TODAY'S WEBINAR:

Broken Promises: An Assessment of Nursing Home Oversight

How often are nursing homes cited by federal agencies for substandard care?
Are "Harm" deficiencies more common in some states than others?

Join us to learn more!

Tuesday, December 21, 2021 | 1-2PM ET

Register: bit.ly/webinar-broken-promises

Eric Goldwein, MPH (presenter), is LTCCC's Director of Policy and Communications, conducting policy and data research and hosting LTCCC's NursingHome411 Podcast.

www.nursinghome411.org

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Previously on NursingHome411

+ *Review:* The Nursing Home Reform Law

- The law passed in 1987.

- *Every* nursing home that participates in Medicaid/Medicare agrees to meet or exceed the standards laid out in the Reform Law and its implementing regulations.

- Participation in Medicaid/Medicare is voluntary. Nursing homes that do not wish to meet these standards are free to run private facilities.

Review: The Nursing Home Reform Law

- The federal law requires that every nursing home resident is provided the care and quality of life services sufficient to attain and maintain their highest practicable physical, emotional, & psycho-social well-being.

- The law emphasizes individualized, patient-centered care.

- Importantly, the law lays out specific resident rights, from good care and monitoring to a quality of life that maximizes choice, dignity, & autonomy.

- "Effective" infection control and sufficient staffing have been required since the beginning.

+ *Review:* The Nursing Home Reform Law

Question: If the law and standards are so strong, why aren't nursing homes decent and safe places to live and work?

Answer: Laws and standards can only make a difference if they are enforced.

+ *Review:* The Problem(s)

Federal data, our studies, and <u>countless</u> OIG and GAO reports indicate that these baseline tenets are largely unrealized.

+ *Review:* LTCCC's 2015 Study: Findings and Issues Raised

- **Study found significant failure to identify resident harm**. States rarely classify violations of minimum health standards as causing harm or putting residents in immediate jeopardy. Because, generally speaking, only findings of harm result in a penalty against the nursing home, this means that **penalties for substandard care are exceedingly rare**.

- **Study raised concerns about regional variations in quality assurance**. CMS contracts with the states to conduct *effective* oversight of nursing home care. CMS provides rules for state performance and oversees that performance through Regional Offices across the country.

Safeguarding NH Residents & Program Integrity
A National Review of State Survey Agency Performance

by
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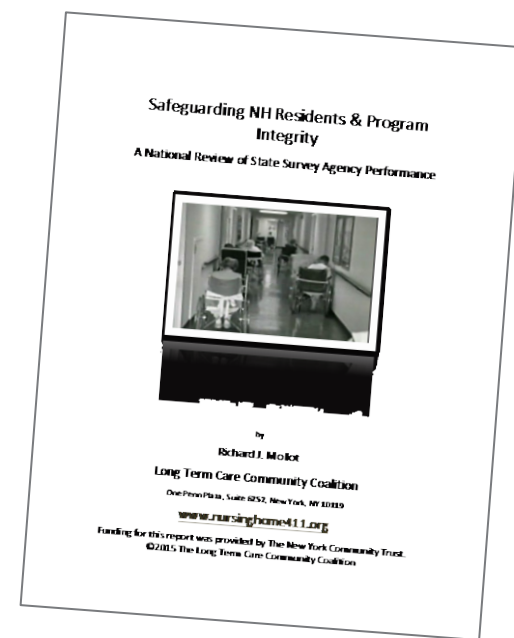
+ *Review:* **LTCCC's 2021 Project**

- What can we **expect from those responsible** for ensuring that nursing home residents are safe and treated with dignity?

- To what extent are **requirements for nursing homes – and the agencies responsible for overseeing them – being realized** in the lives of nursing home residents?

