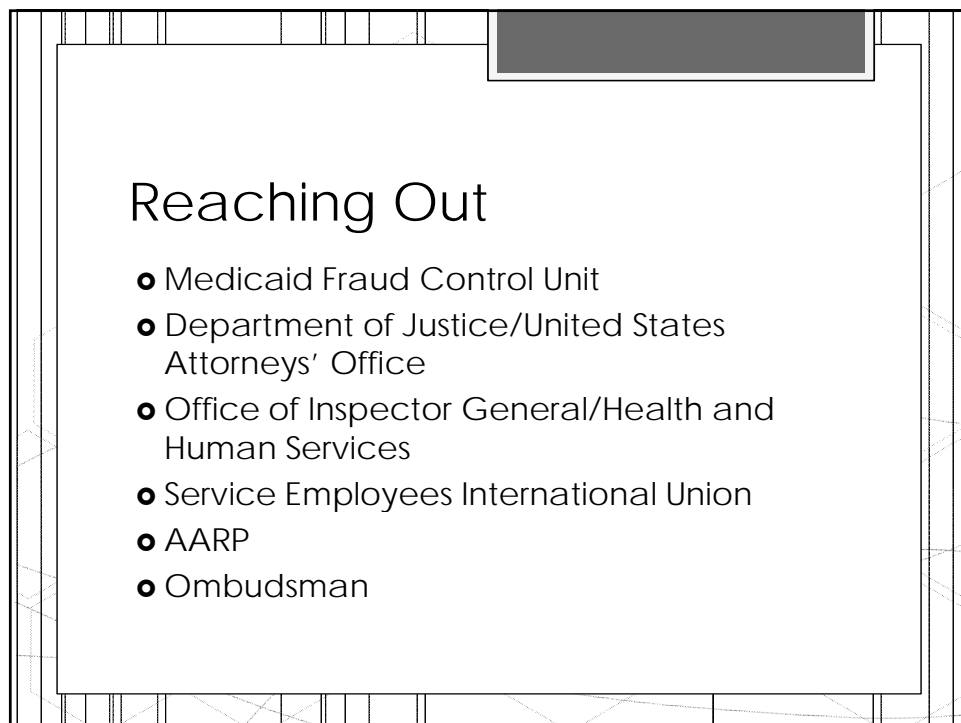


Alternative  
Resources For  
Nursing Home  
Investigations

Presented By: Catherine  
Schuster Pascale  
NHCAA, Atlanta, Georgia  
November 17, 2011



Reaching Out

- Medicaid Fraud Control Unit
- Department of Justice/United States  
Attorneys' Office
- Office of Inspector General/Health and  
Human Services
- Service Employees International Union
- AARP
- Ombudsman

## Roles

- Medicaid Fraud Control Unit
  - Criminal Prosecution
  - Civil Recoveries
  - Abuse/Neglect Angle
  - False Claims Act

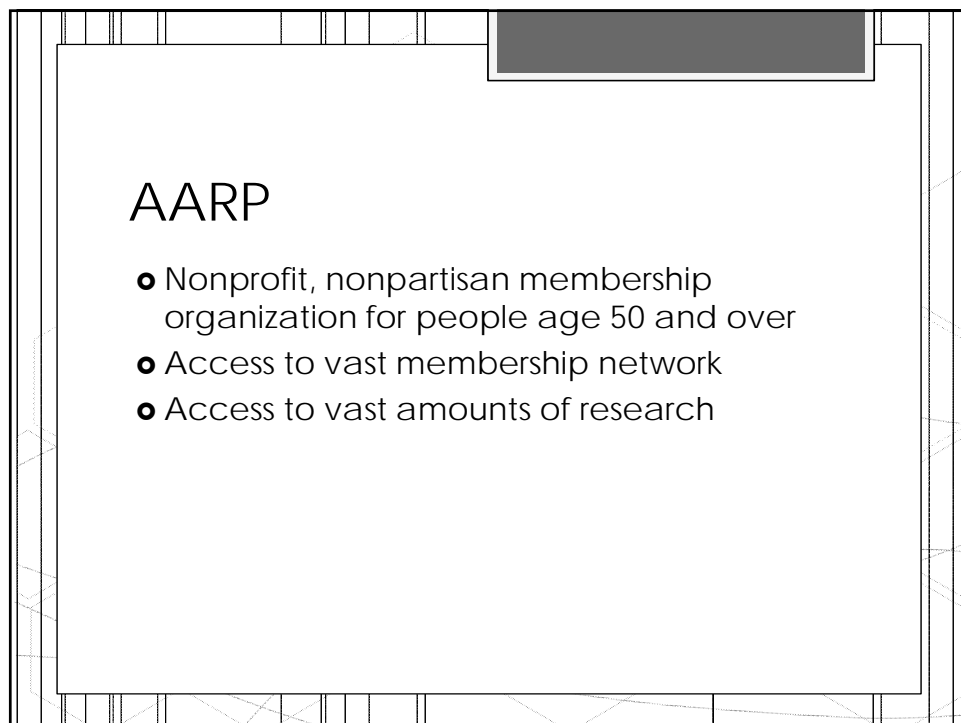
## USAO/DOJ

- Civil subpoenas
- FCA
- Technical Assistance
- Contracts and Contacts with CHSRA and Experts
- DOJ Nursing Home Initiative



## HHS/OIG

- Provide Special Agent Support
- OIG Subpoenas
- Immediate Access Assistance



## AARP

- Nonprofit, nonpartisan membership organization for people age 50 and over
- Access to vast membership network
- Access to vast amounts of research

## SEIU

- Nation's largest healthcare union
- 2 million members
- 160,000 SEIU members work in nursing homes
- Vast majority of members are nurse aids who provide 80-90% of the direct care to nursing home residents
- Dedicated to quality, affordable nursing home care

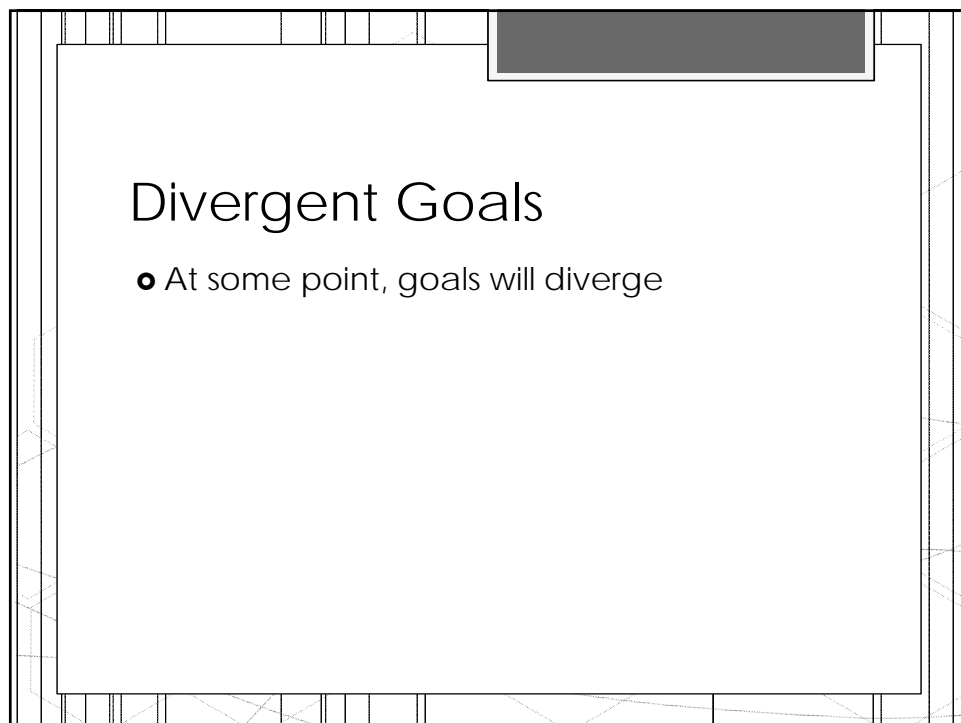
## SEIU, cont.

