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# The Identification of Resident Harm in Nursing Home Deficiencies: Observations & Insights


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## Introduction

Numerous studies have identified problems with the ability of state Survey Agencies (SAs) to adequately identify violations of minimum standards.[1] As a result, too many nursing home residents receive substandard care in facilities that are, nevertheless, classified as being in compliance with government standards. In addition, as our previous study, *Safeguarding NH Residents & Program Integrity: A National Review of State Survey Agency Performance*,[2] indicated, even when substandard abuse or neglect *are* identified by SAs, they rarely identify these deficiencies as having caused harm to residents.

This report provides the results of an assessment of the circumstances in which harm is identified when a nursing home is cited for deficient care, abuse or neglect. The identification and citing of resident harm is a significant issue for numerous reasons. Perhaps most importantly, in respect to the effective functioning of our nursing home quality assurance system, is that it is highly unlikely that a facility will face a penalty for deficient care or practices *unless* a violation is identified as having caused harm or immediate jeopardy to a resident. Thus, in the absence of a finding of harm,[3] facilities are essentially free to repeat the deficient practice(s) with impunity.

Our goal in presenting these data is to help stakeholders and policymakers gain insights into how and when nursing homes are cited for harming residents when substandard care, abuse or neglect are identified by surveyors.

Not surprisingly, recidivism in respect to neglectful and abusive practices, including so-called yo-yo compliance, is a widely recognized, widespread problem. As detailed in our companion report, *Chronic Deficiencies in Care: The Persistence of Recurring Failures to Meet Minimum Standards in U.S. Nursing Homes*, [available at www.nursinghome411.org] over 40% of U.S. nursing homes have three or more violations for the same regulatory requirement[4] in the three years of nursing home records published on Nursing Home Compare (the federal nursing home information website). This rate of chronic deficiencies is, unfortunately, virtually unchanged from our first compilation of nursing homes with chronic deficiencies in July 2015.

With over 15,000 U.S. nursing homes caring for over one million residents every day, it is axiomatic to say that every situation is unique. The 1987 Nursing Home Reform Law[5] requires that nursing homes provide individualized assessment, planning, care and services to meet the particular medical and psychosocial needs of each resident. The resulting standards of care, which all licensed nursing homes agree to meet or exceed, reflect this individualized approach.

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[1] See Appendix, Selected Reports on Care and Oversight in U.S. Nursing Homes.

[2] Mollot, Richard, JD, *Safeguarding NH Residents & Program Integrity: A National Review of State Survey Agency Performance*, LTCCC (April 2015). Available at www.nursinghome411.org. Hereinafter *Safeguarding Nursing Home Residents*.

[3] For the sake of brevity, in this report we refer to findings of harm as including all citations at harm or higher (i.e., "immediate jeopardy").

[4] As designated by F-tags, the federal data tags used to identify specific federal nursing home standards.

[5] Nursing Home Reform Law, 42 U.S.C. §§1395i-3(a)-(h), 1396r(a)-(h) (Medicare and Medicaid, respectively) (December 1987). Available at http://law.justia.com/cfr/title42/42-3.0.1.5.22.html#42:3.0.15.22.2.

The results of the assessment presented in this report are necessarily, limited by this diversity. In short, just as there is no "one-size-fits-all" approach to care, there is no one answer for how best to evaluate whether standards are being met. Our goal is to provide observations and insights into how and when harm is identified that we hope will be useful in efforts to improve practices and provide a basis for further inquiry.

The results of our assessment are presented in three sections. **Section I** presents baseline data, including the extent to which surveyors cite deficiencies at different scope and severity levels and the top (most cited deficiencies) at both harm and no harm. **Section II** presents data on the association between a nursing home's characteristics – from ownership to star ratings – and the likelihood that it will be identified as having caused harm to residents when it is cited for violating minimum standards. **Section III** focuses on the question of whether or not there are distinctions between Statements of Deficiencies for harm vs. no harm that might provide insights into how the practice of the survey, particularly the substantiation and writing of a deficiency, may support a finding of harm. Here we present the results of a review of a focused sample of twenty pressure ulcer deficiencies: ten cited at harm and ten cited at no harm.

All of the data presented and/or discussed were derived from Nursing Home Compare.[6] Our goal in presenting these data is to help stakeholders and policymakers gain insights into how and when nursing homes are cited for harming residents when substandard care, abuse or neglect are identified by surveyors. While association does not necessarily equate to causation, we believe that gaining insights into the context of nursing home citations can be useful in improving our understanding of the circumstances under which resident harm is identified by the survey system.

[6] Copies of the original citations are available, upon request, from LTCCC.

## Section I. Summaries of Nursing Home Compare Deficiencies

In June 2016 we ran a query on NH Compare for data on all deficiencies issued by the State Agencies. There were **a total of 480,235 deficiencies cited for the three years** published on the website. Out of these, **325,794 (67.84%)** were **health related (F-tag) citations**. Of the 325,794 F-tag citations, **16,142 (4.95%) were cited at G (harm) or above**. The total count for each scope and severity level found in the data is shown in the table below.

Figure 1-1. Citations by Scope & Severity Level

| S&S Level | Total |
|---|---|
| B | 6944 |
| C | 7515 |
| D | 186187 |
| E | 86525 |
| F | 22481 |
| G | 9971 |
| H | 889 |
| I | 19 |
| J | 2444 |
| K | 2076 |
| L | 743 |
| **Total** | **325794** |

See the appendices for the Scope and Severity Matrix and brief descriptions of all F-tags (at the time these deficiencies were cited).

Figure 1-2. Top Five Health Deficiencies

The following table shows the five most cited F-tags and the frequency of their appearance. The **top five F-tags** listed below account for **25.81% of all health citations** found in the data.

| F-Tag | Count |
|---|---|
| 323 | 19,719 |
| 441 | 19,459 |
| 371 | 17,176 |
| 309 | 16,480 |
| 329 | 11,254 |
| All F-Tags | 325,794 |

### Figure 1-3. Most Cited Deficiencies at Harm and at No Harm

The following tables show the top five cited F-tags both at no harm (scope and severity levels B-F) and at harm (scope and severity levels G-L) with their frequencies for the three years ("Cycles") published on NH Compare.

The top three violations for both harm and no harm remained constant over the three years. The top three no harm citations were (1) Infection control (F-441); (2) Sanitary food storage and preparation (F-371); and (3) Facility free from accidents and hazards (F-323). The top three harm deficiencies were (1) Facility free from accidents and hazards (F-323); (2) Necessary care for highest practicable well-being (F-309); and (3) Treatment to prevent/heal pressure ulcers (F-314).[7] See Appendix II for descriptive titles of all F-tags.

"No Harm" Citations

| Cycle 1: B-F | |
|---|---|
| **F-Tag** | **Count** |
| 441 | 6,582 |
| 371 | 5,921 |
| 323 | 5,078 |
| 309 | 4,789 |
| 279 | 3,658 |
| All F-Tags | 104,665 |

| Cycle 2: B-F | |
|---|---|
| **F-Tag** | **Count** |
| 441 | 6,505 |
| 371 | 5,670 |
| 323 | 5,161 |
| 309 | 4,797 |
| 329 | 3,670 |
| All F-Tags | 103,408 |

| Cycle 3: B-F | |
|---|---|
| **F-Tag** | **Count** |
| 441 | 6,237 |
| 371 | 5,536 |
| 323 | 5,168 |
| 309 | 4,569 |
| 329 | 3,782 |
| All F-Tags | 101,579 |

"Harm" Citations

| Cycle 1: G-L | |
|---|---|
| **F-Tag** | **Count** |
| 323 | 1,034 |
| 309 | 741 |
| 314 | 619 |
| 490 | 185 |
| 224 | 182 |
| All F-Tags | 5,052 |

| Cycle 2: G-L | |
|---|---|
| **F-Tag** | **Count** |
| 323 | 1,533 |
| 309 | 807 |
| 314 | 617 |
| 224 | 219 |
| 226 | 203 |
| All F-Tags | 5,585 |

| Cycle 3: G-L | |
|---|---|
| **F-Tag** | **Count** |
| 323 | 1,475 |
| 309 | 777 |
| 314 | 595 |
| 490 | 222 |
| 157 | 182 |
| All F-Tags | 5,505 |

[7] Note the overlap between the standards most cited at harm and those most cited at no harm.

