

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

Issue Alert: Nursing Home Staffing

I. Is Nursing Home Staffing Important to Resident Care?

Staffing is one of the most important factors in a nursing home resident's quality of care. It is often the underlining issue in other nursing home deficiencies, including pressure ulcers¹ and antipsychotic drug use,² because less staffing means less time adequately meeting the needs of residents. In fact, the Centers for Medicare & Medicaid Services (CMS) notes in its guidance to State Survey Agencies that "[c]oncerns such as falls, weight loss, dehydration . . . as well as the incidence of elopement and resident altercations can also offer insight into the sufficiency of the numbers of staff."³ In acknowledging staffing's outsized role in resident care, CMS guidance states that surveyors **must** investigate if adverse outcomes are related to staffing.⁴

Note to Readers:

LTCCC Issue Alerts provide basic information about an issue of concern to nursing home residents.

For further information, please see the Resources and references at the end of the Alert, as well as our website, www.nursinghome411.org.

II. What are the Requirements for Nursing Home Staffing?

The federal Nursing Home Reform Law requires each nursing home to have a **"24-hour licensed nursing service which is sufficient to meet nursing needs of its residents" and must have "a registered professional nurse at least 8 consecutive hours a day, 7 days a week."**⁵ In order to be licensed under Medicare and Medicaid, nursing homes must adhere to both staffing requirements. The standards of care require the following of nursing homes:

- **Competent and skilled nursing staff.** Every nursing home "must have sufficient nursing staff with the appropriate competencies and skills sets to provide nursing and related services **to assure resident safety and attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care** and considering the number, acuity and diagnoses of the facility's resident population in accordance with the facility assessment" requirement.⁶
- **Sufficient staffing to meet the needs of residents based on their care plans.** Every nursing home "must provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans: (i) . . . licensed nurses; and (ii) Other nursing personnel, including but not limited to nurse aides."⁷

- **Designated Nurse on Duty.** Every nursing home must “designate a licensed nurse to serve as a charge nurse on each tour of duty.”⁸
- **Use the services of a Registered Nurse.** Every nursing home must “use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.”⁹

III. How Prevalent Are Staffing Deficiencies Given Its Outsized Role in Resident Care?

A 2001 report prepared for CMS concluded that, at a minimum, a typical resident needs .75 hours with a registered nurse (RN), .55 hours with a licensed professional nurse (LPN), and 2.8 hours with a certified nurse aide (CNA) every day, totaling 4.1 hours of direct resident care per day.¹⁰ Based on an analysis of data from the recently released federal Payroll Based Journal (PBJ) staffing data, LTCCC found that the current national average is only 3.4 total hours of resident care staff time per day and the national average for RN hours is only .4 per resident per day. In respect to RN staffing, this is just over half of what was indicated in the 2001 report.

Data from Nursing Home Compare show that state surveyors have cited only 2,223 deficiencies for sufficient staffing over the last three inspection cycles. Similarly, the data also show that surveyors have only cited 654 deficiencies over the last three inspection cycles for failing to meet the registered nurse requirement. Despite CMS’s guidance highlighting staffing as a potential cause of other deficiencies, both of these staffing requirements only account for .85 percent of all deficiencies listed on Nursing Home Compare.¹¹

The Affordable Care Act mandated nursing homes to report staffing data electronically through the use of the Payroll-Based Journal (PBJ).

Data from the PBJ is not currently provided in a facility’s listing on Nursing Home Compare (NHC). NHC currently only lists self-reported staffing data.

IV. How Can I Find Out About Staffing Rates – and Deficiencies – in My Nursing Home or Those in My State?

Staffing rates vary from nursing home to nursing home. [Nursing Home Compare](http://www.medicare.gov/nursinghomecompare) (<http://www.medicare.gov/nursinghomecompare>) provides information on individual licensed nursing homes across the country. For each nursing home, staffing rates are provided under the “Staffing” tab. Please note that the current staffing data on Nursing Home Compare is self-reported and may provide an inaccurate reflection of a facility’s quality. For this reason, LTCCC recommends focusing on the recently released PBJ data since we believe that they are more likely to be indicative of a facility’s actual staffing patterns. The PBJ reporting system requires facilities to submit payroll and other auditable data rather than self-reported data (see data.cms.gov for the PBJ data).

In order to provide the public with relevant information on nursing home staffing rates, LTCCC’s [Nursing Home Information & Data Page](http://www.nursinghome411.org) (on our www.nursinghome411.org website) has searchable and downloadable files on every licensed nursing home in the country, including the following data:

US Nursing Home Staffing Rates based on PBJ Data

This file provides individual folders for every state and Washington, DC. Each folder has information on the staffing rates for every licensed facility. This list is searchable by state, nursing home, MDS census, RN hours, LPN hours, CNA hours, total staff time, average staffing hours per resident per day, and average RN hours per resident per day. Each category can also be sorted to display ascending or descending values.

US Nursing Home Citations for Deficiencies in Sufficient Staffing

This file provides individual folders for every state and Washington, DC. Each folder provides the names of each facility in the state that have been cited for sufficient staffing deficiencies in the last three years (as of the processing date indicated). It is searchable by facility name, address, city, and zip code.

