

**Nursing Homes Cited with Immediate Jeopardy Deficiencies during the Pandemic:  
 Poor Results in Health Inspections, Low Staffing Levels**

Since March 2020, the Centers for Medicare & Medicaid Services (CMS) has limited surveys to two types: complaints and facility-reported incidents that states triage as immediate jeopardy and targeted infection control surveys.<sup>1</sup> The Center for Medicare Advocacy analyzed the 5700+ surveys publicly reported on June 4, 2020<sup>2</sup> and identified a total of 20 nursing facilities, nationwide, that were cited with immediate jeopardy deficiencies since March. This report describes those facilities. Not surprisingly, facilities cited with immediate jeopardy deficiencies generally have poor survey histories and low nurse staffing levels, are more likely to be operated on a for-profit basis, and had civil money penalties imposed in the prior three years.

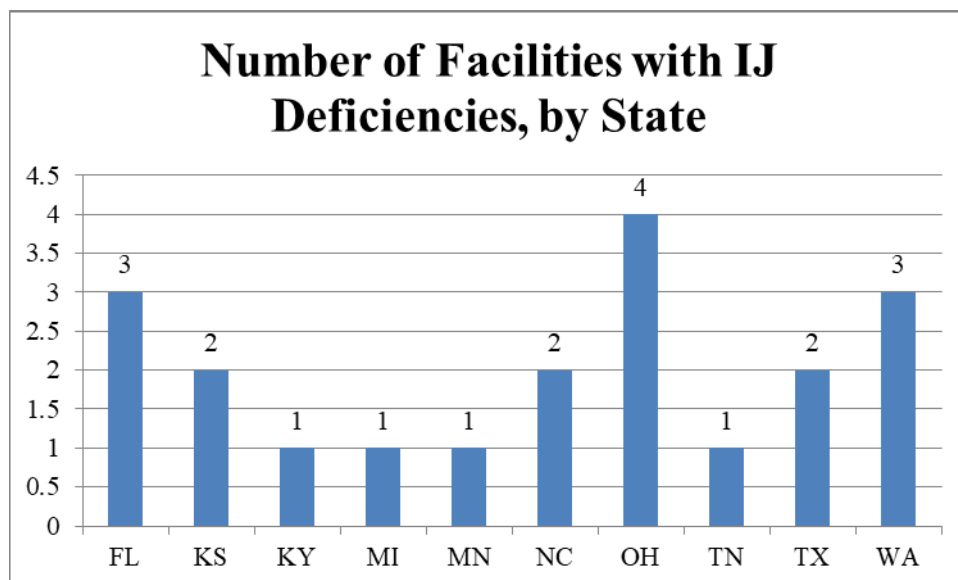
A table of the 20 facilities, their state, and the number of immediate jeopardy deficiencies cited appears at the end of this Report.

**Facilities with Immediate Jeopardy (IJ) Deficiencies**

Twenty facilities in 10 states (Florida, Kansas, Kentucky, Michigan, Minnesota, North Carolina, Ohio, Tennessee, Texas, and Washington State) were cited with a total of 42 immediate jeopardy deficiencies:

- 10 facilities: 1 IJ deficiency
- 4 facilities: 2 IJ deficiencies
- 4 facilities: 3 IJ deficiencies
- 1 facility: 4 IJ deficiencies
- 1 facility: 8 IJ deficiencies

The following chart shows how many facilities each state cited with IJ deficiencies.



**Which Deficiencies are Cited in these Immediate Jeopardy Surveys?**

Seventeen of the immediate jeopardy deficiencies were related to **abuse**: failure to protect residents from abuse (nine deficiencies) and related abuse tags (eight additional tags).

- Mary Scott Nursing Center, an Ohio nursing facility, was cited with three immediate jeopardies: abuse (F-600), failure to provide CPR (F-678); and failure to provide treatment for mental disorders or psychosocial adjustment difficulties (F-712). The March 11, 2020 survey of the facility-reported incident based the deficiencies on Resident 83’s putting a pillow over his roommate’s face, Resident 82, and suffocating him. Resident 83 was taken to jail and hanged himself. Resident 83 had a history of homicidal ideation and had gone to the nursing facility from the hospital, where he had been sent for running around a homeless shelter naked and saying he wanted to kill everyone. The nursing facility offered him counseling but he declined. Redaction of dates makes it unknowable how long Resident 83 had lived at the nursing facility.
- Heritage Park Rehabilitation and Healthcare, a Florida nursing facility surveyed March 14, 2020, was cited with three immediate jeopardy deficiencies: abuse (F-600); abuse and neglect policies and procedures (F-607); and failure to supervise residents to protect residents (F-689). Multiple residents left the facility regularly, returned drunk, fell and hurt themselves, and injured other residents with motorized wheelchairs.