## Section II. Circumstances in Which Resident Harm is Cited

### In What Situations Are Resident Harm Most Likely to Be Identified?

This section presents data on the likelihood that a nursing home is cited at harm with respect to several factors: ownership type, overall star rating, staffing star rating and substantiated complaints. We analyzed harm citation patterns for 15,640 facilities for the year 2015.

**NOTE**: References to citations "at harm" in the following graphs and discussions refer to citations at harm or higher (i.e., G or higher in Scope and Severity). See the Scope and Severity Matrix in Appendix I for more information.

### Figure 2-1. Percent of Facilities Cited at Harm

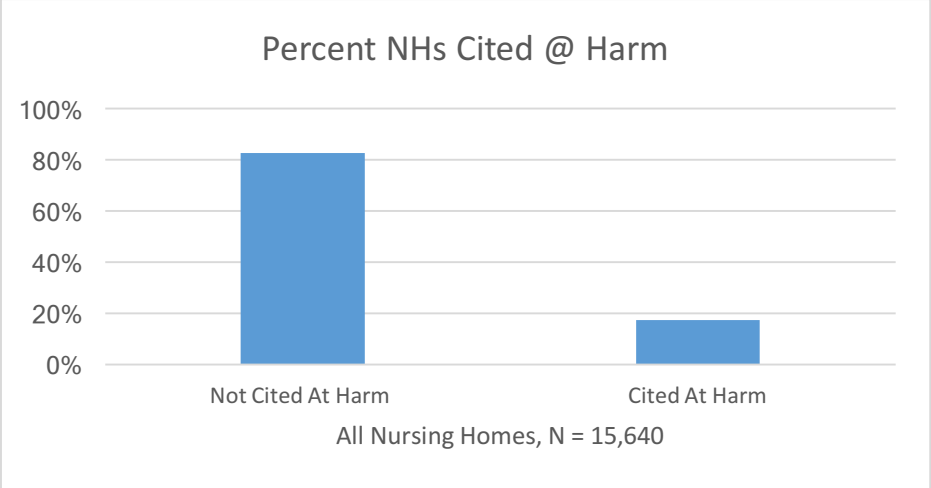


**Figure 2-1: Percentage of all NH cited at harm and no harm for 2015. Approximately 17% were cited at harm while the remaining 83% were not cited at harm.**

### Figure 2-2. Citations at Harm by Ownership Type

For ownership type, nursing homes were categorized either as for-profit or as facilities that are not-for-profit and/or government owned.

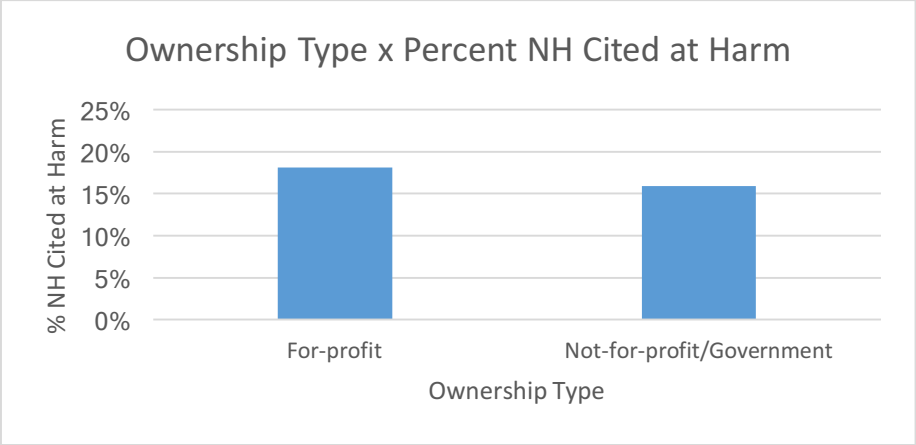


**Figure 2-2: The relationship between ownership type and likelihood of being cited at harm. Approximately 18% of the for-profit nursing homes were cited at harm while about 16% of the not-for-profit/government nursing homes were cited at harm in 2015.**

***Even for nursing homes that had the lowest possible star rating (1-star), surveyors only identified resident harm in less than half of the facilities.***

### Figure 2-3. Overall Star Rating

We analyzed the percentage of nursing homes cited at harm for each overall star rating category (1-5). As expected, facilities with a 1-star rating had the highest percentage of nursing homes cited at harm, and those with a 5-star rating had the lowest percentage of harm citations. However, less than half (~41%) of the facilities that had a 1-star rating were cited at harm.

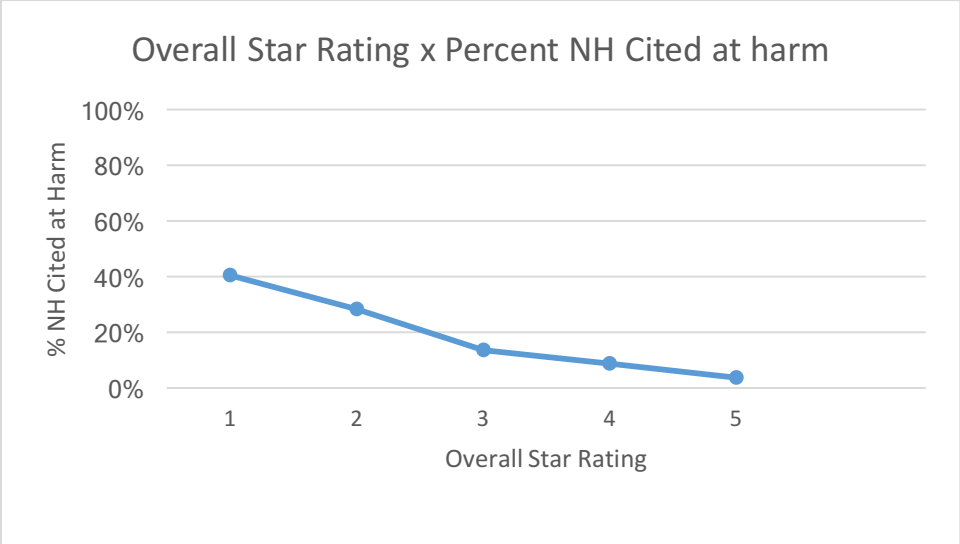


**Figure 2-3: The relationship between overall star rating and likelihood of being cited at harm. About 41% of the nursing homes that had an overall star rating of 1 were cited at harm while about 4% of the nursing homes that had an overall star rating of 5 were cited at harm in 2015.**

### Figure 2-4. Staffing Star Rating

Our findings indicated that there is significantly less variation in the likelihood that a facility will be cited at harm when it comes to staffing star ratings. To the extent that the staffing information provided on Nursing Home Compare is accurate,[8] this indicates that the number of staff in a nursing home has little association with whether or not the facility will be cited at harm or immediate jeopardy, despite numerous studies that have shown a strong correlation between staffing and quality. Although there is not a wide variation in likelihood of harm

[8] At the time these data were collected staffing levels were self-reported by nursing homes and unaudited by either the state or federal governments. To address concerns about the accuracy of this information, CMS began implementing a payroll-based, auditable system for reporting of direct care staff in the fall of 2016. As of February 2017, however, data derived from that system had not yet been published on Nursing Home Compare.

citation in relation to staffing star rating, the most significant difference appears to be between four and five stars.