- Conduct Deficiency/Quality Analysis
- Access to NH employees who are members of SEIU



## Goals

- Tangibles
  - Criminal Prosecution
  - Civil Monetary Penalties
  - Close Facility
  - Monitors/Corporate Integrity Agreements
- Intangibles
  - Improve Care
  - Better Work Environment



## Divergent Goals

- At some point, goals will diverge

## On-Line Resources

- Five Star Rating System
- On-line Survey, Certification, and Reporting System (OSCAR)
- Special Focus Facilities List

## Five Star Quality Ratings System

- Result of Omnibus Reconciliation Act of 1987
- Created to help consumers compare nursing homes more easily
- Assigns each nursing home a rating between one and five stars.
- Website [www.medicare.gov/NHCompare](http://www.medicare.gov/NHCompare)

## Ratings

- Every Nursing Home in US is rated:
  - ★ - Much Below Average
  - ★ ★ - Below Average
  - ★ ★ ★ - Average
  - ★ ★ ★ ★ - Above Average
  - ★ ★ ★ ★ ★ - Much Above Average

## Five Star

- NH are rated from three sources:
  - Health Inspections
  - Quality Measures
  - Staffing
- CMS provides a Star Rating for all three sources of data and then combines the data to provide an overall rating.

## Health Inspection Rating

- Contains information from last three years of onsite inspections
- Includes both annual inspections and complaint investigations

## Quality Measures

- Rating is based on ten different physical and clinical measures for nursing home residents
- Long Stay Prevalence Measures:
  - ADL change
  - Mobility change
  - High-risk pressure ulcers
  - Long-term catheters
  - Physical restraints
  - Urinary Tract Infection
  - Pain



## Quality Measures, cont.

- Short-Stay Prevalence Measures
  - Delirium
  - Pain
  - Pressure Ulcers

## Staffing Information

- Average number of hours of care given by nursing staff to each resident each day
- Takes into account differences in levels of care

## Five Star Data, What does it tell you?

- Broken Down By District
- Number of nursing homes in each CMS Star Rating Category (1-5) broken down by state and then number of nursing homes in the district in each category
- Owner/Manager
- Whether owner/manager in state or out of state
- % MA

## Five Star Data, cont.

- Overall star rating
- Star rating by 3 categories: Health, Staffing, Quality Measures
- Is the nh a chain
- For profit or not for profit
- Number of health deficiencies
- Number of actual harm deficiencies
- Number of immediate jeopardy deficiencies
- High risk long stay pressure ulcers

## Five Star Data, cont.

- Total licensed nurse hours per resident day
- Total licensed nurse aide hours per resident day
- Total hours of direct care per resident day
- Number of residents on last survey date
- Last survey date

The screenshot displays the CMS Five Star Data tool interface. The top section shows a search bar and a list of nursing homes. The main section is a comparison table with columns for Overall Rating, Health Inspections, Quality Measures, and Staffing. The table lists several nursing homes with their respective ratings and scores.

Nursing Home	Overall Rating	Health Inspections	Quality Measures	Staffing
St. Joseph's Hospital & Health Center	5	100	100	100
St. Joseph's Hospital & Health Center	5	100	100	100
St. Joseph's Hospital & Health Center	5	100	100	100
St. Joseph's Hospital & Health Center	5	100	100	100
St. Joseph's Hospital & Health Center	5	100	100	100



## District 31 Nursing Homes as of 3/8/09:

County	Name	District	Ownership/Management	Ownership/Management	Medicaid %	Overall Star Rating (CMS)	Health Inspection Star Rating	Staffing Star Rating	Quality Measures Star Rating	Chain?	For Profit or Not For Profit	Number of Health Deficiencies	Number of Actual Harm Deficiencies	Number of Immediate Jeopardy Deficiencies	High-Risk Long Stay Pressure Ulcers	Total licensed nursing hours per resident per day	Total licensed nurse aide hours per resident per day	Total hours of direct care per resident per day	Number of Residents on last survey date	Last survey date
A. Arundel	OLEN BURNIE HEALTH AND REHABILITATION CENTER *	31	SAVA	0	67.8%	1	1	5	1	ch	for	13	0	0	14%	3.00	2.15	5.15	191	5/7/08
A. Annapolis	HAMMONDS LANE CENTER	31	Genesis	0	62.7%	1	1	1	3	ch	for	22	3	0	8%	1.23	2.21	3.44	116	8/15/07
A. Arundel	MARLEY NICK HEALTH AND REHABILITATION CENTER	31	CommonCare Health Services-Cincinnati	0	72.1%	2	4	1	1	ch	for	3	0	0	8%	0.55	2.33	3.28	90	8/17/07

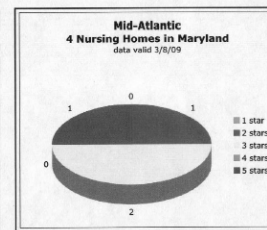
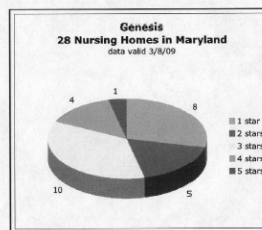
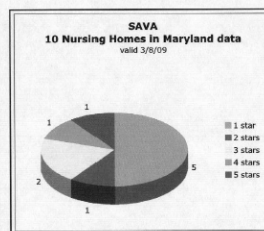
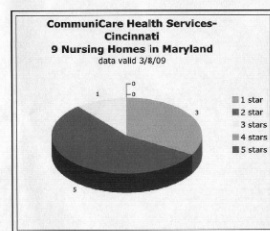
## District 33A for Comparison:

