

## Special Report

### Infection Control Deficiencies In Nursing Facilities: Qcor Data

The Center for Medicare Advocacy (Center) has reported on deficiencies cited at nursing facilities following targeted infection control surveys that state survey agencies conducted since March 2020. The Centers for Medicare & Medicaid Services (CMS) linked to these deficiencies on its public-facing website *Nursing Home Compare* on June 4, June 24, and July 29 and will continue to update the data the last Wednesday of each month. The surveys documented that less than 3% of facilities were cited with infection prevention and control deficiencies. According to the most recent CMS release on July 29, CMS cited 347 infection control deficiencies at 342 facilities, out of 16,987 infection control and immediate jeopardy surveys that were conducted since March. These surveys are not the entire story.

CMS has a separate database, [qcor.cms.gov](http://qcor.cms.gov), that also includes information about nursing facilities, among other health care providers. While QCOR does not include the targeted infection control surveys, it includes infection control deficiencies from other types of surveys.

The Center looked at QCOR on July 24 and searched for infection prevention and control deficiencies (F-880), at the immediate jeopardy level, that were cited since January 2020 (QCOR reports data by calendar year or fiscal year). QCOR identified 106 deficiencies as meeting these criteria. However,

- Only 90 nursing facilities were cited
- 19 of the 90 nursing facilities did not have any survey in 2020
- 32 of the 90 nursing facilities had a survey in 2020, but they were not cited with an infection prevention and control deficiency
- Only 39 nursing facilities cited 47 infection prevention and control deficiencies in 2020

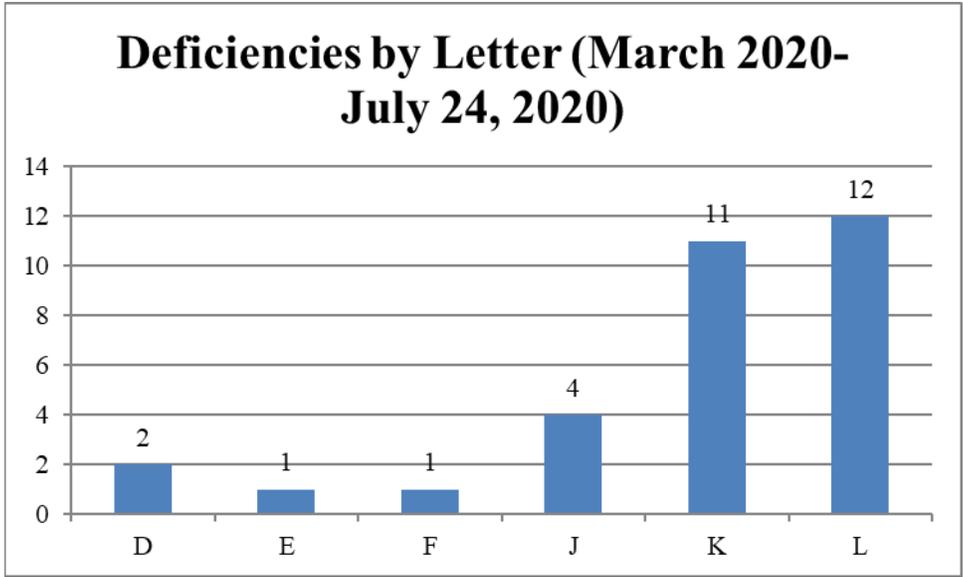
**The Center discusses below the 29 nursing facilities that were cited with 31 infection control deficiencies since March 2020, according to QCOR.**

Twenty-one of the 31 deficiencies (67.7%) were cited at the immediate jeopardy level.