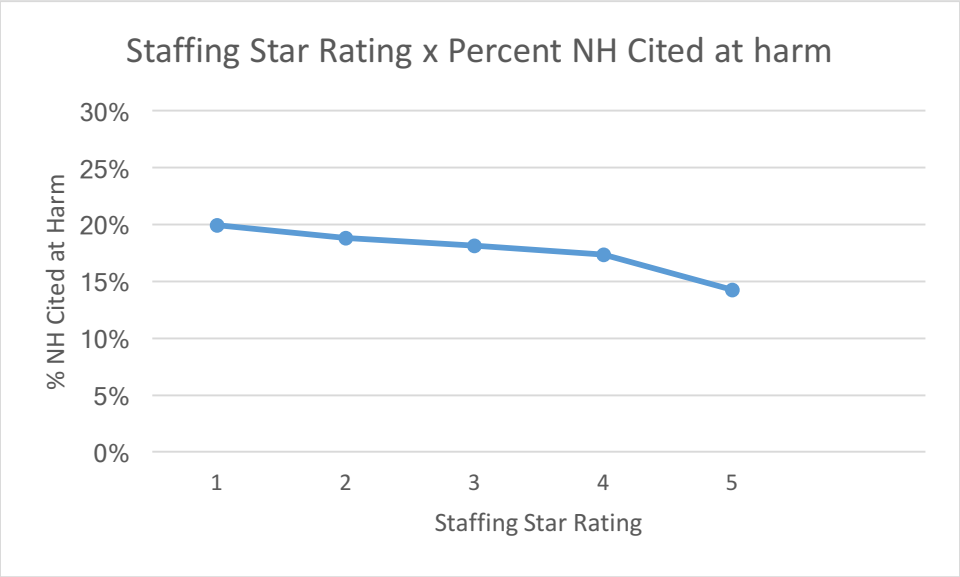


**Figure 2-4: The relationship between staffing star rating and likelihood of being cited at harm. About 20% of the nursing homes that had a 1-star staffing rating were cited at harm while about 14% of the nursing homes that had a 5-star staffing rating were cited at harm in 2015.**

Figure 2-5. Quality Measure Star Rating

As the quality measure star rating increases, the percentage of nursing homes cited at harm decreases. There is a 10 percentage point difference between a 1-star and a 5-star rate with relation to likelihood of being cited at harm.

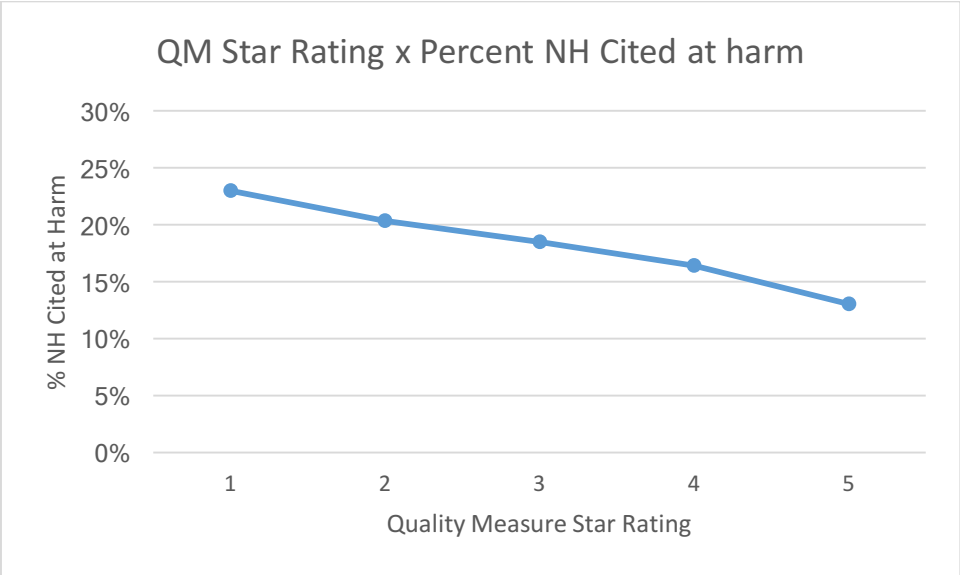


**Figure 2-5: The relationship between quality measure star rating and likelihood of being cited at harm.**

### Figure 2-6. Inspection Star Rating

As we expected, since citations are the basis of the health inspection star rating, the likelihood of being cited at harm decreases dramatically as the health inspection rating of the facility increases.

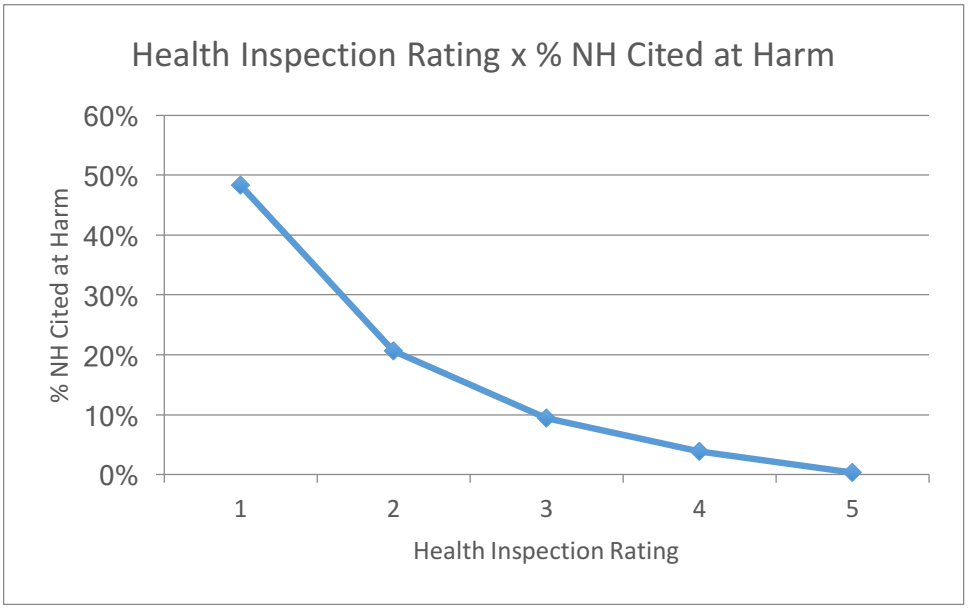


**Figure 2-6: The relationship between health inspection star rating and likelihood of being cited at harm.**

### Figure 2-7. Number of Substantiated Complaints

The data indicate a strong positive association between a nursing home having had a substantiated complaint and its likelihood of being cited at harm.

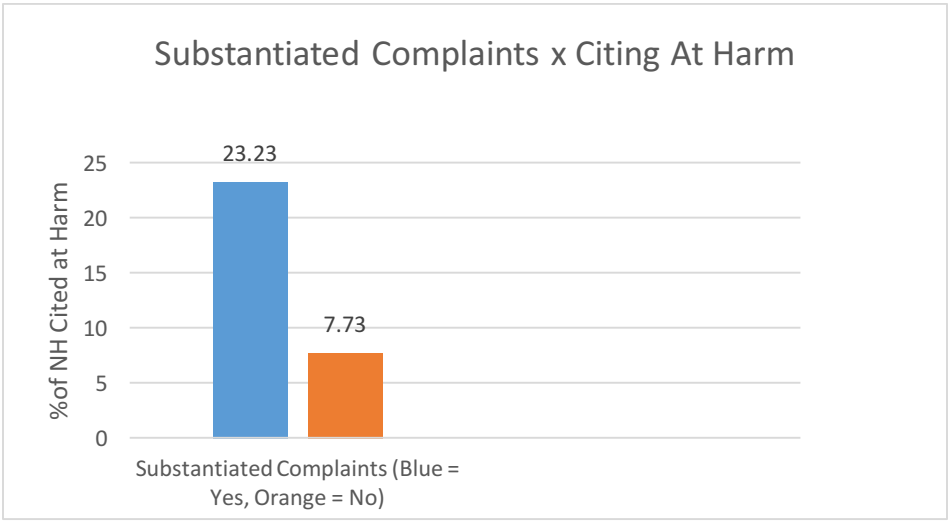


**Figure 2-7: The relationship between having a substantiated complaint and likelihood of being cited at harm.**

## Section III. Characteristics of Harm Citations

Given the infrequency with which harm is identified when a surveyor cites a facility for violating a quality standard,[9] we were interesting in finding out if there are useful distinctions that can be identified between how surveyors substantiate, in writing, deficiencies at harm vs. those in which no harm is cited.

To gain insights into this question we selected for assessment twenty citations at random: ten that were cited at harm and ten that were cited as not causing harm. All twenty citations are from a single state (New York) and were for violation of the same regulatory requirement: F-314, inappropriate or inadequate pressure ulcer care.[10] From our perspective, a pressure ulcer is a narrowly defined citation and one that is, by its very definition, associated with resident harm. In our opinion, if a nursing home has been cited for not providing sufficient or appropriate care and monitoring to prevent and/or treat pressure ulcers it stands to reason that one or more residents have been harmed. However, as our 2015 study found, though pressure ulcers are largely preventable, states only cite nursing homes about 3% of the time that a resident has a pressure ulcer and, of those citations, only about 25% are identified (rated) as having caused resident harm.[11]

### Foundations of Pressure Ulcer Prevention & Care

According to the U.S. Centers for Disease Control and Prevention,

> Pressure ulcers, also known as bed sores, pressure sores, or decubitus ulcers, are wounds caused by unrelieved pressure on the skin. They usually develop over bony prominences, such as the elbow, heel, hip, shoulder, back, and back of the head. **Pressure ulcers are serious medical conditions and one of the important measures of the quality of clinical care in nursing homes**.[12] [Emphasis added; endnotes deleted from original.]

