STATE OF TENNESSEE
DEPARTMENT OF HEALTH
CORDELL HULL BUILDING
425 5TH AVENUE NORTH
NASHVILLE, TENNESSEE 37243

January 28, 2011

The Honorable Bill Haslam
Governor
State Capitol
Nashville, Tennessee 37243

Dear Governor Haslam:

The Nursing Home Compassion, Accountability, Respect and Enforcement Reform Act of 2003 (codified at Tenn. Code Ann. § 68-1-120) requires the Department to submit a report by February 1 of each year to the governor and to each house of the general assembly regarding the Department's nursing home inspection and enforcement activities during the previous year. The report analyzes treads in compliance with nursing home standards and residents' rights by nursing homes in Tennessee, The trends are identified aggregate and quantitative data. I hope that you find the enclosed 2010 Annual Report a valuable information resource.

This report is also available at the following link:

http://health.state.tn.us/statistics/PdfFiles/2010_NH_Inspections_Report.pdf

Thank you for your consideration of this report, and please do not hesitate to contact me if you have any questions.

Sincerely,

Susan R Cooper MSN, RN

Susan R. Cooper, MSN, RN
Commissioner

Enclosure

STATE OF TENNESSEE
DEPARTMENT OF HEALTH
CORDELL HULL BUILDING
425 5TH AVENUE NORTH
NASHVILLE, TENNESSEE 37243

January 28, 2011

The Honorable Ron Ramsey
Lieutenant Governor
Speaker of the Senate
1 Legislative Plaza
Nashville, TN 37243

Dear Lieutenant Governor Ramsey:

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STATE OF TENNESSEE
DEPARTMENT OF HEALTH
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425 5TH AVENUE NORTH
NASHVILLE, TENNESSEE 37243

January 28, 2011

The Honorable Beth Harwell
Speaker
House of Representatives
19 Legislative Plaza
Nashville, TN 37243-0181

Dear Speaker Harwell:

The Nursing Home Compassion, Accountability, Respect and Enforcement Reform Act of 2003 (codified at Tenn. Code Ann. § 68-1-120) requires the Department to submit a report by February 1 of each year to the governor and to each house of the general assembly regarding the Department's nursing home inspection and enforcement activities during the previous year. The report analyzes treads in compliance with nursing home standards and residents' rights by nursing homes in Tennessee, The trends are identified aggregate and quantitative data. I hope that you find the enclosed 2010 Annual Report a valuable information resource.

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Susan R. Cooper MSN, RN

Susan R. Cooper, MSN, RN
Commissioner

Enclosure

Report to the General Assembly: Nursing Home Inspection and Enforcement Activities

A Report to the 2011 107th Tennessee General Assembly

Tennessee Department of Health

February 1, 2011

BACKGROUND AND SUMMARY OF THE LAW:

The Board for Licensing Health Care Facilities, which is administratively attached to the Department of Health's Division of Health Care Facilities, is the entity responsible for state licensure of nursing homes and, if necessary, the discipline thereof. Surveyors employed by the Department of Health inspect each licensed nursing home on an annual basis (every 9 – 15 months) and in response to complaints to ensure compliance with applicable state rules adopted by the Board for Licensing Health Care Facilities.

The Department of Health is also designated by contract as the survey agency for the Federal Centers for Medicare and Medicaid Services (CMS), and in that capacity, Department surveyors inspect each nursing home that participates in the Medicare/Medicaid reimbursement program to ensure compliance with applicable federal laws and rules. Of the 325 nursing homes that were licensed in Tennessee in 2010, 320 were also certified by CMS to participate in the Medicare/Medicaid reimbursement program. As with licensure surveys, the Department surveys facilities on an annual basis (every 9-15 months) as well as in response to complaints.

If a nursing home is both licensed and certified, Department surveyors will conduct the licensure and certification surveys concurrently to promote efficiency in the survey process. When Department surveyors complete a survey conducted pursuant to the federal laws and rules, the findings are submitted to CMS, and CMS makes all final deficiency determinations. This report addresses enforcement activities under both state and federal laws and rules.

