

ELDER JUSTICE

What “No Harm” Really Means for Residents

Center for Medicare Advocacy & Long Term Care Community Coalition

Volume 6, Issue 1

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This special issue of the Elder Justice Newsletter focuses on facilities owned or operated by [Centers Health Care](#), a growing nursing home chain, which is facing mounting legal challenges amid allegations of “[poor conditions... and evidence of massive Medicaid fraud](#).”

Though [Centers’ website](#) states that its facilities “maintain a large, tight-knit care staff to ensure every resident has more than one hands-on caregiver,” [federal data](#) indicate that Centers Health Care facilities average 3.38 nurse staff hours per resident per day (HPRD). This is well below the 4.1 HPRD identified in a federal study as the minimum necessary to provide basic safety.

Federal data also indicate that the average overall rating for Centers facilities is 1.6 (with one being the lowest possible rating and five the highest). Their average ratings for health inspection is 1.7.

LTCCC and the Center for Medicare Advocacy have long been concerned about sophisticated, predatory operators in the nursing home sector. This issue of the newsletter aims to highlight the harm and suffering that arise when operators with serious, well-documented issues are permitted to continue and expand their nursing home operations.

What is a “No Harm” Deficiency?

Nursing homes that voluntarily participate in the Medicare and Medicaid programs must adhere to minimum standards of care established by the federal Nursing Home Reform Law and its implementing regulations. These standards ensure that every nursing home resident is provided services that help attain and maintain their “highest practicable physical, mental, and psychosocial well-being.” Under the Reform Law, nursing homes that fail to meet the federal requirements are subject to various penalties, based on the scope and severity of the violation(s).

In the absence of a financial penalty, nursing homes may have little incentive to correct the underlying causes of substandard nursing home quality and safety.

Centers for Medicare & Medicaid Services (CMS) data indicate that most health violations (more than 95%) are cited as causing “no harm” to residents. The failure to recognize resident pain, suffering, and humiliation when it occurs too often means nursing homes are not held accountable for violations through financial penalties. In the absence of a financial penalty, nursing homes may have little incentive to correct the underlying causes of resident abuse, neglect, and other forms of harm.

How to Use this Newsletter

The *Elder Justice* newsletter provides examples of health violations in which surveyors (nursing home inspectors) identified neither harm nor immediate jeopardy to resident health, safety, or well-being. These examples were taken directly from Statement of Deficiencies (SoDs) on CMS’s [Care Compare](#) website.

Our organizations encourage residents, families, ombudsmen, law enforcement, and others to use these cases to help identify potential instances of resident harm in their own communities. When state enforcement agencies and CMS fail to properly identify and penalize nursing homes for health violations, it is important for the public to be aware of nursing home safety concerns in their communities. Fundamentally, from our perspective, every suspected case of resident harm should be reported, investigated, and (if confirmed), appropriately sanctioned.

“Nursing home industry representatives often state that their industry is one of the most regulated in the country. But if those regulations are not enforced, what does that actually mean?”
– [Broken Promises: An Assessment of Nursing Home Oversight](#)

All licensed nursing homes are rated on a scale of one to five, with one being the lowest possible rating and five being the highest. While studies have shown that having a high rating does not necessarily mean that a nursing home is safe, substandard care in lower rated facilities has become a matter of increasing public concern. Star ratings included in this newsletter are current up to the date of newsletter’s drafting.

CMS and state survey agencies use the Scope and Severity Grid for rating the seriousness of nursing home deficiencies. For each deficiency identified, the surveyor is charged with indicating the level of harm to the resident(s) involved and the scope of the problem within the nursing home. The Elder Justice Newsletter covers “no harm” deficiencies cited from D-F on the grid. This chart is from the [CMS Nursing Home Data Compendium 2015 Edition](#).