While some pressure ulcers are unavoidable, research and experience indicate that**,"[i]n the vast majority of cases, appropriate identification and mitigation of risk factors can prevent or minimize pressure ulcer (PU) formation**."[13]

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[9] As noted earlier, harm is identified in just under 5% of all health citations.

[10] While the sampling was random, based on our search of all F-314 (pressure ulcer care) deficiencies in New York State on Nursing Home Compare, we believe that it is important to note that the limitations of the sample size (20 total) render it insufficient to draw generalized conclusions. Rather, as mentioned at the beginning of this report, our goal is to provide insights that may be useful in developing and implementing practices that improve the identification of resident harm.

[11] See *Safeguarding Nursing Home Residents*, p. 21.

[12] NCHS Data Brief, No. 14 (February 2009), which incorporates *Pressure Ulcers Among Nursing Home Residents: United States*, *2004*. Accessed in March 2015 from www.cdc.gov/nchs/data/databriefs/db14.pdf (PDF).

[13] Edsberg, L.; Langemo, D.; Baharestani, M.; Posthauer, M.; and Goldberg, M., "Unavoidable Pressure Injury: State of the Science and Consensus Outcomes," *Journal of Wound, Ostomy & Continence Nursing*: July/August 2014 - Volume 41 - Issue 4 - p 313–334. Abstract accessed in February 2017 at http://journals.lww.com/jwocnonline/Abstract/2014/07000/Unavoidable_Pressure_Injury__State_of_the_Science.6.aspx. [Emphasis added.]

According to CMS's RAI Manual (which provides guidelines for nursing home staff on "how to use the Resident Assessment Instrument (RAI) correctly and effectively to help provide appropriate care"),[14] "[a] **complete assessment of skin is essential to an effective pressure ulcer prevention and skin treatment program**. Be certain to include in the assessment process, a holistic approach. **It is imperative to determine the etiology of all wounds and lesions**, as this will determine and direct the proper treatment and management of the wound." [15] [Emphases added.]

Though nursing homes are required to have sufficient numbers of staff with the knowledge and skills necessary to provide appropriate pressure ulcer care ***before*** they take in a resident, there is a 50 page section of the RAI Manual wholly dedicated to explaining how resident care includes appropriate monitoring and services to effectively prevent and treat pressure ulcers.

Though nursing homes are required to have sufficient numbers of care staff with the knowledge and skills necessary to provide appropriate pressure ulcer care ***before*** they take in a resident, there is a 50 page section of the RAI Manual wholly dedicated to explaining how resident care includes appropriate monitoring and services to effectively prevent and treat pressure ulcers. Section M provides detailed guidelines and expectations for nursing homes on assessing, coding and planning for care to prevent pressure ulcers, ameliorate pressure ulcer risk and care for pressure ulcers.[16] In addition to the RAI Manual, there is a plethora of pressure ulcer resources for the nursing home industry, from private as well as government sources, including the Agency for Healthcare Research and Quality (AHRQ)[17] and the National Institutes of Health.[18]

**Nevertheless, pressure ulcers continue to be a widespread problem, affecting over 90,000 U.S. nursing home residents.**[19]

### Basis for Our Comparison of Citations at Harm and No-Harm

As noted above, our analysis of the findings in nursing home pressure ulcer care (F-314) citations focused on twenty Statements of Deficiencies (SoDs): ten that were cited as causing resident harm and ten that were *not* cited as causing resident harm. This sample size, while

[14] Long-Term Care Facility Resident Assessment Instrument 3.0 User's Manual, Version 1.13, p. 1-5 (October 2015). Accessed February 2017 at https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/NursingHomeQualityInits/Downloads/MDS-30-RAI-Manual-V113.pdf.
[15] *Id*. at M-1.
[16] *Id*.
[17] AHRQ's Safety Program for Nursing Homes: On-Time Pressure Ulcer Prevention. Available at https://www.ahrq.gov/professionals/systems/long-term-care/resources/ontime/pruprev/index.html.
[18] Sullivan, Nancy, BA, *Making Health Care Safer II: An Updated Critical Analysis of the Evidence for Patient Safety Practices*, Chapter 2: Preventing In-Facility Pressure Ulcers. Available at https://www.ncbi.nlm.nih.gov/.
[19] MDS Frequency Report: Fourth Quarter 2016 for unhealed pressure ulcers. Accessed at https://www.cms.gov/Research-Statistics-Data-and-Systems/Computer-Data-and-Systems/Minimum-Data-Set-3-0-Public-Reports/Minimum-Data-Set-3-0-Frequency-Report.html.

limiting the ability to generalize any findings, enabled us to identify and examine the components of the citations which we identified as important:

(1) Number of residents reviewed by the surveyor in determining noncompliance,
(2) Percent of the review sample for which the surveyor determined there was deficient care,
(3) The number of references made to a review of the facility's documentation and
(4) The number references made to an interview that the surveyor conducted in making a determination of deficient care.

### Facilities Included in Sample

We selected for analysis twenty New York State nursing home Statements of Deficiencies (SoDs, also known as Form 2567). Ten were citations at harm and ten were no harm citations.[20]

**The ten citations at harm were**: (1) Absolut Center For Nursing & Rehab Aurora Park, Aurora Park, NY (Survey Date: 07/17/2015); (2) Bethlehem Commons Care Center, Delmar, NY (Survey date: 11/05/2015); (3) Cayuga Ridge Extended Center, Ithaca, NY (Survey date: 09/17/2015); (4) Evergreen Commons Rehab and Nursing Center, East Greenbush, NY (Survey date: 06/10/2013); (5) Glen Cove Center for Nursing, Glen Cove, NY (Survey date: 10/09/2015); (6) Highland Care Center, Jamaica, NY (Survey date: 11/21/2013); (7) James Square Nursing and Rehab Center, Syracuse, NY (Survey date: 12/20/2013); (8) Loretto Health and Rehabilitation Center, Syracuse, NY (Survey date: 11/18/2015); (9) River Valley Care Center (now The Grand Rehabilitation and Nursing at River Valley), Poughkeepsie, NY (Survey date: 03/16/2015); and (10) The Crossing Nursing and Rehab Centre, Minoa, NY (Survey date: 01/16/2014).

**The ten citations at no harm were**: (1) Creekview Nursing and Rehab Center, Rochester, NY (Survey date: 01/13/2016); (2) Elderwood at Grand Island, Grand Island, NY (Survey date: 07/28/2014); (3) Folts Home, Herkimer, NY (Survey date: 12/20/2013); (4) Heritage Park Health Care Center, Jamestown, NY (Survey date: 02/01/2013); (5) Iroquois Nursing Home INC, Jamesville, NY (Survey date: 02/12/2015); (6) Willow Point Nursing Home, Vestal, NY (Survey date: 04/24/2015); (7) Van Duyn Center for Rehabilitation and Nursing, Syracuse, NY (Survey dated: 02/13/2015); (8) The Commons on St Anthony Street, A Loretto SNF, Auburn, NY (Survey date: 03/28/2014); (9) Robinson Terrace, Stamford, NY (Survey date: 11/21/2014); and (10) Mohawk Valley Health Care Center, Ilion, NY (Survey date: 07/31/2014).

[20] These citations are available on Nursing Home Compare or, by request, from LTCCC.

### Figure 3-1. Number of Resident Records Reviewed

Deficiencies identified in a SoD typically begin with a statement of how many resident records were reviewed by the surveyor and, of the records reviewed, how many were found to be out of compliance with minimum standards.

