



February 12, 2004

Report Number: A-04-04-04000

David Job, Administrator
Mountain View Community Living Center
547 Warwoman Road
Clayton, Georgia 30525

Dear Mr. Job:

Enclosed are two copies of the United States Department of Health and Human Services (HHS), Office of Inspector General (OIG) report entitled, *Effect of Staffing on Quality of Care at Nursing Facilities – Mountain View Community Living Center*. A copy of this report will be forwarded to the action official noted below for her review and any action deemed necessary.

The objective our review was to determine whether Mountain View Community Living Center (Mountain View) was in compliance with Federal and State staffing laws and regulations for nursing facilities.

With minor exceptions, Mountain View was in compliance with Federal and Georgia State staffing laws and regulations. Federal staffing regulations are contained in Title 42, Code of Federal Regulations, Section 483.30. Georgia adds additional requirements to the Federal staffing requirements. Based on our review of 74 current direct care employees, we found, with minor exceptions, that Mountain View complied with Federal and State staffing laws and regulations. For one direct care employee, Mountain View did not comply with the State background check requirement. We recommend Mountain View review and strengthen its internal controls to assure that it obtains background checks on all new employees and prohibits employees from working directly with the residents if the background checks are not received by the facility. We also noted differences in the direct care hours per resident per day that we calculated and the hours of care reported in the Nursing Home Compare website. We recommend that Mountain View establish a control to independently confirm the validity of the direct care hours that are provided to the Georgia State Survey Agency (Survey Agency) for input into the Nursing Home Compare website.

In a written response to our draft report, the Mountain View Administrator agreed with our findings and recommendations and stated that controls will be implemented to correct the deficiencies discussed in the OIG report. We have included the entire text of Mountain View's comments as an appendix to our report.

We concur with the actions that Mountain View plans to take with respect to the recommendations in our report.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act, 5 United States Code 522, as amended by Public Law 104-231, OIG reports to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise (see 45 CFR Part 5).

To facilitate identification, please refer to Report Number A-04-04-04000 in all correspondence related to this letter.

Sincerely,



Charles J. Curtis
Regional Inspector General
for Audit Services, Region IV

Enclosure – as stated

Direct Reply to HHS Action Official:

Rose Crum-Johnson, Regional Administrator
Centers for Medicaid & Medicare Services
61 Forsyth Street, S.W., Suite 4T20
Atlanta, Georgia 30303-8909

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**EFFECT OF STAFFING ON
QUALITY OF CARE AT
NURSING FACILITIES –
MOUNTAIN VIEW COMMUNITY
LIVING CENTER**



**FEBRUARY 2004
A-04-04-04000**

Office of Inspector General

<http://oig.hhs.gov>

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OAS FINDINGS AND OPINIONS

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed, as well as other conclusions and recommendations in this report, represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the HHS divisions will make final determination on these matters.





February 12, 2004

Report Number: A-04-04-04000

David Job, Administrator
Mountain View Community Living Center
547 Warwoman Road
Clayton, Georgia 30525

Dear Mr. Job:

This Office of Inspector General (OIG) report provides the results of our review of the *Effect of Staffing on Quality of Care at Nursing Facilities – Mountain View Community Living Center*. Mountain View Community Living Center (Mountain View) is a 117 bed nursing facility located in Clayton, Georgia.

The objective of our review was to determine whether Mountain View was in compliance with Federal and State staffing laws and regulations for nursing homes. Federal staffing regulations are contained in Title 42, Code of Federal Regulations, Section 483.30. Georgia adds additional requirements to the Federal staffing requirements. Based on our review of 74 current direct care employees¹, we found, with minor exceptions, that Mountain View complied with Federal and State staffing laws and regulations. For one direct care employee, Mountain View did not comply with the State background check requirement. We recommend Mountain View review and strengthen its internal controls to assure that it obtains background checks on all new employees and prohibits employees from working directly with the residents if the background checks are not received by the facility.

We also noted differences in the direct care hours per resident per day that we calculated and the hours of care reported in the Nursing Home Compare website. We recommend that Mountain View establish a control to independently confirm the validity of the direct care hours that are provided to the Georgia State Survey Agency (Survey Agency) for input into the Nursing Home Compare website.

In a written response to our draft report, the Mountain View Administrator agreed with our findings and recommendations and stated that controls will be implemented to correct the deficiencies discussed in the OIG report. We have included the entire text of Mountain View's comments as an appendix to our report.

We concur with the actions that Mountain View plans to take with respect to the recommendations in our report.

¹ Direct care employees are any nursing staff who are eligible to provide direct care to the residents.