US Nursing Home Citations for Deficiencies in Registered Nurse Hours

This file provides individual folders for every state and Washington, DC. Each folder provides the names of each facility in the state that have been cited for deficiencies in RN hours over the last three years (as of the processing date indicated). It is searchable by facility name, address, city, and zip code.

All of the data are from the federal Medicare website. They have been formatted to make it easy for the public to access relevant information on nursing homes in their communities and states.

Despite CMS's guidance highlighting staffing as a potential cause of other deficiencies . . . staffing requirements only account for .85 percent of all deficiencies listed on Nursing Home Compare.

V. Case Study of a Resident Who Suffered from Insufficient Staffing

When a state surveyor identifies substandard care, those findings are described in what is called a Statement of Deficiencies (SoD). All nursing home SoDs are published on [Nursing Home Compare](#). A July 2017 inspection of the Beth Abraham Center for Rehabilitation and Nursing in Bronx, New York, illustrates one such instance where surveyors cited a nursing facility for substandard care because of insufficient staffing.

During a complaint investigation of the nursing home, state surveyors found that the facility was deficient in “hav[ing] enough nurses to care for every resident in a way that maximizes the resident’s well-being.”¹²

The New York State Department of Health (NYSDOH) received an anonymous call on June 11th stating that insufficient staffing at the facility resulted in resident neglect. The caller alleged that a resident had an ulcer that was not being addressed because of insufficient staffing. NYSDOH received another anonymous call on June 12th about the fact that there were only two CNAs for a 38 person unit the previous day. On June 20th, an anonymous caller, who identified herself as a family member, alleged that a resident had to wait two hours to be changed and had to wait to be fed. Finally, on June 25th, another caller alleged residents were being double diapered because staff could not get to the residents often enough.

State surveyors finally entered the facility on July 5th (over three weeks after the initial complaint about resident neglect). Surveyors found that, out of 429 residents in the facility, 227

required assistance with toileting, 164 residents were completely dependent on staff for toileting, 245 residents required assistance with bathing, 220 residents were completely dependent on staff for bathing, 245 required assistance with dressing, 148 residents were completely dependent on staff for dressing, 319 required assistance with eating, and 68 residents were completely dependent on staff for eating. Surveyors also found that 40 residents had pressure ulcers, 320 resident were receiving preventative skin care, and 24 residents had skin rashes that required care.

During a resident interview, one resident stated that the facility would turn off the lights at 10 P.M. and pretend that the residents were not there. The resident explained—“I have pressed [the] call bell and waited an hour and sometimes they do not come at all. I learned how to get out of bed and go to the bathroom.”¹³ Another resident told surveyors that “they may wait for over an hour, maybe two in the chair which is very uncomfortable” because the resident developed arm and leg pain.¹⁴ When surveyors reviewed the Resident Council’s minutes, they saw that half of the grievances between April and June 2017 dealt with the issue of adequate staffing, especially as it concerned toileting and repositioning residents.

“[S]urvey and certification staff, State and local ombudsmen, as well as State Aging Unit Directors identify inadequate staffing levels as one of the major problems in nursing homes. Most believe these staffing shortages lead to chronic quality of care problems”

-June Gibbs Brown, Former HHS Inspector General (March 1999).

Even staff members complained to surveyors that staffing at the facility was low. One CNA stated he tried to reposition residents every two hours but that the process became frustrating because staff had been cut. Another CNA told surveyors that “staffing levels at the facility are bad and mostly agency staff are used.”¹⁵ The administrator acknowledged that 55 CNAs were let go on June 20 because the “corporate leaders stated that staff needed to be reduced.”¹⁶ However, the administrator noted that 44 of 55 staff members were eventually asked to come back.

Surveyors found the nursing home was deficient in having “enough nurses to care for every resident in a way that maximizes the resident’s well-being.”¹⁷ Specifically, surveyors determined that “the facility did not ensure sufficient staffing levels to maintain the highest practicable level of well-being of each resident,” as required under the Nursing Home Reform Law.¹⁸ Yet, despite all the findings, surveyors cited the deficiency at a “D” scope and severity level—meaning that there was “no harm” to residents.¹⁹

VI. A Note on Nursing Home Oversight & Accountability

The accurate identification of substandard nursing home care is a longstanding issue of public concern. Too often, even when resident abuse or neglect are cited, the problems are not identified by surveyors as having caused harm to the nursing home’s residents. A report by the Government Accountability Office (GAO) found that a “substantial proportion of federal comparative surveys identify missed deficiencies at the potential for more than minimal harm level or above.”²⁰

Recent studies by LTCCC have indicated that states only identify resident harm about 5% of the time that they cite a facility for substandard care, abuse, or neglect.²¹ Nevertheless, as these studies have shown, when surveyors do cite resident harm, there is a strong correlation between harm and staffing. In 2015, nearly 20 percent of nursing homes with just one overall star rating for staffing were cited for harm compared to 14 percent of nursing homes with a five-star staffing rating.²²

Under the new survey requirements for sufficient staffing, state surveyors cannot cite insufficient staffing as simply causing “no harm.” If there is a deficiency for this requirement, surveyors can cite to “no harm” but only by acknowledging that there is potential for more than minimal harm. Despite the recognition of potential harm, this categorization is still a “no harm” citation and still allows federal fines to be optional.