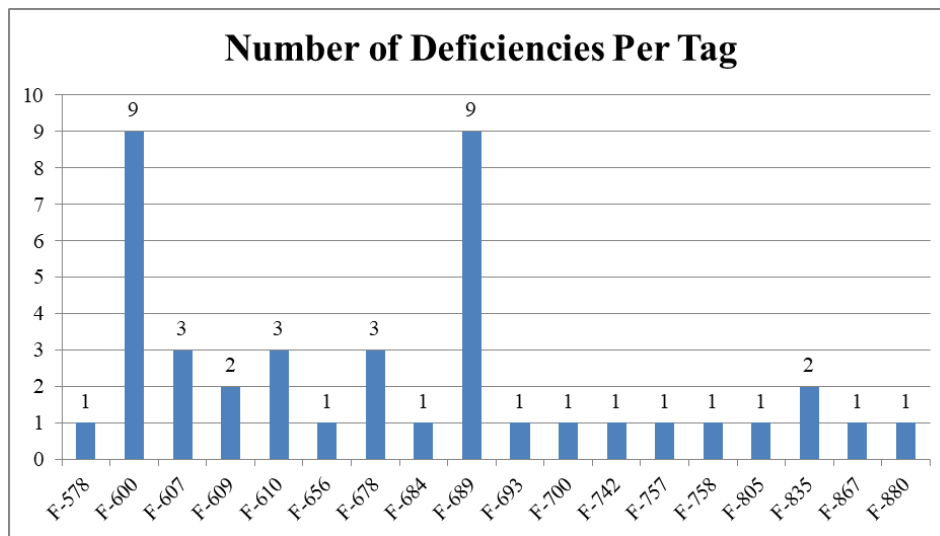
The second largest category of immediate jeopardy deficiencies (nine deficiencies) reflected failure to keep the facility free from accident hazards and failure to provide adequate supervision to residents to prevent accidents.

- Encore at Boca Raton, a Florida nursing facility surveyed March 10, 2020, was cited with two immediate jeopardy deficiencies: abuse (F-600); and supervision (F-689). Resident 4, who was on a mechanical altered diet and needed supervision while eating, took a brussel sprout from his roommate’s tray while the aide left the room and choked. He was hospitalized, intubated, mechanically ventilated, and moved to the intensive care unit when he had a urinary tract infection and needed IV sedation while on the ventilator.

The third largest category of immediate jeopardy deficiencies (three deficiencies) reflected failure to provide basic life support, including CPR.

F-Tag	Tag Description	# of Deficiencies Citing this F-Tag
F-578	Honor the resident's right to request, refuse, and/or discontinue treatment, to participate in or refuse to participate in experimental research, and to formulate an advance directive.	1
F-600	Protect each resident from all types of abuse such as physical, mental, sexual abuse, physical punishment, and neglect by anybody.	9
F-607	Develop and implement policies and procedures to prevent abuse, neglect, and theft.	3
F-609	Timely report suspected abuse, neglect, or theft and report the results of the investigation to proper authorities.	2
F-610	Respond appropriately to all alleged violations.	3
F-656	Develop and implement a complete care plan that meets all the resident's needs, with timetables and actions that can be measured.	1
F-678	Provide basic life support, including CPR, prior to the arrival of emergency medical personnel, subject to physician orders and the resident’s advance directives.	3
F-684	Provide appropriate treatment and care according to orders, resident’s preferences and goals.	1
F-689	Ensure that a nursing home area is free from accident hazards and provides adequate supervision to prevent accidents.	9

