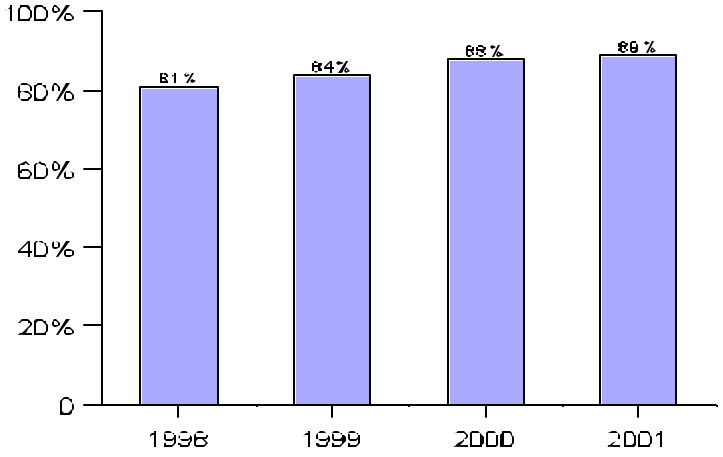
Nursing home deficiencies have increased since 1998

Eighty-nine percent of nursing homes received at least one deficiency, an increase of 8 percentage points since 1998

Surveyors can cite a nursing home for one or more deficiencies if it fails to meet certain Medicare program requirements. In 2001, 89 percent of all nursing homes that were surveyed received at least one deficiency. This proportion increased by 8 percentage points from 81 percent in 1998. (See Figure 1.) Conversely, the proportion of nursing homes that were deficiency-free decreased from 19 percent in 1998 to 11 percent in 2001. In 2001, a

Figure 1

Proportion of Nursing Homes that Received Any Deficiency, 1998-2001



Source: OSCAR data, 2002

total of 15,077 nursing homes were surveyed; only 1,690 nursing homes did not receive any deficiencies.

As shown in Table 1 below, in 2001, nursing homes received an average of 6.2 deficiencies, an increase from 5.1 deficiencies in 1998. The total number of deficiencies rose by 46 percent, from 64,608 in 1998 to 94,131 in 2001. The total number of nursing homes that were surveyed grew by 20 percent during this time period, from 12,555 in 1998 to 15,077 in 2001.

Table 1

Trends in Deficiencies, 1998-2001

	1998	1999	2000	2001	Percent Change 1998-2001
Total Number of Deficiencies	64,608	82,238	92,642	94,131	45.7%
Total Number of Nursing Homes Surveyed	12,555	14,313	14,879	15,077	20.1%
Average Deficiencies per Nursing Home	5.1	5.7	6.2	6.2	

Source: OSCAR data, 2002

Seventy-eight percent of nursing homes received a deficiency in one of the categories related to "substandard quality of care," an increase of 8 percentage points from 1998 to 2001

The proportion of nursing homes that received a deficiency in any of the three "quality of care" categories *increased* by 8 percentage points, from 70 percent in 1998 to 78 percent in 2001. These three categories are part of CMS' definition of substandard quality of care. They include: one that is specifically called quality of care, another referred to as quality of life, and a third that is resident behavior and facility practices. See Appendix A for a list of all deficiencies in each category.

Examples of Deficiencies in Three Categories Related to Substandard Quality of Care

Quality of Care: includes 25 deficiencies, such as proper treatment to prevent and treat pressure sores, and resident receives adequate supervision and assistance devices to prevent accidents.

Quality of Life: includes 19 deficiencies, such as a facility must promote care that maintains or enhances dignity, and a facility must provide housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior.

Resident Behavior and Facility Practices: includes 6 deficiencies, such as a resident has the right to be free from any physical restraint for purposes of discipline and convenience, and the facility may not employ persons who have been found guilty of abuse.

As shown in Table 2, each of these three individual categories increased during this time. The proportion of nursing homes that received a deficiency related to resident behavior and facility practices and to the specific quality of care category each increased by 9 percentage points between 1998 and 2001. Quality of life deficiencies increased by 5 percentage points. Appendix C lists changes to each of the deficiencies in these categories.

Table 2

Proportion of Nursing Homes that Received at Least One Deficiency by Category 1998-2001

	1998 N=12,555	**2001** N=15,077	**Percentage Point Difference 1998-2001**
Resident Assessment	38.6%	50.1%	11.6%
Dietary Services	31.7%	42.1%	10.3%
Resident Behavior & Facility Practices	**19.1%**	**28.2%**	**9.1%**
Quality of Care	**59.4%**	**68.4%**	**9.0%**
Pharmacy Services	12.1%	20.1%	7.9%
Infection Control	15.6%	20.7%	5.1%
Administration	20.9%	26.0%	5.1%
Physical Environment	20.7%	25.8%	5.1%
Quality of Life	**37.8%**	**43.1%**	**5.3%**
Resident's Rights	26.2%	29.9%	3.7%
Laboratory Services	2.9%	4.9%	1.9%
Physician Services	3.4%	4.7%	1.2%
Dental Services	0.7%	1.2%	0.5%
Nursing Services	5.0%	5.1%	0.0%
Rehabilitation Services	1.1%	1.0%	- 0.1%
Other	0.4%	0.3%	- 0.1%
Admission, Transfer, Discharge Rights	2.5%	1.6%	- 0.9%

* Differences may be due to rounding. Source: OSCAR data, 2002

**Bold indicates "quality of care" categories.

As also shown in Table 2, deficiencies in three other categories experienced considerable increases. These include resident assessment and pharmacy and dietary services. The largest increase was in the proportion of nursing homes that received a deficiency related to resident assessment. This category increased by nearly 12 percentage points, from almost 39 percent in 1998 to 50 percent in 2001. These deficiencies address whether a facility has developed care plans, provided the appropriate care and services to each resident, and modified the care plan based on the resident's status.

In addition, deficiencies related to dietary services rose by 10 percentage points from 32 percent of nursing homes in 1998 to 42 percent in 2001. Deficiencies related to pharmacy services also increased by about 8 percentage points during this time. Dietary services include deficiencies that address whether a nursing home has provided the appropriate diet to meet the daily nutritional needs of each resident. Pharmacy services include deficiencies related to assuring the accurate dispensation and administration of drugs to residents.

Nursing homes receiving immediate jeopardy deficiencies have increased slightly

Surveyors assign a scope and severity rating for each deficiency. If a deficiency has a J, K, or L scope and severity rating as shown in Table 3 on the next page, it is considered to be immediate jeopardy. Immediate jeopardy is when death or serious injury actually or potentially occurs. The proportion of nursing homes that received an immediate jeopardy deficiency stayed about the same between 1998 and 2001. In 2001, a total of 2.3 percent, or 353 nursing homes, had at least one immediate jeopardy deficiency. This proportion rose slightly from 1.4 percent, or 172 nursing homes, in 1998. (See Appendix D.)