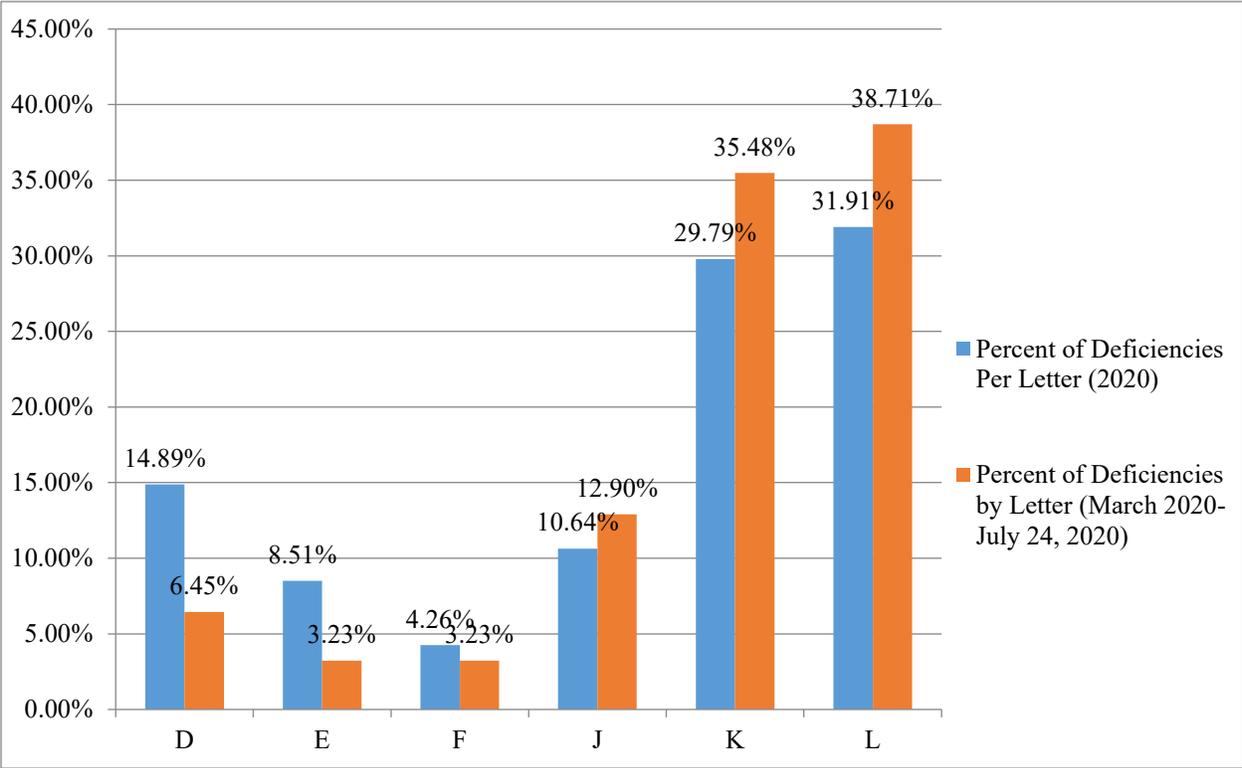
### Scope and Severity

CMS classifies deficiencies by the scope and severity of deficiencies.

The bar graph below reflects the number of residents affected by the infection prevention and control deficiency. Twelve deficiencies were considered widespread, affecting many residents.



Deficiencies cited since March were cited at higher scope and severity levels than deficiencies cited for the entire calendar year.



**Star Ratings**

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). Each of the domains is separately scored, as described in the Technical Users' Guide.<sup>1</sup>

The health (survey) domain is based on the number, scope, and severity of deficiencies identified during the three most recent annual surveys and most recent 36 months of complaint investigations; ratings are based on relative performance within a state, with the top 10% of facilities receiving five stars; the middle 70% of facilities receiving two, three, or four stars, and the bottom 20% receiving one star.

The staff domain uses two measures: registered nurse (RN) hours per resident per day and total nurse staffing hours (RNs, licensed practical nurses, and nurse aides) per resident per day. Scoring is done on a national basis, with reference to CMS's 2001 staffing study for the RN component.

The quality measures domain is based on 15 quality measures, nine long-stay measures, and six short-stay measures. Facilities are scored on national data, with no limits on percentages of facilities scored at each star level.

