



MEMORANDUM

TO: The Honorable Phil Bredesen, Governor
The Honorable John S. Wilder, Lieutenant Governor
The Honorable Jimmy Naifeh, Speaker of the House of Representatives

FROM: Kenneth S. Robinson, MD, Commissioner, Department of Health

DATE: February 11, 2004

SUBJECT: 2003 Nursing Home Inspection and Enforcement Activities

Attached is the report mandated by the Nursing Home Compassion, Accountability, Respect and Enforcement Reform Act of 2003.

This report includes the following:

- Number of licensed facilities and bed count
- Top 10 deficiencies cited for skilled facilities and nursing facilities dealing with health issues
- Top 10 deficiencies cited for skilled facilities and nursing facilities dealing with fire safety issues
- List of state civil penalties cited
- List of federal civil penalties cited
- Nurse Aide Registry and Abuse Registry activity
- List of nursing home rules either proposed or became effective in 2003
- Copy of the Nursing Home Compassion, Accountability, Respect & Enforcement Reform Act of 2003

Please feel free to contact me if you should have any questions.

sgp

EXECUTIVE SUMMARY

Deficiencies cited in the State of Tennessee for 2003 are consistent with deficiencies cited across the region and the nation. The average number of deficiencies cited in Tennessee per nursing home was 6.7 deficiencies compared to 5.9 nationwide and 6.4 within the eight southeastern states (Region IV). The number of immediate jeopardy deficiencies (threat or potential harm to the health or safety of residents) identified in the state during the survey process has increased slightly from 2001 to 2002, but decreased in 2003 – twenty-eight (28) in 2001 to thirty-four (34) in 2002 and twenty-six (26) in 2003.

Of the 343 licensed nursing homes in Tennessee, the following citations were identified:

- Twenty (20) nursing homes were cited with Immediate Jeopardy substandard level of care in 2003.
- Eleven (11) nursing homes were cited with substandard level of care (less than Immediate Jeopardy).
- Forty-seven (47) nursing homes were cited with a Federal Civil Penalty for a total assessed amount of \$919,791.
- Forty-five (45) nursing homes were cited a State Civil Penalty for a total assessed amount of \$41,750.

The number of complaints received in the department is monitored and maintained on a federal software program. The software program tracks complaints on all health care facilities. The following statistical data came from that program:

- There are currently 343 nursing homes in the state of Tennessee.
- During 2003 there were 2,059 complaints for all health care facilities.
- Total nursing home complaints were 1,243 or 60 percent of the total number of complaints.
- Nursing home complaints decreased 13 percent from 2002 to 2003.
- There were 281 nursing homes with one or more complaints or 82 percent of the total nursing homes.
- There were 44 nursing homes with ≥ 10 complaints or 12.8 percent of the total nursing homes.
- There were 21 nursing homes with ≥ 20 complaints or 6 percent of the total nursing homes.
- The number of nursing homes with substantiated complaints:
 - 2001 – 107 nursing homes or 31 percent of total
 - 2002 – 100 nursing homes or 29 percent of total
 - 2003 – 165 nursing homes or 40 percent of total
- The overall percentage of substantiated complaints in all facility types increased from 27 percent in 2002 to 28 percent in 2003.

The number of unusual events/incidents reported in 2003 for all facilities was 4,665. Unusual incidents reported by nursing homes were 3,161 or 68 percent of the total number of incidents reported. With the improvements in the monitoring of unusual

incidents, the nursing homes have reduced the number of reported incidents in year 2000 to 2003 by 48 percent (6,099 reported in 2000 and 3,161 reported in 2003). Reductions in the reported incidents can be attributed to the development of the interpretative guidelines that define what is included or excluded. In addition to the interpretative guidelines, the list identified in the Health Data Reporting Act of 2002 also contributed to the reduction of unnecessary reporting. Nursing homes had a history prior to 2001 of over-reporting because of the fear of federal fines associated with failure to report.

Changes in 2003 Affecting Nursing Home Oversight:

Paid Feeding Assistants

- The federal government, for the first time, has agreed to permit nursing homes to expand the number of persons who may assist in feeding their residents. The ability to use paid feeding assistants will have an impact on nursing home oversight. Using feeding assistants has been a long time request by the long term care advocates of the Centers for Medicare & Medicaid. The final rule was published in the Federal Register on September 26, 2003 with an effective date of October 27, 2003.
- This rule provides states with the flexibility to allow long term care facilities to utilize paid feeding assistants to feed residents, after their successful completion of a State Approved Paid Feeding Assistant Training Course. Criteria for resident selection will be based on a resident's latest comprehensive clinical assessment and the charge nurse's clinical assessment of the level of competency required to safely feed the resident. The resident's plan of care will document use of paid feeding assistants as an approach to care. Paid feeding assistants will be allowed to feed only those residents who have no complicated feeding problems.
- Residents and facilities stand to benefit tremendously from implementation of this rule. Facility employees, including but not limited to, dietary, laundry, clerical, housekeeping, etc. who have successfully completed a paid feeding assistant training course will be allowed to feed appropriately identified residents during meal and/or snack time.

Nursing Home Quality Initiative

- The Centers for Medicare and Medicaid Services (CMS) have adopted ten quality measures as part of a national change initiative that shifts from quality assurance to quality initiatives. Quality measures are utilized in the public reporting on CMS's nursing home compare website. This website, www.medicare.gov, provides in a timely fashion information regarding nursing home quality of care and can be used in the process of making an informed selection should a potential resident or family need to consider a nursing home for themselves or a loved one.

The quality measures for chronic care consist of:

- Residents whose need for help with daily activities has increased

- Residents who have moderate to severe pain
- Residents who were physically restrained
- Residents who spent most of their time in bed or in a chair
- Residents whose ability to move about in and around their room got worse
- Residents with a urinary tract infection
- Residents who have become more depressed or anxious
- High risk residents who have pressure sores
- Low risk residents who have pressure sores
- Low risk residents who lose control of their bowels or bladder
- Residents who have/had a catheter inserted and left in their bladder

The quality measures for post-acute care consist of:

- Short stay residents who had moderate to severe pain
- Short stay residents with delirium
- Short stay residents with pressure sores

Nursing home quality initiative partners for Tennessee are:

- 1) Tennessee Health Care Association
- 2) Vanderbilt University School of Medicine
- 3) Tennessee Commission on Aging and Disability, Ombudsman Program
- 4) Tennessee Department of Health – Division of Health Care Facilities

Quality Improvement Organization

- The Centers for Medicare & Medicaid have contracted with Quality Improvement Organizations (QIO) in each state to promote awareness and use of publicly reported nursing home quality measures and to provide assistance to nursing homes. The QIO will provide information and assistance to facilities to achieve better performance. The name of Tennessee's organization is Tennessee Center for Healthcare Quality, also known as Q Source, who works with nursing homes to promote improvement and excellence in care. Their mission does not include inspection and enforcement around regulatory standards. They serve as non-regulatory partners with nursing homes to facilitate quality improvement. Q Source, with input from nursing homes and the state survey agency, selected the following quality measures to address:

Five (5) Measures for Long-Stay Residents:

- Residents With Loss of Ability in Basic Daily Tasks
- Residents With Infections
- Residents With Pain
- Residents With Pressure (bed) Sores
- Residents in Physical Restraints

Three (3) Measures for Short-Stay Residents:

- Residents With Delirium
- Residents Who Have Improved Ability to Walk
- Residents in Physical Restraints

CMS reports improvement in the following outcomes:

- The percent of residents with chronic pain dropped by more than 30 percent (from 10.7 percent to 7.3 percent), and the reduction has been seen in every state. Nationally, the chronic pain measure improved each quarter since the initial rollout in November 2002.
- The percent of residents who were physically restrained declined by 15 percent (from 9.7 percent to 8.2 percent) nationally and has been seen in 92 percent of all states. Nationally, the daily physical restraint measure has improved each quarter since the initial rollout in November 2002.
- The percent of short-stay residents who experienced pain decreased nationally by 11 percent in one year (from 25.4 percent to 22.6 percent).