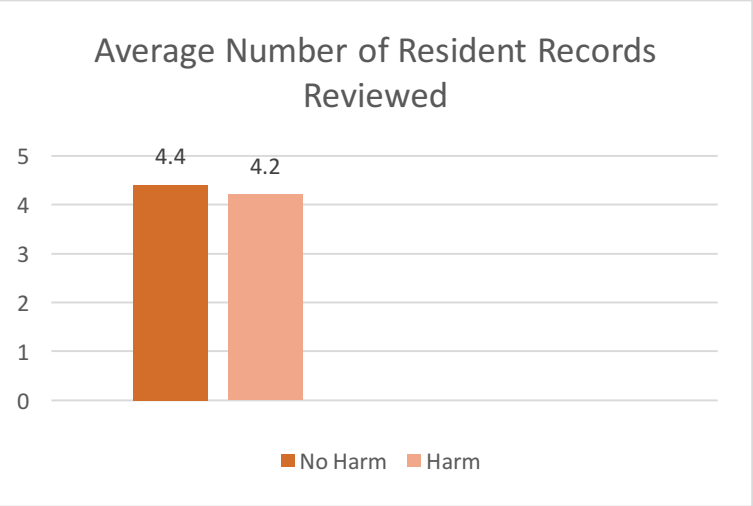


**Figure 3-1: We found little difference in the surveyor's sample size between harm and no harm pressure ulcer citations.**

**Range: 3 – 7 for no harm citations; 3 – 9 for harm citations.**

### Figure 3-2. Percent of Residents Sampled with Deficient Care

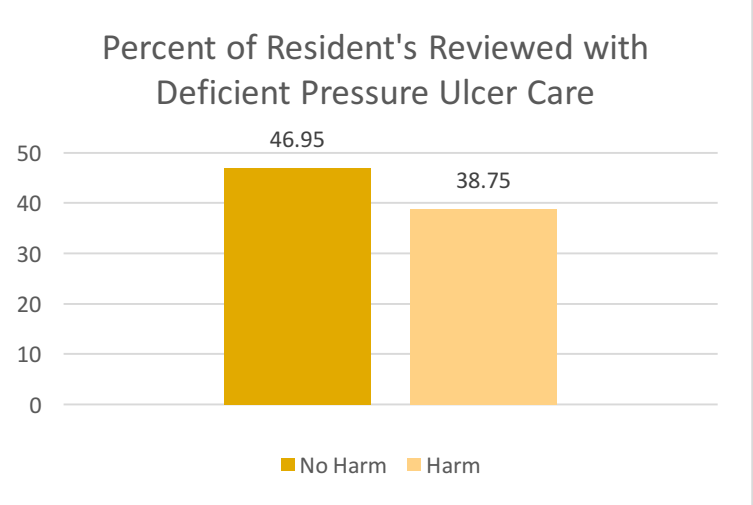


**Figure 3-2: Contrary to expectations, our sample indicated a notably higher percentage of the residents in no harm deficiencies citations were found to have deficient care.**

**Range: 25 – 100% for no harm citations; 14 – 68% for harm citations.**

## Figure 3-3. Facility Documentation

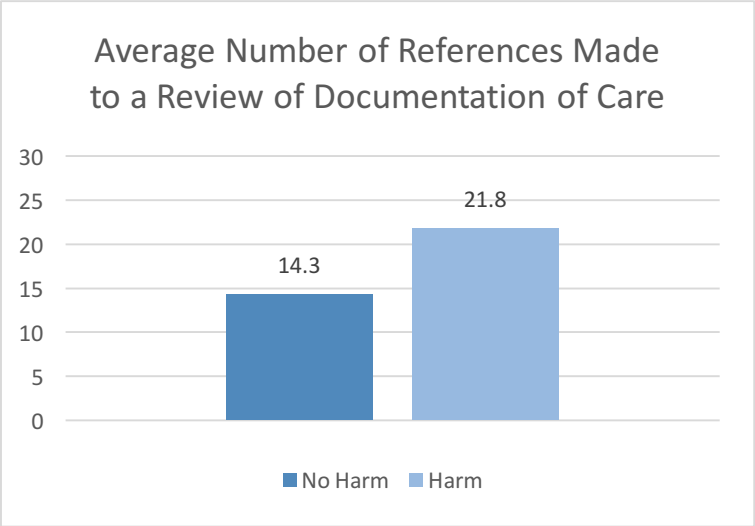


**Figure 3-3: In our sample, citations that found harm had, on average, a significantly higher (50%) number of references to surveyor reviews of documentation.**

**Range: 5 – 26 for no harm citations; 5 – 42 for harm citations.**

## Figure 3-4. Surveyor Interviews

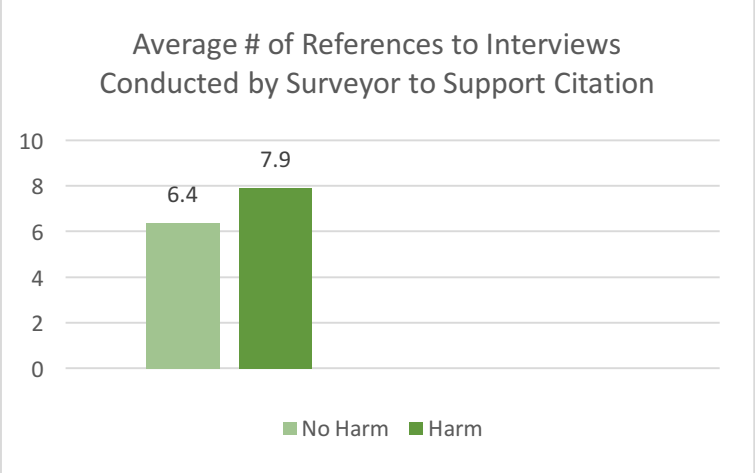


**Figure 3-4: Harm deficiencies had, on average, close to a 25% higher number of surveyor interviews cited in substantiating the violation.**

**Range: 2 – 11 for no harm deficiencies; 3 – 14 for harm deficiencies.**

## Discussion of Findings

As the U.S. Government Accountability Office (GAO) reported in 2015, there is a significant need to improve data and oversight of nursing home quality.[21] Following our 2015 study of state Survey Agency performance, which found low identification of resident harm by surveyors for several key quality indicators, we undertook this assessment of harm citations. Our goal was to gain insights into the circumstances and characteristics of citations at harm.

The findings presented in this report corroborate our previous finding that nursing home violations are infrequently identified as having caused harm or immediate jeopardy to a resident's well-being. For instance, our review of federal data indicated that 83% of U.S. nursing homes were never cited for having caused resident harm or immediate jeopardy in 2015. Even for nursing homes that had the lowest possible star rating (1-star), surveyors only identified resident harm in less than half of the facilities in the entire year. The results of our review of the most cited standards at harm and at no harm was likewise discouraging: there was considerable overlap between the two groups, indicating that there aren't easily identifiable regulatory areas in which resident harm is identified.

Our assessment of four components of written deficiencies for their potential association with the identification of resident harm in citations for substandard pressure ulcer care, while limited in scope, was more promising. Based on our sample, two of those components – the number of resident records reviewed by the surveyor and the percent of those records for which they identified deficient care – did not have an association with a finding of resident harm. However, two of the components reviewed – the number of resident records reviewed by the surveyor and the number of interviews conducted by the surveyor in investigating the violation – had a strong association with the identification of harm.

## Recommendations

With the promulgation of new federal standards in October 2016, and the anticipated changes to the Interpretive Guidelines (IGs) later this year (2017), this is a potentially propitious time for nursing home quality improvement.[22] We hope and expect that the new IGs will provide improved clarity and instructions for the appropriate identification of resident harm. We believe that our findings support this improvement by confirming the significant need to better identify resident harm and by suggesting potential avenues for improvement. In particular, **we recommend that CMS and the state Survey Agencies provide strong guidelines and support for surveyors to better augment the scope and depth of: (1) Reviews of resident records and (2) Interviews with facility staff (as well as residents, families and LTC Ombudsmen)**.