County	Name	District	Ownership/Management	Ownership/Management	Medicaid %	Overall Star Rating (CMS)	Health Inspection Star Rating	Staffing Star Rating	Quality Measures Star Rating	Chain?	For Profit or Not For Profit	Number of Health Deficiencies	Number of Actual Harm Deficiencies	Number of Immediate Jeopardy Deficiencies	High-Risk Long Stay Pressure Ulcers	Total licensed nursing hours per resident per day	Total licensed nurse aide hours per resident per day	Total hours of direct care per resident per day	Number of Residents on last survey date	Last survey date
A. Arundel	CROFTON CONVALESCENT CENTER	33A	Crofton Convalescent Associates LTD Partnership	1	56.8%	4	4	3	3	n	for	5	0	0	13%	1.51	2.25	4.16	151	10/19/07
A. Arundel	*FAIRFIELD NURSING CENTER	33A	Mid-Atlantic	1	71.5%	5	5	2	4	ch	for	6	0	0	8%	1.17	2.01	3.18	69	7/24/08
A. Arundel	*KINDLEWOOD MANOR NURSING HOME	33A	Genesis	0	84.8%	3	2	3	5	ch	for	3	0	1	NA	1.32	1.51	3.23	63	7/21/08
A. Arundel	*SEVERN PARK CENTER	33A	Genesis	0	52.4%	4	4	2	4	ch	for	4	0	0	26%	1.20	2.21	3.41	132	6/17/08

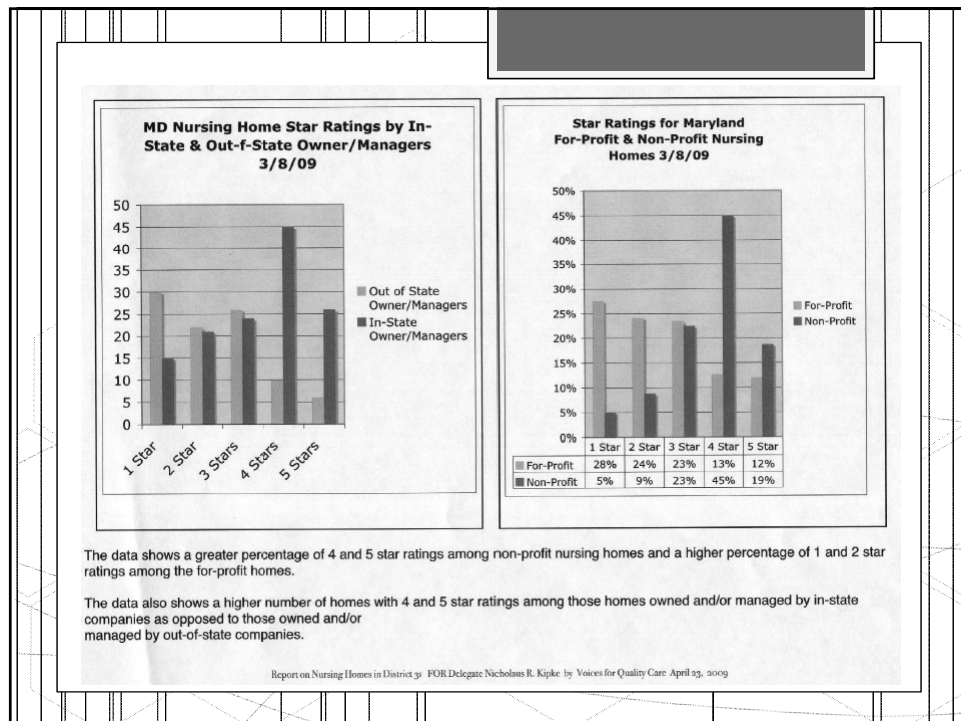
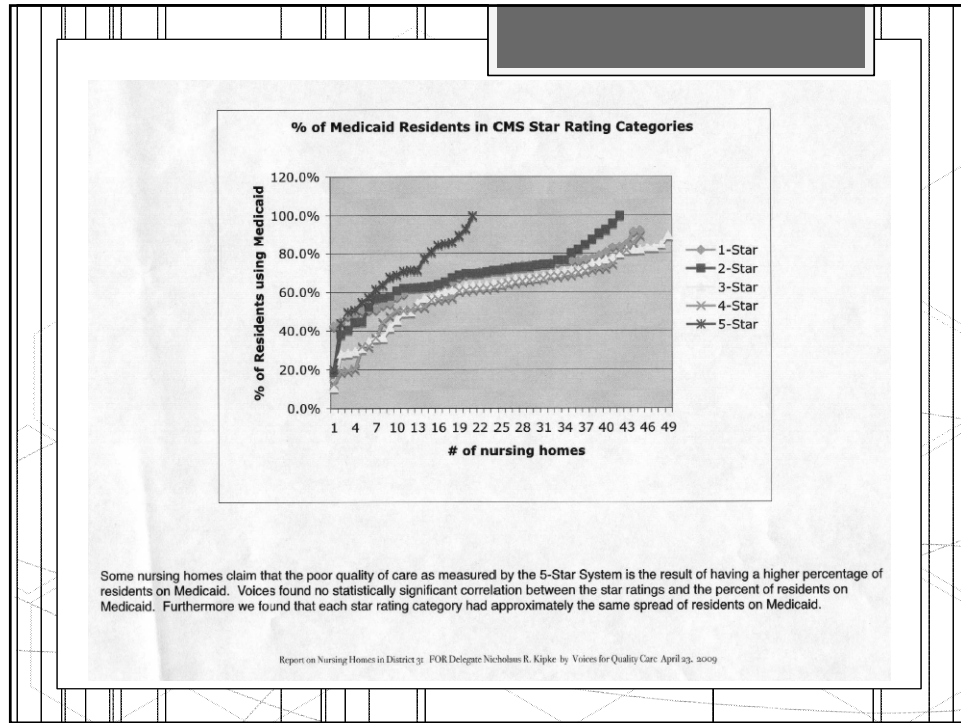
\*Indicates an active independent Family Council

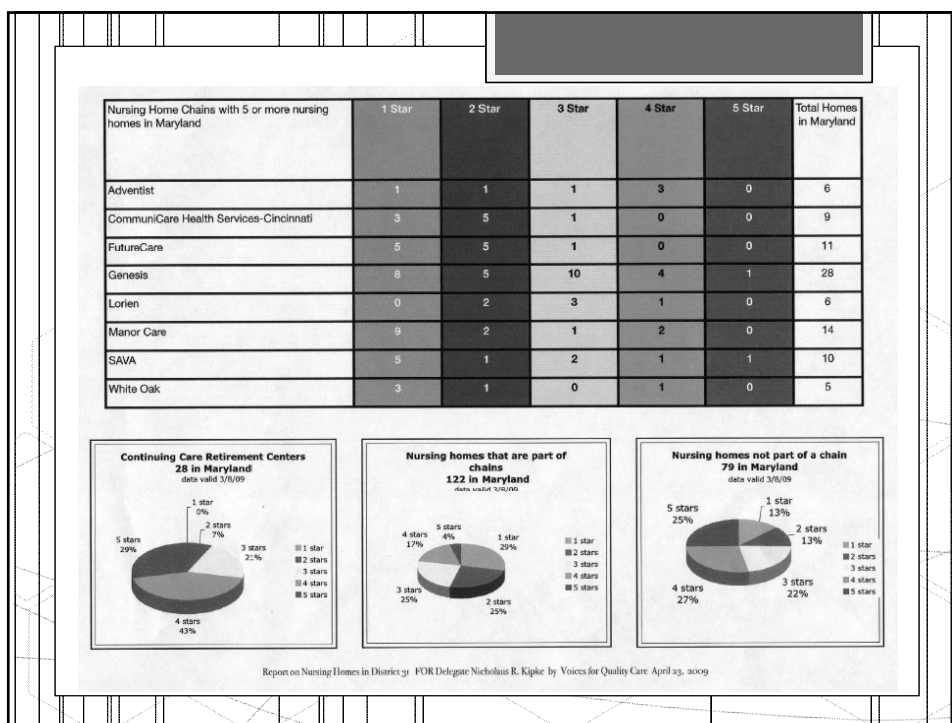
Report on Nursing Homes in District 31 FOR Delegate Nicholas R. Kipke by Voices for Quality Care April 23, 2009