F-693	Ensure that feeding tubes are not used unless there is a medical reason and the resident agrees; and provide appropriate care for a resident with a feeding tube.	1
F-700	Try different approaches before using a bed rail. If a bed rail is needed, the facility must (1) assess a resident for safety risk; (2) review these risks and benefits with the resident/representative; (3) get informed consent; and (4) Correctly install	1
F-742	Provide the appropriate treatment and services to a resident who displays or is diagnosed with mental disorder or psychosocial adjustment difficulty, or who has a history of trauma and/or post-traumatic stress disorder.	1
F-757	Ensure each resident's drug regimen must be free from unnecessary drugs.	1
F-758	Implement gradual dose reductions(GDR) and non-pharmacological interventions, unless contraindicated, prior to initiating or instead of continuing psychotropic medication; and PRN orders for psychotropic medications are only used when the medication is ne	1
F-805	Ensure each resident receives and the facility provides food prepared in a form designed to meet individual needs.	1
F-835	Administer the facility in a manner that enables it to use its resources effectively and efficiently.	2
F-867	Set up an ongoing quality assessment and assurance group to review quality deficiencies and develop corrective plans of action.	1
F-880	Provide and implement an infection prevention and control program.	1



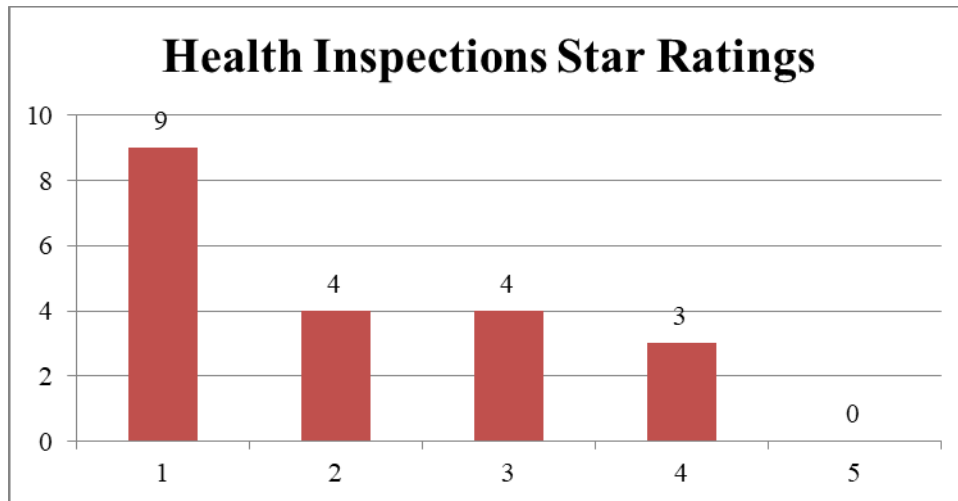
## Star Ratings on Nursing Home Compare

CMS provides star ratings on a five-point scale (with five stars the best) for Medicare and Medicaid-certified facilities for each of three categories – health inspections (standard surveys, complaint surveys, all unannounced), staffing, and quality measures (primarily self-reported). CMS then calculates an overall rating for each facility. The overall rating begins with the health inspection rating and is increased by one star for four or five stars in staffing or five stars in quality measures (or both) or is reduced by one star for one star ratings in staffing or quality measures (or both). A common pattern, illustrated below in the facilities discussed here, is that facilities boost their overall ratings by reporting resident assessment information that gets them five-star ratings in the quality measure domain.

## Health Inspections

As shown below, facilities with poor survey histories were more likely to be cited with an immediate jeopardy deficiency.

Thirteen of 20 facilities (65 percent) had one- or two-star ratings in health inspections; three of 20 facilities (15 percent) had a four-star rating in health inspection; no facility cited with an IJ deficiency had five stars in health inspections.



### Staffing Rating

Facilities cited with immediate jeopardy deficiencies had low nurse staffing ratios. Ten of 20 facilities (50 percent) had ratings of one or two stars in staffing; only four of 20 facilities (20 percent) had ratings of four or five stars in staffing.