The proportion of nursing homes that received a deficiency considered *substandard quality of care* did not change substantially from 1998 to 2001. Substandard quality of care is a deficiency in any of the three "quality of care" categories that has a scope and severity rating, as shown by the shaded area in Table 3 on the next page. In total, 4.2 percent, or 639 nursing homes, received at least one substandard quality of care deficiency in 2001. This number decreased slightly from 4.5 percent in 1998. (See Appendix D.)

Table 3

Percent of Nursing Homes with Deficiencies in Any of the Three Categories of Quality of Care by Scope and Severity in 2001

Severity of the Deficiency	Scope of the Deficiency			
		Isolated	Pattern	Widespread
	Immediate jeopardy to resident health or safety	J 1.0%	K 0.8%	L 0.2%
	Actual harm that is not immediate jeopardy	G 18.6%	H 1.3%	I 0.0%
	No actual harm with potential for more than minimal harm that is not immediate jeopardy	D 64.1%	E 37.6%	F 1.6%
	No actual harm with potential for minimal harm	A 0.0%	B 14.5%	C 7.7%

* Shading indicates the ratings classified as substandard quality of care. Source: OSCAR data, 2002

**Percentages in the table do not add to 4.2 percent because a nursing home may receive more than one deficiency considered substandard quality of care.

As shown in Table 4 on the next page, a review of the trends of the scope and severity of all deficiencies shows a shift from G-level to D-level and to E-level ratings between 1998 and 2001. This trend indicates that nursing homes are being cited for less severe deficiencies, while the scope of these deficiencies is staying the same or is slightly increasing. All of the other ratings have remained about the same or have increased slightly during this time period. The trends in the scope and severity ratings of deficiencies in the three "quality of care" categories follow a similar pattern to all deficiencies. (See Appendix D.)

Table 4

Percent of Nursing Homes that Received a Deficiency by Scope and Severity of All Deficiencies, 1998-2001

Scope and Severity Level	1998	2001	Percentage Point Difference* 1998-2001
A	0.0%	0.0%	0.0%
B	30.2%	32.7%	2.5%
C	21.4%	23.4%	2.0%
D	**63.5%**	**77.2%**	**13.6%**
E	**47.1%**	**54.8%**	**7.7%**
F	15.4%	19.8%	4.4%
G	**28.1%**	**19.6%**	**- 8.5%**
H	3.1%	1.5%	- 1.6%
I	0.3%	0.1%	- 0.2%
J	0.8%	1.2%	0.5%
K	0.6%	1.0%	0.4%
L	0.2%	0.4%	0.2%

* Differences may be due to rounding Source: OSCAR data, 2002

Over two-thirds of all state directors and sampled surveyors report that quality of care has stayed the same or declined over the last 3 years; nursing home administrators are more positive

To gain further insight into the state of care in nursing homes, we surveyed all 51 state Survey and Certification Directors, and a purposive sample of 32 state surveyors and 32 nursing home administrators. As shown in Chart 1 on the next page, the majority of state directors and state surveyors report that quality of care has stayed the same or declined over the last 3 years. Nursing home administrators are more positive in that 59 percent say that care has improved over the last 3 years.

Chart 1

Overall, has the quality of care in nursing homes improved, declined, or stayed about the same over the last 3 years?

	Sample Size	Improved	Declined	Stayed the Same	Don't Know
Surveyors	n=32	31 %	34 %	34 %	0 %
Survey and Certification Directors	N=51	24 %	27 %	45 %	4 %
Nursing Home Administrators	n=32	59 %	9 %	31 %	0 %

Source: OEI Survey, 2002

Two-thirds of sampled surveyors further note that the percentage of nursing homes in their area that provide care they consider to be poor has increased or stayed about the same during this time. Some explain that staffing issues, such as high turnover, lack of training, poor quality staff, and less supervision contribute to "care getting worse." In contrast, nursing home administrators most commonly attribute improvements in quality of care to committed staff, the survey process, quality initiatives, and the use of the clinical assessment tool, referred to as the Minimum Data Set.

When asked to rate overall quality of care in nursing homes, some respondents expressed concerns. Chart 2 below shows that over one-third of sampled surveyors and 14 percent of all state directors rate quality of care as "fair" or "poor." In addition, about two-thirds of surveyors and 44 percent of administrators report that at least 10 percent of nursing homes in their area provide care that they consider to be poor.

Chart 2

Overall, how would you rate the quality of care in nursing homes in your area?

	Sample Size	Excellent	Good	Fair	Poor	Don't Know
Surveyors	n=32	3 %	59 %	28 %	6 %	3 %
Survey and Certification Directors	N=51	6 %	78 %	14 %	0 %	2 %
Nursing Home Administrators	n=32	34 %	56 %	9 %	0 %	0 %

Source: OEI Survey, 2002

Wide variation exists among states in the number of deficiencies

Proportion of deficiency-free nursing homes. The proportion of nursing homes surveyed that were deficiency-free varied greatly among states. In 2001, 33.5 percent of nursing homes surveyed in Virginia had no deficiencies, while in Nevada no nursing home surveys resulted in deficiency-free nursing homes. Nationally, the average proportion of deficiency-free nursing homes for all surveys conducted in 2001 was 11 percent. Tables 5 and 6 below, show the five states with the highest and lowest proportion of deficiency-free nursing homes in 2001.

Table 5

Highest Deficiency-Free States

State	Proportion Deficiency-Free*
Virginia	33.5 %
Massachusetts	29.2 %
Vermont	28.2 %
New Hampshire	24.6 %

Source: OSCAR data, 2002

Table 6

Lowest Deficiency-Free States

State	Proportion Deficiency-Free*
Nevada	0 %
California	2.1 %
Florida	2.9 %
Tennessee	3.3 %

Source: OSCAR data, 2002

Deficiency rates. Nationally, the average deficiency rate in 2001 was 6.2 deficiencies per nursing home. This ranged from a high of 11.2 deficiencies per nursing home in California to a low of 2.9 deficiencies per nursing home in Vermont. Tables 7 and 8 below show the five states with the highest deficiency rates and the five states with the lowest deficiency rates in 2001.

Table 7

States with Highest Deficiency Rate

State	Deficiency Rate*
California	11.2
Arizona	10.2
Washington D.C.	10
Nevada	9.9

Source: OSCAR data 2002

Table 8

States with Lowest Deficiency Rate

State	Deficiency Rate*
Vermont	2.9
Rhode Island	3.3
Wisconsin	3.3
Virginia	3.5
Utah	3.7

Source: OSCAR data 2002

In general, it appears that some states are more likely than others to cite deficiencies. For example, we observed that three states with the lowest deficiency rates (Vermont, Virginia, and Rhode Island) also have among the highest proportions of deficiency-free nursing homes. Three states with among the highest deficiency rates (California, Arizona, and Nevada) have the lowest proportions of deficiency-free nursing homes. Also overall, 20.4 percent of nursing homes are deficiency-free in states with low deficiency rates. For states with medium and high rates, the proportion of deficiency-free nursing homes is 10.9 percent and 5 percent, respectively. (See Appendix E.)