## Number of Maryland nursing homes in the Over All Star Rating categories for chains operating in Districts 31 and 33A:



Report on Nursing Homes in District 31 FOR Delegate Nicholas R. Kipke by Voices for Quality Care April 23, 2009





## Issues with Five Star Rating System

- Methodology uses a forced bell curve that allows only 10% of the facilities to earn a 5 Star rating
- 20% of facilities are forced into 1 Star rating
- 5 Star should not be used to compare facilities from state to state due to inconsistency in way state surveyors interpret regulations
- Does not adequately risk adjust for differences in condition of residents that receive services

## OSCAR

- On-line Survey, Certification and Reporting System (OSCAR).
- Has information from the state surveys of all (about 16,500) certified nursing facilities in the US which are entered into a uniform computerized database.
- Is an on-line data system maintained by CMS

## OSCAR, cont.

- Data is collected from 3 sources
  - Provider information, which includes facility characteristics and staffing data
  - Health survey file (with facility level information regarding resident characteristics)
  - Survey deficiencies



## How OSCAR data is collected

- Nursing home prepares standardized form at beginning of each survey listing facility characteristics, resident characteristics, and staffing levels
- These forms provided to State Surveyors
- State Surveyors review the data, comparing the facility report with individual resident medical records, staffing records, and observations of residents and enter data on OSCAR database
- OSCAR database lists the deficiencies

## OSCAR Data Issues

- OSCAR does not have an official website from which to retrieve data
- CMS provides the raw data
- The data is raw, but is a compilation of all of the data elements collected by surveyors

## OSCAR Data Issues

- Validity Analysis sometimes shows a difference between staffing levels from OSCAR data and payroll data from same time period
- Old OSCAR data is overwritten when a new survey is conducted
- OSCAR data updated monthly

## Special Focus Facility Initiative

- Program run by CMS to stimulate improvement in the quality of care at the most poorly performing NH's.
- Identifies worst NH's in each state

## NH on the SFF List

- More Problems than most other NH
- More Serious Problems
- A Pattern of Serious Problems that has persisted over a long period of time

## What does it mean to be on the SFF List

- SFF NH visited two times per year
- States required to impose sanctions that increase in severity and are more immediate when SFFs do not improve

## What happens to the NH on the SFF list

- Within 18-24 months after being identified as an SFF, one of three possible outcomes
  - Improvement and Graduation
  - Termination from MA and MC
  - Extension of Time

## SFF Data Includes

- Facility Name
- Address
- City
- State
- Zip code
- Phone number
- Date of most recent survey
- Months as an SFF

## Tables Divided By

- Table A-New Additions
- Table B-Not Improved
- Table C-Improving
- Table D-Recently Graduated
- Table E-No Longer in MC and MA

Facilities Newly Added to the SFF Program						
Facility Name	Address	City	State	ZIP	Phone Number	Most Recent Survey Months as an SFF
Villa Campana Health Care Center	6651 East Carondelet Drive	Tucson	AZ	85710	520-296-6100	3
Clintonville Manor	201 Clintonville Rd	North Haven	CT	06473	203-239-8017	1
	Home Street	Jacksonville	FL	32211	904-724-5933	5
	Palmyra Road	Albany	GA	31702	229-883-0500	1
	Nw 84th Street	Urbana	MA	50322	515-270-6838	1
Evergreen Health Care Center	10124	Irving	AZ	60605	708-907-7000	5
Columbus Healthcare Center	521 W	Irving	AZ	47110	612-426-9678	2
Sebo's Nursing And Rehabilitation Center	4410	Irving	AZ	46342	219-947-1507	5
Tower Hill Center For Health And Rehabilitation	One Meadowbrook Way	Canton	MA	02021	781-961-5600	3
Manor Care Chevy Chase	8700 Jones Mill Road	Chevy Chase	MD	20815	301-657-8686	4
Kennebunk Nursing And Rehabilitation Center	158 Ross Rd	Kennebunk	ME	04043	207-985-7141	2
Sarcooxie Nursing Center	1505 Miner, Po Box 246	Sarcooxie	MO	64862	417-548-3434	3
Libertywood Nursing Center	1028 Blair Street	Thomasville	NC	27360	336-472-7771	2
Oceanside Skilled Nursing And Rehabilitation	22 Tusk Road	Hampton	NH	03842	603-926-4551	1
St. Catherine Healthcare And Rehabilitation Center	5123 Juan Tabo Boulevard Ne	Albuquerque	NM	87111	505-292-3333	4
Elant At Newburgh, Inc	172 Meadow Hill Road	Newburgh	NY	12550	845-564-1700	3
Cambria Care Center	429 Manor Drive	Ebensburg	PA	15931	814-472-8100	1
Aberdeen Health And Rehab	1700 North Highway 281	Aberdeen	SD	57401	605-225-7315	6
Cumberland Manor Nursing Center	4343 Ashland City Hwy	Nashville	TN	37218	615-726-0492	3
Newport Health And Rehabilitation Center	135 Generation Drive	Newport	TN	37621	423-623-0929	1
Highland Pines Nursing Home Ltd	1100 N 4th St	Longview	TX	75801	903-753-7661	3
Kirkland Court Health And Rehabilitation Center	1601 Kirkland Dr	Amarillo	TX	79106	806-355-8281	3
Stonebridge Senior Health Center	11127 Circle Dr	Austin	TX	78736	512-288-8844	2
Rocky Mountain Care - Murray, Llc	835 East Vine Street	Murray	UT	84107	801-693-3800	1
Vernon Green Nursing Home	61 Greenway Drive	Vernon	VT	05354	802-254-6041	1
Aldercrest Health And Rehabilitation Center	21400 72nd Avenue West	Edmonds	WA	98026	425-775-1961	4
Colony Oaks Care Center	601 N Briarcliff Dr	Appleton	WI	54915	920-739-4466	1
Mt Carmel Health And Rehab	5700 W Layton Ave	Milwaukee	WI	53220	414-281-7200	0

