
Introduction

Nursing home providers think inspection reports often present an unfair picture of their facilities.

The Minnesota Department of Health (MDH) licenses all nursing homes operating in the state and certifies that those participating in the federal Medicare and Medicaid programs meet certain standards for care.¹ Using a team of inspectors usually consisting of three to five registered nurses, the department conducts an unannounced inspection of each of the state's approximately 420 nursing homes no later than once every 15 months.²

Over the last few years, legislators, nursing home providers, and other stakeholders have expressed various concerns about the inspection process. They note that inspection results have varied significantly by area of the state, with nursing homes in northeastern Minnesota traditionally receiving more "deficiencies," on average, than homes in other parts of the state.³ Also, the number of deficiencies issued statewide by inspectors has increased significantly in the last year. While providers view many of the deficiencies that they receive as "picky," unreasonable, or duplicative, they say that the increase has caused low morale among their staff and presents an "unfair" picture of nursing home quality to the public.

In February 2004, the Health and Human Services Policy Committee of the Minnesota House of Representatives held a day-long hearing largely devoted to listening to providers' concerns about inspections.⁴ Later that year, the Legislature required the Commissioner of Health to establish a quality improvement program for the nursing home inspection and complaint processes.⁵ Under the new legislation, the Commissioner must report annually, beginning December 15, 2004, on a variety of items, including (1) the number and type of deficiencies issued by inspectors in different parts of the state with an explanation of any variations; (2) the techniques used by inspectors to investigate, communicate, and document deficiencies; and (3) the number and outcome of independent dispute resolutions and appeals. Also, the legislation requires the Commissioner to seek federal approval to implement an alternative nursing home inspection process.⁶

¹ For the most part, state laws and rules for nursing home licensure mirror federal requirements for participation in the Medicare and Medicaid programs. Nearly all nursing homes in Minnesota participate in the federal programs.

² State and federal agencies refer to inspections as "surveys" and staff who conduct inspections as "surveyors." We use the words "inspections" and "inspectors" because we believe they more accurately reflect the tasks performed.

³ If a nursing home does not meet a federal requirement, the inspection team issues a "deficiency."

⁴ Minnesota House of Representatives, House Health and Human Services Policy Committee, February 25, 2004.

⁵ *Laws of Minnesota* (2004), ch. 247, sec. 2.

⁶ *Ibid.*, sec. 6.

At the same time, MDH stepped up its oversight of the inspection process and contracted with the Management Analysis Division of the Department of Administration to (1) facilitate a series of meetings among MDH staff, nursing home providers, and other stakeholders to examine communication problems, and (2) conduct an independent review of the department's regulatory activities. The department also created a task force to examine trends in nursing home deficiencies. These activities resulted in a number of reports issued in Summer 2004 that called for, among other things, improved communication between MDH and nursing home providers and a more targeted quality assurance program for nursing home inspections within the department.⁷

In April 2004 the Legislative Audit Commission directed our office to also examine the inspection program for nursing homes. We were asked to focus on the following research questions:

- **How have the number, type, and distribution of nursing home deficiencies cited by MDH inspectors changed over time and why?**
- **What has the department done to ensure consistent application of standards during nursing home inspections and how well have such activities worked?**
- **How much flexibility does MDH have in conducting inspections and has it used that flexibility effectively?**

To answer these questions, we examined state and federal laws, rules, regulations, guidelines, and reports related to conducting inspections and monitoring the inspection process. We obtained data on nursing home deficiencies maintained by the U.S. Department of Health and Human Services for every facility participating in the Medicare and Medicaid programs nationwide over the last several years. In addition, we examined in detail the most recent inspection report for a sample of 100 Minnesota nursing homes as well as the most recent inspection report for the 11 Minnesota facilities cited for deficiencies involving substandard care or immediate jeopardy to residents.⁸ We supplemented these data by interviewing at least one-half of the nursing home inspectors in each district of the state, all district supervisors, MDH program administrators, and 20 nursing home administrators from throughout the state. Finally, we talked with federal representatives, officials in other states, and representatives from various advocacy and provider groups.

This report is divided into three chapters. Chapter 1 discusses the nursing home inspection process and the role of the Minnesota Department of Health. Chapter 2 provides descriptive data on the number, type, and "seriousness" of nursing home deficiencies in Minnesota over time and compares deficiency rates in Minnesota with those of other states. Chapter 3 examines how consistently Minnesota inspection teams identify and classify deficiencies and state efforts to address inspection consistency issues.

⁷ Minnesota Department of Administration, *Communications for Survey Improvement (CSI-MN)* (St. Paul, June 30, 2004); Minnesota Department of Administration, *Nursing Home Licensing and Certification* (St. Paul, June 30, 2004); and Minnesota Department of Health, *Survey Findings/Review Subcommittee Final Report* (St. Paul, July 2004).

⁸ The most recent inspection reports refer to inspections conducted and entered into the federal government's inspection database by May 24, 2004.