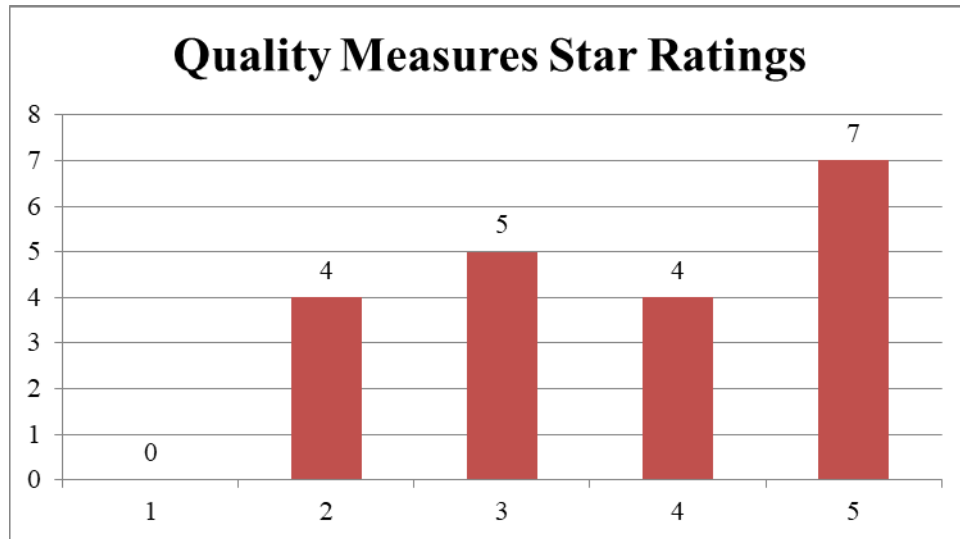


### Quality Measures Rating

As shown, most facilities have a high rating in the quality measures domain and very few facilities have a low rating in quality measures. Eleven of 20 facilities (55 percent) had four or five stars in the quality measures domain; only four of 20 facilities (20 percent) had four stars in the quality measures domain. No facility had one star in quality measures.

Nursing facilities have been gaming the quality measures ratings for a long time; gaming is not a new phenomenon. Evaluating the first five years of the federal rating system, 2009-2013, Abt Associates reported that four- and five-star ratings in the quality measures domain increased from 34.1 percent in January 2009 to

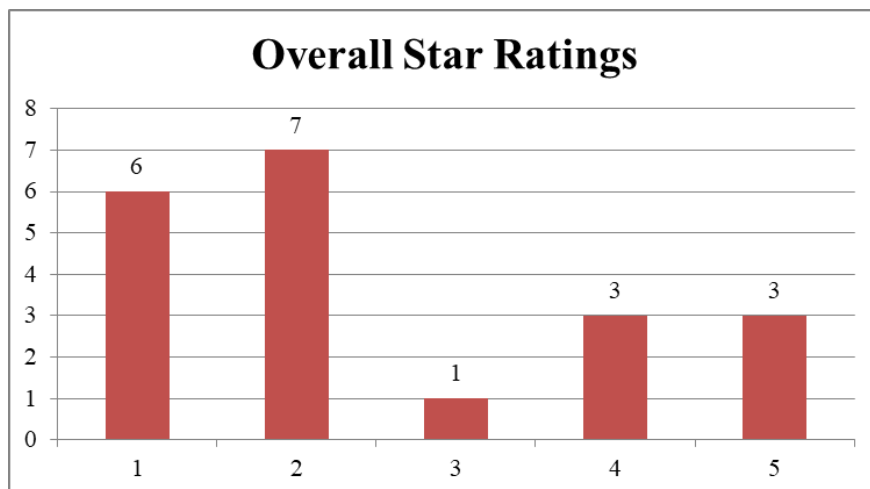
67.0 percent in July 2013, while one- and two-star ratings declined from 42.8 percent to 14.2 percent during the same period.<sup>3</sup> *The New York Times* reached a similar conclusion about nursing homes' gaming of the rating system.<sup>4</sup>



### Overall Rating

The high ratings in the quality measures domain boost many facilities' overall ratings. Thirteen of 20 facilities (55 percent) have one- or two-star overall ratings, the same number and percent as for health survey ratings. However, only six facilities had an overall rating of one star, compared to nine facilities with a one-star rating in health surveys; seven facilities had an overall rating of two stars, compared to four facilities with a one-star health rating.

Moreover, six of 20 facilities (30 percent) had overall ratings of four or five stars, although only three of 20 facilities (15 percent) had four-stars in health surveys (and none had a five-star rating in health surveys).



