

## INTRODUCTION

Good morning, Mr. Chairman. I am George Grob, Deputy Inspector General for Evaluation and Inspections within the Department of Health and Human Services. The Office of Inspector General shares your keen interest in the quality of the care received by some of our Nation's most vulnerable citizens. I am here today to describe some serious problems and the steps that need to be taken to improve them. Some substantial initiatives are already underway by the Department of Health and Human Services, and based on our work, we believe that a concerted effort over several years and involving numerous parties will be needed to bring the quality of life and care in nursing homes consistently up to the level envisioned in Federal statutes. So, I will lay out an agenda of such actions for the consideration of Federal and State governments and the nursing home industry.

Recent reports by the Health Care Financing Administration, our office, and the General Accounting Office have raised serious concerns about patient care and well-being. Your Committee held hearings on this in Summer 1998, and I know you are following the results carefully. We had also undertaken a series of studies aimed at assessing the quality of care in nursing homes. Your Committee focused on the State of California in your earlier hearing, and our studies broaden the look at conditions in nursing homes to the 10 largest States, representing 56 percent of all skilled nursing facility beds and 56 percent of all expenditures by Medicaid for institutional long-term care. Today, we are releasing six reports describing the findings of our initial inquiry. We are grateful for the opportunity to present our results to you, hoping they can be folded into the overall partnership emerging between the Congress and the Department on this subject.

For our series of reports, we tried to step back to look at the "big picture" in nursing homes. First, we looked at conditions in nursing homes, using currently available program data that could serve as an indicator of conditions in nursing homes. Next, we examined the capacity of the systems that are currently in place to protect nursing home residents. These systems primarily included the State survey and certification system and the Long Term Care Ombudsman Program. We also looked at State resident abuse safeguards, law enforcement, family involvement, and the legislative reforms established by the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987).

## CONDITIONS IN NURSING HOMES

**Deficiency and complaint trends.** State surveys determine a nursing home's compliance with Federal standards. When a facility fails to meet a specific standard, a deficiency is given to the facility. According to data from these surveys in our 10 sample States, deficiencies overall have been decreasing in recent years. However, 13 of 25 *quality of care* deficiencies have increased in recent years. These deficiencies include such serious problems as a lack of supervision to prevent accidents, improper care for pressure sores, and lack of necessary care for the highest practicable well being.

Some of these serious deficiencies were given to a number of facilities in our 10 State sample on the latest survey. For example, 16 percent of sample State facilities received a deficiency for improper treatment to prevent or treat pressure sores. Sixteen percent received a deficiency for failing to promote care that maintains or enhances dignity. Fourteen percent failed to provide necessary care for the highest practicable well-being. Thirteen percent had deficiencies for the right to be free from physical restraints. Ten percent were cited for failure to provide appropriate treatment for incontinence. Table 1 highlights quality of care deficiencies for which 10 percent or more nursing homes in our 10 State review received citations on the latest survey.

**Table 1**

**The Top 10 Substandard Quality of Care Deficiencies  
Include Some Serious Problems**

Deficiency	# of Sample State Deficiencies	% of Sample State Facilities
Proper treatment to prevent or treat pressure sores	1186	16%
Facility free of accident hazards	1164	16%
Facility promotes care that maintains/enhances dignity	1115	16%
Housekeeping and maintenance	1023	14%
Provide necessary care for highest practicable well-being	972	14%
Right to be free from physical restraints	958	13%
Should have policies that accommodate needs	787	11%
Drug regimen free from unnecessary drugs	768	11%
Appropriate treatment for incontinence	750	10%
"Activities of daily living" care provided for dependent residents	699	10%

At the same time, complaints made to the Ombudsman program in the 10 State sample have been steadily increased at a rate higher than the overall complaint rate during this time period. From 1996 to 1997, some of the top increases in complaints included symptoms unattended or no notice to others in change of condition (+26 percent); fluid availability/hydration (+26 percent); and weight loss due to inadequate nutrition (+24 percent). These and other serious complaints are evident in Table II.