	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

Triboro Center for Rehabilitation and Nursing (New York)

“I hope your sugar goes up to 500 and you have a heart attack and die”: Resident experiences verbal abuse at one-star facility

Facility overall rating: ★★★★★

The surveyor determined that the nursing home failed to report and investigate an alleged incident of verbal abuse by a nurse ([F610](#)). Nevertheless, the surveyor cited the violation as no-harm.¹ The citation was based, in part, on the following findings from the [SoD](#):

- A resident reported verbal abuse by a staff member after two unsuccessful attempts to obtain blood for a glucose test.
- The staff member allegedly made inappropriate comments, including, "I hope your sugar goes up to 500 and you have a heart attack and die. It's your fault you're like this, having only one leg."
- The resident refused further testing and reported the verbal abuse to two nurses and The New York State Department of Health, and also filled out a grievance form.
- Despite this, the facility did not thoroughly investigate the incident, failed to gather witness statements, and did not document the outcome of the investigation.
- The staff member was later reassigned, but no further investigative actions were recorded.
- **Know Your Rights:** Nursing home residents have the right to be free from abuse. Emotional abuse may include aggressive or hostile behavior/attitude towards a resident, staff speaking to residents with disrespect or contempt, and staff ignoring residents or leaving them socially isolated. To learn more, check out [LTCCC's fact sheet on dignity and respect](#).

Deptford Center for Rehabilitation and Healthcare (New Jersey)

Nursing home shortfalls: Inadequate staffing leads to painful delays in care

Facility overall rating: ★☆☆☆☆

The surveyor determined that the facility failed to have sufficient nursing staff to meet the care needs of its 138 residents ([F725](#)). Though this deficient practice left a resident waiting a lengthy period to receive pain medications, the surveyor cited the violation as no-harm.² The citation was based, in part, on the following findings from the [SoD](#):

- A resident reported experiencing long wait times for assistance with using the toilet and receiving pain medications.
- These delays were particularly common on weekends and during nighttime hours.
- During an interview, staff members, including Licensed Practical Nurses (LPNs) and Certified Nurse Aides (CNAs), confirmed concerns about staffing. They noted that while their workloads were generally manageable, the absence of even one staff member would disrupt the entire shift.
- In an interview with the surveyor, the director of nursing and the facility administrator both reported improvements in staffing but confirmed they were still actively recruiting for all positions.
- **Note:** The most recent staffing data indicate that this nursing home provides 3.13 hours per resident per day (HRPD) of total nurse staff time, including 0.40 RN HPRD. These staffing levels are far below safety thresholds identified in a landmark 2001 federal study (4.10 Total Nurse Staff HPRD, including 0.75 RN HPRD). This nursing home received a one-star overall rating and a two-star staffing rating from CMS.
- **Know Your Rights:** Sufficient staffing is one of the most important indicators of a nursing home's quality and safety. Every facility must have sufficient and competent nursing staff to ensure residents attain or maintain their highest practicable physical, mental, and psychosocial well-being. To see the latest staffing levels in your nursing home, check out [LTCCC's nursing home staffing data](#).

Nursing homes must provide care and services for hygiene, including bathing, dressing, grooming, and oral care.

Hammonton Center for Rehabilitation and Healthcare (New Jersey)

Left waiting and suffering: Residents found in soiled conditions

Facility overall rating: ★★☆☆☆

The surveyor concluded that the nursing home neglected to provide adequate care for dependent residents, particularly concerning activities of daily living and incontinence care (F677). Despite the lack of timely assistance for incontinence care, which leads to discomfort and health risks, the surveyor cited the violation as no-harm.³ The citation was based, in part, on the following findings from the [SoD](#):

- Three residents were found in soiled conditions, with one of those residents sitting on wet sheets for an extended period and expressing frustration about the lack of timely assistance.
- Staff members reported feeling overwhelmed and unable to provide adequate care due to insufficient staffing levels and support, which led to many residents frequently being left in their own waste.
- In interviews, the facility administrator and the director of nursing acknowledged the urgent need for improvements in staffing and incontinence care protocols, recognizing that the current conditions, including urine odors and neglected care, compromised residents' dignity and well-being.
- A review of the facility's policies confirmed that care standards were not met, particularly regarding incontinence and personal hygiene, and immediate action was deemed necessary to prevent further health risks to residents.
- **Note:** The most recent staffing data indicate that this nursing home provides 3.88 hours per resident per day (HRPD) of total nurse staff time, including 0.62 RN HPRD. These staffing levels are below safety thresholds identified in a landmark 2001 federal study (4.10 Total Nurse Staff HPRD, including 0.75 RN HPRD). This nursing home received a one-star overall rating and a three-star staffing rating from CMS.
- **Know Your Rights:** It is important to remember quality of life and quality of care cannot be separated – they are related and interdependent. No matter what a resident's needs are, or how their abilities have been diminished, everyone wants to live with dignity and have control of their lives, even if a person's health necessitates limitations. To learn more, check out [LTCCC's fact sheet on resident dignity and quality of life standards](#).