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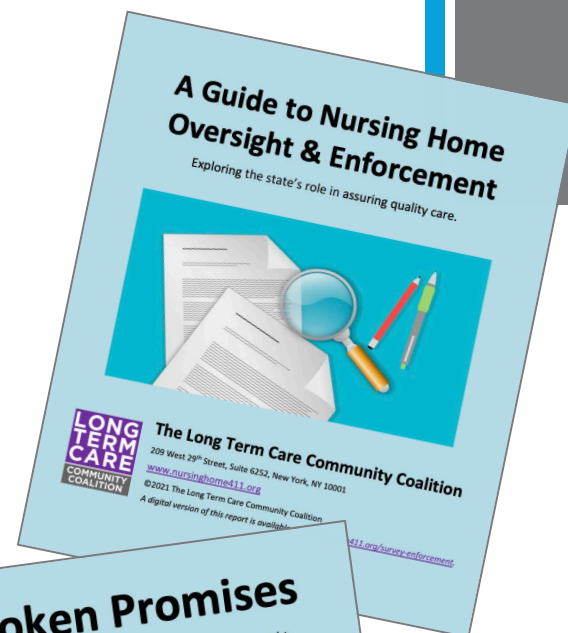
Part I: Expectation

- **A Guide to Nursing Home Oversight & Enforcement**

  - Exploring the state's role in nursing home oversight: certification, surveys, enforcement, and more.

  - LTCCC's guide covers portions of the State Operations Manual to support good care, accountability, and resident-centered advocacy.
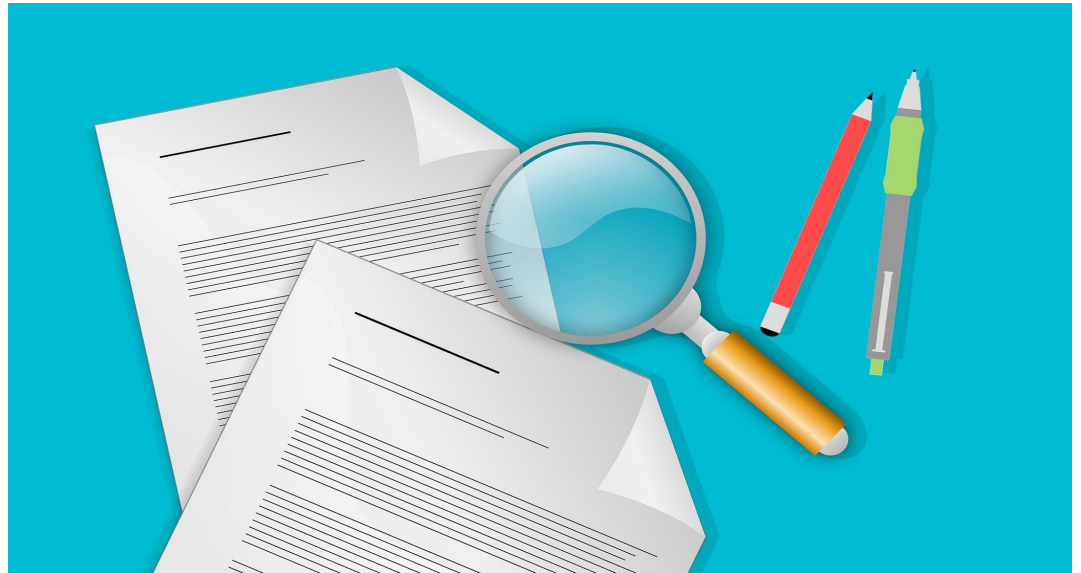
Part II: The Reality

Evaluating state and regional enforcement.

Part II: Reality (Data findings)

- **Broken Promises**

  - An assessment of state and federal enforcement agency performance.

  - Results of an analysis of survey and enforcement data at the state, regional, and federal levels.

What is this report assessing?

- **State and regional enforcement data (the reality!)**

  - Nursing home survey data from the 3-year period from 2018-20.

  - ~290,000 total citations (or deficiencies), 97k annual.

  - Citations include:

    - **F-Tag:** What category of nursing home regulation was cited? (i.e., F550 is Resident Rights).

    - **Severity code:** What level of severity (A through L) did the surveyors determine? (G or above is considered "Harm").

