BMFEA
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State of California Department of Justice

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OPERATION GUARDIANS

2001 ANNUAL REPORT FOR NORTHERN CALIFORNIA

(Inspections conducted between April 2000 and March 2001)

PROGRAM DESCRIPTION

Operation Guardians is a multi-agency task force established and led by Attorney General Bill Lockyer to conduct surprise, on-site inspections of California's skilled nursing home facilities. The task force aims to protect and help improve the quality of care for elderly and dependent adult patients by identifying and correcting violations of applicable federal, state, and/or local laws and regulations.

Working together on the task force are regulatory and law enforcement officials, such as district attorneys, city attorneys, fire marshals, building code inspectors, and geriatric care specialists, including physicians from the state's top medical schools.

Since its establishment in late March 2000, Operation Guardians has expanded to twelve counties. As more resources become available, the Attorney General plans to expand this pioneering program to include all fifty-eight counties in California. Operation Guardians currently is present in the following counties:

Alameda	Fresno	Los Angeles	Monterey
Napa	Riverside	Sacramento	San Bernardino
San Diego	Santa Barbara	Santa Clara	Ventura

Regular inspections no less than every 15 months are conducted by the California Department of Health Services (DHS), which is responsible for licensing, regulating, and promoting compliance among the state's approximately 1,500 skilled nursing home facilities. Operation Guardians inspections complement those conducted by the DHS and demonstrate a multi-prong approach by the State of California to protect the health, safety, and welfare of the more than 250,000 patients who reside in these facilities.

OPERATION GUARDIANS INSPECTION METHODOLOGY

Facilities are selected at random by the Department of Justice's Bureau of Medi-Cal Fraud and Elder Abuse. To maintain the program's integrity, no advance notice is provided to the facility to be inspected nor to allied agencies until the day the inspection begins.

Typically, an Operation Guardians inspection team is comprised of the following:
- < two Special Agents and one forensic auditor from the Department of Justice's Bureau of Medi-Cal Fraud and Elder Abuse;
- < the local fire inspector and/or building code inspector; and
- < a medical doctor specializing in geriatric medicine from the medical school of either the University of Southern California or the University of California at Los Angeles.

All efforts are made to not disrupt the facility's normal operations and patient care. The members of the Operation Guardians inspection team perform their roles discreetly and professionally with particular focus on not creating an atmosphere of anxiety or concern for the facility's residents.

The Operation Guardians inspection team generally uses the inspection guidelines and survey tools developed by the Health Care Financing Administration, an agency of the United States Department of Health and Human Services. These guidelines and survey tools are used across the United States and represent the generally recognized criterion by which the operation of nursing home facilities are appraised.

The inspections typically last six hours and are followed by an exit interview with the facility staff for the purpose of disclosing problem areas requiring remediation, except those which rise to the level of needing further investigation for potential criminal, civil, and/or administrative enforcement action by a law enforcement, regulatory, or licensing agency.

OPERATION GUARDIANS FINDINGS

The Operation Guardians program conducted 22 inspections during its first year of operation in Northern California. The following is a breakdown of the six Northern California counties where Operation Guardians has been established and the number of inspections completed in each:

COUNTY	# OF LICENSED FACILITIES	# OF INSPECTIONS COMPLETED	MONTH AND YEAR OF ESTABLISHMENT
Alameda	79	6	July 2000
Fresno	44	4	October 2000

COUNTY	# OF LICENSED FACILITIES	# OF INSPECTIONS COMPLETED	MONTH AND YEAR OF ESTABLISHMENT
Monterey	17	2	September 2000
Napa	13	1	November 2000
Sacramento	46	6	June 2000
Santa Clara	63	3	September 2000

Results of the 22 inspections generally fell across the spectrum of compliance with federal and state standards of care, from near-complete compliance to levels of non-compliance which triggered referrals to law enforcement, regulatory, and/or licensing agencies. However, the majority of the facilities fell somewhere in the middle - - - substantial compliance with the federal and state standards but not being completely free of problems which impact the safety, welfare, and/or quality of life of their residents.