INTRODUCTION

BACKGROUND

The Omnibus Budget Reconciliation Act of 1987 established legislative reforms to promote quality of care in nursing homes. This act requires nursing homes to have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

Title 42, Code of Federal Regulations (CFR), Section 483.30 requires nursing homes to provide sufficient nursing staff on a 24-hour basis. Sufficient nursing staff must consist of licensed nurses and other nursing personnel and include: (1) a licensed nurse designated “to serve as a charge nurse on each tour of duty”; (2) “a registered nurse for at least 8 consecutive hours a day, 7 days a week”; and (3) a registered nurse designated “to serve as director of nursing on a full time basis. The director of nursing may serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents.”

As part of the survey and certification process, the Survey Agency is required to conduct periodic standard surveys of every nursing home in the State. Through this process the Survey Agency measures the quality of care at each nursing home by identifying deficiencies and assuring compliance with Federal and State requirements. At the conclusion of its review, the Survey Agency posts its results, including direct care staffing data, to the Nursing Home Compare website. This computer generated information is made available to the general public.

At a minimum, States are required to ensure that nursing homes follow these Federal staffing standards. Each State may also implement its own staffing requirements that exceed these standards. Georgia has established staffing requirements that exceed the Federal standards.

The Rules and Regulations of the State of Georgia at Chapter 290-5-8-.04, Nursing Service (1), includes the additional requirement that the Director of Nursing (Director) must not also be the administrator.

In addition, Part II, Policies and Procedures for Nursing Facility Services, of the Georgia Department of Community Health, Division of Medical Assistance, adds the following Medicaid staffing requirement:

“Level I and Level II² nursing facilities are required to provide a minimum of 2.5 nursing hours (actual working hours) per patient day. In addition to the minimum

² A Level I nursing facility is an Intermediate Care Facility which primarily provides health-related care and services above the level of custodial care to mentally retarded individuals but does not provide the level of care available in a hospital or skilled nursing facility. A Level II nursing facility is a Skilled Nursing Facility which primarily provides inpatient skilled nursing care and related services to patients who require medical, nursing, or rehabilitative services but does not provide the level of care or treatment available in a hospital.

requirement, nursing facilities must also comply with all provisions of 42 Code of Federal Regulations, Section 483.30.”

Further, regarding employees hired since July 1, 1995, the Code of Georgia states at 31-7-351:

“Prior to hiring an employment applicant, each nursing home shall request a criminal record check from GCIC [Georgia Crime Information Center] to determine whether the applicant has a criminal record. A nursing home shall make a written determination for each applicant for whom a criminal record check is performed. A nursing home shall not employ a person with an unsatisfactory determination.”

Finally, the Rules and Regulations of the State of Georgia, Chapter 290-5-8-.03 (4) requires a facility to maintain a separate personnel folder for each employee containing all personal information concerning the employee.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our review was to determine whether Mountain View was in compliance with Federal and State staffing laws and regulations for nursing facilities.

Based on analysis of data from the Centers for Medicare & Medicaid Services’s (CMS’s) Online Survey Certification and Reporting System, we selected a sample of nursing facilities for review, including Mountain View.

To accomplish our objective we:

- obtained data for Mountain View from CMS’s Nursing Home Compare website which we reviewed for background, staffing, and deficiency information;
- reviewed Federal and Georgia State laws and regulations for nursing homes to determine the staffing standards Mountain View was required to adhere to;
- obtained staffing schedules and payroll records to determine the facility’s direct care hours per resident per day as well as the employee-to-resident ratio for three 2-week periods;
- obtained verification of licensure and certification for all direct care employees to assure that the facility adheres to Federal and State requirements;
- conducted inquiries through Georgia’s on-line license and certification system to determine if all direct care employees were in good standing;
- reviewed the survey and certification process at the Survey Agency and analyzed the results of the two most recent standard surveys conducted at Mountain View to identify deficiencies and causes; and

- met with the administrator of the facility to obtain an understanding of Mountain View's policies and procedures for recruiting and retaining staff.

Our review was conducted in accordance with generally accepted government auditing standards. Our review of internal controls was limited to obtaining an understanding of the controls concerning the hiring and scheduling of employees. The objective of our review did not require an understanding or assessment of the complete internal control structure at Mountain View.

We performed our review at Mountain View, the OIG Birmingham Field Office, and the OIG Atlanta Regional Office from May 2003 through September 2003. Our review covered a 2-year period from January 1, 2001 through December 31, 2002.

We reviewed the results of the two most recent standard surveys preceding our audit. These surveys were performed by the Survey Agency during April and October 2002. In addition, we reviewed information, such as hours of care, for the same periods of time as the surveys and for July 2002, which was a mid-point between the last two surveys. We also reviewed other information pertaining to Mountain View that was current as of May 2003.

We issued a draft report to Mountain View on December 11, 2003 and invited them to comment on the findings and recommendations in the report. We have summarized Mountain View's comments after the findings and recommendations and included the entire text of their comments as an appendix.