- Our report evaluates survey data on the following categories of nursing home care:

  - Antipsychotics (F758)

  - Infection Control (F880)

  - Pressure Ulcers (F686)

  - Quality of Life (F675)

  - Resident Rights (F550)

  - Sufficient Staffing (F725)

Provider Name ⇕	Provider State ⇕	Survey Date ⇕	Deficiency Cat... ⇕	Deficiency Tag ... ⇕	Deficiency Des... ⇕	Scope Severity...
Search 20 records	Search 20 records	Search 20 records	Search 20 records	Search 20 records	Search 20 records	Search 20 records
BURNS NURSING ...	AL	2019-08-21	Resident Rights D...	0554	Allow residents to ...	D
BURNS NURSING ...	AL	2019-08-21	Infection Control D...	0880	Provide and imple...	D
BURNS NURSING ...	AL	2018-08-01	Infection Control D...	0880	Provide and imple...	D
COOSA VALLEY H...	AL	2019-06-13	Infection Control D...	0880	Provide and imple...	D
COOSA VALLEY H...	AL	2018-06-07	Resident Assessm...	0656	Develop and imple...	D
COOSA VALLEY H...	AL	2018-06-07	Quality of Life and ...	0700	Try different appro...	E
COOSA VALLEY H...	AL	2018-06-07	Nutrition and Diet...	0812	Procure food from ...	F
COOSA VALLEY H...	AL	2018-06-07	Infection Control D...	0880	Provide and imple...	D
COOSA VALLEY H...	AL	2017-04-06	Resident Rights D...	0241	Provide care for re...	D
COOSA VALLEY H...	AL	2017-04-06	Environmental Defi...	0253	Provide housekeep...	D
COOSA VALLEY H...	AL	2017-04-06	Resident Assessm...	0278	Ensure each reside...	D
COOSA VALLEY H...	AL	2017-04-06	Resident Assessm...	0279	Develop a complet...	D
COOSA VALLEY H...	AL	2017-04-06	Quality of Life and ...	0281	Ensure services pr...	D
COOSA VALLEY H...	AL	2017-04-06	Nursing and Physi...	0356	Post nurse staffing...	C
COOSA VALLEY H...	AL	2017-04-06	Nutrition and Diet...	0371	Store, cook, and se...	F
HIGHLANDS HEAL...	AL	2019-06-06	Nutrition and Diet...	0812	Procure food from ...	F
HIGHLANDS HEAL...	AL	2019-06-06	Infection Control D...	0880	Provide and imple...	D
HIGHLANDS HEAL...	AL	2018-05-03	Resident Rights D...	0550	Honor the resident'...	D

The table above is the source data. It includes 290,000 rows (one row per deficiency) from surveys conducted in 2018-20. Each observation is assigned a deficiency category (F-Tag) and a Scope Severity letter (A through L).

Example of a Deficiency

- A Michigan nursing home failed to "provide enough nursing staff every day to meet the needs of residents."
  - Slow call light responses.
  - Staffing shortages worse at nights and weekends.
  - "For the last couple weeks there has only been two people at night," a resident told the surveyor. "I have had a [medical condition]. It can be frightening."

- This deficiency was cited as F725 (Sufficient Nursing Staff) and "E" severity (A through F is no harm).

Department of Health & Human Services
Centers for Medicare & Medicaid Services

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Form Approved OMB
No. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 235443	(X2) MULTIPLE CONSTRUCTION A. Building B. Wing	(X3) DATE SURVEY COMPLETED 05/15/2019

NAME OF PROVIDER OR SUPPLIER Shorepointe Nursing Center	STREET ADDRESS, CITY, STATE, ZIP CODE 26001 East Jefferson Avenue Saint Clair Shores, MI 48081

For information on the nursing home's plan to correct this deficiency, please contact the nursing home or the state survey agency.

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (Each deficiency must be preceded by full regulatory or LSC identifying information)
F 0725 Level of Harm - Minimal harm or potential for actual harm Residents Affected - Some	Provide enough nursing staff every day to meet the needs of every resident; and have a licensed nurse in charge on each shift. **NOTE- TERMS IN BRACKETS HAVE BEEN EDITED TO PROTECT CONFIDENTIALITY** > This citation refers in part to MI 004. Based on observation, interview and record review the facility failed to provide timely call light response and adequate staffing to provide care for eight residents (R12, R28, R35, R51, R56, R94, R102, R359) and six confidential residents, in a total census of 129 resulting in dissatisfaction with the care provided and the likelihood of unmet care needs and a delay in the provision of care. Findings include: On 05/13/19 at 11:43 AM, R12 stated, They need more help. I will manipulate the call button (a pad style call device) when I need help. Sadly they have been short. What is this about the ratio numbers? When I hear a high number I know what I can expect. Not all the residents are able to activate the light as a I can. This weekend they were short. It is usually afternoons and weekends and happens at least once a week. On 05/13/19 at 11:57 AM, R28 stated, They don't help you. When asked what they don't help you with R28 stated, They don't help you get cleaned up or assist with going to the bathroom. On 05/13/19 at 12:31 PM R94 stated, For the last couple weeks there has only been two people at night. I have had a [MEDICAL CONDITION]. It can be frightening to know. When asked how they knew there were only two people R94 stated, I was told that. Also last night and the night before (Saturday and Sunday). Nurses were doing the work of the aide two weeks ago. It is mostly afternoon and evening. I was also told I can't have a shower but then they may not offer a bed bath, I reminded the nurse that I wanted a shower. I just want what we are told. (continued on next page)