The Department is required to investigate complaints filed by the public and any incidents that a facility reports to the Department that constitute abuse, neglect, or misappropriation.

The Nursing Home Compassion, Accountability, Respect and Enforcement Reform Act of 2003 (codified at Tenn. Code Ann. § 68-1-120) requires the Department to submit a report by February 1 of each year to the governor and to each house of the general assembly regarding the Department's nursing home inspection and enforcement activities during the previous year.

COMPLAINT ACTIVITY:

The number and types of complaints received by the Department of Health are monitored and maintained on a federal software program. The software program tracks complaints on all health care facilities. The following statistical data is derived from the program:

- In 2010, there were 325 licensed nursing homes in the state of Tennessee.
- The Department investigated a total of 1,494 complaints during 2010 for all health care facilities. Overall, the Department conducted 4,202 surveys for all health care facilities in 2010, which includes annual, complaint, and unusual incident and revisit surveys. This decline from the approximately 5,800 surveys conducted for all health care facilities in 2009, is attributable to two factors: a surveyor vacancy rate which fluctuated between 30 – 36 percent throughout 2010 (currently at 33%); and the amendment to the Health Data Reporting Act of 2002[1].
- Complaints against nursing homes totaled 1,536, or 68.2% of the 2,252 total complaints, all facility types, which is a 8.1% decrease from 2009[2].
- There were 300 nursing homes with one or more complaints filed, constituting 92% of the total nursing homes.
- There were 37 nursing homes with ten or more complaints filed, constituting 11.4% of the total nursing homes; a significant decrease of 55% from 2009.
- The number of nursing homes with substantiated complaints:

  -2006 – 141 nursing homes or 42.7% of all nursing homes

  -2007 – 125 nursing homes or 37.5% of all nursing homes

  -2008 – 111 nursing homes or 33.6% of all nursing homes

  -2009 – 97 nursing homes or 30% of all nursing homes

  -2010 – 98 nursing homes or 30% of all nursing homes

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[1] Effective May 27, 2009, the Health Data Reporting Act of 2002 was amended by Public Chapter 318 which provides that all licensed health care facilities are required to only report incidents of abuse, neglect, and misappropriation that occur at the facility to the Department.

[2] Decrease in complaints against nursing homes from 2009 to 2010 may be attributed to an amendment to the Health Data Reporting Act of 2002 that more narrowly defined complaint reporting requirements by the facility.

The 2010 nursing home data shows a decline in both the number of complaints and the number of complaint surveys conducted from previous years (see footnote[1] p.4). There appears to be a leveling off in both the number and percentage of nursing homes with substantiated complaints.

DEFICIENCIES CITED IN NURSING HOMES:

Deficiencies cited in nursing home facilities in the state of Tennessee for 2010 are relatively consistent with the pattern of deficiencies cited across the eight southeastern states (CMS Region IV) and the nation. The average number of health deficiencies citations on a standard survey, per nursing home nationwide was 2:01, compared to 1.99 within CMS region IV and 1.88 in Tennessee, below both the nation and the region. The percentage of immediate jeopardy (IJ) [3] citations to resident health and safety nationally was at 1.6% of the total number of nationwide health citations. The percentage of IJ citations in Tennessee was higher than the nation at 2.9%. Seven of the eight CMS Region IV states were above the national IJ citation percentage, with four having an IJ citation percentage above that of Tennessee.

Of the 325 licensed nursing homes in Tennessee in 2010, the following was ascertained:

- There was one nursing home in bankruptcy in 2010.
- Eleven nursing homes were cited with Immediate Jeopardy substandard level of care, which is a 42% decrease from 2009.
- Twelve nursing homes were cited with substandard level of care.
- Eleven nursing homes were cited with Federal Civil Monetary Penalties for a total assessed amount of $ 1,569,345.
- Five nursing homes were cited with state Civil Penalties for a total assessed amount of $9,500.00.
- Five nursing homes had admissions suspended in 2010.