**Table II  
Top Increases in Ombudsman Complaints Also Include Serious Problems**

Complaint Type	Number,	Number	% increase,
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	1996	1997	1996-1997
Information on advance directive*	178	458	157%
Denial of eligibility	188	292	55%
Staff turn-over, overuse of nursing pools	107	159	49%
psychoactive drugs-assessment, use, evaluation	122	176	44%
Other: activities & social services**	194	262	35%
Vision and hearing	174	226	30%
Administrator(s) unresponsive, unavailable	242	308	27%
Symptoms unattended, no notice to others of change in condition	1,193	1,507	26%
Staff training, lack of screening	374	471	26%
Fluid availability/hydration	459	576	26%
Furnishing/storage	338	421	25%
Weight loss due to inadequate nutrition	216	267	24%

\*Failure to notify resident in advance of changes in nursing home policy or procedures.

\*\*Miscellaneous complaints about resident activities and social services.

**Source: NORS data**

Experienced officials with inside information based on onsite visits to nursing homes -- including State survey directors, surveyors, ombudsmen, and State Aging Unit Directors -- express some reservations about relying exclusively on program data to gauge conditions in nursing homes. Nevertheless, they confirm that problems persist in nursing homes, such as malnutrition, abuse, pressure sores, and over-medication. The problems they identify are similar to the problems highlighted in their program reporting systems.

In addition to trends in survey and certification deficiencies and ombudsman complaints, there are further indications that problems continue to exist in nursing homes. For example, the Office of Inspector General is responsible for excluding from participation in the Medicare and Medicaid programs nursing home workers who are convicted of patient abuse or neglect. Since 1995, we excluded 668 nursing home workers for this reason nationwide.

**Repeat offenders.** Some nursing homes appear to be repeatedly deficient. Data from our 10 sample States show that 900 nursing homes (or 13 percent of all nursing homes) have been cited with the same deficiencies over the past four surveys. Six of the 13 percent (or 463 nursing homes) have been cited with the same *substandard quality of care* deficiency over the past four surveys.

**Nursing home staffing levels.** Many of the problems I have been talking about suggest that inadequate levels of nursing home staff contribute to this poor quality of care. In all 10 sample States, survey and certification staff, State and local ombudsmen, and State Aging Unit Directors agree that inadequate staffing levels is one of the major problems in nursing homes. Most believe these staffing shortages lead to chronic quality of care problems, such as fail adequately treat and prevent pressure sores

In addition, the type and extent of survey deficiencies and ombudsman complaints suggest that nursing home staffing levels may be inadequate. Common personal care problems such as lack of nutrition and poor care for incontinence suggest that staffing is inadequate to provide the level of care needed to avoid these problems. Furthermore, specific complaints about nursing home staff are some of the most common types of ombudsman complaints in 1997.

## **PROTECTION SYSTEMS**

In addition to looking at the conditions in nursing homes, we also made a general assessment of the capacity of the systems already in place to monitor and improve this care.

**Survey and certification process.** When we looked at State survey and certification agencies, we found that they are following required standard protocols with timely and standard surveys, complaint procedures, and other State procedures. However, we also found that this system has several weaknesses. First, it is limited by the predictability of its surveys. Although all States use unannounced surveys, State survey and certification directors and surveyors believe that nursing homes can anticipate their survey date and modify their procedures to avoid being cited for deficiencies.

The system is also limited by weak enforcement. Inadequate survey staff may be one of the causes of that weakness. While there may be enough survey staff to conduct timely standard surveys, there may be inadequate staff to conduct follow-up surveys that are required for nursing homes with deficiencies and for nursing homes with complaints. This lack of staff may contribute to the lack of action on complaints. When complaints come in to the survey and certification agency (from residents, families, employees, etc.) outside of the regular survey process, a surveyor is required to go to the nursing home and substantiate the complaint. We found about one-third of complaints are substantiated. Of those substantiated complaints, 28 percent have a plan of correction, but 47 percent receive no action. Finally, State survey and certification directors and surveyors say that the current process allows deficient facilities too many opportunities to avoid enforcement action.

**Ombudsman Program.** Our general assessment of the Ombudsman program found that it is well-designed but limited by inadequate resources. This program has several functions to promote and monitor quality of care in nursing homes, including identifying and resolving complaints, making regular visits to nursing homes, and engaging in a variety of different advocacy activities. Ombudsmen act as independent advocates and work solely on behalf of residents to ensure they have a voice in their own care, but they do not have enforcement or regulatory oversight. However, the Ombudsman program is limited by inadequate resources, including inadequate staffing. Staffing levels varied greatly across our sample, from 5,000 beds per paid ombudsman in one State to 1,100 beds in another. Only 1 of 10 States in our sample had a paid ombudsman to bed ratio higher than the standard suggested by the Institute of Medicine of 2,000 beds. This lack of adequate staffing is particularly evident in the limited extent to which ombudsmen make regular nursing homes visits. Some nursing homes may only be visited once or twice a year for a couple of hours. The program is further constrained by the lack of a common standard for complaint response and resolution and limited collaboration with surveyors.

