

Deciphering Nursing Home Surveys

Have you ever had a nursing home case where you requested the state surveys from the Indiana Department of Health only to find that they do not make sense? The purpose of this article is to assist the attorney with deciphering the nursing home surveys so that their content can assist you with case preparation.

There are three types of surveys conducted on nursing homes: Recertification and State Licensure, Complaint investigation and Post Survey revisit. The Recertification and State Licensure surveys or annual survey occur unannounced at least every 15 months to determine if the facility is in compliance with Federal and State regulations. If a facility does not participate in the Medicare program, it will still undergo a state survey. A Complaint investigation occurs every time the Indiana State Department of Health (ISDH) receives a complaint about a nursing home. It is a good practice to have potential clients file a Complaint with the ISDH before you take the case to see if there were deficiencies in compliance with Federal or State regulations. The complaint can be substantiated, partially substantiated or unsubstantiated. Lastly, a Post Survey revisit (PSR) occurs after the facility has had a chance to submit a plan of correction. The purpose is to determine if the facility is now in compliance. A Post Survey revisit can occur with a complaint or a PSR to a PSR.

When a survey is performed, every resident in the facility is assigned a number to assure confidentiality in the public survey. There is no way to review an annual survey and determine if your resident's care was noted. However, with a Complaint investigation, the complaining party receives a response to their complaint so they know the survey involves that particular resident. A substantiated survey can be powerful evidence in your case. If a Complaint survey is unsubstantiated, it does not necessarily indicate that there is no case. The surveyors rely on the documentation and outcome at the facility and do not review records from other health care providers or interview the resident or family.

The survey is based on compliance with the federal OBRA regulations which contain over 150 standards. 42 U.S.C. 483.1

The regulations cover a wide range of aspects of resident life, from standards for the safe preparation of food, to protecting residents from physical or mental abuse or inadequate care.

When a deficiency (noncompliance with the regulations) is found, the surveyors determine which regulation and identify a Federal Tag Number which is identified on the survey by an F followed by a 3 digit number. The number correlates to the regulation which is found deficient. Next to the F tag is a description of the violation. After a description of the F tag, the survey will note a statement that

"this requirement is not met as evidenced by..." The findings that follow this statement are the surveyors explanation of what they saw or reviewed which substantiated the deficiency cited. The surveyor then evaluates the deficiency to determine scope and severity (SS). The scope is determined by the number of residents effected by the deficiency. The severity is determined by assessing the seriousness of the effect on residents with regard to actual or potential harm. The level of SS is assigned by letters A through L. A being the least harm and involve the least number of patients. L involves many patients who are harmed. See Table I.

TABLE I. Scope and Severity of Deficiencies

	Isolated deficiency	Patterned deficiency	Widespread deficiency
no actual harm with potential for minimum harm	A	B	C
potential for more than minimum harm that is not immediately jeopardy	D	E	F
actual harm that is not immediate jeopardy	G	H	I
immediate jeopardy to resident health or safety	J	K	L

Certain regulations involve quality of care standards. When a facility is determined to have substandard quality of care, the SS level is an F or H and higher on certain quality indicators. Depending on the nature, extent and severity of the problems, the ISDH can fine the nursing home, deny payment to the nursing home, assign a temporary manager or assign a state monitor. Failure to resolve the deficiencies can result in termination of the facility's certificate to provide care to Medicare and Medicaid beneficiaries.

Summaries of Indiana Nursing home surveys showing numbers and categories of deficiencies are available online through the Indiana State Department of Health website. <http://www.in.gov/isdh/regsvcs/ltr/repcard/search.htm>. A summary of the surveys can also be found on the Medicare website. <http://www.medicare.gov/nhcompare/Search/Related/SpecialNote.asp>

¹ http://www.access.gpo.gov/nara/cfr/waisidx_98/42cfr483_98.html



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