

Under-Enforcement and Rollbacks: Children Die at a Nursing Home

Under the Trump Administration, the Centers for Medicare & Medicaid Services (CMS) has been advancing “burden” reduction measures in nursing homes. The focus of these measures is to reduce both minimum safety standards for resident care and financial penalties when those minimum standards are violated. This rollback builds on the long and, too often, significant under-enforcement of standards necessary to protect residents from harm.

Perhaps nowhere is this more evident than in the tragic events that recently unfolded in a nursing home in New Jersey, where (as of the publication date) [11 children died](#) from an outbreak of the adenovirus. The unnecessary and heart-breaking deaths at the Wanaque Center might have been prevented if the standards of care had been properly enforced after earlier citations.

Inspection reports indicate that the nursing home had previously been cited numerous times for not meeting infection control standards. In [2016](#), the nursing home was cited for failing “to demonstrate proper infection control techniques during medication pass” In [2017](#), the nursing home was cited for failing “to ensure infection control practices were followed.” In [2018](#), the nursing home was cited for failing “to follow proper infection control procedures during medication pass and for the care of a urinary catheter.” All of these violations were cited as not causing “actual harm” or “immediate jeopardy” to any residents. Despite these repeated violations, Medicare’s [Nursing Home Compare](#) indicates that the nursing home has not received “any fines in the last 3 years.”

To learn about resident rights and protections under the infection prevention and control requirements, please see LTCCC’s [Issue Alert](#).

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This unfortunate pattern is repeated every day in communities across the country. According to [CMS](#), 95 percent of all health violations in nursing homes are cited as causing “no harm” to the resident. As our [examinations](#) of “no harm” deficiencies indicate, too often these classifications do not, in fact, accurately reflect the pain, suffering, and humiliation that residents may have experienced as a result of a facility’s violation. The failure to identify resident harm when it occurs means that nursing homes are not held fully accountable for failing to meet minimum standards of care and safety. This

lack of accountability is due to the fact that nursing homes rarely face financial penalties when deficiencies are cited as causing “no harm.”

The under-enforcement of the nursing home standards is at odds with the duties of both CMS and the state agencies charged with protecting residents. By law, the HHS Secretary is required to assure “that requirements which govern the provision of care . . . and the enforcement of such requirements, are adequate to protect the health, safety, welfare, and rights of residents” The recent deaths of children in New Jersey sadly demonstrate that this essential mandate is not being realized.

Our organizations call on CMS and the states to properly enforce the nursing home standards of care and cease efforts to rollback resident rights and protections. Nursing home residents will remain in danger until there is proper enforcement of the quality of care and quality of life standards.