

CALIFORNIA ADVOCATES FOR NURSING HOME REFORM

650 Harrison Street • 2nd Floor .San Francisco, CA 94107 • 415-974-5171 • 800-474-1116 • Fax 415-777-2904

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Contact: Pat McGinnis, CANHR
Tel: (415) 974-5171
patm@canhr.org
or
Janet Wells, CANHR
Tel: (202) 966-7760
Cell: (202) 550-0209

CANHR Welcomes Steps to Improve Nursing Home 5-Star Ratings' Reliability

The Centers for Medicare & Medicaid Services' changes to Nursing Home Compare are a welcome start to CMS's plans to improve the accuracy of public information that families use to evaluate nursing homes. The changes are the first among several steps planned to increase the reliability of ratings that have often shown wide discrepancies – between residents' experiences and state inspection results on one hand, and nursing homes' self-reported information about their nurse staffing levels and performance on federal quality measurements on the other.

“In California and the rest of the country, a lot of nursing homes and some entire corporate chains have inflated their nurse staffing hours and gamed resident data that make up two of the three ratings in the Five Star Quality Rating System,” said Patricia L. McGinnis, Executive Director of California Advocates for Nursing Home Reform (CANHR). “Some facilities have claimed that their four and five-star ratings on nursing and Quality Measures indicated that they provided good care, while state citations and lawsuits for neglect and abuse were piling up.

“For too long, the CMS rating system for nursing homes has been inaccurate and misleading to consumers trying to find placement in a nursing home. The steps CMS is taking won't fix all the problems right away, but they're an important start.”

The Nursing Home Five Star Quality Rating System assigns facilities an overall star rating and individual star ratings in three categories – nurse staffing hours; Quality Measures, which are based on resident assessments for pressure sores, physical restraints, and other clinical indicators; and deficiencies on state inspections. Nurse staffing and Quality Measure data are currently self-reported and not audited for accuracy.

A New York Times article in August 2014 found nearly two-thirds of nursing homes that received enhanced oversight because of substandard care on inspections had four or five-star ratings for staffing and Quality Measures.ⁱ A recent study by the Center for Public Integrity compared nursing homes' staffing hours on Nursing Home Compare with data on their Medicare cost reports and calculated that 80 percent of facilities reported higher staffing on Nursing Home Compare.ⁱⁱ

CMS's newly announced changes will reflect stricter standards to achieve high ratings in Quality Measures and nurse staffing, and antipsychotic drug use added in the Quality Measure component

will flag chemical restraints as a significant indicator of poor care.ⁱⁱⁱ In addition, CMS will train state surveyors to conduct specialized surveys to assess the accuracy of data facilities report. A pilot of specialized surveys, which compared facilities' self-reported resident assessment data with medical records, found differences of 15 to 25 percent in four of seven reported clinical conditions.^{iv} Future improvements include adding Quality Measures based on Medicare claims data for rehospitalizations and the rate of residents returning home.^v

“We hope these changes are a wakeup call for nursing homes that it is going to become harder to hide behind erroneous data if they are providing bad care to residents and that the changes will make it easier for consumers to evaluate individual nursing homes,” said McGinnis. “But real differences in ratings will require real changes in quality. For that, better enforcement of federal and state regulations, as well as continued efforts to improve data reporting, are absolutely critical.”

A number of issues must be addressed to improve Nursing Home Compare's reliability:

Improve the Accuracy of Nurse Staffing Data

The adjustments to the nurse staffing quality rating are significant but will not correct inflated nursing levels reported by facilities. CMS's implementation by the end of 2016 of an overdue system to collect staffing information from payroll records and to report new staffing quality measures should curb current abuses. Nursing homes will still self-report staffing data, but it will be based on verifiable sources and independently audited in an unannounced sample of facilities. How well CMS implements the payroll-based reporting system and enforces the accuracy of data will be critical to ensure that the public has valid information about the hours of nursing care residents receive, whether it is provided by permanent staff or temporary agency workers, and how well facilities retain their RNs, LPNs and nursing assistants.

Improve Enforcement to Improve the Deficiency Measure

Deficiencies cited during state inspections are usually accepted as the most valid quality indicator in the five-star ratings. However, the data are flawed by a decline in the number of deficiencies cited and an alarming failure among states to cite and penalize facilities for harming residents. Moreover, enforcement actions taken under state licensing laws may not be reported on Nursing Home Compare. Thus, the public may never be aware that a facility's rating may not reflect repeated and extremely serious violations and injury to residents.

Improve Quality and Timeliness of Inspections and Complaint Investigations

While routine surveys of California nursing homes often fail to identify serious violations, the state also has a backlog of approximately 11,000 consumer complaints and numerous reports by facilities of suspected neglect and abuse. Officials estimate it will take four years to investigate all the complaints, delaying the reporting of substantiated harm to residents.^{vi} CMS should increase its oversight of state complaint handling to ensure timely investigations and reporting of violations.

Increase Citations and Penalties for the Misuse of Antipsychotic Drugs

The addition of antipsychotic drugs to the ratings recognizes years of advocacy by CANHR and other consumer groups to increase public awareness and government scrutiny of these dangerous medications, which are usually unnecessary and always risky when treating elderly persons with

dementia. However, to date increased awareness has not changed most nursing homes' behavior or increased state enforcement of regulations on chemical restraints and unnecessary drugs. More than a quarter of a million nursing home residents still receive antipsychotics. CANHR strongly supports CMS's recognition of antipsychotics as a key indicator of poor quality care in nursing home ratings but also strongly urges a commensurate increase in enforcement of the law.

ⁱ Katie Thomas, Medicare Star Ratings Allow Nursing Homes to Game the System, The New York Times, August 24, 2014.

<http://www.nytimes.com/2014/08/25/business/medicare-star-ratings-allow-nursing-homes-to-game-the-system.html? r=0>

ⁱⁱ Jeff Kelly Lowenstein, Analysis Shows Widespread Discrepancies in Staffing Levels Reported by Nursing Homes, Center for Public Integrity, November 12, 2014.

<http://www.publicintegrity.org/2014/11/12/16246/analysis-shows-widespread-discrepancies-staffing-levels-reported-nursing-homes>

ⁱⁱⁱ Thomas Hamilton, Director, Survey and Certification Group, CMS, Nursing Home Compare "3.0" – Five Star Quality Rating System – Expanded and Strengthened, Memorandum to State Survey Agency Directors, February 13, 2015. [S&C: 15-26-NH](#)

^{iv} Thomas Hamilton, Director, Survey and Certification Group, CMS, MDS / Staffing Focused Surveys Update, Memorandum to State Survey Agency Directors, February 13, 2015. [S&C: 15-25-NH](#)

^v White House Press Release, FACT SHEET: Administration Announces New Executive Actions to Improve Quality of Care for Medicare Beneficiaries, October 06, 2014. <http://www.whitehouse.gov/the-press-office/2014/10/06/fact-sheet-administration-announces-new-executive-actions-improve-qualit>

^{vi} CANHR, State Auditor Finds the Department of Public Health Is Placing Nursing Home Residents at Risk, October 30, 2014.

http://canhr.org/newsroom/newdev_archive/2014/State_Audit_Report_on_DPH.html.

CANHR is a statewide long-term care advocacy and service organization, established in 1983.

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