

Resident Rights

Introduction

- Under federal law, every nursing home resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility.
- The federal rules for nursing homes include the following requirements related to resident rights:
 - A facility must treat each resident with respect and dignity and care for each resident in a manner and in an environment that promotes maintenance or enhancement of their quality of life, recognizing each resident’s individuality;
 - The facility must protect and promote the rights of the resident;
 - The facility must provide equal access to quality care regardless of diagnosis, severity of condition, or payment source.; and
 - A facility must establish and maintain identical policies and *practices* regarding transfer, discharge, and the provision of services for all residents regardless of payment source.³¹
- CMS guidance explicitly states:

*Each resident has the right to be treated with dignity and respect. All staff activities and interactions with residents must focus on assisting the resident in maintaining and enhancing his or her self-esteem and self-worth and incorporating the resident’s preferences and choices. Staff must respect each resident’s individuality when providing care and services while honoring and valuing their input.*³²

Breakfast in a soiled bed: A “No Harm” Resident Rights Deficiency (F550)

At a New York nursing home, a resident was observed sitting naked while eating from a tray placed on soiled linens. On the floor next to the resident was a soiled incontinence brief. Despite the unsanitary and disrespectful conditions, and the resident’s discomfort, this was not cited as harm.

³¹ See LTCCC’s [Fact Sheet: The Foundations of Resident Rights](#) (referencing 42 CFR 483.10(a)), [Resident Rights Handouts](#), and other materials in our Learning Center, <https://nursinghome411.org/learn/>, for more information.

³² CMS *State Operations Manual*, Appendix PP, Resident Rights, Intent of §483.10(a)-(b)(1)&(2). Available at <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/GuidanceforLawsAndRegulations/Downloads/Appendix-PP-State-Operations-Manual.pdf>.

- Despite strong requirements to foster and protect a resident’s rights, violations of these rights are consistently the most widespread concern reported to the LTC Ombudsman Programs across the country.³³
- This section of the report contains state and regional data on RR citations (F550), including key findings, a map data visualization, and tables.

Key Findings

- Though, as noted above, resident rights violations are the most frequently raised complaint to LTC Ombudsmen, Resident Rights (F550) accounted for only 2.0% of all state survey agency citations reported during the three-year period. Annually, there was the equivalent of 1.5 RR citation for every 1,000 nursing home residents.
- Only 74 (1.3%) of the 5,905 RR citations were categorized as Harm (G+). In other words, close to **99% of the time that surveyors identify a violation of a resident’s rights they find that it caused no harm to the resident.** As discussed in the introduction to this report, in the absence of a finding of harm or immediate jeopardy, it is extremely unlikely that a facility will face *any* penalty for the substandard care or treatment. **Practically speaking, this means that nursing homes will get paid for treatment that violates the rights of their residents and not have to worry about incurring fines or penalties for providing demeaning care or services.**
- Federal data reveal that 23 states *never* identify any resident harm when they cite for a violation of nursing home resident rights, based on the three years evaluated (see *Figure 18*).
- All but two states, Vermont, and Montana, identify resident harm less than 10% of the time that they substantiate a violation of resident rights. However, both of those states scored in the bottom half of the country in respect to the overall identification of resident rights violations (i.e., at any level of scope or severity).
- Puerto Rico, Alaska, Washington, and Delaware – four of the least populated states – had the highest rates of RR citations (see *Figure 17*).
- Region 2 (NJ, NY, PR) and Region 4 (serving the southeast) reported the lowest RR citation rates; Regions 10 (northwest) and Region 9 (west) reported the highest (see *Figure 19*).

³³ See LTC Ombudsman National and State Data, Administration for Community Living, Table A-3: Complaint Summary: Nursing Facility Totals and Percents for FY 2015 as of 03/14/2017 (showing percentages of complaints by group for the years 2010 – 2015). Available at <https://acl.gov/programs/long-term-care-ombudsman/ltc-ombudsman-national-and-state-data>.

Data: Map and Tables

Resident Rights Citation Rate and Severity by State (2018-20)