FINDINGS AND RECOMMENDATIONS

With minor exceptions, Mountain View was in compliance with Federal and Georgia State staffing laws and regulations. Federal staffing regulations are contained in Title 42, CFR, Section 483.30. Georgia adds additional requirements to the Federal staffing requirements. For three selected 2-week periods, we determined that Mountain View scheduled its direct care employees in compliance with Federal and State staffing standards. We also determined that Mountain View scheduled sufficient direct care employees to comply with the Medicaid requirement of 2.5 nursing hours per patient day. All 74 current direct care employees at Mountain View were properly licensed or certified and were currently in good standing as determined by the State.

However, Mountain View did not comply with the State background check requirement for one direct care employee. The Code of Georgia requires Mountain View to conduct background checks on all employment applicants hired after July 1, 1995. We also found differences in the direct hours of care that we calculated and the hours of care reported in the Nursing Home Compare website.

We recommend that Mountain View review and strengthen its internal controls to assure that it obtains background checks on all new direct care employees and prohibits direct care employees from working directly with the residents if the required background checks are not received by the facility as specified by the Code of Georgia. We also recommend that Mountain View establish a control to independently confirm the validity of the direct care hours that are provided to the Survey Agency for input into the Nursing Home Compare website.

Compliance with Federal and State Laws and Regulations

The Federal regulations discuss what nursing staff criteria nursing homes must meet to participate in the Medicare and Medicaid programs. Basically, Title 42, CFR, Section 483.30 requires three elements to be met for a facility to be considered as having sufficient staffing:

- (1) a licensed nurse designated “to serve as a charge nurse on each tour of duty”;
- (2) “a registered nurse for at least 8 consecutive hours a day, 7 days a week”; and
- (3) a registered nurse designated “to serve as director of nursing on a full time basis. The director of nursing may serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents.”

Georgia adds additional requirements to the Federal staffing requirements:

- (1) the Director must not also be the administrator; and
- (2) the facility must provide at least 2.5 hours of direct care per day per resident.

We determined that Mountain View, which was a 117 bed nursing facility, was in compliance with the five elements of the Federal and State regulations for three 2-week time periods we tested. During the three 2-week periods occurring in April, July, and October 2002, we determined that a charge nurse was assigned for each 8-hour shift. We also determined that the facility had at least one Registered Nurse (RN) for at least 8 consecutive hours per day for each 7-day period. We determined that an RN was designated to serve as the Director and was also different from the charge nurse. We determined that the facility had a Director that was not also the administrator. We determined that the facility provided at least 2.5 hours of direct care per day per resident of direct care. The following table illustrates Mountain View’s compliance with the regulations:

<i>Federal and State Staffing Requirements</i>	<i>April 2002</i>	<i>July 2002</i>	<i>October 2002</i>
<i>Charge nurse assigned for each 8-hour shift</i>	Yes	Yes	Yes
<i>At least 1 RN 8 hours/day for each 7-day period</i>	Yes	Yes	Yes
<i>Director different from the charge nurse</i>	Yes	Yes	Yes
<i>Director different from the Administrator</i>	Yes	Yes	Yes
<i>At least 2.5 hours of direct care per day per resident</i>	Yes	Yes	Yes

At the time of our review, Mountain View had 74 direct care staff. We verified that all RNs and Licensed Practical Nurses (LPNs) had a current license and that all Certified Nursing Assistants (CNAs) had a current certificate. We also verified the licenses of the RNs and LPNs and the certifications of CNAs online. The staffing allocations for nurses and assistants of the 74 direct care staff as well as the licensure and certification standings were:

	<i>RN</i>	<i>LPN</i>	
<i>Current License</i>	3 – Yes	21 – Yes	N/A
<i>Current Certification</i>	N/A	N/A	50 – Yes
<i>Good Standing on State Nurse Registry</i>	3 – Yes	21 – Yes	50 – Yes

Based on the results of our review, Mountain View met the critical elements of the Federal and State regulations. Therefore, we concluded that the facility was in compliance with Federal and State staffing requirements.

Incomplete Background Checks

Mountain View did not have evidence of a background check as required by the Code of Georgia for one direct care employee. This employee continued to work directly with the residents even though his background check was not obtained per Georgia State requirements. We were informed that the facility ran a background check on the employee, but the information was lost. Later, as a result of our inquiry, the facility obtained a background check on this employee. The background check obtained showed that the employee had no criminal record; therefore, the employee was not precluded from working directly with the residents.

Differences Between the Nursing Home Compare Website and OIG Calculations

We noted differences in the direct care hours provided to the Mountain View residents compared to those hours reported in the Nursing Home Compare website. Mountain View prepares a Facility Staffing form (CMS-671) and a Resident Conditions and Census form (CMS-672) for each survey period. The Survey Agency then inputs information on direct care hours shown on these forms into the Nursing Home Compare website. While we determined that the information contained in the forms agreed with the information in the website, we found differences in the hours in the website and the hours that we calculated relying on information for the same period furnished by the facility.