VII. References for More Information & Help

- [LTCCC](http://nursinghome411.org/free-toolkit-speak-out-to-support-safe-nursing-home-staffing-standards/) has created a staffing toolkit for consumer action in support of increasing nursing home staffing levels. The toolkit includes an informative brief on staffing and a report on the cost-effectiveness of higher staffing levels. See <http://nursinghome411.org/free-toolkit-speak-out-to-support-safe-nursing-home-staffing-standards/>.
- [LTCCC](http://nursinghome411.org/new-federal-data-released-on-staffing-levels-in-u-s-nursing-home/) issued a statement on the newly released PBJ data. The statement provides a brief overview of what is new and why, and how the data can be accessed. See <http://nursinghome411.org/new-federal-data-released-on-staffing-levels-in-u-s-nursing-home/>.
- CMS issued a revised State Operations Manual with the new regulations and interpretative guidance. See https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_tcf.pdf.
- James Dempsey, a World War II veteran and resident at Northeast Atlanta Health and Rehabilitation Center, died in 2014. A recently released video shows Mr. Dempsey begging the staff for help after he began having trouble breathing. The staff members failed to adequately respond to Mr. Dempsey’s pleas for help; the video even shows one staff member laughing. A new report now indicates that a former staff member, who was present the night Mr. Dempsey died, had complained about insufficient staffing at the nursing home for years. See <http://www.11alive.com/article/news/investigations/nursing-assistant-we-asked-for-more-staff-before-wwii-vet-begged-for-help-and-died/493663973>.

¹ *Issue Alert: Pressure Ulcers*, LTCCC (Oct. 2017), <http://nursinghome411.org/ltccc-issue-alert-pressure-ulcers/>.

² *Issue Alert: Antipsychotic Drugs*, LTCCC (Nov. 2017), <http://nursinghome411.org/issue-alert-antipsychotic-drugs/>.

³ *State Operations Manual*, Pub. No. 100-07, Appendix PP, (“Revision to State Operations Manual (SOM) Appendix PP for Phase 2, F-Tag Revisions, and Related Issue”), https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_pp_guidelines_tcf.pdf.

⁴ *Id.*

⁵ 42 U.S. Code § 1395i-3(c)(i). [Emphasis added.]

⁶ 42 U.S.C. § 483.35. [Emphasis added.] State surveyors now cite deficiencies in this requirement as F-725.

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⁷ 42 U.S.C. § 483.35(a)(1). Note: The licensed nurse requirement may be waived by a state under specific, limited conditions. State surveyors now cite deficiencies in this requirement as F-725.

⁸ 42 U.S.C. § 483.35(a)(2). State surveyors now cite deficiencies in this requirement as F-725.

⁹ 42 U.S.C. § 483.35(b)(1). State surveyors now cite deficiencies in this requirement as F-727.

¹⁰ *Report to Congress: Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes*, Abt Associates (Dec. 24, 2001), <http://theconsumervoicework.org/uploads/files/issues/CMS-Staffing-Study-Phase-II.pdf> (“Th[e] purpose of this report is to complete the Report to Congress that was mandated by Public Law 101-508 which required the Secretary to report to the Congress on the appropriateness of establishing minimum caregiver ratios for Medicare and Medicaid certified nursing homes.”).

¹¹ 2,223 sufficient staff deficiencies plus 654 registered nurse deficiencies equals 2,877 deficiencies in total. There are 337,693 deficiencies listed on Nursing Home Compare (as of publication date). 2,877 divided by 337,693 is .00851957.

¹² CMS, *Statement of Deficiencies for Beth Abraham Center for Rehabilitation and Nursing* (July 11, 2017), <https://www.medicare.gov/nursinghomecompare/InspectionReportDetail.aspx?ID=335148&SURVEYDATE=07/07/2017&INSPYTYPE=STD&profTab=1&state=NY&lat=0&lng=0&name=THE%2520WILLOWS%2520AT%2520RAMAPO%2520REHAB%2520AND%2520NURSING%2520CENTER&Distn=0.0>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ For more information on “no harm” deficiencies, please see LTCCC and the Center for Medicare Advocacy’s monthly newsletter entitled “Elder Justice: What “No Harm” Deficiencies Means for Residents,” available at <http://www.medicareadvocacy.org/newsletter-elder-justice-what-no-harm-really-means-for-residents/>.

²⁰ *Federal Monitoring Surveys Demonstrate Continued Understatement of Serious Care Problems and CMS Oversight Weaknesses*, GAO (May 2008), <https://www.gao.gov/assets/280/275154.pdf>.

²¹ Richard J. Mollot & Rediet Demissie, *The Identification of Resident Harm in Nursing Home Deficiencies: Observation & Insights*, LTCCC (2017), <http://nursinghome411.org/identification-of-resident-harm-in-nursing-home-citations/>.

²² *Id.*