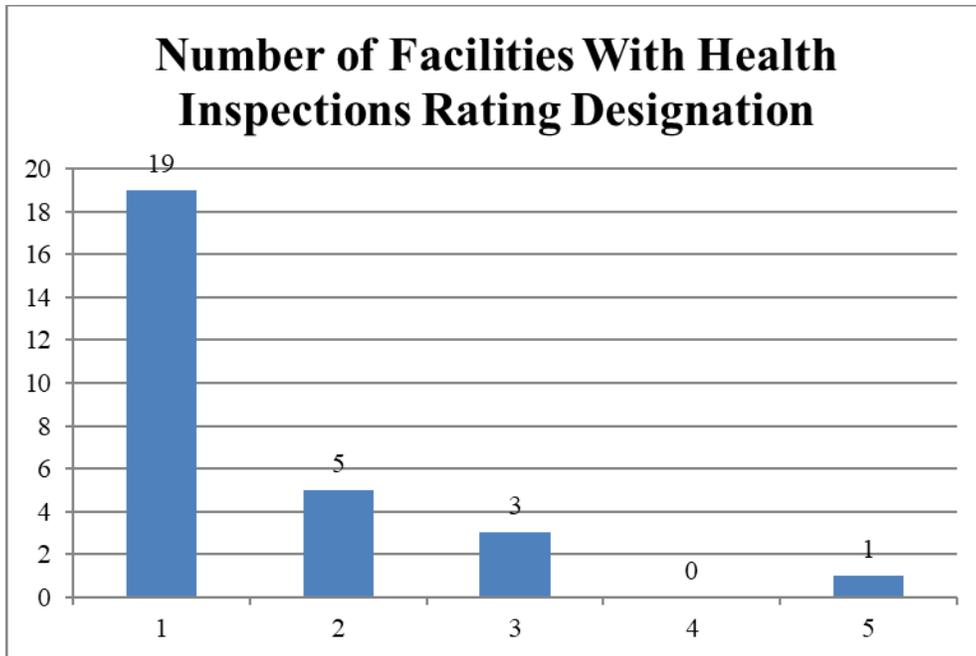
CMS then calculates an overall rating for each facility. The overall rating begins with the health inspection rating and is increased by one star each for four or five stars in staffing or five stars in quality measures (or both) or is reduced by one star each for one-star ratings in staffing or quality 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.

Since March 2020, 28 of the 29 facilities had star ratings posted. Special Focus Facilities (SFFs) are not rated; the one facility that was an SFF did not have star ratings.

### **Health Inspection Rating**

As shown below, facilities with poorer survey results were more likely to be cited with an infection prevention and control deficiency.

Since March 2020, 24 of the 28 facilities with star ratings that cited with an infection prevention and control deficiency (85.7%) had one or two stars in health inspection surveys. Only one facility with four or five stars (3.6%) in health inspection surveys was cited with an infection prevention and control deficiency.



### Staffing Ratings

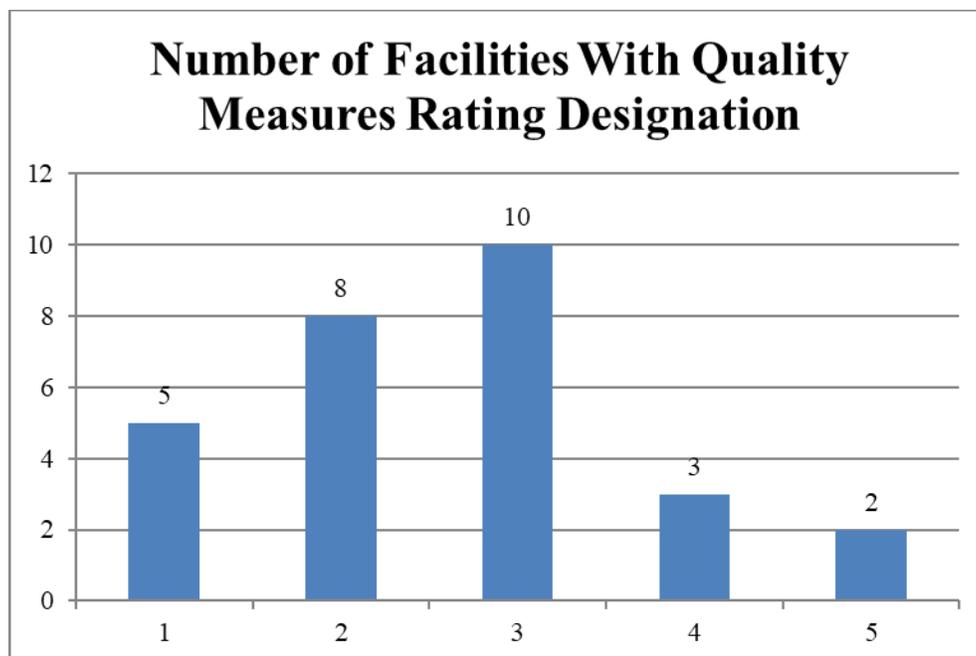
Since March 2020, 19 of 28 facilities with star ratings that were cited with an infection prevention and control deficiency (67.8%) had one or two stars in staffing; two facilities (7.1%) were cited with four stars in staffing; no facility had a five-star rating in staffing. One-star facilities, those with the lowest staffing levels, were five times as likely to be cited with an infection prevention and control deficiency as facilities with four stars, the second highest rating in staffing.