The Pressure Ulcer measure has risen slightly over the past 12 months, (from 8.5 percent to 8.8 percent). However, the trend is toward declining performance on this measure in 82 percent of states, so it is a widespread finding. It is not possible to determine if this change means that clinical care has deteriorated. CMS and the QIOs are working closely with nursing homes to monitor this measure, and assure that care does indeed improve. As clinicians focus on a given kind of care (such as skin care), they also become more accurate in measurement.

Training & Educational Sessions

- The Division of Health Care Facilities spent approximately 47 hours of educational training for nursing home facility staff focusing on changes in rules and regulations and reporting of unusual events.

A copy of this report is available at www.tennessee.gov/health .

MONTHLY REPORT OF LICENSED FACILITIES AND BEDS

January, 2004

FACILITY TYPE	# OF LICENSED FACILITIES	# OF LICENSED BEDS
HOSPITALS	143	23,596
NURSING HOMES	343	38,198
HOMES FOR THE AGED	155	3,235
ASSISTED CARE LIVING FACILITIES	184	10,669
ALCOHOL AND DRUG FACILITIES	310	1,561
RESIDENTIAL HOSPICE	<u>3</u>	<u>56</u>
SUB-TOTAL	1,138	77,315
HOME HEALTH AGENCIES	158	-0-
ESRD	121	-0-
HOME MEDICAL EQUIPMENT	251	-0-
HOSPICE	55	-0-
PROFESSIONAL SUPPORT SERVICES	110	-0-
AMBULATORY SURGICAL TREATMENT CTR	134	-0-
BIRTHING CENTERS	<u>3</u>	<u>-0-</u>
	832	-0-
TOTAL	1,970	77,315

RUN DATE OF REPORT: 01/05/2004

TOP 10 "HEALTH DEFICIENCIES" CITED IN 2003
 COMPARISON OF DEFICIENCY PATTERNS IN FREQUENCY OF OCCURRENCE SEQUENCE
 DEFICIENCY LISTINGS FOR **SKILLED NURSING FACILITIES**

TOTALS ARE BASED ON THE CURRENT
 SURVEY FOR ACTIVE PROVIDERS ONLY

REGION: IV ATLANTA DEFICIENCY TYPE: ALL

SEQUENCE: BASED ON DEFICIENCIES FOR THE STATE: TENNESSEE

		AL	FL	GA	KY	MS	NC	SC	TN	REGION	NATION
** TOTAL # FACILITIES ==>		225	688	334	295	165	420	178	305	2,610	14,943
35H2	F0371 STORE/PREPARE/DISTRIBUTION FOOD UNDER SANITARY CONDITIONS AND SERVICES TO ATTAIN OR MAINTAIN	102 45.33%	305 44.33%	122 36.53%	101 34.24%	56 33.94%	143 34.05%	73 41.01%	111 36.39%	1,013 38.81%	4,649 31.11%
25	F0309 PROVIDE NECESS CARE THE HIGHEST PRACTICABLE PHYSICAL MENTAL AND PSYCHOSOCIAL WELL-BEING	24 10.67%	120 17.44%	147 44.01%	83 28.14%	49 29.70%	108 25.71%	71 39.89%	104 34.10%	706 27.05%	3,721 24.90%
60E	F0432 DRUGS STORED IN LOCKED COMPARTMENTS UNDER PROPER TEMPERATURE CONTROLS	12 5.33%	143 20.78%	20 5.99%	33 11.19%	7 4.24%	18 4.29%	12 6.74%	90 29.51%	335 12.84%	953 6.38%
25D2	F0316 APPROPRIATE TREATMENT FOR RESIDENTS INCONTINENT OF BLADDER	35 15.56%	65 9.45%	59 17.66%	44 14.92%	12 7.27%	41 9.76%	42 23.60%	70 22.95%	368 14.10%	1,583 10.59%
20K2	F0280 DEVELOPMENTPLANS/ PREP/REVIEW OF COMPREHENSIVE CARE	26 11.56%	117 17.01%	26 7.78%	76 25.76%	18 10.91%	18 4.29%	20 11.24%	68 22.30%	369 14.14%	1,411 9.44%
20K3	F0281 SERVICES PROVIDED MEET PROFESSIONAL, STANDARDS OF QUALITY	33 14.67%	180 26.16%	71 21.26%	69 23.39%	22 13.33%	119 28.33%	32 17.98%	66 21.64%	592 22.68%	3,024 20.24%
20K1	F0279 DEVELOP COMPREHENSIVE CARE PLANS	43 19.11%	178 25.87%	38 11.38%	88 29.83%	10 6.06%	33 7.86%	11 6.18%	64 20.98%	465 17.82%	2,298 15.38%
25K	F0328 PROPER TREATMENT/CARE FOR SPECIAL CARE	2 0.89%	30 4.36%	34 10.18%	6 2.03%	2 1.21%	28 6.67%	42 23.60%	60 19.67%	204 7.82%	784 5.25%
25H1	F0323 FACILITY IS FREE OF ACCIDIENT HAZARDS	31 13.78%	108 15.70%	108 32.34%	72 24.41%	17 10.30%	74 17.62%	32 17.98%	60 19.67%	502 19.23%	3,013 20.16%
15A	F0241 DIGNITY	41 18.22%	183 26.60%	51 15.27%	36 12.20%	41 24.85%	75 17.86%	28 15.73%	56 18.36%	511 19.58%	2,221 14.86%

JE/G5074026/BHLR

RUN DATE OF REPORT: 01/05/2004

TOP TEN "HEALTH DEFICIENCIES" CITED 2003
 COMPARISON OF DEFICIENCY PATTERNS IN FREQUENCY OF OCCURRENCE SEQUENCE
 DEFICIENCY LISTINGS FOR NURSING FACILITIES