Updated September 23, 2010

Facilities that Have Not Improved							
Facility Name	Address	City	State	ZIP	Phone Number	Most Recent Survey	Months as an SFF
South Haven Health & Rehabilitation Center	1300 East South Boulevard	Montgomery	AL	36116	334-288-0122	03/04/2010	8
Crestpark Retirement Inn	111 Hospital Drive	Helena	AR	72424	870-338-3405	07/29/2010	17
Case West County Comprehensive Medical Center	8060 Sweet Street	See Above	CA	92453	760-478-4750	06/03/2010	5
			CA	941	415-0600	06/14/2010	4
			CO	80	4-9311	05/13/2010	22
			CO	81	4-1735	07/14/2010	17
St. Camillus Rehabilitation & Nursing Center	494 Elm St	Stamford	CT	06902	203-325-0200	06/03/2010	15
Atlantic Shores Rehabilitation & Health Center	231 South Washington			89	302-634-7300	03/28/2010	12
Capital Healthcare Center	3333 Capital Medical B	Montgomery		89			21
Maluhia	1027 Hala Drive			17		03/04/2010	11
Alden Wentworth Rehab & Healthcare Center	201 West 69th Street	Chicago	IL	60621	815-475-2200	06/10/2010	37
Embassy Health Care Center	555 West Kahler	Wilmington	IL	60461	773-827-4200	04/23/2010	69
International Nursing And Rehab Center	4815 South Western Ave	Chicago	IL	60606	317-872-7261	08/19/2010	5
Harcourt Terrace Rehabilitation & Health Care	8181 Harcourt Road	Indianapolis	IN	46260	812-295-4433	06/30/2010	6
Marin County Healthcare & Rehab	313 Poplar Street	Logansport	IN	47553	785-462-8721	08/26/2010	61
Deseret Nursing And Rehabilitation At Colby	105 East College Drive	Colby	KS	67701	270-653-5556	08/06/2010	9
Arbor Place Of Clinton	106 Padgett Drive	Clinton	KY	42031	705-682-1611	03/30/2010	19
Lady Of The Oaks Retirement Center	1005 Eraste Landry Road	Lafayette	LA	70506	225-387-6704	02/04/2010	23
The Oaks Of Mid City Nursing And Rehab Center	4100 North Boulevard	Baton Rouge	LA	70806	209-279-7441	08/27/2010	14
Riverview Manor	55378 Wilbur Rd	Three Rivers	MI	48063	269-556-9050	03/11/2010	14
Royalton Manor	288 Palace Blvd	St Joseph	MI	49085	313-491-7630	07/23/2010	9
Sorrento Care Center	12900 W Chicago	Detroit	MI	48228	654-546-4261	03/26/2010	11
Crest View Lutheran Home	4444 Reservoir Boulevard Northeast	Columbia Heights	MN	55421	616-781-3020	03/01/2010	12
Westwood Health	7500 West 22nd Street	Saint Louis Park	MN	55426	408-440-2525	06/24/2010	20
Ashton Court Care And Rehabilitation Centre	1200 West College Street	Liberty	MO	64068	919-942-2280	01/28/2010	14
Cedarwood Villa	1 S Oaks	Red Lodge	MT	59086	919-967-1418	07/16/2010	8
Brithaven Of Chapel Hill	1716 Legion Road	Chapel Hill	NC	27517	402-455-0636	06/22/2010	68
Chapel Hill Rehab And Healthcare	1602 E Franklin St	Chapel Hill	NC	27514	856-779-1500	04/13/2010	69
Hidden Hills Health And Rehab Center	3110 Scott Circle	Omaha	NE	68112	315-732-0100	03/25/2010	7
Palace Rehabilitation And Care Center	315 West Mill Road	Maple Shade	NJ	08052	518-374-2212	05/11/2010	38
Loretto Utica Residential Hcf	1445 Kemble Street	Utica	NY	13501	631-702-1000	07/30/2010	19
Northwoods Rehab At Hilltop	1805 Providence Avenue	Niskayuna	NY	12306	740-452-4361	07/27/2010	21
The Hamptons Center For Nursing & Rehabilitation	64 County Road 39	South Hampton	NY	11968			
Autumn Healthcare Of Zanesville	1420 Autumn Drive	Zanesville	OH	43701			

Updated September 23, 2010

Facilities that Have Not Improved							
Facility Name	Address	City	State	ZIP	Phone Number	Most Recent Survey	Months as an SFF
Wintersong Village Of Washington Court House	719 Rawlings St	Washington Co	OH	43180	740-335-1380	08/11/2010	5
Lincoln City Rehab Center	3011 Ne 26th Street	Lincoln City	OR	97387	541-994-9111	05/04/2010	9
Redmond Health Care Center	3025 Sw Reservoir Drive	Redmond	OR	97756	541-548-5066	07/26/2010	4
Chester Valley Rehab And Nursing Center	283 East Lancaster Avenue	Malvern	PA	19355	610-266-4170	05/27/2010	19
Riverside Rehab And Nursing Center	500 West Hospital Street	Taylor	PA	18517	670-562-2102	04/30/2010	26
Trinity Mission Health Care Of Shenandoah Heights	200 Pennsylvania Avenue	Shenandoah	PA	17976	670-403-1021	07/16/2010	6
Heartland Of Lexington Rehab & Nursing Center	2416 Sunset Boulevard	West Columbia	SC	29169	803-798-8024	04/14/2010	7
Fort Worth Nursing And Rehabilitation Center	1000 6th Ave	Fort Worth	TX	76104	817-336-2586	06/17/2010	6
Mission Oaks Manor	3030 S Roosevelt	San Antonio	TX	78214	210-924-8151	07/01/2010	6
Brian Center Health/Scott County	377 Clonce Street	Weber City	VA	24290	276-385-0444	05/13/2010	9
St. Francis In The Park	1800 New York Ave	Superior	WI	54880	715-394-5591	03/17/2010	7
Mapleshire Nursing And Rehabilitation Center	30 Vandervort Drive	Morgantown	WV	26505	304-285-2720	07/27/2010	28
South Central Wy Healthcare & Rehab	542 16th Street	Rawlins	WY	82301	307-324-2759	02/25/2010	16