Nursing homes must make assessments of resident's capacity, needs, and preferences to ensure residents receive appropriate care.

Carthage Center For Rehabilitation and Nursing (New York)

Nine days in pain: Resident endures delay in UTI diagnosis

Facility overall rating: ★★☆☆☆

The surveyor found that the nursing home did not provide adequate care for residents, particularly regarding incontinence and bowel/bladder care (F690). Although the delay in assistance for incontinence care and bladder management led to a urinary tract infection (UTI)

for a resident, which creates immense discomfort and can lead to other health risks, the surveyor classified the violation as no-harm.⁴ The citation was based, in part, on the following findings from the [SoD](#):

- The surveyor noted that a resident was not provided timely treatment by the facilities' staff which resulted in the delayed diagnosis of a urinary tract infection (UTI).
- An attending physician ordered a urinalysis on 6/8/2021 but it was not completed until nine days later.
- This delay resulted in the resident being sent to the emergency room, where they were diagnosed with sepsis caused by the UTI, as documented in the Hospital Emergency Department progress notes from 6/21/21.
- Interviews with various staff members revealed that, despite several opportunities to follow up on the urinalysis order, the facility did not take timely action.
- **Know Your Rights:** Every resident has the right to receive the care and services they need to reach and maintain their highest possible level of functioning and well-being. This includes appropriate hygiene care of bathing, dressing, grooming, and oral care, in accordance with the resident's preferences and customs. To learn more, see [LTCCC's fact sheet on resident care and well-being](#).

Carthage Center For Rehabilitation and Nursing (New York)

Neglect in daily care: Residents left unattended in soiled clothing

Facility overall rating: ★★★★★

The surveyor found that the nursing home did not provide adequate care for dependent residents, particularly regarding activities of daily living (ADLs) and incontinence care, resulting in a citation under ([F677](#)). Although the delay in assistance for incontinence care and general assistance with ADLs led to residents sitting in soiled clothing for prolonged periods of time, the surveyor classified the violation as no-harm.⁵ The citation was based, in part, on the following findings from the [SoD](#):

- Staff struggled to provide timely care, including getting residents out of bed and ensuring proper hygiene.
- The surveyor noted that a resident, who required extensive assistance, was repeatedly found in soiled briefs, unclothed, and in a room with a strong odor of urine.
- Delays in care, including inconsistent incontinence care, oral hygiene, and assistance with showering, resulted in the resident developing red, irritated skin.
- The surveyor observed that staff failed to assist another resident in placing their dentures during lunch, and several other residents remained in their hospital gowns instead of being dressed for the meal.

- During interviews, facility staff confirmed the facility's staffing shortages and acknowledged the negative impact on resident care.
- **Note:** The most recent staffing data indicate that this nursing home provides 3.03 hours per resident per day (HRPD) of total nurse staff time, including 0.42 RN HPRD. These staffing levels are far below safety thresholds identified in a landmark 2001 federal study (4.10 Total Nurse Staff HPRD, including 0.75 RN HPRD). This nursing home received a one-star overall rating and a one-star staffing rating from CMS.
- **Know Your Rights:** Nursing homes must place priority on identifying what each resident's highest practicable well-being is in each of the areas of physical, mental, and psychosocial health. Each resident's care plan must reflect person-centered care, and include resident choices, preferences, goals, concerns/needs, and describe the services and care that is to be furnished to attain or maintain, or improve the resident's highest practicable physical, mental, and psychosocial well-being. To learn more, check out [LTCCC's fact sheet on resident assessment and care planning](#).

Facilities must ensure that residents who are incontinent of bladder and bowel on admission receive services and assistance to maintain continence unless their clinical condition is or becomes such that continence is not possible to maintain.