TOTALS ARE BASED ON THE CURRENT
 SURVEY FOR ACTIVE PROVIDERS ONLY

REGION: IV ATLANTA

DEFICIENCY TYPE: ALL

SEQUENCE: BASED ON DEFICIENCIES FOR THE STATE: TENNESSEE

			AL	FL	GA	KY	MS	NC	SC	TN	REGION	NATION
** TOTAL # FACILITIES ==>			3	4	28	0	39	2	0	32	108	1,390
35H2	F0371	STORE/PREPARE/DISTRIBUTE FOOD UNDER SANITARY CONDITIONS	1 33.33 %	0 0.00%	13 46.43%	0 0.00%	12 30.77%	0 0.00%	0 0.00%	12 37.50%	38 35.19%	404 29.06%
60E	F0432	DRUGS STORED IN LOCKED COMPARTMENTS UNDER PROPER TEMPERATURE CONTROLS	0 0.00%	0 0.00%	2 7.14%	0 0.00%	2 5.13%	0 0.00%	0 0.00%	11 34.38%	15 13.89%	80 5.76%
25M1	F0332	MEDICATION ERROR RATES OF 5% OR MORE CONSIDERED SIGNIFICANT MEDICATION ERROR RATE	0 0.00%	0 0.00%	3 10.71%	0 0.00%	1 2.56%	0 0.00%	0 0.00%	9 28.13%	13 12.04%	105 7.55%
65B3	F0444	WASH HANDS WHEN INDICATED	0 0.00%	0 0.00%	2 7.14%	0 0.00%	1 2.56%	0 0.00%	0 0.00%	7 21.88%	10 9.26%	124 8.92%
65A	F0441	FACILITY ESTABLISHES INFECTION CONTROL PROGRAM	0 0.00%	0 0.00%	3 10.71%	0 0.00%	3 7.69%	0 0.00%	0 0.00%	7 21.88%	13 12.04%	170 12.23%
25H2	F0324	SUPERVISION/DEVICES TO PREVENT ACCIDENTS	0 0.00%	0 0.00%	5 17.86%	0 0.00%	2 5.13%	0 0.00%	0 0.00%	7 21.88%	14 12.96%	219 15.76%
20K1	F0279	DEVELOP COMPREHENSIVE CARE PLANS	1 33.33 %	0 0.00%	1 3.57%	0 0.00%	1 2.56%	0 0.00%	0 0.00%	7 21.88%	10 9.26%	166 11.94%
25	F0309	PROVIDE NECESSARY CARE AND SERVICES TO ATTAIN OR MAINTAIN PHYSICAL, MENTAL, AND PSYCHOSOCIAL WELL-BEING	1 33.33 %	0 0.00%	10 35.71%	0 0.00%	10 25.64%	0 0.00%	0 0.00%	6 18.75%	27 25.00%	225 16.19%
20K2	F0280	DEVELOPMENT/PREP/REVIEW OF COMPREHENISVE CARE PLAN	1 33.33 %	0 0.00%	6 21.43%	0 0.00%	7 17.95%	0 0.00%	0 0.00%	6 18.75%	20 18.52%	118 8.49%
15A	F0241	DIGNITY	0 0.00%	1 25.00%	4 14.29%	0 0.00%	8 20.51%	0 0.00%	0 0.00%	6 18.75%	19 17.59%	130 9.35%

JE/G3044026/BHLR

TOP 10 "LIFE SAFETY CODE" DEFICIENCIES CITED IN 2003
 COMPARISON OF DEFICIENCY PATTERNS IN FREQUENCY OF OCCURRENCE SEQUENCE
 DEFICIENCY LISTINGS FOR NURSING FACILITIES

TOTALS ARE BASED ON THE CURRENT
 SURVEY FOR ACTIVE PROVIDERS ONLY

REGION: IV ATLANTA DEFICIENCY TYPE: LIFE SAFETY SEQUENCE: BASED ON DEFICIENCIES FOR THE STATE: TENNESSEE

		AL	FL	GA	KY	MS	NC	SC	TN	REGION	NATION
** TOTAL # FACILITIES ==>		3	4	28	0	39	2	0	32	108	1,390
K0130	OTHER*	0	0	7	0	1	0	0	10	18	170
		0.00%	0.00%	25.00%	0.00%	2.56%	0.00%	0.00%	31.25%	16.67%	12.23%
K0067	VENTILATING EQUIPMENT	0	0	2	0	0	0	0	10	12	159
		0.00%	0.00%	7.14%	0.00%	0.00%	0.00%	0.00%	31.25%	11.11%	11.44%
K0064	PORTABLE FIRE EXTINGUISHERS	0	0	3	0	1	0	0	6	10	85
		0.00%	0.00%	10.71%	0.00%	2.56%	0.00%	0.00%	18.75%	9.26%	6.12%
K0018	CORRIDOR DOORS	0	0	4	0	5	0	0	6	15	254
		0.00%	0.00%	14.29%	0.00%	12.82%	0.00%	0.00%	18.75%	13.89%	18.27%
K0104	PENETRATIONS OF SMOKE BARRIERS	0	0	0	0	0	0	0	4	4	23
		0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	12.50%	3.70%	1.65%
K0066	SMOKING REGULATIONS	0	0	3	0	0	0	0	4	7	68
		0.00%	0.00%	10.71%	0.00%	0.00%	0.00%	0.00%	12.50%	6.48%	4.89%
K0062	SPRINKLER SYSTEM MAINTENANCE	1	0	3	0	0	0	0	4	8	180
		33.33%	0.00%	10.71%	0.00%	0.00%	0.00%	0.00%	12.50%	7.41%	12.95%
K0050	FIRE DRILLS	1	0	3	0	3	0	0	4	11	116
		33.33%	0.00%	10.71%	0.00%	7.69%	0.00%	0.00%	12.50%	10.19%	8.35%
K0039	CORRIDOR WIDTH	0	0	1	0	1	0	0	3	5	88
		0.00%	0.00%	3.57%	0.00%	2.56%	0.00%	0.00%	9.38%	4.63%	6.33%
K0029	HAZARDOUS AREAS- SEPARATION	0	0	5	0	2	0	0	3	10	188
		0.00%	0.00%	17.86%	0.00%	5.13%	0.00%	0.00%	9.38%	9.26%	13.53%

JE/G5014026/BHLR

* Other includes:

- Electrical Panels not labeled
- Openings in Panel or Junction Boxes
- Installation in non-workman like manner
- Working clearance around electrical equipment
- Ground fault receptacles

TOP 10 "LIFE SAFETY CODE" DEFICIENCIES CITED IN 2003
 COMPARISON OF DEFICIENCY PATTERNS IN FREQUENCY OF OCCURRENCE SEQUENCE
 DEFICIENCY LISTINGS FOR **SKILLED NURSING FACILITIES**