**Resident abuse systems.** We also found that State systems to safeguard nursing home residents from abuse by nursing home employees are inconsistent and unreliable. Our recent audit report, "Safeguarding Long Term Care Residents," revealed great diversity in the way States systematically identify, report, and investigate suspected abuse, and it found that there was no assurance that individuals who posed a risk of abusing residents were systematically identified and barred from nursing home employment. Additionally, a more in-depth audit of Maryland examined eight nursing homes in the State and found that five percent of employees in those homes had criminal records.

**Families.** Another important resource to monitor the quality of care in nursing homes is a resident's family. We looked at whether residents' families knew about the availability of nursing home survey results. We found that two-thirds of 155 families interviewed in eight sample cities did not know that the results of Federal and State nursing home surveys are available on request. Additionally, half were unaware such inspections are required, and only 15 had ever requested a copy of survey results. Of the 11 who obtained a copy, 6 said the results were not based on the most recent survey. Furthermore, when we visited 32 sampled nursing homes, most did not fully meet the requirements for making survey results readily available. On a positive note, HCFA has recently taken a major step to improve access to survey results by establishing an Internet site entitled *Nursing Home Compare*. This website presents the survey results in a user friendly, summary form. It appears to be very promising way to make survey result more accessible to people with access to the Internet.

**Law enforcement** Additionally, new initiatives based on law enforcement approaches are being considered to make better use of law enforcement as a way to handle the most egregious cases of poor quality of care in nursing homes. The Department of Justice, the Office of Inspector General, and HCFA, are now examining the full range of enforcement issues and developing corresponding action plans for each. By targeting key strategic areas and coordinating among the various agencies responsible for nursing home enforcement, these initiatives appear promising. However, it is too soon to determine their full impact.

**Omnibus Budget Reconciliation Act of 1987.** The Omnibus Reconciliation Act (OBRA) of 1987 mandated that nursing home residents be given certain rights and services and also added several administrative standards that nursing homes are required to meet. It further changed enforcement and survey procedures. While it has now been more than a decade since this legislation was passed, there has been no systematic assessment of its extensive agenda and no methodical evaluation of whether the reforms it intended are actually working. While some studies have attributed positive changes to OBRA 87, the lack of a systematic review makes it difficult to determine if this major legislation has been successful in improving nursing home care.

## **AGENDA FOR CONTINUING IMPROVEMENT IN NURSING HOME CARE**

Recently, considerable attention has been paid to addressing persisting concerns about the survey and certification process. In particular, we wish to commend this Committee for its attention to nursing homes and the Health Care Financing Administration for its extensive nursing home initiative since it addresses many of these persisting problems. This initiative includes many individual action items which should result in positive changes. Additionally, the Administration on Aging (AoA) has been taking steps to enhance the Ombudsman program, including improving the program reporting system and conducting annual training of ombudsman staff.

The problems I have described today will require continuing attention, possibly for several years. The broad outline of an effective strategy would include actions to:

- further enhance the survey and certification process;
- strengthen the Ombudsman program with increased resources;
- improve nursing home staffing levels;
- improve coordination between State survey agencies and Ombudsmen; and
- systematically evaluate the nursing home reform provisions of OBRA 1987.

I have attached to my statement our full agenda for continuing improvement in nursing home care. In it, we lay out steps for immediate action, acknowledging many of the efforts currently underway by HCFA and AoA. We also lay out an agenda for future research and evaluation of the nursing home reform provisions of OBRA 1987. The Office of Inspector General plans to conduct a number of evaluations of the implementation of OBRA 1987 over the next few years, and we invite others to join us in this evaluation.

**Report card.** Finally, we believe that a periodic "report card" on conditions in nursing homes should be established in order to measure progress made in raising the standard of nursing home care. This report card could be based on deficiency trends, ombudsman complaints, insiders' perspectives, and resident and family satisfaction.

## **CONCLUSION**

Mr. Chairman, I hope my comments this morning have been useful for you and the committees you consider your own agenda for improving conditions in nursing homes. The Office of Inspector General is committed at all levels to improving care in nursing homes through our evaluations and audits and through our investigatory and legal authorities. I would be happy to answer any questions you or the committee may have.