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[3] "Immediate Jeopardy" is defined as "a situation in which the provider's noncompliance with one or more requirements of participation [in the Medicare/Medicaid reimbursement program] has caused, or is likely to cause serious injury, harm, impairment, or death to a resident." 42 CFR Part 489.3

TOP 15 MOST FREQUENTLY CITED DEFICIENCIES IN NURSING HOMES:

The most common deficiencies cited in nursing homes in 2010 are divided into two groups – those cited in areas related to health (quality of care of residents) and life safety (construction code compliance). The top fifteen health and quality of care deficiencies were the following:

1. F0441[4] Facility establishes infection control program
2. F0323 Facility is free of accident hazards
3. F0514 Clinical records meet professional standards
4. F0309 Provide necessary care for highest practical well being
5. F0280 Development/prep/review of comprehensive care plan
6. F0281 Services provided meet professional standards
7. F0431 Proper labeling of drugs & biologicals
8. F0371 Store/prepare/distribute food under sanitary conditions
9. F0315 Resident not catheterized unless unavoidable
10. F0332 Medication error rates of 5% or more
11. F0157 Inform of accidents/significant changes/transfer/etc
12. F0502 Facility provides/obtains lab services
13. F0226 Policies, procedures prohibit abuse, neglect
14. F0333 Residents free from significant medication errors
15. F0278 Accuracy of assessments/coordination w/professionals

The top fifteen life safety code deficiencies were the following:

1. K0147 Electrical wiring and equipment
2. K0062 Sprinkler system maintenance
3. K0018 Corridor doors
4. K0052 Testing of fire alarm
5. K0144 Generators inspected/tested
6. K0025 Smoke partition construction
7. K0029 Hazardous areas - separation

8. K0038 Exit access
9. K0050 Fire drills
10. K0067 Ventilating equipment
11. K0064 Portable fire extinguishers
12. K0054 Smoke detector maintenance
13. K0069 Cooking equipment
14. K0072 Furnishing and decorations
15. K0076 Medical gas system

NURSING HOME QUALITY INITIATIVE UPDATE 2010:

HISTORY OF THE QUALITY INITIATIVE:

In 2006, the Centers for Medicare and Medicaid Services (CMS) continued the National Nursing Home Improvement Coalition. In April 2006, CMS was asked to develop a plan to address the Government Performance and Results Act of 1993 (GPRA) Goals. A major focus was to develop regional coalitions. The CMS Region IV Office in Atlanta developed a plan for collaboration outreach efforts with CMS Central Office staff, other CMS Regional Offices, State Survey Agencies, Quality Improvement Organizations, Provider Associations and the Ombudsman. The CMS Regional IV Office in Atlanta convened conference calls with State Survey Agency Directors and Quality Improvement Organizations. It was identified that a need existed for a face-to-face meeting to include Nursing Home Associations and Ombudsman representatives.

In September 2006 a new coalition based, two-year campaign—Advancing Excellence in America's Nursing Homes—was launched. This campaign is designed to improve the quality of care and quality of life for those living or recuperating in America's nursing homes. The campaign identified four clinical quality goals and four organizational improvement goals. The first face-to-face meeting was held in Atlanta on December 12, 2006. Many success stories by the QIO organizations were given during this meeting that described the reductions of restraints and pressure ulcers in nursing homes. The coalition made plans for additional face-to-face meetings to be held in 2007. The initial two year phase of the campaign has demonstrated measurable progress toward reducing

the prevalence of pressure ulcers, reducing the use of physical restraints, and improving pain management for long-term and short-stay nursing home residents.

The Advancing Excellence campaign has worked diligently over the past four years to encourage improvements in care for nursing home residents across the country. The Campaign, having achieved its national objective for reducing physical restraint, will set a lower rate as a new goal for the coming year. In addition to setting and measuring clinical goals, the Campaign is now working to help nursing homes retain good workers (staff retention and consistent assignment), which can make for higher quality of care, and make sure residents are consistently cared for by the same aides in order to build stronger relationships, which is valued by residents, and leads to better care.