TOTALS ARE BASED ON THE CURRENT
 SURVEY FOR ACTIVE PROVIDERS ONLY

REGION: IV ATLANTA DEFICIENCY TYPE: LIFE SAFETY SEQUENCE: BASED ON DEFICIENCIES FOR THE STATE: TENNESSEE

		AL	FL	GA	KY	MS	NC	SC	TN	REGION	NATION
** TOTAL # FACILITIES ==>		225	688	334	295	165	420	178	305	2,160	14,943
K0067	VENTILATING EQUIPMENT	15	81	21	3	3	38	0	117	278	1,381
		6.67%	11.77%	6.29%	1.02%	1.82%	9.05%	0.00%	38.36%	10.65%	9.24%
K0130	OTHER*	63	89	115	3	7	67	4	106	454	2,174
		28.00%	12.94%	34.43%	1.02%	4.24%	15.95%	2.25%	34.75%	17.39%	14.55%
K0062	SPRINKLER SYSTEM MAINTENANCE	39	84	44	1	1	19	5	81	274	1,896
		17.33%	12.21%	13.17%	0.34%	0.61%	4.52%	2.81%	26.56%	10.50%	12.69%
K0050	FIRE DRILLS	55	63	26	5	9	32	4	75	269	1,188
		24.44%	9.16%	7.78%	1.69%	5.45%	7.62%	2.25%	24.59%	10.31%	7.95%
K0025	SMOKE PARTITION CONSTRUCTION	34	24	63	1	3	20	0	51	196	1,724
		15.11%	3.49%	18.86%	0.34%	1.82%	4.76%	0.00%	16.72%	7.51%	11.54%
K0018	CORRIDOR DOORS	40	62	86	6	18	65	2	50	329	2,853
		17.78%	9.01%	25.75%	2.03%	10.91%	15.48%	1.12%	16.39%	12.61%	19.09%
K0064	PORTABLE FIRE EXTINGUISHERS	19	18	35	0	4	2	0	45	123	657
		8.44%	2.62%	10.48%	0.00%	2.42%	0.48%	0.00%	14.75%	4.71%	4.40%
K0054	SMOKE DETECTOR MAINTENANCE	17	35	29	0	0	12	0	37	130	689
		7.56%	5.09%	8.68%	0.00%	0.00%	2.86%	0.00%	12.13%	4.98%	4.61%
K0029	HAZARDOUS AREAS – SEPARATION	62	17	64	2	5	121	2	37	310	2,274
		27.56%	2.47%	19.16%	0.68%	3.03%	28.81%	1.12%	12.13%	11.88%	15.22%
K0038	EXIT ACCESS	47	54	43	3	9	51	21	30	258	2,416
		20.89%	7.85%	12.87%	1.02%	5.45%	12.14%	11.80%	9.84%	9.89%	16.17%

JE/G5024026/BHLR

* Other includes:

- Overloaded circuits
- Equipment not in good repair
- Improper use of extension cords
- Height of wall receptacles

HEALTH CARE FACILITIES STATE CIVIL MONETARY PENALTIES

2 0 0 3

REGIONAL OFFICE			TYPE OF SURVEY A, F, C	DATE OF SURVEY EXIT	3 DAY NOTICE	8 DAY NOTICE	TYPE OF PENALTY PENALTY					DATE ASSESSED	HEARING DATE	Suspension lifted	AMOUNT OF PENALTY ASSESSED	CIVIL PENALTY RECEIVED	DATE PAID
WEST	MIDDLE	EAST					A	B1	B2	C (P)	C (A)						
		1	A/C	01/03/03					1								
	1		A	01/03/03	1/7/2003					1				\$250.00	\$250.00	01/03/03	
		1	C	01/03/03	1/7/2003				2	2				\$500.00	\$1,250.00	01/17/03	
1			C	01/06/03					1								
	1		A	01/08/03					3								
		1	C	01/07/03					1								
		1	A/C	01/09/03					1								
1			A	01/09/03					1								
1			A	01/09/03					3								
		1	C	01/09/03					2								
		1	A	01/10/03													
		1	A/C	01/13/03					1								
1			A	01/15/03					2	1				\$250.00	\$250.00	02/10/03	
1			A	01/15/03					1								
1			A	01/16/03					1								
		1	A/C	01/21/03					1								
	1		C	01/23/03	1/27/2003			1		1				\$1,250.00	\$2,250.00	03/17/03	
		1	A/C	01/25/03					1								
1			A	01/29/03					3								
1			A	01/30/03					1								
1			A	01/30/03					2								
		1	A/C	01/30/03					2								
	1		A	01/30/03					3								
		1	A/C	02/03/03					1								
	1		A	02/04/03					1								
		1	C	02/05/03					1								
1			A	02/06/03					2								
	1		C	02/11/03					1	1	Rec.too late						
1			A	02/12/03					1								
	1		C	02/12/03					1	1				\$250.00	\$250.00	04/07/03	
		1	A/C	02/12/03					1	1				\$250.00	\$225.00	02/21/03	
	1		A	02/12/03					1								
1			A	02/13/03					1	1				\$250.00	\$1,225.00	02/28/03	
1			A	02/13/03					3								

Type of Survey:
 "A" - Annual
 "F" - Follow-Up
 "C" - Complaint

HEALTH CARE FACILITIES STATE CIVIL MONETARY PENALTIES

2 0 0 3

REGIONAL OFFICE			TYPE OF SURVEY A, F, C	DATE OF SURVEY EXIT	3 DAY NOTICE	8 DAY NOTICE	TYPE OF PENALTY PENALTY					DATE ASSESSED	HEARING DATE	Suspension lifted	AMOUNT OF PENALTY ASSESSED	CIVIL PENALTY RECEIVED	DATE PAID
WEST	MIDDLE	EAST					A	B1	B2	C (P)	C (A)						
		1	A/C	02/18/03					1								
		1	C	02/19/03					1								
		1	A	02/20/03						1				\$250.00	\$250.00	03/14/03	
1			A	02/20/03					3								
		1	A/C	02/21/03					1								
		1	C	02/24/02					1								
1			A	02/26/03					2								
		1	A	02/27/03					2								
		1	C	03/05/03						1				\$250.00	\$250.00	03/28/03	
1			A	03/06/03					2	1				\$250.00	\$250.00	03/18/03	
1			A	03/06/03					1								
1			A	03/06/03						1				\$250.00	\$250.00	04/22/03	
		1	A/C	03/06/03						1	Rec.too late						
1			A	03/12/03					1								
		1	A	03/12/03					3								
1			A	03/12/03					3								
		1	C	03/14/03							Rec.too late						
		1	C	03/18/03	3/20/2003			1	1					\$500.00	\$500.00	04/07/03	
1			A	03/19/03					1								
		1	A/C	03/19/03					1								
1			A	03/20/03					1								
1			A	03/21/03						1				\$250.00	\$250.00	09/02/03	
		1	A	03/26/03					2								
1			A	03/26/03					1								
1			A	03/27/03					2								
		1	A	03/27/03					2								
															\$1,000.00	03/31/03	
		1	A/C	04/03/03					1								
1			A	04/03/03					2	1				\$250.00	\$250.00	05/12/03	
		1	A/C	04/03/03						1				\$250.00	\$250.00	05/13/03	
		1	C	04/03/03						2				\$500.00	\$500.00	08/15/03	
															\$250.00	04/07/03	
															\$250.00	04/07/03	
															\$250.00	04/07/03	