## Quality Measures Rating

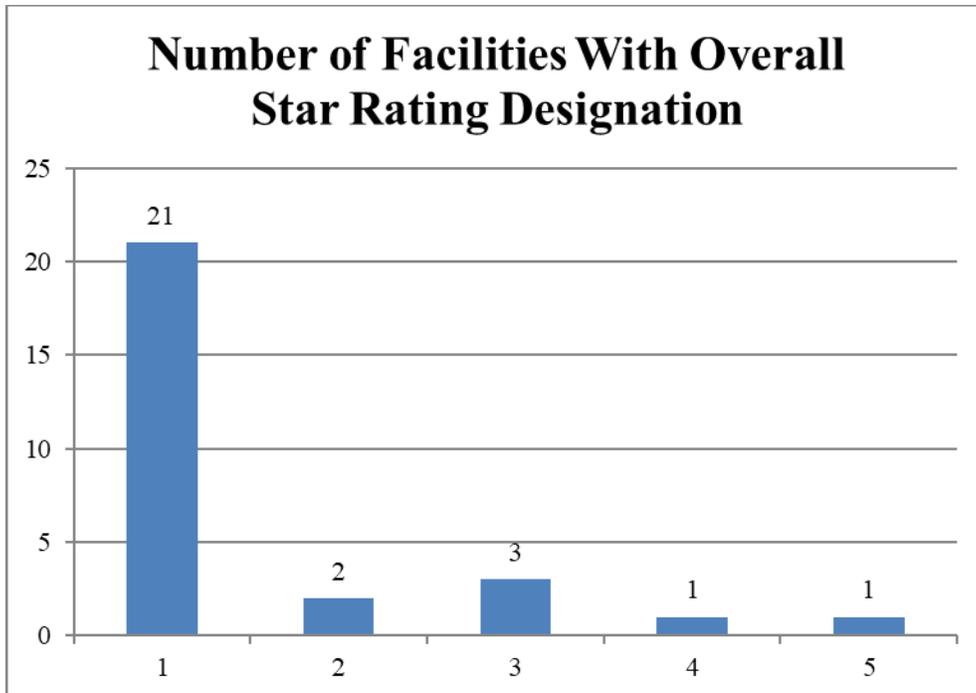
Nursing facilities have been gaming the quality measures ratings for a long time; gaming is not a new phenomenon. Evaluating the first five years of the federal rating system, 2009-2013, Abt Associates reported that four- and five-star ratings in the quality measures domain increased from 34.1 percent 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>2</sup> *The New York Times* reached a similar conclusion about nursing homes' gaming of the rating system.<sup>3</sup>

Since March 2020, 13 of the 28 facilities (46.4%) had one or two stars in quality measures; five of the 28 facilities (17.8%) had four or five stars in quality measures.