For phase 2 participation in this program, October 22, 2009 – December 31, 2011, 6,833 nursing homes have signed up nationally with the campaign to work on measurably improving care in eight areas. The campaign's coalition includes long-term care providers, caregivers, medical and quality improvement experts, government agencies, consumers and others. Tennessee is modeling on the success of other quality initiatives, including Quality First, the Nursing Home Quality Initiative (NHQI), the culture change movement, and other quality initiatives.

Following are the current phase 2 progress results for the campaign's four clinical quality goals:

Goal 1: Reducing high-risk pressure ulcers.

Objective A: The national average for high-risk pressure ulcers will be below 9% by December 31, 2011.

Results: The prevalence of high-risk pressure ulcers has decreased nationally from the September 2006 campaign start of 12% through the March 2010, first quarter average of 11%. The March 2010 state average for Tennessee is slightly below the national average at 10.8%.

Goal 2: Reducing the use of daily physical restraints.

Objective A: The national average for physical restraints will be at or below 2% by December 31, 2011.

Results: Nationally, the use of restraints in nursing homes decreased continually from the September 2006, campaign start of 6% through the first quarter, March 2010, average of 2.9%.

The percentage of restraint usage in Tennessee nursing homes during the phase 1 period ending September 2008, was above the national average at 7%. However, a continued decline in restraint usage into the first quarter, March 2010, (phase 2 period) shows Tennessee nursing homes still above the national average at 5%.

Goal 3: Improving pain management for long-term nursing home residents.
Objective A: The national average of moderate or severe pain experienced by long-stay residents will be at or below 2% by December 31, 2011.
Results: The campaign's national objective to improve pain management for long-term nursing home residents was at 3.1% by first quarter, March 2010, for the nation; and for the state of Tennessee, just slightly above the national goal at 2.1%.

Goal 4: Improving pain management for short stay, post-acute nursing home residents.
Objective A: The national average of moderate or severe pain experienced by post-acute residents will be at or below 16% by December 31, 2011.
Results: The average for post acute care pain nationally, as of first quarter, March 2010, was at the objective at 18.8%. Tennessee nursing homes were at 13.3%, well below the overall phase 2 objective of 16% during this same period.

Analysis of Advancing Excellence in Nursing Home registrants shows that nursing homes are registering for the Advancing Excellence campaign and selecting goals in areas in which there is greater need to improve. Almost 44% of nursing homes in the nation have registered for phase 2 campaign participation (October 22, 2009 – December 31, 2011). Preliminary results show:

- Nursing homes that register for the campaign are making faster improvement toward clinical goals than homes that don't register.
- Nursing homes that register for the campaign and select a particular clinical goal improve faster on that goal than homes that do not select that goal.
- Nursing homes that not only select a goal, but also target how much they aim to improve, improve faster than homes that do not set targets.

As of January 2011, Tennessee nursing homes' participation in the coalition was somewhat lower than that of the nation by 2.7%.

	Tennessee	Nation
Participating nursing homes[4]:	130	6,833
Percentage of participating nursing homes:	40.9%	43.6%

The Quality Improvement Organization (QIO) in Tennessee is currently working with the nursing homes participating in this coalition. The QIO works with each nursing home by providing quality improvement tools and instructions that reflect the goals selected. After use of the tools and revising the approaches to the goals, the nursing homes evaluate their own progress. Best practices are shared with other nursing homes through a teleconference call with all members each month. A listserv has also been set up for the nursing homes that are participating to continually share information and best practices. The Division of Health Care Facilities is a member of this coalition and participates both on the listserv and the teleconference calls.

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[4] Data found in this subsection for Advancing Excellence in America's Nursing Homes campaign coalition may be viewed at http://www.nhqualitycampaign.org/star_index.aspx?controls=about