

**A Review of Government Accountability Office Report:  
*Nursing Homes: Addressing the Factors Underlying Understatement of Serious Care  
Problems Requires Sustained CMS and State Commitment***

In December 2009, the United States Government Accountability Office (GAO) posted on its web site the report *Nursing Homes: Addressing the Factors Underlying Understatement of Serious Care Problems Requires Sustained CMS and State Commitment*. The study was a follow-up to a report GAO completed in 2008 that identified states in which nursing home surveys failed to cite serious deficiencies or cited deficiencies at too low a scope and severity level. The purpose of *Addressing the Factors* was to examine the impact that the Centers for Medicare & Medicaid's (CMS) survey process, workforce shortages and training, supervisory reviews of surveys, and state agency practices had on such understatement.

**Report Data and Methods**

This report from GAO relies on the following from which to draw its conclusions:

- (1) Two GAO-administered Web-based questionnaires to nursing home surveyors and state agency directors;
- (2) Analysis of federal and state nursing home survey results as reported in the On-Line Survey, Certification, and Reporting (better known as OSCAR) system.
- (3) Interviews with officials at the CMS Survey and Certification Group and select regional offices.
- (4) Review of federal regulations, guidance, and prior GAO reports (most importantly the May 2008 report, which examined the information contained in federal monitoring surveys about understatement of deficiencies or scope and severity of deficiencies nationwide and CMS management and oversight of the federal monitoring survey program: GAO-08-517).
- (5) Follow-up interviews with eight state agency directors and a select group of surveyors.

**Report Conclusions**

The overall conclusions of the report are:

Understatement arises from weaknesses in several interrelated areas, including CMS's survey process, surveyor workforce and training, supervisory review processes and state agency practices and external pressure.

- Survey process
  - Surveyors felt that the current survey guidance is too lengthy, complex, and subjective. They felt that the revised interpretive guidance issued by

CMS for some care areas is improved (following surveyor guidance revisions begun in 2004).

- The experience of the Quality Indicator Survey (QIS) in the eight states that had begun implementation at the time of this study was mixed. There needs to be an increased focus on improving survey consistency and giving supervisors more tools to assess performance of surveyor teams.
- Workforce and training
  - High staff vacancy rates in some states places pressure on state surveyors to complete surveys under difficult circumstances, including compressed time frames, inadequately staffed survey teams, and too inexperienced surveyors.
  - In some states, nearly 30 percent of surveyors stated that initial surveyor training is not adequate to identify deficiencies and cite them at the appropriate scope and severity level.
- Supervisory Review Limitations
  - CMS provides little guidance on how states should structure supervisory review processes, leaving this important quality-assurance tool to the states resulting in much variation on how these processes are structured. GAO believes that these types of reviews are a more effective preventive measure against understatement of deficiencies and scope and severity of deficiencies.
- State Agency Practices and External Pressure
  - In a few states, non-citation practices, challenging relationships with the industry or legislators, or unbalanced informal dispute resolutions (IDR) processes – those that surveyors regard as favoring nursing home operators over resident welfare – may have had a negative effect on survey quality and resulted in the citation of fewer nursing home deficiencies than was warranted.

### **Recommendations for Executive Action**

This report makes seven recommendations to the CMS Administrator. GAO recommends that the Administrator of CMS take the following two actions:

- Make sure that action is taken to address concerns identified with the new QIS methodology, such as ensuring that it accurately identifies potential quality problems (*CMS agreed*); and
- Clarify and revise existing CMS written guidance to make it more concise, simplify its application in the field, and reduce confusion, particularly on the definition of actual harm (*CMS agreed in part*).

To address surveyor workforce shortages and insufficient training, GAO recommends that CMS:

- Consider establishing a pool of additional national surveyors that could augment state survey teams or identify other approaches to help states experiencing work force shortages (*CMS declined to establish a pool of additional national surveyors and stated that they would identify other approaches to assist states*);
- Evaluate the current training programs and division of responsibility between federal and state components to determine the most cost effective approach to: (1) providing initial surveyor training to new surveyors, and (2) supporting the continuing education of experienced surveyors (*CMS agreed*).

To address inconsistencies in state supervisory reviews, GAO recommends that the Administrator take the following action:

- Set an expectation through guidance that state have a supervisory review program as a part of their quality –assurance processes that includes routine reviews of deficiencies at the level of potential for more than minimal harm (D-F) and that provides feedback to surveyors regarding changes made to citations (*CMS agreed*).

To address state agency practices and external pressure that may compromise survey accuracy, GAO recommends that the Administrator of CMS take the following tow actions:

- Re-establish expectations through guidance to state survey agencies that non-citation practices – official or unofficial – are inappropriate, and systematically monitor trends in states’ citations (*CMS agreed*);
- Establish expectations through guidance to state survey agencies to communicate and collaborate with their CMS Regional Offices when they experience significant pressure from legislators or the nursing home industry that may affect the survey process or surveyors’ perceptions (*CMS agreed*).

### **Important Considerations**

The questionnaire for state agency directors was fielded from September to November 2008. It was distributed to all 50 states and the District of Columbia. The state agency director of the District of Columbia was the only director who did not respond.

GAO fielded the questionnaire for surveyors from May through July 2008. The questionnaire was distributed to 3,819 eligible nursing home surveyors and 2,340 responded - a response rate of 61 percent. The state-level response rates were above 40 percent for all but three states – Connecticut, Illinois, and Pennsylvania. In Pennsylvania, the Deputy Secretary for Quality Assurance instructed the state’s surveyors not to respond and few did, so Pennsylvania is not included in this analysis.

The report states “In a few states, non-citation practices, challenging relationships with the industry or legislators, or unbalanced IDR processes – those that surveyors regard as favoring nursing home operators over resident welfare – may have had a negative effect on survey quality and resulted in the citation of fewer nursing home deficiencies than was warranted.”

Regarding this statement, it is important to note the following:

- Only three state agencies responded that “sometimes” pressure either during or after the survey from the nursing home contributed to understatement of deficiencies.
- Only one state agency responded that “frequently” and only two state agencies responded that “sometimes” pressure either during or after the survey from the nursing home industry contributed to understatement of deficiencies.
- Only one state agency responded that “frequently” and only one state agency responded that “sometimes” pressure from state or federal legislators contributed to understatement of deficiencies.
- 54.8 percent of surveyors believe that the IDR process either: balances the concerns of nursing home operators and resident welfare; or favors resident welfare over the concerns of nursing home operators. 29.1 percent of surveyors responded as having no opinion or were not sure.
- 92 percent of state agencies believed that the IDR process either balances the concerns of nursing home operators and resident welfare or favors resident welfare over the concerns of nursing home operators. (2 percent, or one state agency, believed that the process favors the concerns of nursing home operators over resident welfare.)