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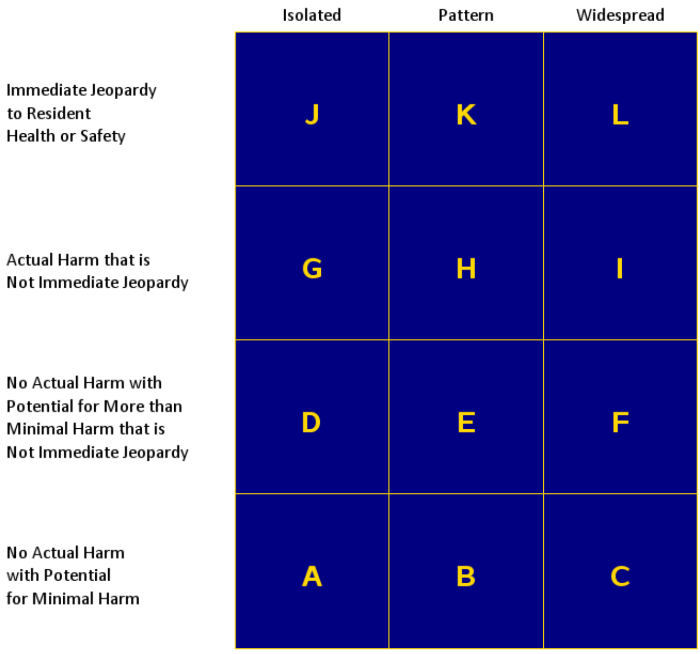
[21] *Nursing Home Quality: CMS Should Continue to Improve Data and Oversight* (GAO-16-33): October 2015. Accessed February 2017 at http://www.gao.gov/assets/680/673480.pdf.

[22] It is important to note that, at this time, nursing home standards are also at risk due to political and industry efforts to reduce (or do away entirely with) federal minimum standards of care and other resident protections. A full discussion of these concerns is beyond the scope of this paper. However, we recommend visiting our website, www.nursinghome411.org and our Facebook page, www.facebook.com/ltccc for future updates.

## Appendix I. Federal Scope & Severity Matrix




**Guidance on Severity Levels**

There are four severity levels:

**Level 1** - no actual harm with potential for minimal harm**; Level 2** - no actual harm with potential for more than minimal harm that is not immediate jeopardy; **Level 3** - actual harm that is not immediate jeopardy; **Level 4** - immediate jeopardy to resident health or safety.

These four levels are defined accordingly:

1. **Level 1** is a deficiency that has the potential for causing no more than a minor negative impact on the resident(s).
2. **Level 2** is noncompliance that results in no more than minimal physical, mental and/or psychosocial discomfort to the resident and/or has the potential (not yet realized) to compromise the resident's ability to maintain and/or reach his/her highest practicable physical, mental and/or psychosocial well-being as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services.
3. **Level 3** is noncompliance that results in a negative outcome that has compromised the resident's ability to maintain and/or reach his/her highest practicable physical, mental and psychosocial well-being as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services. This does not include a deficient practice that only could or has caused limited consequence to the resident.
4. **Level 4** is immediate jeopardy, a situation in which immediate corrective action is necessary because the facility's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in a facility.

## Appendix II. F-tag List

The following two pages provide the list of F-tags published on http://www.nursinghomepro.com. Please note that, as of this writing (February 2017) CMS is in the process of changing the F-tag system to align with the new federal regulations published in October 2016. Hence, while these tags are consistent with the citations and other data presented in this report, they will not match the new federal regulations which started going into effect in November 2016 or future iterations of the F-tag system.

F-Tag List and Regulatory Groups for Nursing Homes

**Resident Rights**
F150 Definition of SNF & NF, Resident Rights
F151 Exercise Rights/Vote/Free of Coercion
F152 Rights Exercised by Surrogate
F153 Access and/or Copy Clinical Records
F154 Informed of Health Status/Med Condition
F155 Right to Refuse Treatment/Research
F156 Inform of Services/Charges/Lgl Rights/Etc
F157 Notify of Accidents/Sig Chnges/Trnsfer/Etc
F158 Resident Manage Own Financial Affairs
F159 Facility Management of Resident Funds
F160 Conveyance Upon Death
F161 Surety Bond or Other Assurance
F162 Limitation on Charges to Personal Funds
F163 Free Choice of Personal Physician
F164 Privacy and Confidentiality
F165 Voice Grievances without Reprisal
F166 Facility Resolves Resident Grievances
F167 Survey Results Readily Accessible
F168 Receipt of Info/Contact Resident Advocates
F169 Right to Work/Refuse to Work for Facility
F170 Send/Receive Unopened Mail
F171 Access to Stationery, Etc
F172 Access and Visitation
F173 Ombudsman Access to Clinical Records
F174 Access to Telephone with Privacy
F175 Right to Share a Room – Married couple
F176 Self-administration of Drugs
F177 Refusal of Certain Transfers

**Admission, Transfer and Discharge Rights**
F201 Reasons for Transfer/Discharge
F202 Documentation for Transfer/Discharge
F203 Proper Notice Before Transfer/Discharge
F204 Orientation For Transfer/Discharge
F205 Notice of Bed-hold Policy Upon Transfer
F206 Return of Res After Bed-hold Days Expire
F207 Fac Establish Equal Access Policies
F208 Admission Policies – Cannot Waive 18/19

**Resident Behavior and Facility Practices**
F221 Right to be Free from Physical Restraints
F222 Right to be Free from Chemical Restraints
F223 Right to be Free from Abuse
F224 Staff Treatment of Residents
F225 Not Employ Persons Guilty of Abuse
F226 Facility Policies Prohibit Abuse, Neglect

**Quality of Life**
F240 Fac Promotes/Enhances Quality of Life
F241 Dignity
F242 Self-determination – Res Makes Choices
F243 Res Participation in Res/Fam Groups
F244 Fac Listens/Responds to Res/Fam Groups
F245 Res Participation in Activities
F246 Accommodation of Needs & Preferences
F247 Notice Before Room/Roommate Change
F248 Activity Program Meets Individual Needs
F249 Qualifications of Activity Director
F250 Medically Related Social Services
F251 Qualifications of Social Worker
F252 Safe/Clean/Comfortable/Homelike Env
F253 Housekeeping & Maintenance Services
F254 Clean Linens in Good Condition
F256 Adequate & Comfortable Lighting Levels
F257 Comfortable & Safe Temperature Levels
F258 Comfortable Sound Levels

**Resident Assessment**
F271 Phys Orders at Admission
F272 Comprehensive Assessments
F273 Assessment Freq – No Later than 14 Days
F274 Assessment After Sig Change
F275 Assessment Every 12 Months
F276 Qtrly Review of Assessments
F277 Data Format
F278 Accuracy of Assess/Coord w/Professionals
F279 Develop Comprehensive Care Plans
F280 Develop/Prep/Review of Comp Care Plan
F281 Servs Provided Meet Prof Standards
F282 Qualified Servs in Accord w/Care Plan
F283 Discharge Summary
F284 Req for Post-discharge Plan of Care
F285 PASRR Requirements for MI & MR
F286 Access to 15 months of MDS records
F287 MDS Transmission Requirement

**Quality of Care**
F309 Nec Care for Highest Prac Well Being
F310 ADLs Do Not Decline Unless Unavoidable
F311 Res Treatment to Improve/Maintain ADLs
F312 ADL Care for Dependent Residents
F313 Treatment to Maintain Hearing/Vision
F314 Treatment to Prevent/Heal Pressure Sores
F315 Res Not Catheterized Unless Unavoidable
F317 No Reduction in ROM Unless Unavoidable
F318 Range of Motion Treatment & Services
F319 Mental/Psychosocial Treatment
F320 No Development of Mental Problems
F321 No Feeding Tube Unless Unavoidable
F322 Proper Care & Services - Feeding Tube
F323 Fac Free of Accident Hazards
F325 Maintain Nutrit Status/Therapeutic Diet
F327 Fac Provides Sufficient Fluid Intake
F328 Treatment/Care for Special Care Needs
F329 Free From Unnecessary Drugs
F332 Medication Error Rates of 5% or More
F333 Res Free From Sig Medication Errors
F334 Influenza and Pneumococcal Immunization

01/15/2010 www.nursinghomepro.com

Please note that the list of F-tags continues on the next page.