This variability in the data was also discussed in a 2000 interim report from CMS on the Nursing Home Oversight Improvement Program. That report noted "significant variation in state deficiency citations from the national average of deficiencies cited may indicate problems with the state survey process. There is also substantial variation among states in all measures examined, which could be attributed to any number of different factors including actual differences in quality [of care], case-mix, or surveyor practices. This degree of variation suggests that we need to be cautious when comparing results across states."

States differ in how they determine specific deficiency citations

Type of deficiency. Our review of 310 survey reports from the six sample states reveals that different deficiency tags are being used to cite the same problem. For example, in one state, two different survey teams cited the same problem under two different tags. In both cases, they observed that closets with cleaning compounds containing dangerous chemicals were not locked. In one survey, they cited this under tag F324 (inadequate supervision to prevent accidents). In the other survey, they cited this under tag F323 (the resident environment remains as free of accident hazards as is possible). Further, a survey report from one state cites tag F441 (infection control) for dietary staff not following hand washing policy. Two other survey reports in 2 different states cite tag F371 (store, prepare, distribute, and serve food under sanitary conditions) for the same problem.

Our review of survey reports also reveals that different types of problems are being cited under the same deficiency tag. When reviewing 26 reports with a citation for F241 (resident dignity), we identified 17 different types of problems that were cited with this same deficiency. These included incidents as diverse as residents waiting for their food at mealtimes, facial hair on a female resident, staff using disrespectful language, and a bedpan not being emptied. We also noted that a few of the problems cited under the dignity tag, such as unanswered call lights, were cited under different deficiency tags in other survey reports.

Further, nine state agency directors volunteer that their staff will consider either the type of corrective action needed by the facility or a particular preference for one deficiency category over another when deciding what deficiencies to cite. Comments from two state agency directors illustrate these practices. One says that surveyors will look at the "main problem a facility needs to fix" when deciding what type of deficiency to cite, while another admits that surveyors "always go for a quality of care [deficiency], if relevant, over [an] assessment [deficiency]."

Failure to cite deficiencies. In five of the six surveys we observed, we noted that surveyors did not consistently cite deficiencies for problems they observed in the nursing home. In one, the team did not cite a deficiency for a food service worker who failed to wash her hands until a surveyor told her to; the same team also did not cite a deficiency for the nursing home's failure to write an incident report for a patient with a large bruise. Also, in three surveys we observed that surveyors did not cite deficiencies for problems because the nursing home submitted additional documentation that convinced the surveyors that corrective action was being initiated. For example, during one visit we observed that surveyors noted a strong, offensive smell in several of the residents' rooms; CMS guidelines instruct surveyors to cite such a problem with a deficiency. However, the surveyors did not cite a deficiency because they accepted the facility's assurance that soiled carpeting in those rooms would be removed and replaced with linoleum flooring. According to CMS guidelines, they should have cited this deficiency.

Number of deficiencies. States differ on how many deficiencies they will cite for a single problem of non-compliance. While CMS guidelines do not prohibit that more than one deficiency be cited, eight state agency directors volunteer that their staff will cite only one tag for one problem of non-compliance. This is in direct contrast to other states in which surveyors may cite multiple tags for one problem of non-compliance. In one state we visited with a low deficiency rate, surveyors told us that they were instructed by the state agency to choose only one tag rather than multiple tags for a single observed problem.

Four factors contribute to variability in citing deficiencies

We identified four factors that contribute to variability in citing deficiencies across state agencies and among surveyors. These are:

1. Inconsistent survey focus
2. Unclear guidelines
3. Lack of a common review process for draft survey reports
4. High surveyor staff turnover

Inconsistent survey focus. Thirty-six state agency directors say that their state's survey process is only somewhat consistent, acknowledging that this process may have a particular enforcement or consultative focus that affects the scope of the review. They cite several factors affecting the focus of nursing home surveys, including the political climate, the strength of the nursing home lobby, and changing federal and state regulations. Thirty-seven state agency directors further note that the focus of nursing home surveys has changed in the last 3 years. Section IX of the State Operations Manual discusses the focus of the nursing home survey process by stating that, in addition to ensuring compliance with federal standards, surveyors should also transfer information to the facility about care and regulatory topics. The manual specifically states, "This information exchange is not a consultation with the facility, but is a means of disseminating information that may be of assistance to the facility in meeting long term care requirements."[5]

During our on-site visits to the six sample states, we observed survey teams utilizing different foci in their reviews. In one state, surveyors used a more consultative approach in making specific recommendations to the nursing home staff about treatment protocols for an individual resident. This approach contrasted with a more enforcement approach we observed in another state survey, where very little dialogue occurred between the survey team and nursing home staff.

Lastly, 21 states have state specific criteria governing nursing home surveys that may affect the focus of their federal surveys. These state criteria most commonly include nursing home staffing ratios and state life safety codes. In 14 of these states, the criteria have changed over the past 3 years.

Unclear guidelines. Twenty-three state agency directors and 17 of 32 sampled surveyors assert that some groups of deficiencies are more vulnerable to inconsistent citation. Both of these groups identify deficiencies that are categorized under "quality of life" as being the most vulnerable due to the lack of clarity and complexity of the federal guidelines. They claim this fosters a subjective interpretation, thereby contributing to inconsistent citation between surveyors. One state agency director, voicing a common concern, asserts that "it is difficult to assign harm or immediate jeopardy to the quality of life tags. Quality of life tags can be more subjective. A clear directive is needed."

As part of our analysis, we reviewed the State Operations Manual for deficiency tags under the "quality of life" and "quality of care" categories. We found some of the guidance to be inherently confusing. For example, guidance for tag F250 (social services)

[5] Title XVIII of the Social Security Act (the Act) is administered by CMS. Section 1819 (g)(2)(c) Survey Protocols, states that standard and extended surveys are to be conducted, based upon protocols prescribed by CMS in the State Operations Manual, to determine nursing home compliance.

offers 14 examples of medically-related social services, 6 types of unmet needs, and 10 conditions to which the nursing home must respond with social services. Also, some of the definitions for these tags are general and subjective, and while the guidance does offer numerous examples of specific scenarios that can be cited under each deficiency tag, in some cases the broad range of examples can be confusing. Lastly, we also noted that for certain deficiencies, surveyors are directed to refer to more than one deficiency category or tag for the same issue, without any explicit direction to cite or not cite under multiple tags when the facility is found to be out of compliance. For example, for tag F323 (facility is free of accident hazards), surveyors are instructed: "see F221 for guidance concerning the use of bed rails. See also §483.70(h) - Safe Environment. (F454 under Physical Environment)."

Lack of consistent review process for draft survey reports. States do not utilize the same review processes for draft survey reports, as illustrated in Table 9 below. Only 42 states report that all of their draft reports had supervisory reviews in 2001. Further, 31 states have developed internal quality assurance (QA) teams and two states developed continuous quality improvement (CQI) teams (17 states have both). Only 18 states conduct reviews when reports change significantly from draft to final, while a few also incorporate specialized assessments as part of their review process.