Scope & Severity

- CMS and state survey agencies use the Scope and Severity grid for rating the seriousness of nursing home deficiencies.

- For each deficiency, the surveyor indicates the level of harm to the resident and the scope of the problem within the facility.

- Unfortunately, most of these violations (more than 95%) are cited as causing "no harm" to residents.

	Isolated	Pattern	Widespread
Immediate Jeopardy to Resident Health or Safety	J	K	L
Actual Harm that is Not Immediate Jeopardy	G	H	I
No Actual Harm with Potential for More than Minimal Harm that is Not Immediate Jeopardy	D	E	F
No Actual Harm with Potential for Minimal Harm	A	B	C

+ Pop quiz!

- **What is an F-Tag?**
  - A. A game you play at recess.
  - B. The itchy thing on the back of your shirt.
  - C. A number corresponding to a specific regulation within the Code of Federal Regulations.

- **What is this report assessing?**
  - A. Nursing home star ratings.
  - B. State and regional enforcement of nursing homes.
  - C. Quality of care.
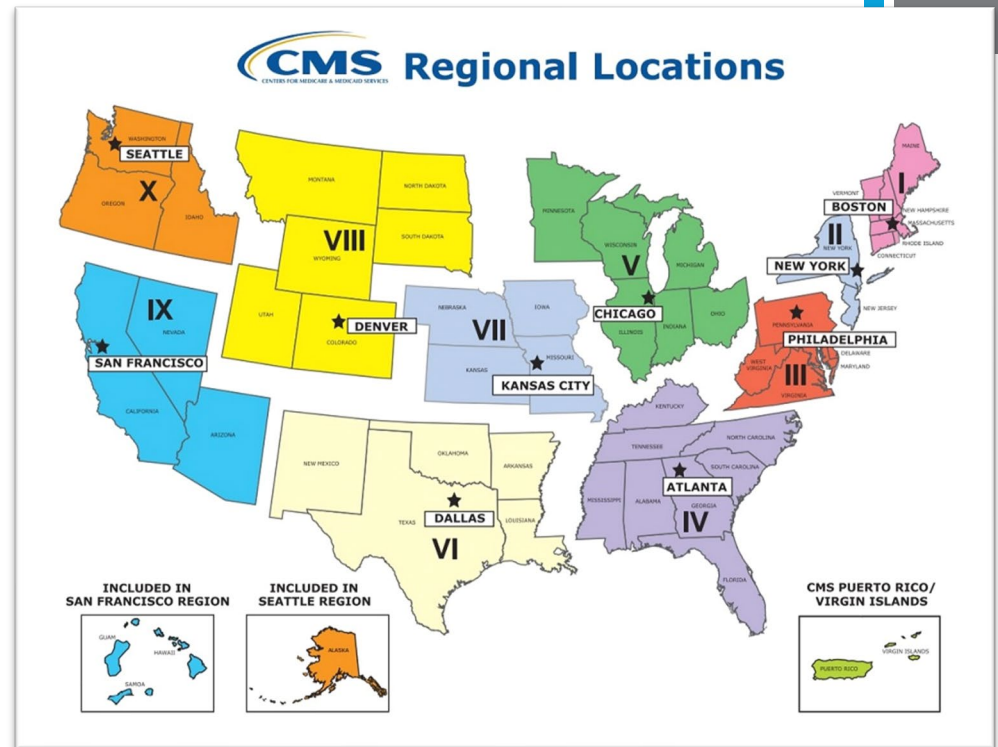
Who are we assessing?

- States
  - All 50 US states plus D.C. and Puerto Rico.
    - Note: Smaller states prone to sample size limitations.