We calculated the direct care hours for the survey period, October 2002, using the CMS-671 and the CMS-672. The 2.88 direct care hours we calculated using the CMS-671 and CMS-672 agreed with the hours on the Nursing Home Compare website that showed 2.87 hours. Although these numbers substantially agreed, we noted differences in the direct care hours that we

calculated using the staff schedules and payroll records when compared to the direct care hours reported on the Nursing Home Compare website.

	<i>OIG Calculation</i>	<i>CMS-671 and CMS-672</i>	<i>Nursing Home Compare Website</i>
<i>October 2002</i>	2.72	2.88	2.87

There should be agreement between the direct care hours shown in the official nursing daily hour records and the information made available to the general public. Key data regarding Mountain View and other public nursing facilities is accessible by computer on the Nursing Home Compare website. Based on staff schedules and payroll records provided by Mountain View, we determined that Mountain View provided 2.72 direct care hours during the time of the Georgia State Agency's October 2002 survey. The 2.72 direct care hours we calculated using facility data was less than the 2.87 hours shown in the Nursing Home Compare website for the same time period – a difference of .15 direct care hours per resident per day or 5 percent.

We also noted that the 2.72 hours of direct care is less than the nationwide average of 3.9 hours and the Georgia Statewide average of 3.5 hours, both as of December 2002.

Recommendations

We recommend that Mountain View review and strengthen its internal controls to assure that it:

- obtains background checks on all new direct care employees and prohibits direct care employees from working directly with the residents if the required background checks are not received by the facility as specified by the Code of Georgia; and
- establishes a control to independently confirm the validity of the direct care hours that are provided to the Survey Agency for input into the Nursing Home Compare website.

Comments by the Mountain View Administrator

In a written response to our draft report, the Mountain View Administrator agreed with our findings and recommendations and stated that controls will be implemented to correct the deficiencies discussed in the OIG report. We have included the entire text of Mountain View's comments as an appendix to our report.

OIG Comments

We concur with the actions that Mountain View plans to take with respect to the recommendations in our report.

* * * *

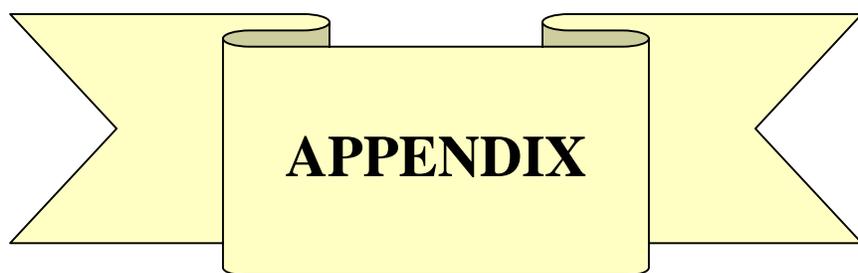
To facilitate identification, please refer to Report Number A-04-04-04000 in all correspondence related to this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles J. Curtis". The signature is written in a cursive style with a large, prominent initial "C".

Charles J. Curtis
Regional Inspector General
for Audit Services, Region IV

Enclosure





MOUNTAIN VIEW COMMUNITY LIVING CENTER

Long-Term Care, Skilled Nursing & Rehabilitation Services

February 4, 2004

Office of Inspector General
US Dept. of Health and Human Services
61 Forsyth Street, S.W., 3T41
Atlanta, GA 30303

Office of Audit Svcs.

FEB 09 2004

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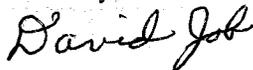
RE: Report #: A-04-04-04000
Mountain View Community Living Center

Dear Sir:

In response to the report provided by your office Mountain View Community Living Center will implement the following controls to correct the deficiencies noted in the OIG's report.

- 1) Continue to conduct employee background checks on all new direct care employees. Mountain View Community Living Center will also conduct biannual reviews of each direct care employee's file to insure that the background check is still in the file.
- 2) From our investigation we believe the difference in the direct care hours is due to one set of number reflecting total census, including bed hold days and leave days and the other calculations do not include those days. In the future we will take steps to insure that the patient days used in these calculations are consistent.

Sincerely,



David Job
Administrator

Cc: Neha Smith
Brian Scheri

ACKNOWLEDGMENTS

This report was prepared under the direction of Charles J. Curtis, Regional Inspector General for Audit Services, Atlanta. Other principal Office of Audit Services staff who contributed include:

Richard C. Edris, *Audit Manager*
Thomas Justice, *Senior Auditor*
Neha Shukla Smith, *Auditor in Charge*
Martyne Hough, *Auditor*
Keith Gore, *Auditor*
Janet Mosley, *Referencer*

For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.