Table 9
State Survey Report Review Processes

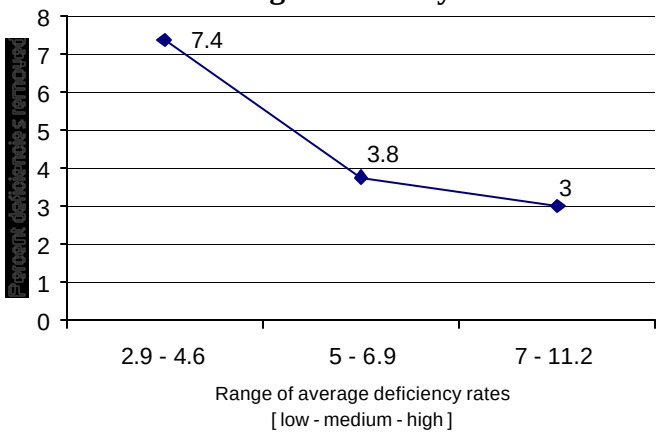
Review Processes	Number of States
Supervisory Review for 100% of draft reports	42
QA Teams	31
Reviews for reports that changed significantly from draft to final	18
Specialized reviews for Deficiencies with Scope and Severity of G level * and above	8
Specialized review by Field Managers, Compliance Reviewers, or Enforcement Team	7
Specialized reviews by Licensure and/or Certification Administrators	3
CQI Teams	2

Source: State Agency Director Mail Questionnaire, 2002

This inconsistency in state agencies' review processes is reflected in the wide variation in revisions made to draft deficiency reports. State agencies report that an average of 5 percent of deficiencies are removed from draft survey reports before they become final. However, this removal rate ranges from 25 percent in one state to 0 percent in three other states. Further, state agencies report that an average of 6 percent of scope and severity determinations are downgraded from draft surveyors' reports before they become final. This ranges from one state that reports 38 percent of deficiencies are downgraded to two states that say no deficiencies are downgraded.

In addition, our analysis shows that the states with lower deficiency rates removed more deficiencies, on average, from draft survey reports than states with higher rates. Figure 2 below shows the average proportion of deficiencies removed from surveyors' draft reports, for states with high, medium, and low deficiency rates.

Figure 2
Proportion of Deficiencies Removed by Average Deficiency Rate



Source: OSCAR Data 2002 and State Agency Director Mail Questionnaire

High surveyor staff turnover. Fifty state agency directors report that it is very or somewhat difficult to replace survey staff when they leave, and more than half (31) say that registered nurses are the most difficult to replace. Based on their reporting, we determined that nationally, surveyors work an average of only 6.5 years for the state agency. We also determined that state agency directors have held their jobs on average for only 6.4 years. This high staff turnover affects the consistency of the survey process, as acknowledged by one survey director who says, "It is impossible to achieve consistency when surveyor turnover is 50 percent every year." While states identified high survey staff turnover rates to be a problem, only three regional CMS offices look at staff turnover rates in their oversight of state agencies.

On all our visits to the six sample states, surveyors told us that finding and retaining staff were problematic. They also express concern that high staff turnover impacts on the

consistency of the survey process, since a high proportion of newer staff detracts from the continuity of surveyors' experience. In fact, in one nursing home that we visited the survey team members were new, and we observed that these surveyors were more uncertain about what problems to cite and which deficiency tags to cite them with.

States report following CMS nursing home survey protocols for staffing, scheduling, and pre-survey preparation; in the six sample states, survey teams completed all on-site survey tasks

Survey team staff. States are required to place at least one qualified health professional on their survey team and all states' agency directors report that they do so. More specifically, all states report that they included at least one registered nurse on their survey teams.[6] Most states (75 percent) also report that they include a dietician or nutritionist on the team, and over half (57 percent) typically include a social worker. On all six of the surveys we observed, the teams had at least one registered nurse and one dietician or nutritionist.

General guidelines from CMS suggest that the size of teams be governed by the size and type of the facility being surveyed, and 44 states say they typically use teams with three to four surveyors.[7] In our purposive sample of six states, we observed an appropriate ratio of surveyors to facility size. In one of these states, we observed a survey being conducted for a 350-bed facility, and the survey team included seven members. In two other states where surveys were conducted for smaller nursing homes, the survey teams were comprised of only three members.

Surveyor training. Nearly all state surveyors meet basic CMS training requirements. On average, state agencies report that 96 percent of their surveyors have successfully completed CMS training - modules A and B of the Surveyor Minimum Qualifications Test (SMQT) (see Appendix F). Nationally, the average number of training days for surveyors last year was 10. Further, all 10 regional offices of the CMS say they review state surveyor training to ensure that state agency surveyors are meeting federal qualification standards.

[6] Sections 1819(g)(2)(E) and 1919(g)(2)(E) of the Act and 42 CFR 488.314 require that: skilled nursing facility [SNF] and nursing facility [NF] standard surveys be conducted by a multidisciplinary team of professionals, at least one must be a registered nurse.

[7] 7201. State Operations Manual Survey Team Size and Composition - A. Survey Team Size.--Survey team size will vary, depending primarily on the size of the facility being surveyed.

Nearly all state agencies report that they conduct their own training in addition to CMS training. Forty-eight have a training coordinator and 49 also have their own state surveyor training program. States typically use videos, satellite communications, presentations, and informal sessions during or following on-site visits to train their survey staff. Also, nearly all state agencies told us that they specifically focus their surveyor training in response to survey findings and provide training related to the documentation of deficiencies.

Team approach. All states report using a team approach in their survey process as suggested by CMS.[8] State agencies say that they follow CMS guidelines on team communication that require teams to have daily discussions among themselves about their observations in order to facilitate information gathering and decision making. All state agencies report that their survey teams formally meet on a daily basis to discuss their findings and observations, to consult with each other, and to talk about scheduling uncompleted survey tasks. We also noted a strong team approach in the six surveys we observed. Surveyors continually consulted with one another regarding their findings, conferred with each other on any questions or concerns they had, and checked in on their individual progress to assure all necessary work was being completed.

Survey schedule. All states report scheduling standard surveys within a 9-to-15 month interval as required by CMS guidelines.[9] Twenty-six states report that in 2001 the interval between consecutive nursing home standard surveys in their state averaged 12 months. Eleven states told us they conducted these surveys within a shorter (10-to-11 month) interval on average, and 14 states report conducting surveys within a longer (13-to-15 month) interval on average.

[8] State Operations Manual, Appendix P - Survey Protocol for Long Term Care Facilities - Part 1- Introduction: 1D. TEAM COMMUNICATION - Throughout the survey process, the team (including specialty surveyors on-site at the time) should discuss among themselves, on a daily basis, observations made and information obtained in order to focus on the concerns of each team member, to facilitate information gathering and to facilitate decision making at the completion of the standard survey.