F-Tag List and Regulatory Groups for Nursing Homes

**Nursing Services**
F353 Sufficient Nursing Staff on 24-hour Basis
F354 Use of Charge Nurse & Registered Nurse
F355 Waiver of 24 Hr Nurse Staffing
F356 Nurse Staffing Data Posted

**Dietary Services**
F360 Appropriate Diet
F361 Employment of Qualified Dietitian
F362 Sufficient Support Personnel
F363 Menus Meet Needs & Are Followed
F364 Food Preparation/Palatable/Temperature
F365 Food Form Meets Individual Needs
F366 Substitutes of Similar Nutritive Value
F367 Therapeutic Diets Prescribed by Phys
F368 Frequency of Meals – 14 hours
F369 Adaptive Eating Equipment/Utensils
F371 Sanitary Food Procure/Prep/Dist/Storage
F372 Proper Disposal of Garbage & Refuse
F373 Paid Feeding Assistants

**Physician Services**
F385 Residents' Care Supervised by Physician
F386 Physician Responsibilities During Visits
F387 Frequency/Timeliness of Physician Visits
F388 Visits by Physician/Phys Assistant/Etc
F389 Emergency Physician Services 24 Hr/Day
F390 Phys Delegation of Tasks in SNFs/NFs

**Specialized Rehab Services**
F406 Fac Provides Specialized Rehab Services
F407 Qualifications For Providing Rehab Svcs

**Dental Services**
F411 Dental Services in SNFs
F412 Dental Services in NFs

**Pharmacy Services**
F425 Facility Provides Drugs & Biologicals
F428 Drug Regimen Reviewed Monthly
F431 Proper Labeling of Drugs & Biologicals

**Infection Control**
F441 Infection Control Program
Isolation Available When Appropriate
Empl w/Comm Disease - No Res Contact
Hand Washing
Linen Handling to Prevent Infection

**Physical Environment**
F454 Fac Designed to Protect Health/Safety
F455 Emergency Electrical Power
F456 Essential Equipment in Safe Condition
F457 No More than Four Residents per Room
F458 Rms Sq Ft - > 80/res or 100 in private rm
F459 Rooms - Access to Exit Corridor
F460 Rooms - Assure Visual Privacy
F461 Rooms - At least one window to outside
F462 Rooms – Toilet and Bathing Facilities
F463 Resident Call System
F464 Requirements for Dining & Activities
F465 Env is Safe/Functional/Sanitary/Comfort
F466 Emergency Water Availability
F467 Adequate Outside Ventilation
F468 Corridors Have Firmly Secured Handrails
F469 Maintain Effective Pest Control Program

**Administration**
F490 Facility Administered Effectively
F491 Licensure Under State / Local Laws
F492 Fed/State/Local Laws/Prof Standards
F493 Gov Body / Nurse Aides
F494 Comp Nurse Aides Worked < 4 Mo
F495 Nurse Aide Competency
F496 Nurse Aide Registry Verification
F497 Regular Inservice Education
F498 Proficiency of Nurse Aides
F499 Facility Employ Qualified Prof Staff
F500 Use of Outside Professional Resources
F501 Responsibilities of Medical Director
F502 Fac Obtains/Provides Lab Services
F503 Laboratory Services Provided by Fac
F504 Laboratory Services Only When Ordered
F505 Phys Promptly Notified of Lab Results
F506 Fac Assists Res in Transport to Lab
F507 Lab Reports Filed in Clinical Record
F508 Fac Provides/Obtains Radiology Svcs
F509 Radiology Services Meet Requirements
F510 Radiology/Diag Svcs When Ordered
F511 Prmptly Notify Phys of Rad/Oth Findings
F512 Assist Res in Transport for Radiology
F513 Reports of Xrays/Diag Srvs Filed in Rec
F514 Clinical Records Meet Prof Standards
F515 Retention of Clinical Records
F516 Fac Safeguards Clinical Records
F517 Plans to Meet Emergencies/Disasters
F518 Train Employees, Emergency Proc/Drills
F519 Transfer Agreement w/Hospital
F520 Fac Maintains QA Committee
F522 Disclosure of Ownership Requirements

## Appendix III. Selected Reports on Care and Oversight in U.S. Nursing Homes

Note: Most of the following reports and articles were prepared by Janet C. Wells for the Centers for Medicare and Medicaid Services Survey Executives Training Institute, Baltimore, MD, April 9, 2014. Please note that all links provided were accurate as of February 2017.

1. Five-star ratings for sub-par service: Evidence of inflation in nursing home ratings (December 2016). https://www.brookings.edu/research/five-star-ratings-for-sub-par-service-evidence-of-inflation-in-nursing-home-ratings/
2. Nursing Home Quality: CMS Should Continue to Improve Data and Oversight (GAO-16-33): October 2015. http://www.gao.gov/assets/680/673480.pdf
3. Adverse Events in Skilled Nursing Facilities: National Incidence Among Medicare Beneficiaries (OEI-06-11-00370): February 2014. https://oig.hhs.gov/oei/reports/oei-06-11-00370.pdf
4. Examining Inappropriate Use of Antipsychotic Drugs: How Surveyors Describe How, When and Why They City Antipsychotic Drug Deficiencies: Toby Edelman and Dean Lerner, 2013. http://www.medicareadvocacy.org/cma-report-examining-inappropriate-use-of-antipsychotic-drugs-in-nursing-facilities/
5. Medicare Nursing Home Resident Hospitalization Rates Merit Additional Monitoring (OEI-06-11-00040): November 18, 2013. https://oig.hhs.gov/oei/reports/oei-06-11-00040.asp
6. CMS Should Improve Efforts to Monitor Implementation of the Quality Indicator Survey (GAO-12-214): March 9, 2012. http://www.gao.gov/products/GAO-12-214
7. Private Investment Homes Sometimes Differed from Others in Deficiencies, Staffing, and Financial Performance (GAO-11-571): July 15, 2011. http://www.gao.gov/products/GAO-11-571
8. Overmedication of Nursing Home Patients Troubling May 9, 2011. http://oig.hhs.gov/newsroom/testimony-and-speeches/levinson_051011.asp
9. Medicare Atypical Antipsychotic Drug Claims for Elderly Nursing Home Residents (OEI-07-08-00150): April 7, 2011. http://oig.hhs.gov/oei/reports/oei-07-08-00150.asp
10. More Reliable Data and Consistent Guidance Would Improve CMS Oversight of State Complaint Investigations (GAO-11-280): April 7, 2011. http://www.gao.gov/products/GAO-11-280
11. Implementation of the Quality Indicator Survey (GAO-11-403R): Apr 6, 2011. http://www.gao.gov/products/GAO-11-403R
12. Complexity of Private Investment Purchases Demonstrates Need for CMS to Improve the Usability and Completeness of Ownership Data (GAO-10-710): September 30, 2010. http://www.gao.gov/products/GAO-10-710

13. Some Improvement Seen in Understatement of Serious Deficiencies, but Implications for the Longer-Term Trend Are Unclear (GAO-10-434R): April 28, 2010. http://www.gao.gov/products/GAO-10-434R

14. Addressing the Factors Underlying Understatement of Serious Care Problems Requires Sustained CMS and State Commitment (GAO-10-70): November 24, 2009. http://www.gao.gov/products/GAO-10-70

15. Responses from Two Web-based questionnaires to *Nursing Home* Surveyors and State Agency Directors (GAO-10-74SP), an e-supplement to GAO-10-70 GAO-10-74SP: November 24, 2009. http://www.gao.gov/products/GAO-10-74SP

16. Opportunities Exist to Facilitate the Use of the Temporary Management Sanction (GAO-10-37R): November 20, 2009. http://www.gao.gov/products/GAO-10-37R

17. CMS's Special Focus Facility Methodology Should Better Target the Most Poorly Performing *Homes*, Which Tended to Be Chain Affiliated and For-Profit (GAO-09-689): August 28, 2009. http://www.gao.gov/products/GAO-09-689

18. Nursing Home Corporations Under Quality of Care Corporate Integrity Agreements (OEI-06-06-00570): April 2009. https://oig.hhs.gov/oei/reports/oei-06-06-00570.pdf

19. CMS Needs to Reexamine Its Approach for Funding State Oversight of Health Care Facilities (GAO-09-64): February 13, 2009. http://www.gao.gov/products/GAO-09-64

20. Memorandum Report: Trends in Nursing Home Deficiencies and Complaints (OEI-02-08-00140): September 2008. http://oig.hhs.gov/oei/reports/oei-02-08-00140.pdf

21. Nursing Home Enforcement: Processing Denials of Medicare Payment (OEI-06-03-00390): May 2008. http://oig.hhs.gov/oei/reports/oei-06-03-00390.pdf

22. Federal Monitoring Surveys Demonstrate Continued Understatement of Serious Care Problems and CMS Oversight Weaknesses (GAO-08-517): May 9, 2008. http://www.gao.gov/products/GAO-08-517