Type of Survey:
 "A" - Annual
 "F" - Follow-Up
 "C" - Complaint

HEALTH CARE FACILITIES STATE CIVIL MONETARY PENALTIES

2 0 0 3

REGIONAL OFFICE			TYPE OF SURVEY A, F, C	DATE OF SURVEY EXIT	3 DAY NOTICE	8 DAY NOTICE	TYPE OF PENALTY PENALTY					DATE ASSESSED	HEARING DATE	Suspension lifted	AMOUNT OF PENALTY ASSESSED	CIVIL PENALTY RECEIVED	DATE PAID
WEST	MIDDLE	EAST					A	B1	B2	C (P)	C (A)						
															\$500.00	04/07/03	
		1	C	04/08/03					1								
		1	A	04/10/03					1								
1			A	04/10/03					1								
		1	A/C	04/15/03					1	1				\$250.00	\$250.00	04/23/03	
1			A	04/16/03					1								
	1		A	04/16/03					1								
		1	C	04/17/03						1				\$250.00	\$250.00	04/28/03	
															\$250.00	04/14/03	
		1	C	04/22/03						1				\$250.00	\$250.00	05/12/03	
1			A	04/23/03					1								
	1		A	04/23/03					2								
		1	A	04/24/03					2								
		1	A	04/24/03					3								
1			A	04/24/03					4								
		1	A/C	04/24/03					1	1				\$250.00	\$250.00	05/08/03	
		1	A/C	04/28/03					1	1				\$250.00	\$250.00	05/16/03	
1			A	04/30/03					2								
1			A	05/01/03					2								
		1	A	05/07/03					1								
	1		A	05/08/03					2								
		1	A/C	05/15/03					1								
	1		A	05/15/03					2								
		1	A/C	05/15/03						2				\$500.00	\$450.00	06/09/03	
1			A	05/15/03						1				\$500.00	\$500.00	06/05/03	
		1	A/C	05/21/03					1								
1			A	05/21/03					1								
	1		A	05/21/03					1								
1			A	05/21/03					3	1				\$500.00	\$500.00	06/12/03	
1			A	05/21/03					3								
		1	A/C	05/21/03					1								
	1		A	05/22/03					3								
	1		A	05/29/03					3								
		1	A	05/29/03					1								

Type of Survey:
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HEALTH CARE FACILITIES STATE CIVIL MONETARY PENALTIES

2 0 0 3

REGIONAL OFFICE			TYPE OF SURVEY A, F, C	DATE OF SURVEY EXIT	3 DAY NOTICE	8 DAY NOTICE	TYPE OF PENALTY PENALTY					DATE ASSESSED	HEARING DATE	Suspension lifted	AMOUNT OF PENALTY ASSESSED	CIVIL PENALTY RECEIVED	DATE PAID
WEST	MIDDLE	EAST					A	B1	B2	C (P)	C (A)						
1			A	05/30/03	6/4/2003								6/19/2003	\$3,000.00			
1			A	05/30/03						1							
		1	A/C	06/01/03						3							
	1		A	06/05/03						3	2			\$500.00	\$500.00	06/16/03	
	1		C	06/05/03						1							
	1		A	06/11/03						1							
	1		A	06/11/03						1	1			\$250.00	\$250.00	08/25/03	
1			A	06/12/03						1							
		1	A	06/12/03						1							
		1	A/C	06/12/03						1							
1			A	06/12/03						3							
		1	A/C	06/17/03						4							
		1	A/C	06/18/03						2							
	1		A	06/19/03						1							
1			C	06/18/03							1			\$250.00	\$225.00		
1			A	06/19/03						3							
		1	A/C	06/23/03						1							
	1		A	06/25/03						3							
	1		A	06/25/03						1							
		1	A	07/01/03						1							
		1	A/C	07/02/03						2							
	1		A	07/02/03						1							
			A	07/02/03						1							
		1	A/C	07/09/03						1							
1			A	07/10/03						1							
1			A	07/10/03						4							
		1	A/C	7/14/2003						3							
		1	C	7/15/2003						1							
1			A	7/16/2003						5							
		1	A	7/16/2003						1	1			\$400.00	\$360.00	7/31/2003	
		1	A/C	7/16/2003						2							
1			A	7/16/2003						1							
		1	A/C	7/21/2003						1							
		1	A/C	7/22/2003						1							

Type of Survey:
 "A" - Annual
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HEALTH CARE FACILITIES STATE CIVIL MONETARY PENALTIES

2 0 0 3

REGIONAL OFFICE			TYPE OF SURVEY A, F, C	DATE OF SURVEY EXIT	3 DAY NOTICE	8 DAY NOTICE	TYPE OF PENALTY PENALTY					DATE ASSESSED	HEARING DATE	Suspension lifted	AMOUNT OF PENALTY ASSESSED	CIVIL PENALTY RECEIVED	DATE PAID
WEST	MIDDLE	EAST					A	B1	B2	C (P)	C (A)						
	1		A	7/22/2003					1	2				\$650.00	\$650.00	8/18/2003	
1			A	7/23/2003					3								
	1		A/C	7/24/2003					1	2				\$600.00			
		1	A/C	7/25/2003						1				\$300.00	\$300.00	7/31/2003	
		1	A	7/29/2003					1								
		1	A/C	7/29/2003						2				\$1,600.00	\$1,440.00	8/15/2003	
1			A	7/30/2003						1				\$350.00	\$315.00		
1			A	7/30/2003					1								
		1	A	7/31/2003					3	4				\$2,400.00			
	1		A	7/31/2003					1	1				\$400.00	\$400.00	8/15/2003	
		1	A/C	7/31/2003						1				\$250.00	\$250.00	8/18/2003	
	1		A	7/31/2003					1								
1			A	7/31/2003													
		1	A/C	8/3/2003	8/8/2003			1		1		Appealed	8/11/2003	8/11/2003	\$2,000.00	\$2,000.00	8/3/2003
		1	A/C	8/6/2003						1							
	1		A	8/7/2003						5							
1			A	8/7/2003						3							
1			A	8/7/2003						1							
1			A	8/7/2003						3							
		1	A/C	8/14/2003						1							
1			A	8/14/2003						4							
		1	A	8/14/2003						2							
		1	C	8/18/2003						2							
1			A	8/20/2003						1	1						
	1		A	8/20/2003	8/22/2003					4	1				\$400.00	\$360.00	8/29/2003
	1		A	8/20/2003	9/15/2003			1				Suspension	9/12/2003	9/12/2003	\$3,500.00	\$3,150.00	8/29/2003
1			A	8/21/2003						1							
1			A	8/24/2003	8/28/2003			1		2					\$1,500.00		
		1	A/C	8/25/2003						1							
		1	A	8/28/2003						2							
1			A	8/28/2003						4							
		1		8/28/2003							1				\$400.00	\$360.00	9/3/2003
		1		8/28/2003	9/3/2003			1				Appealed	9/11/2003		\$1,500.00	\$1,350.00	9/9/2003
		1	A	8/28/2003	9/3/2003			1		3				9/17/2003	\$1,500.00		