[9] §7205. State Operations Manual - SURVEY FREQUENCY--The survey and certification provisions set forth in §§1819(g)(2)(A)(iii) and 1919(g)(2)(A)(iii) of the Act and in 42 CFR §488.308 require that each SNF and NF be subject to a standard survey no later than 15 months after the last day of the previous standard survey and that the statewide average interval between standard surveys of SNFs and NFs not exceed 12 months.

Pre-survey preparation. Survey teams are required to prepare for surveys offsite by analyzing information about the nursing home that will enable them to focus their review most effectively.[10] All state agencies report doing this pre-survey preparation. First, they all report that their surveyors use quality indicator reports in this preparation. These reports identify potential problems in the facility that may warrant further investigation, such as a high proportion of pressure sores or falls among its residents. Further, 96 percent of states' survey teams use facility level reports generated by OSCAR, while 92 percent will also typically review the facility's prior statements of deficiencies. Complaint data, information from the Ombudsman office, and resident level summary reports are also used by at least 72 percent of states in their pre-survey preparation.

On-site survey tasks. In the surveys we observed in the six sample states, we saw evidence of, or directly observed the completion of, all on-site survey tasks required by CMS. We also observed survey teams' use of specific investigative protocols suggested by CMS, such as medical record reviews, resident, group, and family interviews, observations of mealtimes, and direct care observations. In several of the states, surveyors expanded the initial scope of their review, based on observations from the initial facility tour.

We observed that all six of the sample state surveys follow the same general process for Task 6 of the survey process, information analysis for deficiency determination, and Task 7, the exit meeting with the nursing home. On the final day of the survey, before the exit, the survey team in all six states conducted team meetings, reviewed and analyzed their worksheets, discussed their findings, and used a team approach to reach consensus and make decisions. In all six states, the survey team also shared their preliminary findings with the nursing home during the exit meeting, and in five states the facility was given the opportunity to provide additional information either then or at a later date that it believed was pertinent to the initial survey findings.

[10] §7203. State Operations Manual - SURVEY PROTOCOL A. Introduction.--This protocol is established pursuant to §§1819(g)(2)(C) and 1919(g)(2)(C) of the Act to provide guidance to surveyors conducting surveys of long term care facilities participating in the Medicare and Medicaid programs. The protocol consists of survey procedures, worksheets, and interpretive guidelines.

CONCLUSION

Our analysis shows an increase in nursing home deficiencies since 1998. The proportion of nursing homes receiving deficiencies, the total number of deficiencies, and the key categories of deficiencies directly related to quality of care have all increased since 1998. In addition, wide variation exists among states in the proportion of deficiency-free nursing homes and in average deficiency rates.

Our review of the survey process reveals that states differ in how they determine both the number and type of deficiencies. We identified four factors that contribute to this variability in citing deficiencies: (1) an inconsistent survey focus; (2) unclear guidelines; (3) the lack of a common review process for draft survey reports; and (4) high surveyor staff turnover. As a result, we conclude that nursing home survey results are not always consistent among states, therefore limiting the comparability of the data. Further, we cannot conclude whether trends in deficiencies are due to deteriorating care, variations in the survey process, and/or increased enforcement. However, deficiencies are a key indicator of care in nursing homes, and therefore, the number of deficiencies and the increase in the number of deficiencies over the past four years raise concerns.

RECOMMENDATIONS

The Centers for Medicare & Medicaid Services should continue to improve its guidance to state agencies on citing deficiencies by providing guidelines that are both clear and explicit. Based on our findings, we recommend that CMS provide more specific guidance to states for quality of life deficiency tags and clearer directives on when to cite single or multiple deficiencies. We also recommend that CMS more clearly communicate to states that the focus of the nursing home survey process is not consultative. They should remind states of the dual function of this process, as specified in the Interpretive Guidelines. These two functions are: 1) to ensure compliance; and 2) to enter into a non-consultative information exchange for the purpose of information dissemination that may be of assistance to the facility in meeting long term care requirements.

The Centers for Medicare & Medicaid Services, together with states, should develop common review criteria for draft survey reports. While most states incorporate some level of supervisory review for draft survey reports, they do not follow a standard process with common evaluation criteria. A more standard review process that utilizes the same criteria for assessing draft reports will help to ensure greater consistency across states. The CMS could incorporate this standardized assessment criteria as part of the Nursing Home State Performance Measures: Review Protocol Guidance, which all states are now required to follow.

AGENCY COMMENTS

We received comments on our draft report from the Centers for Medicare & Medicaid Services (CMS). The CMS concurred with our recommendations that it should continue to improve guidance to state agencies on citing deficiencies by providing guidelines that are both clear and explicit and that it should develop, together with states, a common review criteria for draft survey reports. The CMS also highlighted several actions they have taken to improve such guidance. The full text of CMS' comments are contained in Appendix G.

APPENDIX A

Definitions of Quality of Care Deficiencies by Category

Resident Behavior and Facility Practices

Deficiency - (Ftag)	Definition
F0221	Resident has the right to be free from any physical restraint for purposes of discipline or convenience.
F0222	Resident has the right to be free from any chemical restraint for purposes of discipline or convenience.
F0223	Resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.
F0224	Facility must have written policies and procedures that prohibit abuse and neglect.
F0225	Facility may not employ persons who have been found guilty of abuse.
F0226	Facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents, and misappropriation of resident property

Quality of Life

Deficiency - (Ftag)	Definition
F0240	Facility must promote/enhance quality of life.
F0241	Facility must promote care that maintains or enhances dignity.
F0242	Resident has the right to choose activities, schedules, interact with members of community, and make choices about aspects of life in the facility.
F0243	Resident has the right to organize and participate in resident groups.
F0244	Facility must listen and respond to resident or family group.
F0245	Resident has the right to participate in social, religious, and community activities.

F0246	Facility should have policies that accommodate residents' needs and preferences.
F0247	Resident to receive notice before room or roommate in the facility is changed.
F0248	Facility is to provide ongoing program of activities that fit resident.
F0249	Facilities director must be fully qualified.
F0250	Facility must provide medically-related social services.
F0251	Facility with more than 120 beds must employ a qualified social worker on a full time basis.
F0252	Facility must provide a safe, clean, comfortable, and homelike environment.
F0253	Facility must provide housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior.
F0254	Facility must provide clean bed and bath linens that are in good condition.
F0255	Facility must provide private closet space in each resident's room.
F0256	Facility must provide adequate and comfortable lighting levels in all areas.
F0257	Facility must provide comfortable and safe temperature levels.
F0258	Facility must provide comfortable sound levels.

Quality of Care

Deficiency - (Ftag)	Definition
F0309	Facility to provide necessary care for the highest practicable physical, mental, and psychosocial well being.
F0310	Activities of daily living do not decline unless unavoidable.
F0311	Resident is given treatment to improve abilities.
F0312	Activities of daily living care is provided for dependent residents.
F0313	Resident receive treatment to maintain hearing and vision.