23. Federal Actions Needed to Improve Targeting and Evaluation of Assistance by Quality Improvement Organizations (GAO-07-373): May 29, 2007. http://www.gao.gov/products/GAO-07-373

24. Continued Attention Is Needed to Improve Quality of Care in Small but Significant Share of Homes (GAO-07-794T): May 2, 2007. http://www.gao.gov/products/GAO-07-794T

25. Efforts to Strengthen Federal Enforcement Have Not Deterred Some *Homes* from Repeatedly Harming Residents (GAO-07-241): March 26, 2007. http://www.gao.gov/products/GAO-07-241

26. Nursing Home Complaint Investigations (OEI-01-04-00340): July 2006. http://oig.hhs.gov/oei/reports/oei-01-04-00340.pdf

27. Nursing Home Enforcement: Application of Mandatory Remedies (OEI-06-03-00410): May 2006. http://oig.hhs.gov/oei/reports/oei-06-03-00410.pdf

28. Information on Residents Who Are Registered Sex Offenders or Are Paroled for Other Crimes (GAO-06-326): March 31, 2006. http://www.gao.gov/products/GAO-06-326
29. Despite Increased Oversight, Challenges Remain in Ensuring High-Quality Care and Resident Safety (GAO-06-117): December 28, 2005. http://www.gao.gov/products/GAO-06-117.
30. State Referral of Nursing Home Enforcement Cases (OEI-06-03-00400): December 2005. http://oig.hhs.gov/oei/reports/oei-06-03-00400.pdf.
31. Nursing Home Enforcement: The Use of Civil Money Penalties (OEI-06-02-00720): April 2005. http://oig.hhs.gov/oei/reports/oei-06-02-00720.pdf.
32. Arkansas Coroner Referrals Confirm Weaknesses in State and Federal Oversight of Quality of Care (GAO-05-78): November 12, 2004. http://www.gao.gov/products/GAO-05-78.
33. Inspection Results on Nursing Home Compare: Completeness and Accuracy (OEI -01-03-00130): June 2004. http://oig.hhs.gov/oei/reports/oei-01-03-00130.pdf.
34. Survey of Physical and Sexual Abuse in Alabama Nursing Homes (A-04-03-07027): June 2004. https://oig.hhs.gov/oas/reports/region4/40307027.pdf.
35. Gibbs, Lisa M., MD and Mosqueda, Laura, MD, Confronting Elder Mistreatment in Long-Term Care, Annals of Long-Term Care, Volume 12, Number 4 (April 2004). http://centeronelderabuse.org/docs/ConfrontingEMinLTC_GibbsMosqueda.pdf
36. Review of Medicaid Nursing Home Denial of Payment Remedies in the Commonwealth of Massachusetts (A-01-03-00008), Office of Inspector General – Audit: April 8, 2004.
37. Nursing Homes and Denial of Payment Remedies in the State of Florida (A-04-03-06007), Office of Inspector General – Audit: February 27, 2004.
38. Prevalence of Serious Quality Problems Remains Unacceptably High, Despite Some Decline (GAO-03-1016T): July 17, 2003. http://www.gao.gov/products/GAO-03-1016T.
39. Nursing Home Deficiency Trends and Survey and Certification Process Consistency (OEI-02-01-00600): March 2003. https://oig.hhs.gov/oei/reports/oei-02-01-00600.pdf.
40. Nursing Home Deficiency Trends and Survey and Certification Process Consistency March 2003. http://oig.hhs.gov/oei/reports/oei-02-01-00600.pdf.
41. Nursing Home Medical Directors Survey (OEI-06-99-00300): February 2003. http://oig.hhs.gov/oei/reports/oei-06-99-00300.pdf.
42. Quality Assurance Committees in Nursing Homes (OEI-02-01-00600): January 2003. https://oig.hhs.gov/oei/reports/oei-01-01-00090.pdf.
43. Available Data Show Average Nursing Staff Time Changed Little after Medicare Payment Increase (GAO-03-176): November 13, 2002. http://www.gao.gov/products/GAO-03-176.

44. Public Reporting of Quality Indicators Has Merit, but National Implementation Is Premature (GAO-03-187): October 31, 2002. http://www.gao.gov/products/GAO-03-187.
45. Quality of Care More Related to Staffing than Spending (GAO-02-431R): June 13, 2002. http://www.gao.gov/products/GAO-02-431R.
46. Many Shortcomings Exist in Efforts to Protect Residents from Abuse (GAO-02-448T): March 4, 2002. http://www.gao.gov/products/GAO-02-448T.
47. More Can Be Done to Protect Residents from Abuse GAO-02-312: March 1, 2002. http://www.gao.gov/products/GAO-02-312.
48. Federal Efforts to Monitor Resident Assessment Data Should Complement State Activities (GAO-02-279): February 15, 2002. http://www.gao.gov/products/GAO-02-279.
49. Abuse of Residents Is a Major Problem in U.S. Nursing Homes, Prepared for Rep. Henry A. Waxman by the Minority Staff, Special Investigations Division, Committee on Government Reform, U.S. House of Representatives (July 2001). Available at www.nursinghome411.org.
50. Nursing Home Resident Assessment: Quality of Care (OEI-02-99-00040): January 2001. http://oig.hhs.gov/oei/reports/oei-02-99-00040.pdf.
51. Success of Quality Initiatives Requires Sustained Federal and State Commitment (T-HEHS-00-209): September 28, 2000. http://www.gao.gov/products/T-HEHS-00-209.
52. Sustained Efforts Are Essential to Realize Potential of the Quality Initiatives (HEHS-00-197): September 28, 2000. http://www.gao.gov/products/HEHS-00-197.
53. The Effect of Financial Screening and Distinct Part Rules on Access to Nursing Facilities; (OEI-02-99-00340): June 2000. https://oig.hhs.gov/oei/reports/oei-02-99-00340.pdf .
54. Enhanced HCFA Oversight of State Programs Would Better Ensure Quality (HEHS-00-6): November 4, 1999. http://www.gao.gov/products/HEHS-00-6.
55. HCFA Should Strengthen Its Oversight of State Agencies to Better Ensure Quality Care (T-HEHS-00-27): November 4, 1999. http://www.gao.gov/products/T-HEHS-00-27 .
56. Industry Examples Do Not Demonstrate That Regulatory Actions Were Unreasonable (HEHS-99-154): August 13, 1999. http://www.gao.gov/products/HEHS-99-154R .
57. HCFA Initiatives to Improve Care Are Under Way but Will Require Continued Commitment (T-HEHS-99-155): June 30, 1999. http://www.gao.gov/products/T-HEHS-99-155 .
58. Proposal To Enhance Oversight of Poorly Performing *Homes* Has Merit (HEHS-99-157): Jun 30, 1999. http://www.gao.gov/products/HEHS-99-157 .
59. Complaint Investigation Processes in Maryland (T-HEHS-99-146): June 15, 1999. http://www.gao.gov/products/T-HEHS-99-146 .

60. Abuse Complaints of Nursing Home Patients (OEI-06-98-00340): May 1999. https://oig.hhs.gov/oei/reports/oei-06-98-00340.pdf.

61. Public Access to Nursing Home Survey and Certification Results (OEI-06-98-00280): March 1999. http://oig.hhs.gov/oei/reports/oei-06-98-00280.pdf.

62. Nursing Home Survey and Certification: Deficiency Trends (OEI-02-98-00331): March 1999. http://oig.hhs.gov/oei/reports/oei-02-98-00331.pdf.

63. Nursing Home Survey and Certification: Overall Capacity (OEI-02-98-00330): March 1999. http://oig.hhs.gov/oei/reports/oei-02-98-00330.pdf.

64. Stronger Complaint and Enforcement Practices Needed to Better Ensure Adequate Care (T-HEHS-99-89): Published: March 22, 1999. http://www.gao.gov/products/T-HEHS-99-89 .

65. Additional Steps Needed to Strengthen Enforcement of Federal Quality Standards (HEHS-99-46): March 18, 1999. http://www.gao.gov/products/HEHS-99-46 .

66. Federal and State Oversight Inadequate to Protect Residents in *Homes* With Serious Care Violations (T-HEHS-98-219): July 28, 1998. http://www.gao.gov/products/T-HEHS-98-219.

67. Too Early to Assess New Efforts to Control Fraud and Abuse (T-HEHS-97-114): April 16, 1997. http://www.gao.gov/products/T-HEHS-97-114.