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HEALTH CARE FACILITIES STATE CIVIL MONETARY PENALTIES

2 0 0 3

REGIONAL OFFICE			TYPE OF SURVEY A, F, C	DATE OF SURVEY EXIT	3 DAY NOTICE	8 DAY NOTICE	TYPE OF PENALTY PENALTY					DATE ASSESSED	HEARING DATE	Suspension lifted	AMOUNT OF PENALTY ASSESSED	CIVIL PENALTY RECEIVED		DATE PAID
WEST	MIDDLE	EAST					A	B1	B2	C (P)	C (A)							
	1		A	9/4/2003					1									
1			A	9/4/2003					2									
1			A	9/4/2003					1									
1			A	9/10/2003					1									
		1	C	9/10/2003					1									
1			A	9/11/2003					1									
1			A	9/17/2003					1									
		1	A/C	9/15/2003					2									
		1	A/C	9/15/2003					1									
1			A	9/18/2003					4									
	1		A	9/22/2003					1	1				\$600.00	\$600.00	10/3/2003		
1			F	9/26/2003				1						\$3,000.00				
1			A	10/1/2003	10/1/2003				2									
		1	A/C	10/2/2003					1									
		1	F	10/3/2003	10/7/2003					1				\$300.00	\$270.00	10/22/2003		
1			A	10/6/2003					1									
	1		A	10/8/2003					2									
	1		A	10/9/2003	10/14/2003			1			Suspension	Lifted	10/29/2003	\$1,500.00	\$1,350.00	10/20/2003		
1			A	10/9/2003					1									
		1	A	10/22/2003					3									
	1		A	10/22/2003					1									
1			A	10/22/2003	10/27/2003					2				\$500.00	\$500.00	11/6/2003		
1			A	10/23/2003					2									
1			A	10/24/2003	10/29/2003			1	3	1	Suspension			\$1,750.00	\$1,750.00	11/10/2003		
		1	A/C	10/26/2003					3									
		1	A/C	10/27/2003					2									
1			A	10/27/2003	11/3/2003					1				\$250.00	\$250.00	11/19/2003		
		1	C	10/30/2003	10/31/2003					1				\$300.00	\$300.00	11/10/2003		
		1	A	10/30/2003	11/4/2003			1										
1			A	10/30/2003					1									
	1		A	10/30/2003					1									
	1		A	11/4/2003					1									
	1		C	11/4/2003						1								
1			A	11/5/2003					1									

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HEALTH CARE FACILITIES STATE CIVIL MONETARY PENALTIES

2 0 0 3

REGIONAL OFFICE			TYPE OF SURVEY A, F, C	DATE OF SURVEY EXIT	3 DAY NOTICE	8 DAY NOTICE	TYPE OF PENALTY PENALTY					DATE ASSESSED	HEARING DATE	Suspension lifted	AMOUNT OF PENALTY ASSESSED	CIVIL PENALTY RECEIVED	DATE PAID
WEST	MIDDLE	EAST					A	B1	B2	C (P)	C (A)						
1			A	11/6/2003					2								
		1	A/C	11/7/2003					1								
1			A	11/13/2003					4								
		1	A	11/13/2003					2								
1			A	11/13/2003					1								
1			A	11/19/2003	11/21/2003				1	1				\$300.00	\$270.00	12/14/2003	
		1	A/C	11/19/2003					1								
		1	A/C	11/19/2003					2								
1			A	11/25/2003					5								
		1	C	11/26/2003					1								
		1	A/C	12/4/2003					2								
	1		A	12/4/2003					2								
1			A	12/10/2003					1								
	1		A	12/11/2003					1								
1				12/11/2003	12/16/2003		A							\$3,000.00	\$2,700.00	12/23/2003	
	1		A	12/16/2003					1								
		1	A/C	12/17/2003					1								
1				12/17/2003					1								
1				12/30/2003					2								
		1	A/C	12/31/2003					3								
83	49	85	TOTAL					7	5	1	313	59			\$41,750.00	\$33,550.00	

Type of Survey:
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 "C" - Complaint

Health Care Facilities
Federal Civil Monetary Penalties 2003

WTRO	MTRO	ETRO	*Origin of Visit	*Refer to CMS	SMA	Date of Survey	Date Forwarded to CMS	Scope and Severity	Date of Imposition	*Type of Penalty (D or PI)	Appeal Y/N	Rec. Penalty Amount	Total Amount of Penalty	Amount Received	State Portion	F/U Date	*Date Paid
	X		S	X		12/18/2002	12/19/2002	GG	12/18/2002	D	N	\$ 1,200	\$ 49,200	\$11,200		1/28/2003	4/11/2003
		X	S	X		1/30/2003	2/4/2003	F	1/10/2003	D	N	\$3,050	\$26,992			1/30/2003	
	X		C	X		1/15/2003	1/21/2003	K	1/15/2003	D		\$ 3,050	67,100	\$ 67,100		2/6/2003	7/9/2003
		X	S	X		1/30/2003	2/3/2003	K	1/30/2003	D	Y	\$ 3,150	12,600	\$7,000		2/4/2003	11/24/2003
	X		S	X		1/31/2003	2/5/2003	L	1/31/2003	D	N	\$ 3,450	51,750			2/15/2003	
	X		S	X		2/13/2003	2/18/2003	J	2/13/2003	PI	Y	\$5,000	5,000			3/3/2003	
		X	S	X		2/11/2003	2/13/2003	L	2/13/2003	PI	N	\$ 6,272	6,272	\$6,272		2/15/2003	8/19/2003
	X		C	X		2/24/2003	2/25/2003	K	2/24/2003	PI	Y	\$ 5,000	10,000			3/24/2003	
		X	S	X		1/21/2003	1/21/2003	G	1/21/2003	D	N	\$ 100	6,000	\$6,000		3/25/2003	6/25/2003
	X		S	X		3/12/2003	3/12/2003	F	3/12/2003	D	N	\$ 50	8,840	\$8,450		6/6/2003	8/11/2003
		X	S	X		3/26/2003	3/28/2003	K	3/31/2003	D	N	\$ 3,150	22,700	\$22,700		4/14/2003	7/2/2003
X			S	X		3/21/2003	3/27/2003	K	3/21/2003	D	N	\$ 3,500	136,500	\$34,250		4/29/2003	8/11/2003
		X	C	X		2/27/2003	2/27/2003	J	3/13/2003	D	N	\$3,150	61,900			4/15/2003	
		X	S			4/3/2003	4/7/2003	J	4/3/2003	PI	N	\$ 3,050	3,050	\$2,210		4/3/2003	8/28/2003
		X	C	X		4/3/2003	4/7/2003	J	4/3/2003	D	N	\$ 3,150	5,788.25	\$4,452.50		4/5/2003	8/19/2003
		X	S		X	4/10/2003	4/14/2003	K	4/14/2003	D	N	\$ 3,050	3,050	\$3,350		4/17/2003	9/17/2003
		X	S	X		5/21/2003	5/21/2003	GG	5/21/2003	D	N	\$ 100	2,000	\$1,625		5/14/2003	
X			S		X	5/15/2003	5/15/2003	H	5/15/2003	D	N	\$ 100	6,825	\$6,825		6/6/2003	9/30/2003
X			S	X		5/30/2003	6/1/2003	K	5/30/2003	D	N	\$ 3,250	60,121.75	\$46,247.50		6/15/2003	11/19/2003
		X	S	X		6/12/2003	6/16/2003	H	6/12/2003	D	N	\$ 100	3,042	\$2,340		6/24/2003	10/24/2003
		X	C	X		6/17/2003	6/18/2003	GG	6/17/2003	D	N	\$ 300		\$1,500		6/22/2003	10/31/2003
X			S	X		7/10/2003	7/14/2003	GG	7/10/2003	D	N	\$ 100	2,800			8/7/2003	
	X		C	x		7/16/2003	7/23/2003	GG	7/16/2003	D	N	\$ 300	3,315	\$3,315		9/5/2003	9/26/2003
		X	S			7/31/2003	8/1/2003	J	7/31/2003	D	N	\$3,650	60,400			8/13/2003	
		X	C	X		6/12/2003	6/18/2003	GG	6/12/2003	D	N	\$ 100	400	\$260		6/16/2003	10/9/2003
		X	S	X		8/6/2003	8/7/2003	H	8/6/2003	D	N	\$ 300	4,200			8/20/2003	
X			S	X		8/14/2003	8/15/2003	GG	8/14/2003	D	N	\$ 100	5,700			9/10/2003	
		X	S	X		8/18/2003	8/18/2003	GG	8/18/2003	D	N	\$ 100	\$14,000			9/10/2003	
		X	S	X		8/6/2003	8/7/2003	J	8/5/2003	D	N	\$ 3,050	18,300	\$11,895		8/11/2003	12/12/2003
		X	S	X		7/31/2003	8/5/2003	GG	7/31/2003	D	N	\$ 100	18,900	\$2,307.50		10/8/2003	11/24/2003