F0314	Proper treatment to prevent or treat pressure sores.
F0315	Resident is not catheterized, unless unavoidable.
F0316	Appropriate treatment for incontinent resident.
F0317	No reduction of range of motion, unless unavoidable.
F0318	Resident with limited range of motion receives appropriate treatment.
F0319	Appropriate treatment for mental or psychosocial problems.
F0320	No development of mental problems, unless unavoidable.
F0321	No naso-gastric tube, unless unavoidable.
F0322	Proper care and services for resident with naso-gastric tube.
F0323	Facility is free of accident hazards.
F0324	Resident receives adequate supervision and assistance devices to prevent accidents.
F0325	Facility must maintain acceptable parameters of nutritional status, unless unavoidable.
F0326	Resident receives therapeutic diet, when required.
F0327	Facility must provide sufficient fluid intake to maintain proper hydration and health.
F0328	Facility must ensure that proper treatment and care is provided.
F0329	Each resident's drug regimen must be free from unnecessary drugs.
F0330	No use of antipsychotic drugs, except when necessary.
F0331	Residents who use antipsychotic drugs receive gradual dose reductions.
F0332	Facility must ensure that it is free of medication error rates of five percent or greater.
F0333	Residents are free of any significant medication errors.

APPENDIX B

Definitions of Selected Deficiencies for State Survey Report Review

Deficiency - (Ftag)		Definition
F223	[n=14]	Resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.
F241	[n=26]	Facility must promote care that maintains or enhances dignity.
F279	[n=24]	The facility must develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing, and mental and psychosocial needs, as identified in the comprehensive assessment. The care plan must describe the services that are to be furnished and any services that would otherwise be required.
F280	[n=18]	A comprehensive care plan must be developed by an interdisciplinary team, within 7 days after the completion of the comprehensive assessment and be periodically reviewed and revised by a team of qualified persons after each assessment.
F309	[n=34]	Facility to provide necessary care for the highest practicable physical, mental, and psychosocial well being.
F314	[n=32]	Proper treatment to prevent or treat pressure sores.
F323	[n=21]	Facility is free of accident hazards.
F324	[n=37]	Resident receives adequate supervision to prevent accidents.
F327	[n=13]	Facility must provide sufficient fluid intake to maintain proper hydration and health.
F329	[n=18]	Each resident's drug regimen must be free from unnecessary drugs.
F353	[n=12]	The facility must have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by the resident assessments and individual plans of care.
F371	[n=36]	The facility must store, prepare, distribute, and serve food under sanitary conditions.
F0441	[n=25]	The facility must establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection.

APPENDIX C

Table C-1

Proportion of Nursing Homes by Resident Behavior and Facility Practices Deficiencies, 1998-2001

Deficiency	1998	1999	2000	2001	Percentage Point Difference* 1998-2001
Right to be free from physical restraints	12.8%	11.5%	10.9%	11.0%	-1.8%
Right to be free from chemical restraints	0.7%	0.4%	0.5%	0.4%	-0.3%
Right to be free from abuse	1.7%	2.0%	1.7%	1.5%	-0.1%
Must have policies that prohibit abuse and neglect	1.9%	2.6%	3.2%	2.5%	0.5%
May not employ persons guilty of abuse	6.7%	8.7%	11.6%	10.8%	4.1%
Facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents, and misappropriation of resident property**	0.0%	1.6%	8.7%	10.2%	10.2%
Total	**19.1%**	**21.3%**	**28.0%**	**28.2%**	**9.1%**

* Differences may be due to rounding

Source: OSCAR data, 2002

** Deficiency was instituted in 1999

Table C-2

Proportion of Nursing Homes by Quality of Life Deficiencies, 1998-2001

Deficiency	1998	1999	2000	2001	Percentage Point Difference* 1998-2001
Facility promotes/enhances quality of life	0.3%	0.2%	0.2%	0.3%	0.0%
Facility promotes care that maintains/enhances dignity	14.4%	16.8%	17.3%	17.2%	2.9%
Resident has the right to make choices about aspects of life in the facility	2.5%	2.6%	2.1%	2.0%	-0.5%
Right to organize and participate in groups	0.5%	0.6%	0.3%	0.3%	-0.2%
Facility must listen and respond to groups	0.4%	0.4%	0.6%	0.5%	0.0%
Right to participate in activities	0.1%	0.1%	0.1%	0.1%	0.0%
Should have policies that accommodate needs	9.2%	9.6%	10.0%	9.7%	0.5%
Receive notice of room or roommate change	0.2%	0.2%	0.1%	0.1%	-0.1%
Facility must provide an activity program	7.9%	8.8%	8.2%	7.8%	-0.2%
Facilities activity director must be fully qualified	0.4%	0.5%	0.5%	0.5%	0.1%
Facility provides medically-related social services	7.9%	7.9%	6.7%	6.8%	-1.1%
Facility must employ a qualified social worker	0.2%	0.3%	0.3%	0.2%	0.0%
Facility must provide a safe, clean, homelike environment	7.1%	7.3%	7.6%	7.7%	0.6%
Housekeeping maintains sanitary and comfortable interior	14.2%	15.5%	17.3%	16.7%	2.5%

(Continued)

Deficiency	1998	1999	2000	2001	Percentage Point Difference* 1998-2001
Clean bed and bath linens	1.6%	1.7%	1.4%	1.2%	-0.4%
Private closet space	0.1%	0.1%	0.1%	0.1%	0.0%
Adequate and comfortable light	0.6%	0.4%	0.6%	0.4%	-0.1%
Safe and comfortable temperature levels	1.0%	0.9%	0.9%	0.8%	-0.2%
Maintenance of comfortable sound levels	1.7%	1.8%	1.8%	1.5%	-0.2%
Total	**37.8%**	**41.9%**	**43.6%**	**43.1%**	**5.3%**

* Differences may be due to rounding

Source: OSCAR data, 2002

Table C-3

Proportion of Nursing Homes by Quality of Care Deficiencies, 1998-2001

Deficiency	1998	1999	2000	2001	Percentage Point Difference* 1998-2001
Provides necessary care for highest practicable well-being	17.0%	21.1%	23.5%	23.5%	6.6%
ADL's don't decline unless unavoidable	2.7%	2.2%	1.8%	1.6	-1.0%
Resident given appropriate treatment to improve abilities	5.6%	6.5%	6.0%	4.8%	-0.8%
ADL care provided for dependent residents	11.9%	14.3%	13.7%	12.5%	0.6%
Resident receives treatment to maintain vision and hearing	0.6%	0.7%	0.6%	0.6%	0.0%
Proper treatment to prevent or treat pressure sores	16.5%	18.1%	18.0%	17.1%	0.6%
Resident not catheterized, unless unavoidable	1.4%	1.3%	1.2%	1.6%	0.2%
Appropriate treatment for incontinence	11.1%	11.7%	10.7%	10.2%	-0.9%
No reduction in range of motion, unless unavoidable	0.8%	0.9%	0.7%	0.6%	-0.2%
Appropriate range of motion treatment	8.9%	9.9%	9.0%	8.0%	-0.9%
Appropriate treatment for mental or psychosocial functioning	2.5%	2.7%	2.3%	1.9%	-0.6%
No development of mental problems, unless unavoidable	0.1%	0.2%	0.2%	0.2%	0.0%
No naso-gastric tube, unless unavoidable	0.2%	0.1%	0.1%	0.1%	-0.1%
Proper care for residents with naso-gastric tubes	4.6%	5.3%	5.8%	5.2%	0.6%