- CMS Regions
  - The **10 Regional Locations of the Centers for Medicare and Medicaid Services (CMS)** tasked with overseeing the enforcement agencies in their respective states.

- Federal summary data
  - Nationwide totals and averages.

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Two primary metrics for evaluating enforcement performance.

1) Annual citation rates (frequency)	2) Citation severity

1) Annual citation rates (frequency)

- How many citations, per resident(s)*, per year?

- Higher rates → more frequent citations.

- **Example:** In Pennsylvania, surveyors recorded 0.07 citations per resident per year (32nd highest).

2) Citation severity

- What proportion of citations were cited as "Harm" (G or above)?

- Higher % → more severe citations.

- **Example:** In Region 8 (Denver), 2.9% of infection control deficiencies were cited as Harm (6th highest of 10 regions).

*Methodology notes:
- LTCCC's primary variables for **antipsychotic citation rates** and **pressure ulcer citation rates** were measured, respectively, based on *residents receiving antipsychotics (RAP)* and *residents with unhealed pressure ulcers (RPU)*. Primary variables for other enforcement categories were measured based on *total resident population*.
- Citation rates for the less frequently cited deficiencies were measured per 100, 1,000, or 10,000 residents.
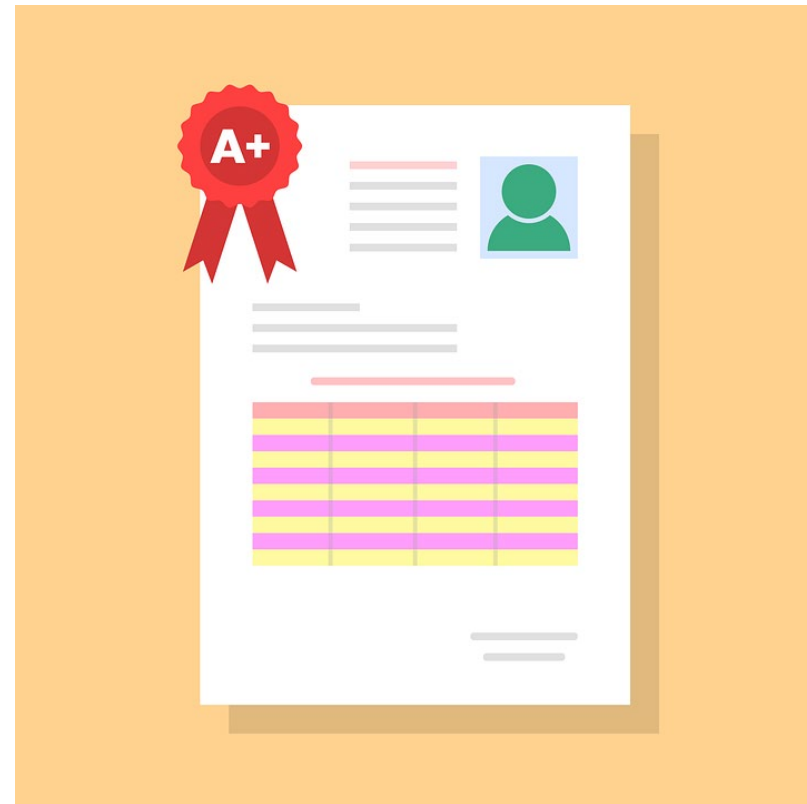
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Pop quiz 2!

- What primary variables are we using to evaluate state/region/federal enforcement?
    - A. Nursing home star ratings
    - B. Annual citation rates & citation severity
    - C. None of the above

- How many CMS Regional Locations are there?
    - A. 3
    - B. 10
    - C. 57.543

GOOD JOB!!!!!

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US Summary findings *(Not a lot of A+'s...)*

- **Frequency**
  - Annually, surveyors recorded **one citation for every 13 residents** in the three-year period from 2018 to 2020.

- **Severity**
  - **Harm (G or above) citations are rare.** Of the 290,000 citations, 5.0% were categorized as Harm. 1.8% were categorized as Immediate Jeopardy (J or above).

- **Citations by Category**
  - Infection Prevention & Control (F880) citations accounted for 7.8% of all deficiencies.
  - Antipsychotics (F758), Pressure Ulcers (F686), and Resident Rights (F550) each accounted for roughly 2%.
  - Sufficient Staffing (F725) accounted for 1%.
  - Quality of Life (F675) accounted for 0.1%.