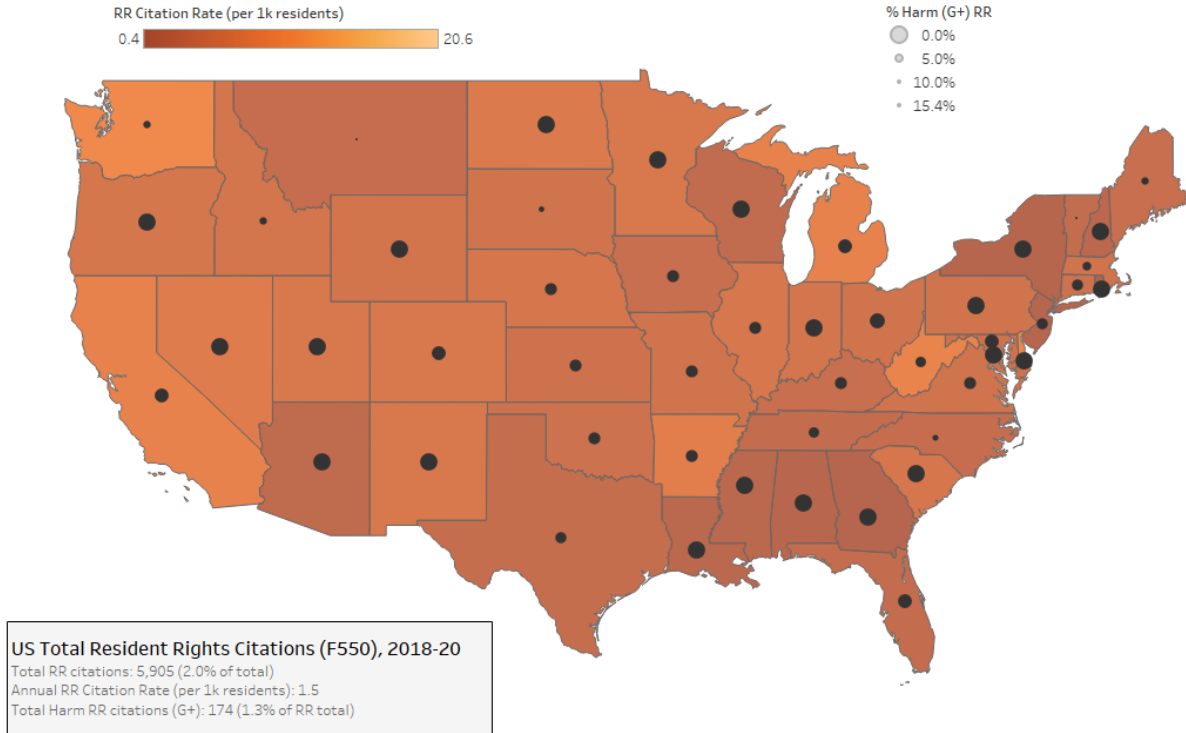


Figure 6: Annual Resident Rights citations (F550) per 1k residents during the three-year period from 2018-20. Darker shades indicate lower RR citation rates; larger circles indicate lower proportion of Harm (G+) citations. See *Figure 18* for info on Alaska, Hawaii, and Puerto Rico.

	Resident Rights Citations (F550)	RR Rate (per 1k residents)	Rank: RR Rate	Harm (G+) RR	% Harm (G+) RR	Rank: % Harm (G+) RR
AK	13	20.0	2	0	0.0%	30
AL	32	1.4	48	0	0.0%	30
AR	131	7.6	8	2	1.5%	17
AZ	30	2.5	44	0	0.0%	30
CA	902	8.8	6	6	0.7%	27
CO	101	6.1	14	1	1.0%	24
CT	97	4.4	32	2	2.1%	13
DC	9	3.9	33	0	0.0%	30
DE	38	9.4	4	0	0.0%	30
FL	221	3.0	41	2	0.9%	26
GA	34	1.0	50	0	0.0%	30
HI	23	6.3	12	1	4.3%	8
IA	82	3.6	34	1	1.2%	22
ID	22	5.4	21	1	4.5%	7
IL	388	5.9	16	6	1.5%	16
IN	218	5.6	20	0	0.0%	30
KS	77	4.6	30	1	1.3%	19
KY	81	3.6	36	1	1.2%	21
LA	43	1.7	47	0	0.0%	30
MA	183	4.9	28	7	3.8%	9
MD	110	4.6	29	1	0.9%	25
ME	21	3.6	35	1	4.8%	6
MI	329	8.6	7	2	0.6%	28
MN	145	6.1	15	0	0.0%	30
MO	187	5.0	24	2	1.1%	23
MS	30	1.9	45	0	0.0%	30
MT	13	3.3	39	2	15.4%	1
NC	119	3.3	38	8	6.7%	4
ND	34	6.5	10	0	0.0%	30
NE	63	5.7	19	1	1.6%	15
NH	11	1.7	46	0	0.0%	30
NJ	44	1.0	51	1	2.3%	12
NM	35	6.3	11	0	0.0%	30
NV	42	7.1	9	0	0.0%	30
NY	125	1.2	49	0	0.0%	30
OH	355	4.9	27	1	0.3%	29
OK	80	4.4	31	1	1.3%	20
OR	44	5.8	17	0	0.0%	30
PA	374	5.0	25	0	0.0%	30
PR	3	20.6	1	0	0.0%	30
RI	3	0.4	52	0	0.0%	30
SC	97	5.7	18	0	0.0%	30
SD	28	5.0	26	2	7.1%	3
TN	82	3.0	40	2	2.4%	10
TX	310	3.4	37	6	1.9%	14
UT	35	6.1	13	0	0.0%	30
VA	141	5.0	23	2	1.4%	18
VT	7	2.9	42	1	14.3%	2
WA	157	10.0	3	8	5.1%	5
WI	60	2.7	43	0	0.0%	30
WV	84	9.0	5	2	2.4%	11
WY	12	5.2	22	0	0.0%	30

Note: Nearly half of US states recorded zero Harm RR citations during the three-year period.

Figure 7: Resident Rights (F550) citation rate and severity by state (2018-20).

Broken Promises: An Assessment of Federal Data on Nursing Home Oversight

	Resident Rights Citations (F550)	Annual RR Rate (per 1k residents)	Rank: RR Rate	Harm (G+) RR	% Harm (G+) RR	Rank: % Harm (G+) RR
Region 1	322	1.3	7	11	3.4%	2
Region 2	172	0.4	10	1	0.6%	10
Region 3	756	1.8	5	5	0.7%	8
Region 4	696	0.9	9	13	1.9%	4
Region 5	1,495	1.9	3	9	0.6%	9
Region 6	599	1.3	8	9	1.5%	5
Region 7	409	1.6	6	5	1.2%	6
Region 8	223	1.9	4	5	2.2%	3
Region 9	997	2.7	2	7	0.7%	7
Region 10	236	2.8	1	9	3.8%	1



Sources:

CMS Health Deficiencies (Downloaded March 2021; excludes surveys before 2018 and after 2021). MDS 3.0 Frequency Reports (2018-20). See "Identification Information – Gender (A0800)."

Notes:

Resident Rights citations (F550) per 1k residents from 2018-20. Harm: citation rated G or above. Immediate Jeopardy (IJ): citation rated J or above.



Figure 8: Resident Rights (F550) citation rate and severity by region (2018-20).

Interactive charts and maps are available at <https://nursinghome411.org/survey-data-report/>.