(Continued)

Deficiency	1998	1999	2000	2001	Percentage Point Difference 1998-2001
Facility is free of accident hazards	18.0%	18.7%	20.4%	21.9%	3.9%
Adequate supervision and/or devices to prevent accidents	14.8%	17.9%	18.0%	18.5%	3.6%
Resident maintains nutrition status, unless unavoidable	8.0%	9.9%	9.4%	8.3%	0.3%
Resident receives therapeutic diet, when required	1.9%	2.3%	3.1%	3.0%	1.1%
Facility provides sufficient fluid intake to maintain health	3.2%	5.4%	6.0%	5.0%	1.9%
Proper treatment and care for special needs	3.6%	4.3%	4.6%	4.6%	1.0%
Drug regimen free from unnecessary drugs	10.5%	11.8%	12.4%	12.5%	2.0%
No use of antipsychotic drugs except when necessary	1.2%	0.8%	0.9%	0.9%	-0.3%
Gradual dose reduction of antipsychotic drugs	1.2%	1.1%	0.9%	1.1%	-0.1%
Facility is free of medication error rates of 5% or more	5.6%	7.4%	10.0%	9.8%	4.2%
Residents are free from significant medication errors	3.0%	3.7%	4.4%	3.8%	0.9%
Total	**59.4%**	**65.3%**	**68.1%**	**68.4%**	**9.0%**

* Differences may be due to rounding

Source: OSCAR data, 2002

APPENDIX D

Table D-1

Percentage of Nursing Homes that Received Substandard Quality of Care and Immediate Jeopardy Deficiencies, 1998-2001

	1998	1999	2000	2001	Percentage Point Difference 1998-2001
Substandard Quality of Care	4.5 %	4.8 **%**	4.5 **%**	4.2 **%**	-0.3
Immediate Jeopardy	1.4 **%**	1.4 **%**	2.1 %	2.3 **%**	0.9

Source: OSCAR data, 2002

Table D-2

Percentage of Nursing Homes by Scope and Severity of Quality of Care Deficiencies, 1998-2001

Scope and Severity Level	1998	1999	2000	2001	Difference 1998-2001
A	0 %	0 %	0 %	0 %	0 %
B	13.0%	12.3%	14.3%	14.5%	1.5%
C	6.4%	7.5%	9.0%	7.7%	1.3%
D	51.1%	56.6%	61.8%	64.1%	13.0%
E	32.8%	35.8%	38.9%	37.6%	4.8%
F	1.5%	1.9%	1.8%	1.6%	0.2%
G	26.5%	28.5%	22.7%	18.6%	-7.9%
H	2.6%	2.7%	1.8%	1.3%	-1.3%
I	0.1%	0.1%	0.1%	0.0%	-0.1%
J	0.7%	0.7%	0.8%	1.0%	0.4%
K	0.5%	0.4%	0.8%	0.8%	0.4%
L	0.0%	0.1%	0.1%	0.2%	0.2%

Source: OSCAR data, 2002

APPENDIX E

State Deficiency Rates, Deficiency-Free Nursing Homes, and Proportion of Deficiencies Removed From Draft Reports

State	Deficiency Rate*	Deficiency-Free Homes	% Deficiencies Removed
Vermont	2.9 (low)	28.2	2%
Rhode Island	3.3 (low)	24.2	10%
Wisconsin	3.3 (low)	22.6	5%
Virginia	3.5 (low)	33.5	5%
Utah	3.7 (low)	16.5	1%
North Dakota	3.9 (low)	10.7	10%
Iowa	4.1 (low)	13.9	25%
Pennsylvania	4.2 (low)	15.1	5%
Nebraska	4.4 (low)	19.3	7%
New Hampshire	4.4 (low)	24.6	1%
Minnesota	4.6 (low)	14.4	No Response
Massachusetts	4.6 (low)	29.2	10%
Maryland	4.6 (low)	13.2	No Response
Delaware	5.1 (medium)	15.8	1%
Maine	5.1 (medium)	4.5	1%
New Jersey	5.1 (medium)	14.5	1%
Illinois	5.1 (medium)	13.3	No Response
Montana	5.2 (medium)	10.6	No Response
Colorado	5.2 (medium)	12.4	5%
Ohio	5.2 (medium)	13.7	2%
South Dakota	5.3 (medium)	6.5	1%
New Mexico	5.5 (medium)	19.4	2%
Missouri	5.5 (medium)	12.5	10%
Connecticut	5.6 (medium)	6.3	3%
New York	5.6 (medium)	8.6	10%
Alaska	5.8 (medium)	14.3	5%
Georgia	5.8 (medium)	9.5	No Response
South Carolina	5.8 (medium)	9.5	1%
North Carolina	6.1 (medium)	9.7	No Response
Oregon	6.1 (medium)	18.0	5%
Indiana	6.1 (medium)	12.9	No Response
Mississippi	6.3 (medium)	4.4	5%

(continued)

State	Deficiency Rate*	Deficiency-Free Homes	% Deficiencies Removed
Oklahoma	6.4 (medium)	15.5	No Response
Texas	6.4 (medium)	9.8	12%
Idaho	6.5 (medium)	8.2	0%
Alabama	6.5 (medium)	8.6	10%
Tennessee	6.7 (medium)	3.3	1%
Kansas	6.9 (medium)	11.8	1%
Louisiana	7.0 (high)	9.8	2%
West Virginia	7.5 (high)	7.0	2%
Florida	7.9 (high)	2.9	No Response
Arkansas	7.9 (high)	4.3	0%
Kentucky	8.2 (high)	4.0	5%
Michigan	8.4 (high)	4.0	5%
Washington	8.6 (high)	4.8	No Response
Wyoming	9.2 (high)	8.8	3%
Hawaii	9.9 (high)	5.9	0%
Nevada	9.9 (high)	0	5%
D.C.	10.0 (high)	5.0	1%
Arizona	10.2 (high)	3.9	2%
California	11.2 (high)	2.1	8%

Source Data - OSCAR 2002 CMS mainframe download

*****Deficiency Rate

Low (2.9 - 4.6 deficiencies per facility)
Medium (5 - 6.9 deficiencies per facility)
High (7.0 - 11.24 deficiencies per facility)