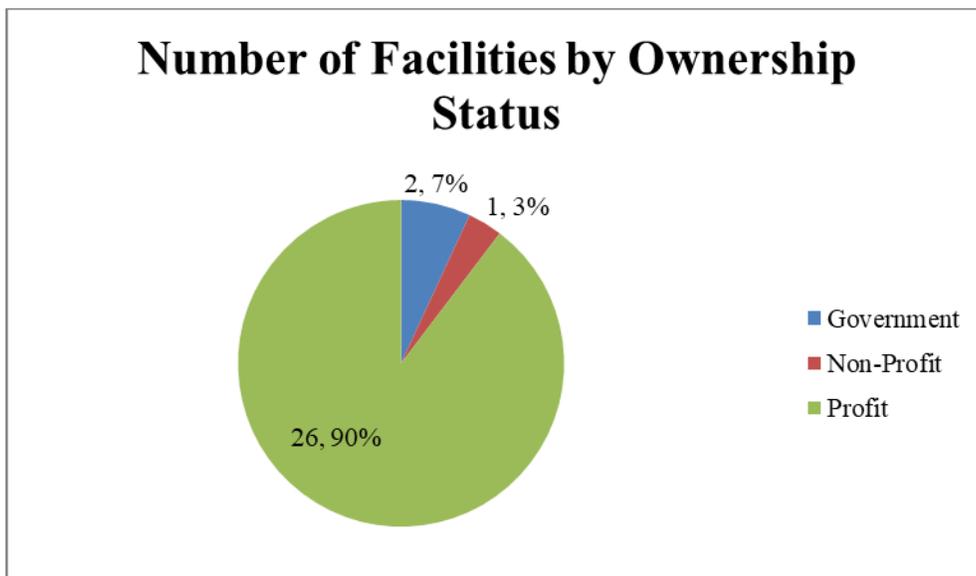
## Overall Ratings

Since March 2020, 21 of the 28 facilities (75.0%) had overall ratings of one or two stars. Only two of the 28 facilities (7.1%) had overall ratings of four or five stars.



### Ownership Status

Since March 2020, 26 of 29 facilities (89.6%) cited with infection prevention and control deficiencies were for-profit facilities.



In 2016, for-profit facilities represented 69.3% of facilities nationwide.<sup>4</sup>

## Penalties

Since March 2020, 18 of 29 facilities (62.1%) had financial penalties called civil money penalties (CMPs) imposed, averaging, for facilities with CMPs, \$65,616.94; 11 facilities (37.9%) did not have CMPs imposed.

Six of 29 facilities (20.7%) had denial of payment for new admissions imposed.

CMS does not provide comparative data on *Nursing Home Compare* to allow for the calculation of the percentages of facilities that are sanctioned, on either a statewide or national basis, for either of these remedies. Nevertheless, the rates of federal sanctions reported here are high; 62.1% of nursing facilities are not typically sanctioned with fines and 20.7% are not typically sanctioned with DPNA.

## Special Focus Facility and Candidates

CMS and states collectively identify Special Focus Facilities (SFFs) that have:

- “More problems than other nursing homes (about twice the average number of deficiencies),
- “More serious problems than most other nursing homes (including harm or injury experienced by residents), and
- “A pattern of serious problems that has persisted over a long period of time (as measured over the three years before the date the nursing home was first put on the SFF list).”<sup>v</sup>

There are 88 SFFs nationwide and approximately 400 SFF candidates, as of June 24.

The 29 facilities cited with an infection control deficiency since March 2020 included one SFF and six SFF candidates (24.1%).

Facilities cited with infection control deficiencies are approximately six as likely to be an SFF, SFF candidate, or recent SFF graduate as other facilities.

## Conclusion

Nursing facilities identified in [qcor.cms.gov](http://qcor.cms.gov) as having had immediate jeopardy deficiencies cited in infection prevention and control have extremely poor records.

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<sup>5</sup> CMS, Design for *Nursing Home Compare* Five-Star Quality Rating System: Technical Users’ Guide (Apr. 2020). <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Downloads/usersguide.pdf>.

<sup>2</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>3</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>.

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<sup>4</sup> National Center for Health Statistics, Centers for Disease Control and Prevention,  
<https://www.cdc.gov/nchs/fastats/nursing-home-care.htm>.

<sup>v</sup> CMS, Special Focus Facility (“SFF”) Program, <https://www.cms.gov/files/document/sff-posting-candidate-list-june-2020.pdf>.