Health Care Facilities
Federal Civil Monetary Penalties 2003

WTRO	MTRO	ETRO	*Origin of Visit	*Refer to CMS	SMA	Date of Survey	Date Forwarded to CMS	Scope and Severity	Date of Imposition	*Type of Penalty (D or PI)	Appeal Y/N	Rec. Penalty Amount	Total Amount of Penalty	Amount Received	State Portion	F/U Date	*Date Paid
		X	C	X		8/5/2003	8/6/2003	GG	8/5/2003	D	N	\$ 100	200	\$200		8/7/2003	10/29/2003
	X		S	X		8/20/2003	8/21/2003	L	8/20/2003	D	N	\$ 3,500	70,000	\$47,905		9/23/2003	12/6/2003
X			S	X		8/20/2003	8/22/2003	GG	8/20/2003	D	N	\$ 300	5,700			9/8/2003	
		X	C	X		9/8/2003	9/10/2003	J	9/8/2003	PI	N	\$ 3,150	10,000	\$10,000		9/16/2003	
		X	S	X		8/28/2003	9/2/2003	J	9/4/2003	PI	Y	\$ 3,150	3,150			9/12/2003	
X			F	X		8/26/2003	8/26/2003	G	8/26/2003	D	N	\$ 300	3,100			12/18/2003	
	X		C	X		9/26/2003	10/3/2003	J	9/26/2003	D	N	\$ 3,050	7,930			12/8/2003	
		X	S	X		10/2/2003	10/2/2003	GG	10/2/2003	D	N	\$ 100	3,600			11/7/2003	
	X		C	X		10/10/2003	10/10/2003	J	10/9/2003	D	N	\$ 3,050	24,400			10/17/2003	
		X	S	X		10/22/2003	10/23/2003	GG	10/22/2003	D	N	\$ 100	1,250			11/4/2003	
X			S	X		10/24/2003	10/24/2003	J	10/30/2003	PI	N	\$3,500	3,500	\$2,275		10/24/2003	12/9/2003
		X	C	X		10/24/2003	10/24/2003	GG	10/24/2003	D	N	\$ 100	1,365			12/3/2003	
		X	S	X		10/30/2003	10/31/2003	J	10/30/2003	D	N	\$ 3,150	25,500			11/7/2003	
X			S	X		3/27/2003	3/31/2003	GG	3/27/2003	D	N	\$ 100	500	\$500		4/5/2003	8/19/2003
		X	S	X		11/19/2003	11/21/2003	H	11/19/2003	D	N	\$ 300	4,500			12/4/2003	
X			S	X		11/20/2003	11/21/2003	K	11/20/2003	D	Y	\$ 5,000	75,300			12/5/2003	
X			S	X		11/24/2003	11/24/2003	K	11/24/2003	PI	N	\$3,050	3,050			12/30/2003	
X			S	X		11/25/2003	11/27/2003	G	11/25/2003	D	N	\$ 300				12/5/2003	
X			S	X		12/11/2003	12/11/2003	K	12/11/2003	D	N	\$ 3,050				12/18/2003	
											TOTAL		\$919,791.00	\$310,180.00			

Nursing Home State Regulations (1200-8-6)
2003 Revisions

- 1. Effective 5-4-03**
Revised Building Standards to update building code manuals to current codes, require two sets of plans of new facilities prior to licensing or before any alterations or expansion of a licensed facility, and change the term preliminary plans to phase construction plans.
- 2. Effective 6-25-03**
Revised to include provisions of “Health Data Reporting Act of 2002” requiring facilities to report unusual events to the department within 7 business days of becoming aware of the event.
- 3. Effective 7-12-03**
Revised to include new definitions and provisions for health care decisions and re-named section for “Withholding of Resuscitative Services” to “Health Care Decision-Making for Incompetent Patients, Residents or Clients”.
- 4. Effective 11-18-03**
Revised requirements for Nurse Aide Training and Testing. Deleted these requirements from section “Basic Services” and created a new section “Nurse Aide Training and Competency Evaluation”.
- 5. Effective 11-18-03**
Revised section Records and Reports to include requirement of a Joint Annual Report of Nursing Homes to be completed and submitted to the department.
- 6. Effective 1-4-04 by statute (in OGC office for review since 11-7-03)**
Adds language from SB223 Nursing Home Compassion Act requiring Nursing Homes to conduct criminal background checks on all employees providing direct care. Also allows BLHCF to place a nursing home on probation if facility has two (2) complaint surveys resulting in Sub-Standard Quality of Care (SQC) or Immediate Jeopardy (IJ) within a six month time frame.
- 7. Final Board Approval 11-7-03 (effective 2-4-04)**
Revises fees for license to match statute.

CHAPTER NO. 169

SENATE BILL NO. 694

By Henry, Ramsey, Crutchfield, Graves, Trail, Haynes,
Harper, Kilby, McNally, Cooper, Burks, McLeary

Substituted for: House Bill No. 1135

By Briley, Mr. Speaker Naifeh, Sherry Jones, Harmon, Borchert, Chumney, Rinks, Shaw, Armstrong, Maddox, Shepard, Pinion, Hackworth, Litz, Yokley, Fitzhugh, Tindell, Sontany, Pruitt, Langster, Coleman, Cobb, Bone, Brenda Turner, Henri Brooks, Hood, Garrett, Michael Turner, Ferguson, Cooper, Newton, Vaughn, Kent, Todd, Sargent, Godsey, Hargett, Walker, Patton, DuBois, Dunn, Harry Brooks, Bittle, Wood, Montgomery, Crider, Pleasant, John DeBerry, Brown, Head, Davidson, Ulysses Jones, McMillan, West, Winningham, Fraley, Curtiss, Hargrove, Miller, McDonald, Towns

AN ACT to amend Tennessee Code Annotated, Title 63; Title 68 and Title 71, relative to nursing home facilities and services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be referred to as the "Nursing Home Compassion, Accountability, Respect and Enforcement Reform Act".