## Facilities that Have Shown Improvement

Facility Name	Address	City	State	ZIP	Phone Number	Most Recent Survey	Months as an SFF
Mount Royal Towers	300 Royal Tower Drive	Birmingham	AL	35209	205-870-5666	08/15/2010	21
Woodland Hills Healthcare & Rehabilitation - Jackson	1320 West Braden Street	Jacksonville	AR	72078	501-241-2191	07/02/2010	9
Gibson Health And Rehab	3333 N Civic Center Plaza	Scottsdale	AZ	85251	480-994-1333	04/23/2010	18
Ashby Care Center	2270 Ashby Ave.	Berkeley	CA	94705	510-841-0494	06/25/2010	9
Bella Vista Health Care Center	933 East Deodar Street	Ontario	CA	91764	909-985-2731	03/16/2010	22
Chandler Convalescent Hospital	5335 Laurel Canyon Blvd.	North Hollywood	CA	91607	818-985-1814	03/01/2010	9
Victoria Care Center	5445 Everglades St	Ventura	CA	93003	805-642-1736	07/15/2010	9
Rock Creek Manor	2131 O Street NW	Washington	DC	20037	202-785-2577	08/18/2010	9
Charlotte Harbor Healthcare	4600 Kings Hwy	Fort Charlotte	FL	33980	841-233-5850	07/02/2010	9
Oceanside Nursing And Rehabilitation Center	77 Van Horn Street	Tybee Island	GA	31528	912-788-4511	04/08/2010	14
Savannah Rehabilitation & Nursing	815 East 83 Street	Savannah	GA	31405	912-352-8815	05/28/2010	10
Granger Nursing & Rehabilitation Center	2001 Kennedy Street	Granger	IA	50109	515-999-2588	04/29/2010	14
Regency Rehab And Skilled Nursing	1600 Mopherson	Council Bluffs	IA	51501	712-322-0285	08/05/2010	15
Windmill Manor	2332 Liberty Drive	Coralville	IA	52241	319-645-7390	07/23/2010	7
Idaho Falls Care And Rehab	3111 Channing Way	Idaho Falls	ID	83404	208-529-0067	07/02/2010	10
South Shore Nursing & Rehab Center	2649 East 75th St	Chicago	IL	60649	773-355-9300	08/27/2010	9
Westview Of Derby	445 N Westview St	Derby	KS	67037	316-788-3739	08/12/2010	14
Bluegrass Care And Rehabilitation Center	3576 Pimlico Parkway	Lexington	KY	40517	859-272-0608	07/22/2010	2
James S Taylor Memorial Home	1015 W Magazine Street	Louisville	KY	40203	502-589-0727	08/12/2010	8
Plaquemine Manor Nursing Home	24320 Ferdinand Street	Plaquemine	LA	70764	225-697-3428	07/16/2010	15
Legend Rehabilitation & Nursing Center	59 Eastwood Circle, P O Box 310	Gardner	MA	01440	978-632-8776	05/17/2010	17
Redstone Rehabilitation And Nursing Center	135 Benton Drive	East Longmeadow	MA	01028	413-525-3336	02/08/2010	30
Saint Francis Rehabilitation & Nursing Center	101 Plantation Street	Worcester	MA	01604	508-755-8605	05/04/2010	11
Manorcare Of Rossville	6600 Ridge Road	Baltimore	MD	21237	410-674-4950	03/15/2010	6
Coastal Manor	Po Box 429	Yarmouth	ME	04096	207-846-5013	03/05/2010	9
Benedictine Healthcare Center Innsbruck	1101 Black Oak Drive	New Brighton	MN	55112	651-633-1688	03/25/2010	9
Owatonna Commons Nursing & Rehab	201 Southwest 15th Street	Owatonna	MN	55060	507-451-8880	04/09/2010	32
Life Care Center Of Grandview	6301 East 125th St	Grandview	MO	64030	816-765-7714	07/16/2010	5
Tablerock Healthcare	276 Fountain Lane	Kimberling City	MO	65688	417-739-2481	04/09/2010	8
Song Health & Rehab Of Columbia, Llc	1500 North Main Street	Columbia	MS	39429	601-736-9557	07/01/2010	9
West Point Community Living Center	1122 N Eshman Avenue/P O. Box 817	West Point	MS	39273	662-494-0011	08/25/2010	13
Missouri River Care & Rehab Center	1130 17th Ave S	Great Falls	MT	59405	406-771-4500	05/13/2010	8
Brian Center Health & Rehabilitation Of Goldsboro	1700 Wayne Memorial Drive	Goldsboro	NC	27534	919-731-2805	08/12/2010	9
Western Horizon Care	1104 Hwy 12	Hettinger	ND	58539	701-567-2401	04/06/2010	17
Crete Manor	830 East 1st Street	Crete	NE	68333	402-826-4325	03/18/2010	20
Holiday Care Center	4 Plaza Drive	Toms River	NJ	08757	732-240-0900	08/23/2010	18
The Pavilions At Forrester	5000 Windrow Drive	Princeton	NJ	08540	609-887-1221	05/12/2010	28
Clasis Healthcare And Rehabilitation Center	690 Desert Lane	Las Vegas	NV	89106	702-382-0580	03/12/2010	27
Mercy Of Northern New York	218 Stone Street	Watertown	NY	13601	315-782-7400	03/26/2010	14
Lakeridge Villa Health Care	7220 Pippin Rd	Cincinnati	OH	45239	513-729-2300	04/15/2010	12
Liberty West Nursing Center Of Toledo	2051 Collingwood Blvd	Toledo	OH	43620	419-243-5191	05/26/2010	4

Updated September 23, 2010

## Facilities that Have Shown Improvement

Facility Name	Address	City	State	ZIP	Phone Number	Most Recent Survey	Months as an SFF
White Oak Manor	1926 Ridge Avenue	Warren	OH	44484	330-369-4672	09/01/2010	34
Chickasha Nursing Center	2700 South 9th Street	Chickasha	OK	73018	405-224-3593	07/08/2010	34
Hillcrest Nursing Center	2120 North Broadway	Moore	OK	73160	405-794-2428	08/05/2010	23
The Golden Rule Home	38801 Hardesty Road	Shawnee	OK	74801	405-273-7106	04/01/2010	8
Dunmore Health Care Center	1000 Mill Street	Dunmore	PA	18512	570-342-7624	08/27/2010	5
Pawtucket Healthcare And Rehabilitation	70 Gill Avenue	Pawtucket	RI	02861	401-722-7900	03/19/2010	32
Ellen Sager Nursing Home	1817 Jonesville Highway	Union	SC	29379	864-427-5187	03/04/2010	21
Aberdeen Health And Rehab*	1700 North Highway 281	Aberdeen	SD	57401	805-225-7315	06/03/2010	5
Sturgis Regional Senior Center	949 Harmon Street	Sturgis	SD	57785	605-720-2400	09/01/2010	5
Countryside Healthcare & Rehab	3051 Buffalo Road	Lawrenceburg	TN	38464	931-762-7518	05/06/2010	6
Sienna Nursing And Rehabilitation	2510 W Eighth	Odessa	TX	79763	432-333-4511	04/16/2010	9
Beacon Shores Nursing & Rehabilitation	340 Lynn Shores Drive	Virginia Beach	VA	23452	757-340-6611	08/23/2010	33
Norfolk Healthcare Center	901 East Princess Anne Road	Norfolk	VA	23504	757-626-1642	07/23/2010	8
Health & Rehab Of North Seattle	13333 Greenwood Avenue North	Seattle	WA	98133	206-362-0303	03/25/2010	18
Oak Park Nursing And Rehab Center	718 Jupiter Drive	Madison	WI	53718	608-663-6600	03/09/2010	18
Eagle Pointe	1600 27th Street	Parkersburg	WV	26101	304-485-6476	10/29/2009	34