The results provided in this report do not expound on the problems found during the inspections that were referred to a law enforcement, regulatory, and/or licensing agency for further investigation and possible criminal, civil, and/or administrative enforcement action. In the interests of justice, this report does not provide any identifying facts about those referrals in order to ensure that the investigating agency can pursue the matter(s) without concern that evidence will be tampered with or destroyed.

The following are findings based upon those 22 inspections:

*ENVIRONMENTAL NON-COMPLIANCE:*

Of the 22 inspections completed, 21 found compliance problems based on substandard maintenance of the grounds or the building which, to varying degrees, violated their responsibility to provide a habitable, safe, and livable environment for their residents. The following were <u>some</u> of the problems identified during the inspections:

- < foul odors from urine and fecal matter
- < loose handrails
- < dilapidated residential living quarters
- < infestation by pests (e.g. ants, flies, wasps, bees, and/or gnats)
- < mildew
- < hazardous walking surfaces
- < broken windows

*PATIENT CARE NON-COMPLIANCE:*

Of the 22 inspections completed, 20 found compliance problems related to patient care. The following were <u>some</u> of the problems identified during the inspections:

- < failure to adequately document the patient's care and condition
- < failure to completely implement medical staff's orders
- < poor maintenance of emergency medical equipment
- < the unsafe storage of controlled substances
- < malfunctioning call lights or non-response to call lights
- < alleged abuse not reported to proper authorities

- < medical staff not making required rounds
- < preventable injuries and health problems

*ADMINISTRATIVE NON-COMPLIANCE:*

Of the 22 inspections completed, 15 found compliance problems related to the oversight of personnel matters, patient trust accounts, and other administrative requirements. The following were some of the problems identified during the inspections:

- < personnel files of licensed care staff lacking any evidence of proper, up-to-date licensure
- < poor accounting practices
- < patient identification tags were missing
- < patient discharge records were not properly maintained

*FIRE SAFETY VIOLATIONS:*

Of the 22 inspections completed, 8 found violations of local fire safety ordinances that if left unabated could have resulted in serious harm or death. The following are some of the problems identified during the inspections:

- < unsafe chemical storage
- < inoperable fire extinguishers and/or fire alarms
- < obstructed exits
- < exposed cables
- < improperly operating fire doors

*STAFFING LEVEL NON-COMPLIANCE:*

Of the 22 inspections completed, 2 found compliance problems with state and federal laws governing proper staffing levels for skilled nursing home facilities. State law requires, at a minimum, 3.2 hours of nursing care (i.e. Certified Nursing Assistants, Licenced Vocational Nurses, Registered Nurses, or other appropriately certified staff) per patient per day. This does not include housekeeping, maintenance, kitchen, clerical or other non-certified staff. The staffing levels that must be maintained vary and must be at such a level to adequately care for all patient needs. For instance, if a facility is populated by high need patients with substantial medical difficulties, a ratio exceeding the minimum 3.2 hours would be necessary. Moreover, federal regulations require "sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psycho-social well-being of each resident."

*OPERATION GUARDIANS IS MAKING A DIFFERENCE:*

- < Of the three Northern California facilities recently revisited (i.e. a follow-up surprise inspection) by Operation Guardians, all had either corrected or were in the process of correcting the problems brought to their attention during the initial inspection.
- < Statewide, fifty-three referrals were made to a combination of law enforcement, regulatory, and licensing agencies for further investigation and, if warranted, possible criminal, civil, and/or administrative enforcement action.
- < The California Department of Health Services has responded to Operation

Guardians' referrals by conducting complaint investigations. To date, at least six facilities statewide have received DHS-levied deficiencies substantiating Operation Guardians' findings.

< All inspected facilities either orally or in writing acknowledged some or all of the problems identified by Operation Guardians at their respective facility and committed to fixing most, if not all, of those problems.

< Of the numerous fire safety-related violations uncovered as a result of Operation Guardians inspections, all have been corrected.