For the population of states we categorized deficiency rates into low, medium, and high by determining the proportional deficiency rate (mean of deficiencies) and the distribution of the means or the maximum and minimum in each category of low, medium, and high rates of deficiencies. We computed a correlation coefficient (-.22425) for the variables, deficiency rate, and removal of deficiencies, which does not imply causal relationship.

```
------------------------ STATES WITH LOW DEFICIENCY RATES -----------------------------
               Variable             N         Mean         Minimum      Maximum
                 Deficiency rate         13        3.96158       2.87179      4.64091

-----------------------STATES WITH MEDIUM DEFICIENCY RATES ----------------------------
               Variable                 N         Mean        Minimum      Maximum
                 Deficiency rate          25        5.80444      5.05263      6.88184

-----------------------STATES WITH HIGH DEFICIENCY RATES-----------------------------
               Variable                N         Mean        Minimum      Maximum
              Deficiency rate        13        8.93332      7.03797     11.24108
```

APPENDIX F

4009.1 **Federal Minimum Qualification Standards For Long Term Care (LTC) Facility Surveyors**

Sections 1819(g)(2)(C)(ii), 1819(g)(2)(E)(iii), 1919(g)(2)(C)(ii), and 1919(g)(2)(E)(iii) of the Act require that individual members of long term care (LTC) survey teams meet minimum qualifications, established by the Secretary, and successfully complete a training and testing program in survey and certification techniques. In addition, LTC surveyors must successfully complete a training and testing program, which includes the Surveyor Minimum Qualifications Test (SMQT).

A. Purpose.--The SMQT is part of the training and testing program and addresses the knowledge, skills, and abilities needed to conduct standard and extended surveys in LTC facilities.

B. Prerequisites.--Prior to taking the SMQT, a LTC surveyor must complete the CMS Orientation Program, and the Basic Long Term Care Health Facility Surveyor Training Course.

C. Test Composition.--The SMQT is composed of two modules:

1. Module A.--Includes the following LTC facility survey tasks:
   - o Offsite Survey Preparation;
   - o Entrance Conference and Onsite Preparatory Activities;
   - o Initial Tour;
   - o Resident Sampling;
   - o Environmental Assessment (including the environmental aspects of Dietary Services);
   - o Quality of Life Assessment;
   - o Information Analysis and Decision Making; and
   - o Exit Conference.

2. Module B.--Includes:
   - o Resident Review (including resident assessments and plans of care);
   - o Closed Record Review;
   - o Nutritional Aspects of Dietary Services System Assessment; and
   - o Medications Review.

D. Successful Performance.--

1. Successful Completion of Module A.--An individual must successfully complete Module A to be a member of a LTC facility survey team.
2. Successful Completion of Module B.--Individuals who are expected by the state agency to conduct the tasks addressed by Module B may survey these areas only after they successfully complete both Module A and Module B. Specific individual survey assignments are at your discretion.

APPENDIX G

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

DATE: FEB 21 2003

TO: Janet Rehnquist
Inspector General
Office of Inspector General

FROM: Thomas A. Scully
Administrator
Centers for Medicare & Medicaid Services

SUBJECT: Office of Inspector General (OIG) Draft Report: "Nursing Home Deficiency Trends and Survey and Certification Process Consistency" (OEI-02-01-00600)

Thank you for the opportunity to review and comment on the above-referenced draft report. The information gathered by the OIG will help us to continue in our development and revisions of policy decisions regarding the long term care survey process.

In 1998, the Centers for Medicare & Medicaid Services (CMS) launched a broad based initiative to improve enforcement of Federal nursing home standards and promote quality care for nursing home residents. The efforts directed toward improving the enforcement of Federal requirements included improving the oversight and reporting of the quality of care found in nursing homes. This initiative evolved into the Nursing Home Oversight Improvement Program, which has included the development of State Performance Measures. These measures were developed in conjunction with CMS, Regional Offices (ROs), and state agencies (SAs) and were implemented beginning Fiscal Year (FY) 2001. They are ongoing.

The CMS recognized a need for guidance to assist surveyors in more accurate and consistent decisions regarding severity determinations. In January 2001, CMS contracted with the American Institutes for Research (AIR) to convene expert panels consisting of national subject matter experts and state and Federal surveyors to review and develop guidance for determining severity of deficiency findings. Based on the public comments, CMS modified the contract work with AIR to include changes in the method of determining the criteria for the specific severity levels and enhancement of the interpretative guidance, including when to cite single or multiple deficiencies. The guidance and decision tools that emerge from this work will serve as a resource for surveyors to facilitate consistent and accurate severity determinations and provide a more consistent approach to the implementation of the survey process.

OIG Recommendation
The Centers for Medicare & Medicaid Services should continue to improve its guidance to state agencies on citing deficiencies by providing guidelines that are both clear and explicit.

Based on the findings, we recommend that CMS:

1) Provide more specific guidance to states for quality of life deficiency tags and clearer directives on when to cite single or multiple deficiencies.
2) More clearly communicate to states that the focus of the nursing home survey process is not consultative.

CMS Response
We concur with 1 and 2 above.

The CMS currently has a contract with the AIR to develop structured guidance for the identification of specific levels of severity related to deficiency findings, review and revise the interpretative guidance for selected tags, and provide guidance on when to cite single or multiple deficiencies. The CMS recognized that surveying for the quality of life area has been ill defined regarding the nature and severity of harm, or potential harm, to residents, caused by facility failures to provide optimal psychosocial care and services. Based on these findings, CMS is convening a panel of experts to develop guidance identifying severity levels for psychosocial harm outcomes, which has an impact on the quality of life and quality of care of residents. This guidance will serve as a foundation for development of interpretative guidelines for other quality of life tags. The CMS will develop national training for surveyors on the use of these guidelines once we have completed their development, obtained public comment, and finalized the guidance.

To more clearly communicate to the states the focus of the nursing home survey process, we issued a Survey and Certification Letter, 03-08, to reiterate the role and function of surveyors on the issues of consultation. The State Operations Manual, Section 9, Appendix P. page 77, and Section 3727 provides directions to surveyors on their role during information transfer and limitation of technical assistance related to consultation. The guidance reinforces the responsibility of the state agency to confirm that facilities are in compliance with regulatory requirements during the survey process.

OIG Recommendation
The Centers for Medicare & Medicaid Services, together with states, should develop common review criteria for draft survey reports.

CMS Response
The CMS worked collaboratively with the ROs and SAs to develop State Performance Measures that were implemented during FY 2001. State Performance Standard 2, "Survey findings are supportable," measures whether or not the evidence for deficiency findings is supportable and cited at the correct scope and severity levels. This

standard was considered developmental for FY 2001. The CMS provided training to SAs and ROs on the use of the evaluation tool and this standard was released as part of the State Performance Standards package for FY 2002. The CMS will review and revise the tool based on the RO and SA evaluation of the tool for FY 2002 and 2003. Upon the completion of the evaluation, CMS will make revisions as necessary and require all states to use the tool for their Quality Improvement Programs for FY 2004.

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