### Remedies

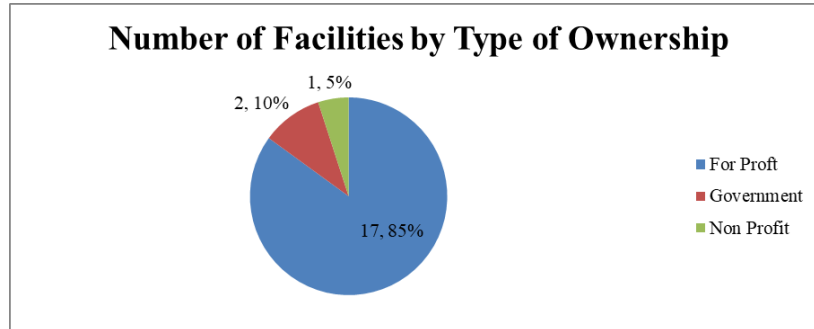
Ten of 20 facilities (50 percent) have had civil money penalties imposed; the average fine for the 10 facilities was \$48,423.60.

Two of 20 (10 percent) have denial of payment for new admissions imposed.

CMS does not provide comparative data on *Nursing Home Compare* that would allow for the calculation of the percentages of facilities that are sanctioned, on either a statewide or national basis, with either of these remedies. Nevertheless, the rates of federal sanctions reported here are high; 50 percent of nursing facilities nationwide are not typically sanctioned with fines and 10 percent of facilities are not typically sanctioned with denial of payment for new admissions.

## Ownership Status

Nursing facilities cited with immediate jeopardy deficiencies are more likely to be operated on a for-profit basis. Seventeen of 20 facilities (85 percent) with IJ deficiencies are for-profit facilities. In 2016, for-profit facilities represented 69.3 percent of facilities nationwide.<sup>5</sup>



## Conclusion

The nursing facilities cited with immediate jeopardy deficiencies since March 2020 during the COVID-19 pandemic stand out for their poor quality of care, relatively low staffing levels, comparatively high number of federal fines. Facilities cited with immediate jeopardy deficiencies during the pandemic are among the poorest quality facilities in the country.

### Nursing Facilities Cited with Immediate Jeopardy Deficiencies

Facility Name	State	Number of Of IJ Deficiencies
HERITAGE PARK REHABILITATION AND HEALTHCARE	FL	4
ENCORE AT BOCA RATON REHABILITATION AND NURSING CE	FL	2
PALM GARDEN OF VERO BEACH	FL	2
VILLAGE SHALOM INC	KS	2
FRANKLIN HEALTHCARE OF PEABODY LLC	KS	1
EDMONSON CENTER	KY	3
THE TIMBERS OF CASS COUNTY	MI	1
THE EMERALDS AT FARIBAULT LLC	MN	1
BARBOUR COURT NURSING AND REHABILITATION CENTER	NC	1
BRIAN CTR HLTH & REHABILITATIO	NC	1
SKLD DEFIANCE ILLUMINATE HC DEFIANCE	OH	1
VISTA CENTER AT THE RIDGE	OH	1
MARY SCOTT NURSING CENTER	OH	3
HARMONY COURT REHAB AND NURSING	OH	1
MT JULIET HEALTH CARE CENTER	TN	8
ST FRANCIS OF BELLINGHAM	WA	3
ENUMCLAW HEALTH & REHAB CENTER	WA	1
BENSON HEIGHTS REHABILITATION CENTER	WA	2
WINDSOR NURSING AND REHABILITATION CENTER OF SEGUI	TX	3
AUTUMN WINDS LIVING & REHABILITATION	TX	1

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<sup>1</sup> CMS, “Prioritization of Survey Activities,” QSO-20-20-All (Mar. 23, 2020), <https://www.cms.gov/files/document/qso-20-20-all.pdf>.

<sup>2</sup> CMS, “Nursing Home COVID-19 Data and Inspection Results Available on Nursing Home Compare” (Press Release, Jun. 4, 2020), <https://www.cms.gov/newsroom/press-releases/nursing-home-covid-19-data-and-inspections-results-available-nursing-home-compare>.

<sup>3</sup> Abt Associations, “Nursing Home Compare: The First Four Years of the Five-Star Quality Rating System” (PowerPoint at GSA Annual Scientific Meeting, Nov. 2013), slide 16, <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Downloads/2013-The-First-Four-Years-of-Five-Star.pdf>.

<sup>4</sup> Katie Thomas, “Medicare Star Ratings Allow Nursing Homes to Game the System,” *The New York Times* (Aug. 24, 2014), <https://www.nytimes.com/2014/08/25/business/medicare-star-ratings-allow-nursing-homes-to-game-the-system.html?searchResultPosition=3>.

<sup>5</sup> National Center for Health Statistics, Centers for Disease Control and Prevention, <https://www.cdc.gov/nchs/fastats/nursing-home-care.htm>.