New Paltz Center for Rehabilitation and Nursing (New York)

Abuse confirmed, reporting delayed: Residents endure abuse amid culture of fear

Facility overall rating: ★☆☆☆☆

The surveyor determined that the nursing home failed to protect residents' freedom from abuse and neglect ([F600](#)). Although two incidents of abuse were confirmed, and the facility failed to report them within the required timeframe, the surveyor still classified the violation as no-harm.⁶ The citation was based, in part, on the following findings from the [SoD](#):

- According to the survey, a resident was observed being slapped and forcibly pushed back into bed by a certified nurse aide (CNA) on 10/19/2023 and 10/24/2023.
- In an interview with a CNA who witnessed the abuse, the CNA stated that the abusing CNA pushed the resident onto the bed with a hand on the resident's neck, put the covers on the resident, and told the resident not to get up.
- According to the interview, the resident then punched the CNA in the stomach, and the CNA responded by slapping the resident on the face.
- The interviewed CNA stated they were scared to report the abusing CNA because that person is "big and tall and knows where they live because they all live in a boarding house together."
- The facility failed to report these incidents to the New York State Department of Health until 10/26/2023, despite the facility's abuse policy.

- The delayed reporting and failure to follow abuse protocols left the resident unprotected during this period.
- Interviews with other staff revealed a culture of fear around reporting abuse, contributing to the delay.
- Both the director of nursing (DON) and the facility administrator claim they were informed of the abuse incidents involving the resident on 10/26/2023, days after the incidents occurred. They reported the incidents to the New York State Department of Health after hearing about them, suspended the CNA, and initiated investigations. The CNA was terminated on 10/30/2023 after confirmation of abuse.
- Both the DON and the administrator stated that staff had been trained on abuse reporting, and that the abuse should have been reported sooner.
- **Know Your Rights:** Nursing home residents have the right to be free from abuse. Emotional abuse may include aggressive or hostile behavior/attitude towards a resident, staff speaking to residents with disrespect or contempt, and staff ignoring residents or leaving them socially isolated. Furthermore, there are both state and federal requirements for reporting abuse or neglect. Nevertheless, far too much resident abuse goes unreported. To learn more, see [LTCCC's fact sheet on requirements for nursing homes to protect residents](#).

Can I Report Resident Harm?

YES! Residents and families should not wait for annual health inspections to report resident harm or neglect. Anyone can report violations of the nursing home standards of care by contacting their state survey agency. To file a complaint against a nursing home, please use [this resource](#) available at CMS's Care Compare website. If you do not receive an adequate or appropriate response, [contact your CMS Regional Office](#).



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To learn more about nursing home and assisted living care, visit us online at MedicareAdvocacy.org & NursingHome411.org.

Note: The overall star rating of any facility identified in this newsletter is subject to change. The star ratings are current up to the date of newsletter's drafting.

Note: This document is the work of the LTCCC. It does not necessarily reflect the views of the Department of Health, nor has the Department verified the accuracy of its content.

¹ Statement of Deficiencies for Triboro Center for Rehabilitation and Nursing (February 28, 2024). Available at <https://nursinghome411.org/wp-content/uploads/2024/10/Triboro-Center-for-Rehabilitation-and-Nursing-F610.pdf>.

² Statement of Deficiencies for Deptford Center for Rehabilitation and Healthcare (June 14, 2023). Available at <https://nursinghome411.org/wp-content/uploads/2024/10/Deptford-Center-for-Rehabilitation-and-Healthcare-F725.pdf>.

³ Statement of Deficiencies for Hammonton Center for Rehabilitation and Healthcare (June 5, 2023). Available at <https://nursinghome411.org/wp-content/uploads/2024/10/Hammonton-Center-for-Rehabilitation-and-Healthcare-F677.pdf>.

⁴ Statement of Deficiencies for Carthage Center for Rehabilitation and Nursing (April 14, 2023). Available at <https://nursinghome411.org/wp-content/uploads/2024/10/Carthage-Center-for-Rehabilitation-and-Nursing-F690.pdf>.

⁵ Statement of Deficiencies for Carthage Center for Rehabilitation and Nursing (March 16, 2023). Available at <https://nursinghome411.org/wp-content/uploads/2024/10/Carthage-Center-for-Rehabilitation-and-Nursing-F677.pdf>.

⁶ Statement of Deficiencies for New Paltz Center for Rehabilitation and Nursing (November 7, 2023). Available at <https://nursinghome411.org/wp-content/uploads/2024/10/New-Paltz-Center-for-Rehabilitation-and-Nursing-F600.pdf>.