Summary findings: State & Region

- State and regional enforcement and severity varied considerably but were often consistent across categories of nursing home care.

- New Jersey and New York ranked in the bottom-quintile in most citation metrics evaluated in this report.

  - In an average year in New York, there was one citation for every 50 residents. In Alaska, there was one citation for every four residents.

- Region 2 (New York) ranked at the bottom of most enforcement metrics, meaning the region had lower enforcement rates. Region 10 (Seattle) ranked first and second in most enforcement metrics.
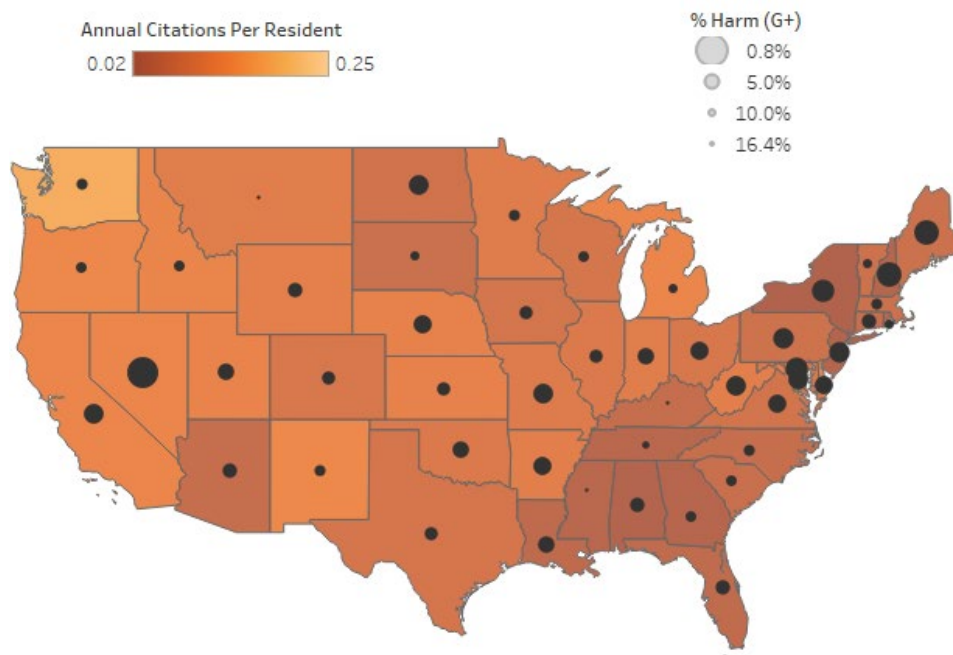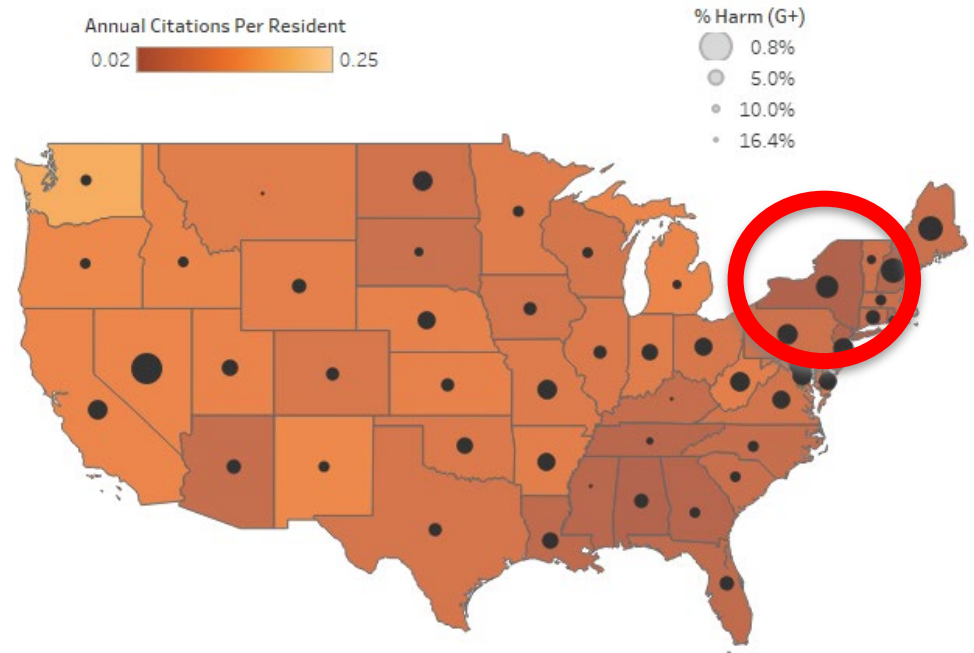

Darker → lower citation rate.
Larger circles → lower % of Harm citations.