### Facilities That Have Recently Graduated from the SFF Program

Facility Name	Address	City	State	ZIP	Phone Number	Most Recent Survey	Months as an SFF
Desert Haven Care Center	2645 East Thomas Road	Phoenix	AZ	85016	602-956-8000	01/28/2010	16
Palm Springs Healthcare Center	277 S Sunrise Way	Palm Springs	CA	92262	760-327-8541	12/14/2009	16
Santa Cruz Skilled Nursing Center	2990 Soquel Avenue	Santa Cruz	CA	95062	831-479-9000	03/22/2010	40
The William And Sally Tandet Center For Continuing Care	146 W Broad Street	Stamford	CT	06902	203-964-8500	07/08/2010	13
Bon Secour Maria Manor	10300 4th St N	Saint Petersburg	FL	33716	727-576-1025	07/23/2010	12
Governor's Creek Health And Rehab	893 Oak St	Green Cove Springs	FL	32043	904-284-5008	03/11/2010	15
Heather Hill Nursing Home	6630 Kentucky Ave	New Port Richey	FL	34653	727-849-6939	03/19/2010	9
Royal Oaks Nursing And Rehab Center	2225 Knox Morae Dr	Titusville	FL	32780	321-267-0060	02/26/2010	8
Tara At Thunderbolt Nursing And Rehabilitation Center	3223 Fallgiant Avenue	Savannah	GA	31404	012-801-2612	07/15/2010	11
Manorcare Health Services Waterloo	201 West Ridgeway Avenue	Waterloo	IA	50701	319-234-7777	06/11/2010	14
Pekin Manor	1520 El Camino Drive	Pekin	IL	61554	309-353-1099	03/18/2010	19
Shawnee Ross Care Center	1000 West Sloan Street	Harrisburg	IL	62946	618-252-0351	02/15/2010	27
Washington Health Care Center	5201 W Washington St	Indianapolis	IN	46221	317-244-6949	03/01/2010	26
Jefferson County Memorial Hospital Ltcu	408 Delaware Street	Winchester	KS	66097	913-774-4730	08/04/2010	10
Richmond Health & Rehabilitation Complex-Madison	131 Meadowlark Drive	Richmond	KY	40475	859-623-3564	06/03/2010	14
Fairview Commons Nursing & Rehabilitation Center	Christian Hill Road	Great Barrington	MA	01230	413-528-4500	05/05/2010	13
Anchorage Nursing & Rehabilitation Center	105 Times Square	Salisbury	MD	21801	410-749-2474	03/11/2010	10
Woodlawn Rehabilitation & Nursing Center	59 West Front St	Skowhegan	ME	04976	207-474-0300	06/18/2010	8
Heartland Hc - Kalamazoo	3625 W Michigan Ave	Kalamazoo	MI	49006	269-375-4550	08/06/2010	26
Holmesdale Healthcare & Rehab	6033 Holmes	Kansas City	MO	64131	816-363-4222	05/26/2010	15
Madison Medical Center	611 West Main Street, Po Box 431	Fredericktown	MO	63645	573-783-3341	03/25/2010	28
Brian Center Health & Rehab - Gastonia	999 Cox Rd	Gastonia	NC	28054	704-866-8596	06/30/2010	18
Alice Peck Day Memorial Hospital (Ecu)	125 Mascoma Street	Lebanon	NH	03766	603-448-3121	06/06/2010	9
Central Park Rehab & Nursing	116 East Castle Street	Syracuse	NY	13205	315-475-1941	05/06/2010	44
Parkside Nursing And Rehab	908 Symmes Road	Fairfield	OH	45014	513-868-6500	03/18/2010	7
Pacific Health And Rehabilitation	14145 Sw 105th Street	Tigard	OR	97224	503-636-1144	01/26/2010	16
Caring Heights Community Care And Rehab	234 Corapolis Road	Corapolis	PA	15108	412-331-6000	07/06/2010	8
Golden Living Center - Mountain View	1350 Bypass Road	Winchester	TN	37868	831-697-7032	04/01/2010	9
Pigeon Forge Care & Rehab Center	415 Cole Drive	Pigeon Forge	TN	37683	865-428-5454	01/26/2010	11
Keller Oaks Healthcare	8703 Davis Blvd	North Richland Hills	TX	76180	817-577-9999	05/20/2010	8
Legacy Rehab And Nursing	3708 West 6000 South	West Jordan	UT	84068	801-280-2273	01/07/2010	16
Berlin Health And Rehabilitation Center	98 Hospitality Drive	Barre	VT	05641	802-229-0308	01/27/2010	39
Beloit Health And Rehab	1905 W Hart Rd	Beloit	WI	53511	608-365-2554	07/13/2010	22
Luther Home	831 Pine Beach Rd	Mannette	WI	54143	715-732-0155	03/04/2010	66

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### Facilities No Longer Participating in the Medicare and Medicaid Program

Facility Name	Address	City	State	ZIP	Phone Number	Most Recent Survey	Months as an SFF
Parkview Rehabilitation And Healthcare Center	2600 Barrow Road	Little Rock	AR	72204	501-224-4173	01/31/2010	23
North Lake Nursing And Rehabilitation Center	601 West 61st Ave	Merrillville	IN	46410	219-980-5950	12/16/2009	15
Park Villa Long Term Care	221 N Washington St	Marion	IN	46952	765-664-4573	01/28/2010	11
Pineview Manor	4136 Germany Rd	Beaver	OH	45613	740-226-3074		3
Village Vista Manor	1941 Bernmar Drive, Po Box 7001	Lancaster	PA	17603	717-397-5583	10/06/2009	8
The Living Center Of Childress	1610 Ave G Nw	Childress	TX	75201	940-937-3675	03/25/2010	10
Village Healthcare Center	1341 Blalock	Houston	TX	77055	713-468-7821	11/18/2009	21



## SFF Characteristics

- Chain affiliated
- For-profit
- More likely to have more total beds and residents, but lower occupancy rate
- Fewer registered nurses per resident day

## Statistics

- 50% of Nursing Homes in SFF program significantly improve quality of care within 24-30 months after being placed on SFF list
- 16% are terminated from MC and MA

## Issues with SFF List

- State survey agencies are responsible for entering survey information into CMS's databases and providing updates as needed
- Data lags of up to several months can occur between completion of the survey and posting of data on the list

## Issues with SFF list

- Some states avoid concentrating SFF's in same district
- Some states failed to survey SFF facility twice a year
- State enforcement of SFF's that do not demonstrate significant improvement is uneven

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## DOJ's Enforcement of Failure of Care Fraud Cases

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Opinions Expressed Herein or Otherwise are those of the Speaker and do not Necessarily Reflect the Views of the U.S. Department of Justice.



## Today's Agenda

- Role of DOJ and USAOs in Failure of Care Enforcement
- Investigations To Date
- How Federal and State Agencies Can Work Together

## DOJ Resources

- Elder Justice Task Force – attorneys, investigators, nurse experts
- Data consultants – CHSRA, Acumen, CFONet
- Intranet Elder Justice Research Website
  - Pleadings, case law, model subpoenas, expert CV's, interview templates, other investigative materials

## Federal Enforcement of Failure of Care Fraud Cases

- Enforcement priority
  - DOJ and US Attorney's Offices
  - HHS Office of Inspector General
  - Pursue criminal, civil and administrative cases

## Why do we care about these cases?

- We're not getting what we pay for.
- Cases usually involve harm, suffering and sometimes death for frail residents.
- Reports say that many long term care providers provide seriously substandard care for which they bill the U.S.
- It's our job to enforce the relevant laws.
- Abuse/neglect cost gov't programs billions.