SECTION 2. Tennessee Code Annotated, Section 68, Chapter 1, Part 1, is amended by adding the following language, designated as a new Section 68-1-120:

Section 68-1-120. The commissioner shall submit a report by not later than 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 shall analyze trends in compliance with nursing home standards and residents' rights by nursing homes in the state, and shall be limited to identifying those trends through aggregate and quantitative data only. In preparing the report, the commissioner may utilize quantitative data compiled by nursing homes pursuant to federal or state regulations. The commissioner shall ensure that the report is promptly made available to the public by dissemination via the Internet and that the report is available for members of the public to copy.

SECTION 3. Tennessee Code Annotated Section 68-11-207, is amended by adding the following new subsection, to be designated as a new subsection (e):

(e)(1) In addition to the authority granted above, the board shall have the authority to place a facility on probation. To be considered for probation, a facility must have had at least two (2) separate substantiated complaint investigation surveys within six (6) months, where each survey had at least one deficiency cited at the level of substandard quality of care or immediate jeopardy, as those terms are defined at 42 C.F.R. § 488.301. None of the surveys can have been initiated by an unusual event or incident self reported by the facility.

(2) If a facility meets those criteria, the board may hold a hearing at its next regularly scheduled meeting to determine if the facility should be placed on probation. Prior to initiating such a hearing, the board shall provide notice to the facility detailing what specific non-compliance the board has identified that the facility must respond to at the probation hearing.

(3) Prior to imposing probation, the board may consider and address in its findings all factors which it deems relevant, including, but not limited to, the following:

(A) What degree of sanctions is necessary to ensure immediate and continued compliance; and

(B) Whether the non-compliance was an unintentional error or omission, or was not fully within the control of the facility; and

(C) Whether the nursing home recognized the non-compliance and took steps to correct the identified issues, including whether the facility notified the department of the non-compliance either voluntarily or as required by state law or regulations; and

(D) The character and degree of impact of the non-compliance on the health, safety and welfare of the patient or patients in the facility; and

(E) The conduct of the facility in taking all feasible steps or procedures necessary or appropriate to comply or correct the non-compliance; and

(F) The facility's prior history of compliance or non-compliance.

(4) If the board places a facility on probation, the facility shall detail in a plan of correction those specific actions, which when followed, will correct the non-compliance identified by the board.

(5) During the period of probation, the facility must make reports on a schedule determined by the board. These reports must demonstrate and explain to the board how the facility is implementing the actions identified in its plan of correction. In making such reports, the board shall not require the facility to disclose any information protected as privileged or confidential under any state or federal law or regulation.

(6) The board is authorized at any time during the probation to remove the probational status of the facility's license, based upon information presented to it showing that the conditions identified by the board have been corrected and are reasonably likely to remain corrected.

(7) The board must rescind the probational status of the facility if it determines that the facility has complied with its plan of correction as submitted and approved by the board, unless the facility has additional non-compliance that warrants an additional term of probation as defined in § 68-11-207(e)(1).

(8) A single period of probation for a facility shall not extend beyond twelve (12) months. If the board determines during or at the end of the probation that the facility is not taking steps to correct non-compliance or otherwise not responding in good faith pursuant to the plan of correction, the board may take any additional action as authorized by law.

(9) The hearing to place a facility on probation including all proceedings under this subsection and judicial review of the board's decision shall be in accordance with the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(10) The provisions in this act in no way relieve any party from the responsibility to report suspected adult abuse, neglect and/or exploitation to, or to share information with, the Adult Protective Services Program in accordance with the provisions of the Tennessee Adult Protection Act, Tennessee Code Annotated, Title 71, Chapter 6, Part 1.

SECTION 4. Tennessee Code Annotated, Section 68-11-801, is amended by adding the following new subsection, to be designated as follows:

(e) The imposition of a state civil penalty pursuant to this section and the decision to impose such shall not be affected by either the imposition or withholding of a federal sanction under the provisions of Title XVIII (42 U.S.C. § 1395 et seq.) or XIX (42 U.S.C. § 1396 et seq.) of the Social Security Act.

SECTION 5. Tennessee Code Annotated, Section 68-11-811, is amended by deleting from subsection (a) the language "five thousand dollars (\$5,000)" and substituting instead "seven thousand five hundred dollars (\$7,500)"; by deleting from subsection (b) the language "one thousand dollars (\$1,000)" and substituting instead "one thousand five hundred dollars (\$1,500)"; by deleting from subsection (c) the language "two hundred fifty dollars (\$250)" and substituting instead "two hundred fifty dollars (\$250) and not more than four hundred dollars (\$400)".

SECTION 6. Tennessee Code Annotated, Section 68-11-210, is amended by adding the following language, to be designated as a new subsection (d):

(d) Any nursing home that files for federal bankruptcy protection shall immediately inform the Commissioner of Health regarding its financial condition and the status of the legal proceedings. In overseeing a facility that has filed for federal bankruptcy protection, the Department of Health shall follow any existing policies or regulations pertaining to any special inspection or oversight of such a facility. The fund established by § 68-11-827 may be used for the purpose of protecting the residents of such a nursing home, if the facility's non-compliance with the conditions of continued licensure, applicable state and federal statutes, rules, regulations and contractual standards threatens the residents' continuous care, the residents' property, the nursing home's continued operation, or the nursing home's continued participation in the medical assistance program of Title 71, Chapter 5. The commissioner shall inform the attorney general and reporter regarding the status of the legal proceedings.

SECTION 7. Tennessee Code Annotated, Section 71-6-103(d), is amended by replacing the semicolon at the end of subsection (d)(2) with a period and adding the following language to the end of the subsection:

The Commissioner of Health, upon becoming aware through personal knowledge, receipt of a report or otherwise, of confirmed exploitation, abuse, or neglect of a nursing home resident, shall report such instances to the Tennessee Bureau of Investigation for a determination by the bureau as to whether the circumstances reported constitute abuse of the Medicaid program or other criminal violation.

SECTION 8. Tennessee Code Annotated, Title 71, Chapter 5, Part 1, is amended by adding the following language, which shall be designated as a new section:


71-5-195. The comptroller of the treasury, in conjunction with any appropriate TennCare drug utilization review committees, shall study the use of prescription drugs in nursing homes and the costs of those prescription drugs for residents of nursing homes. The study shall examine prescription use overall, and shall focus on any practices that would improve the quality of resident care while reducing costs to the TennCare program. By January 1, 2005, the comptroller of the treasury shall deliver its report to the Speakers of the respective Houses of the General Assembly.

SECTION 9. If any provision of this act or the application of it to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 10. This act shall take effect on July 1, 2003, the public welfare requiring it.

PASSED: May 12, 2003


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 21st day of May 2003


PHIL BREDESEN, GOVERNOR