Summary findings: New York

- One in 50 (2.0%) of the state's citations were cited as harm (rank 48 of 52) and one in every 230 (0.4%) were cited as Immediate Jeopardy (J or above), ranking 49th.

- New York never categorized inappropriate drugging as causing harm during the three-year period. (17% of NY residents are receiving APs).

- NY ranked last (52nd) in annual Infection Control & Prevention (F880) citation rates (1.6 per 1,000 residents); these citations were categorized as harm only 1.6% of the time.

- New York rarely cited nursing homes for Sufficient Staffing (F725) despite rampant understaffing in the state. A total of 55 SS citations were reported in the three-year period, or 0.18 citations annually for every 1,000 residents (ranked 46th).

Darker → lower citation rate.
Larger circles → lower % of Harm citations.

NY findings available at **https://nursinghome411.org/alert-ny-oversight-overlooked/**

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A Tableau / NursingHome411 Tour

See: https://nursinghome411.org/survey-enforcement/

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Data Sources

- CMS's Health Deficiencies (2018-20)
  - Health citations from surveys conducted in the three-year period from 2018 to 2020. This dataset includes the nursing home that received the citation, location of the nursing home, associated inspection date, survey data, citation tag number (F-tag), and scope / severity (A through L). Most recent dataset available at: https://data.cms.gov/provider-data/dataset/r5ix-sfxw.

- MDS Frequency Reports
  - CMS's MDS 3.0 Frequency Report summarizes information for residents in nursing homes at the time of the report based on resident MDS assessment records. This report uses MDS data (Q4 2019) for numerous categories (age, gender, race/ethnicity, antipsychotics, pressure ulcers). Available 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

- Payroll-Based Journal (PBJ) Data (Q4 2019)
  - State and regional staffing data are based on CMS's Payroll Based Journal (PBJ) Nurse Staffing Data from the fourth quarter of 2019. LTCCC determines state and regional averages by calculating the average hours per resident per day (HPRD) for each state and region during the three-month period. Available at: https://data.cms.gov/quality-of-care/payroll-based-journal-daily-nurse-staffing/data/q4-2019.

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One more thing… Check out LTCCC's Oral History of COVID in Nursing Homes

■ To better understand life in long-term care settings during the pandemic, LTCCC spoke to residents, family members, and advocates from across the US.

■ Several themes emerged from the interviews:
   ■ Isolation
   ■ Infantilization
   ■ Inequality
   ■ Exposure
   ■ Tech Transition

"I'M TRAPPED. I'M LOCKED DOWN. AND I FEEL LIKE I'M IN PRISON."

AN ORAL HISTORY OF THE COVID-19 PANDEMIC IN LONG-TERM CARE SETTINGS, FEATURING STORIES FROM RESIDENTS, FAMILY MEMBERS, OMBUDSMEN, LEGISLATORS, AND ADVOCATES.

https://nursinghome411.org/oral-history

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LTCCC's January 2022 webinar

**Arming Your Advocacy:
Leveraging LTCCC's Resources to
Promote Resident-Centered Care**

- Tuesday, January 18, 1pm EST
- **Register:** https://bit.ly/webinar-ltccc-advocacy

- The best advocate is an informed advocate. In this webinar, we will show you how to use LTCCC's free resources including the NursingHome411 Learning Center, the Dementia Care & Antipsychotic Drugging Advocacy Toolkit, the Abuse, Neglect, and Crime Reporting Center, and our staffing data, to promote resident-centered care.

+ Thank You For Joining Us Today!

For updates & invites to future programs: www.nursinghome411.org/join/.

LTC Ombudsmen: If your program supervisor allows credit for attending this training program, please take the quick survey at:

https://www.surveymonkey.com/r/ltccc-ltcop1.

Questions?

Comments?