## Federal Prosecution Options

- Criminal
  - Federal Health Care Fraud, Wire Fraud, Etc.
- Civil
  - False Claims Act, 31 U.S.C. 3729
  - Civil Rights of Institutionalized Persons Act, 28 U.S.C. § 1997
  - Common Law
    - Breach of Contract
    - Common Law Fraud
  - Equitable Claims
    - Unjust enrichment

## False Claims Act and Failure of Care Cases

- Pursued against health care providers who knowingly bill for goods or services that were:
  - Not rendered; or
  - Worthless; or
  - Violated a statutory, regulatory or contractual provision that is a condition of payment (also called false certification or “implied certification” theory).

## Billing for Worthless Services = Fraud

Providers who:

- knowingly render grossly substandard care or no care at all,
  - that harms or kills frail patients, (not a required element, but usually present), and
  - bill Medicare or Medicaid for the alleged care,
- can be pursued under the False Claims Act.

## Worthless Care = Fraud

- “Knowingly requesting payment for grossly deficient services”

## Bottom Line

- Did the government receive value for the *bundle* of services for which it paid?



## Cases Brought Against:

- Nursing Facilities
- Assisted Living Facilities (ALFs)
- Board and care or adult care homes
- Psychiatric and Acute Care Hospitals
- Psychiatric Residential Treatment Facilities (children with serious emotional disorders)
- Group homes for people with intellectual or mental disabilities



## DOJ Can Play an Important Role

- CMS and state remedies often not sufficient:
  - Individual facilities with history of “yo-yo” compliance;
  - Systemic problems needing chain-wide remedies;
  - Cases against owner, operator, management company, or other upper level officials.

## Prosecution of Failure of Care Cases

- Systemic Facility or Chain Problems
- Clear Failures of Care and Violations of Law that have Led to Egregious Outcomes
- Serious Injury or Death
  - Not a Necessary Element for Criminal or Civil Liability

## Types of Cases DOJ Does NOT Pursue

- DOJ does not . . .
  - Bring malpractice cases
    - But malpractice cases are not a bar to government cases
  - Bring administrative cases to enforce survey results (such cases are pursued by state survey agencies and CMS)
    - But survey findings may be some evidence in an enforcement matter

## Failure of Care Examples

- ◆ Wound care - maggots in wounds
- ◆ Excessive falls and fractures
- ◆ Impacted feces
- ◆ Residents lying in their own waste
- ◆ Dehydration and malnutrition
- ◆ Excessive medication errors
- ◆ Chronic staff shortages

## FCA Failure of Care Settlements

- Approximately 40 settled cases with long term care providers
- Significant quality of care injunctive relief and/or HHS-OIG compliance obligations imposed
- Monetary awards

## Remedies in FCA cases

- Money damages (various theories)
- Monitoring and other injunctive relief
- HHS-OIG remedies (exclusion, CIA)

## CIA Quality of Care Monitor

- Key provision in all quality of care CIAs.
- Provider pays for an outside monitor appointed by the OIG.
- Monitor has extensive access to facilities, residents, staff, corporate management, and records.
- Monitor plays oversight/consultative role.

## Monitoring with Corporate Integrity Agreements (CIAs)

- Does not replace CMS or state survey
- Focus on systemic issues, internal quality assurance and improvement mechanisms
- Chain-wide (often multi-state) approach
- Facility, corporate and regional visits
- Meetings with corporate boards
- Periodic reports to OIG and provider

## OIG Exclusions

- Mandatory Exclusion if Convicted of a Criminal Offense Related to Abuse or Neglect of Patients; 42 U.S.C. § 1320a-7(a)
- Permissive Exclusion for Causing to be Furnished Services of a Quality that Fails to Meet Professionally Recognized Standards of Health Care; 42 U.S.C. § 1320a-7(b)(6)(B)
  - Prove a Causal Nexus Between Actions or Omissions of the Individual Regarding the Provision of Poor Care
  - Actual Harm to Resident is not Required, but . . .
  - Unlike other Authorities, Exclusion Imposed Pre-Hearing
  - Applicable to Indirect Providers of Care

## Examples of Settlements

- Cathedral Rock (ED MO 2010)
  - Felony health care pleas by 5 facilities
  - Deferred prosecution by principal owner
  - \$1 million in criminal fines and penalties
  - \$628,000 in civil damages and penalties
  - Forced sale of facilities
  - Five year CIA

## Examples of Settlements

- AHM Management Co. (ED MO 2005)
  - \$1,250,000 damages and penalties
  - Exclusion of individual owner and entities
  - Criminal plea by owner
- Chestercare (ED PA)
  - Consent Decree
  - \$400,000 civil damages and penalties
  - Temporary manager and independent monitor
  - Exclusion of owner

## Sources of Potential Cases

- Qui tam Suits
- State Surveys
- HHS/DOJ CMP MOU
- Anonymous Complaints
- Present or Former Employees of Provider
- Families of Residents
- Personal Injury/Nursing Home Neglect Cases
- Newspapers
- Ombudsman Programs
- Advocacy groups
- CHSRA data mining

## What to do when you get a Failure of Care case

- Look for residents with bad outcomes
- Look for systemic facility problems
- Look for systemic chain problems
- Show connections among the three

## Residents with Bad Outcomes

- Malnourished, dehydrated, weight loss
- Pressure sores, rashes, lice, maggots
- Lying for hours/days in feces/urine
- Bandages not changed for days/months
- Residents filthy, infected, not turned
- Semi-comatose, very withdrawn
- Wrong, too little or too much medication

## Facility Problems

- Inadequate staff; high turnover
- Inadequate training
- Inadequate supplies
- Improper maintenance of MDS
- Admitting new patients when they can't care for existing ones
- Choices driven by profit, not by care/clinical considerations

## Chain Problems

- Financial considerations elevated over clinical.
- Corporate culture that penalizes instead of rewarding good care.
- Inadequate use of data to track status.
- Bonus structure that rewards practices leading to bad care (i.e., cutting staff.)
- Inaction in the face of knowledge of problems.
- Inadequate funds for training, supplies, care.
- Failure to heed and investigate complaints.



## Evidence of Falsity

- Allegations of “charting parties.”
- Text in medical records identical.
- Inappropriate or nonsensical charting, i.e.,
  - Charting for wrong condition(s).
  - Charting for July 4<sup>th</sup> in December.
  - Inconsistent with condition (“alert” in coma).
- Billing when resident discharged or dead.
- Not doing what they told Surveyors they would do to “fix” the problem.

## Evidence of Knowledge

- Survey reports (outlining problems)
- Statements in MDS (resident or facility)
- “Staffing up” for surveys
- Other law suits (tort and administrative)
- Personnel files
  - letters begging for more help, resignation ltrs
  - Statements to superiors/HQ about staffing
  - Reprimands for inadequate care
- Internal memos and consultants’ reports
- Quality Assurance Committee

## Teamwork

- Many State and Federal partners in our investigations
  - FBI
  - HHS-OIG
  - CMS
  - MFCU
  - State survey and licensing agencies
  - Ombudsmen

## Conclusion

- Failure of Care Cases Present Complex and Important Issues for All Parties
- DOJ Involved at both Civil and Criminal Levels
  - Involvement only where Necessary
  - Choose cases carefully
- Coordinate with MFCUs
  - Co-counsel
  - Triage
  - Referrals