

Testimony to the Senate Health and Welfare Committee

March 21, 2018

The Department of Disabilities, Aging, and Independent Living
Division of Licensing and Protection
Survey and Certification

Topic of Testimony: The role of Survey and Certification in nursing home oversight

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The Division of Licensing and Protection (DLP) Survey and Certification (S&C) has oversight of nursing homes under the authority of The Centers for Medicare and Medicaid Services (CMS). S&C also licenses and regulates nursing homes under Vermont State authority.

Per CMS, the mission of the State Survey Agency is to assure basic levels of quality and safety for all residents. The S&C system provides onsite, objective and outcome-based verification by knowledgeable and trained nurses to assure that basic standards of quality are being met by health care providers, or if not met, that appropriate remedies are promptly applied and implemented effectively. Teams of nurse surveyors conduct annual, unannounced surveys of nursing homes to observe care, review records, and interview staff, residents, and resident family members. When deficient care is determined, the team will cite the facility with the expectation that the facility correct their practice. The facility must submit a plan of correction and a team of nurse surveyors will go back onsite to determine if the facility is back into compliance. If a facility does not come back into compliance, CMS is backed by legislative authority to impose remedies. Remedies can include, denial of payment for new admissions, civil money fines, and ultimately, decertification from the Medicare Program.

Oversight includes the complaint process. The S&C complaint unit consists of three nurse surveyors who take complaints or facility mandated self-reports and triage these complaints according to the federal complaint process. These complaints or facility reports are assigned to nurse surveyors for unannounced, onsite complaint investigations. The nurse surveyor will assess the facility for compliance with the state or federal regulations through interview, record review, and observation. If deficient care is found, the facility is cited deficiencies with the requirement that they submit a plan of correction. A follow-up survey is generally conducted to assure the facility is back in compliance with the regulations.

State of Vermont Regulation

S&C also licenses and regulates nursing homes per the Licensing and Operating Rules for Nursing Homes, adopted December 15, 2001. The purpose of the rule is to *“implement state and federal law governing the licensing, operation, and standard of care in nursing homes located in the State of Vermont. Compliance with these rules will help each resident attain or maintain the highest practicable physical, mental and psychosocial well-being in accordance with comprehensive assessment and plan of care and prevailing standards of care, and will promote a standard of care that assures that the ability of each resident to perform activities of daily living does not diminish unless the resident’s ability is diminished solely as a result of a change in the resident’s clinical condition”*.

It is under state authority that S&C performs annual re-licensing of nursing homes. Each year nursing homes must submit their re-license application to S&C. Information included on the application:

1. Name of the licensee,
2. Name of the home,
3. Address of the home,
4. Licensed capacity of the home,
5. Name of the administrator,
6. Name of the medical director,
7. Name of the director of nursing, and
8. Such other information as the licensing agency may require.

The Licensing Statute (Title 33, Chapter 71) states “An owner, licensee, or administrator shall disclose to the licensing agency any changes in the ownership interests in the company, ownership of any real property, management of the facility, or corporate structure that occur after the date the license is issued. The licensing agency may require the owner, licensee, or administrator to apply for a new license.”

The Licensing regulations state:

17.2 On-going Disclosure: The facility must provide written notice to the state agency responsible for licensing the facility, at the time of any change, if a change occurs in:

(a) persons with an ownership or control interest of 5% or more, or who have been convicted of Medicaid fraud;

(b) the officers, directors, agents or managing employees;

(c) the corporation, association or other company responsible for the management of the facility; or

(d) the facility's administrator or director of nursing.