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FOR YOUR INFORMATION
The Lewiston Tribune
Lewiston, Idaho
Sunday Sept. 24, 2017
by **William L. Spence**
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State inspections: tough love or torture?

After complaints about surveys surface, legislative panel is charged with looking into whether state's evaluations of health care facilities are too harsh

Long-standing concerns over the timeliness, fairness and effectiveness of state health care inspections prompted an evaluation over the summer of the Idaho Department of Health and Welfare's Division of Licensing and Certification.

The study, which should be completed early next year, is being conducted by the Legislature's Office of Performance Evaluation.

The investigation stems in part from delays in completing the licensing and certification surveys for Idaho nursing homes and assisted living facilities, as well as industry concerns that state surveyors are being overly harsh in their evaluations.

"For several years, we've seen a large disconnect between the survey outcomes and the data on quality care," said Kris Ellis, former executive director of the Idaho Assisted Living Association. "The quality data shows that Idaho facilities perform better than the national average, but the surveys put us below average. We're concerned the surveys don't reflect actual outcomes."

The Division of Licensing is responsible for ensuring that Idaho health care facilities comply with federal and state regulations. It oversees more than 3,300 facilities with more than 23,000 treatment beds; it also contracts with the federal government to survey facilities that receive Medicare/Medicaid payments, such as Idaho State Veterans Homes.

Last year, the division conducted more than 3,900 inspections. Given that surveyors act as patient advocates, they necessarily have something of an adversarial relationship with health care providers. Consequently, complaints about the fairness and objectivity of inspectors is a nationwide phenomenon.

However, data from the Centers for Medicare and Medicaid Services (CMS) also highlights the disconnect Ellis talked about.

For example, eight of Idaho's 79 nursing homes rank at the bottom of the scale for quality outcomes, based on Medicare billing data and patient assessments conducted by the facilities themselves.

State health inspectors, by contrast, gave low marks to nearly four times as many facilities, with 31 of the homes receiving just one or two stars in a five-star rating system.

The numbers at the top of the scale are flipped: 56 of the 79 homes received four- or five-star quality ratings, compared to just 28 that aced their health inspections.

“Surveyors look out for patients, but so do the providers,” Ellis said. “Yes, the system is designed to be a little antagonistic, but at the same time you can oversee the rules and still work toward better patient outcomes. Right now, we aren’t seeing the survey results working toward better patient care.”

The harsh survey results also give Idaho a reputation as a “career killer” for facility administrators, she said.

In 2015, for example, CMS data shows that Idaho ranked second among 14 Western states for the average number of citations issued per inspection of long-term care facilities.

It also ranked second in terms of severity, issuing nearly three times as many high-level citations as the national average. This not only plays a role in reducing a facility’s overall star rating, it can result in a facility or administrator losing their license.

“We’ve had administrators come here from other states where they have stellar records, but in Idaho their survey results aren’t the same,” Ellis said. “It keeps administrators from wanting to come here.”

Northwest Children’s Home CEO accused surveyor of pursuing a ‘vendetta’

Concern over the objectivity of surveyors was also an issue last year, when the Department of Health and Welfare threatened to revoke the license of the Northwest Children’s Home in Lewiston.

The state alleged that a lack of appropriate supervision and inadequate staffing created unsafe conditions for residents, allowing assaults, sexual improprieties and other misconduct to occur. Chief Executive Officer Brian Pope said the allegations “lacked merit” and accused the state surveyor of pursuing a “vendetta” against the facility.

After the Children’s Home agreed to a multipoint improvement plan, the state withdrew its revocation threat and assigned a new surveyor to the facility. During its last inspection in May, the new surveyor noted the Children’s Home “is committed to improving its program and has implemented several positive changes that will result in better outcomes for children.”

Division of Licensing officials declined an interview request for this story, saying they would withhold comment until the Office of Performance Evaluation study is completed.

However, in a written statement the agency said it “stands behind the validity and veracity of the surveys we conduct. The findings are an accurate accounting of the conditions encountered by our professional team of surveyors.”

The division also noted that federal regulators “regularly check the work of our surveyors” to make sure inspections are being done correctly.

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“The notion that (the agency) could conduct a survey and ‘inflate’ a minor incident into a major deficiency to ‘make an example’ out of a provider is specious,” the statement continued. “Even if there was an inclination (to do so), the checks and balances built into the CMS monitoring process would expose such action.”

Given the ongoing tensions between the division and the provider community, the Department of Health and Welfare hired an outside consultant last year to review some of the concerns.

Among other findings, the consultant concluded that Idaho surveyors “are more likely to cite a citation at a higher scope and severity percentage rate” than surrounding states. Idaho also ranked in the top four nationally for the percentage of severe citations issued in 2013 and ‘14.

But the consultant also noted that CMS independently reviewed 12 facilities “and found 103 deficiencies, with five cited at a (more severe) G rating or greater, while Idaho’s results for the same facilities were 85 deficiencies with two cited at a G or greater.”

After comparing Idaho’s survey results with three other Western states, the consultant said, “I don’t feel the data points to deficient surveys.”

Rather than the accuracy or objectivity of its surveys, a more pressing concern for the division lately has been the backlog of nursing home and assisted living facility inspections, as well as inadequate staff pay and staff vacancies.

By December of 2015, the backlog had grown to the point that the division was out of compliance with federal regulations for the frequency of inspections. It had 227 overdue surveys, plus another 155 overdue complaint investigations.

The Legislature appropriated \$750,000 in fiscal 2016 to address the issue, allowing the agency to hire an outside firm to help complete the surveys. By December of 2016, the agency was back in compliance with federal requirements; as of June 30 this year, the number of overdue surveys was down to 56 — all for assisted living homes — plus 12 overdue complaint investigations.

In its fiscal 2018 budget request, the division asked for three more surveyors to handle the assisted living surveys; it also requested a pay raise for surveyors, to reduce the number of vacant positions. The Legislature authorized a \$3 per hour increase in starting pay, but denied the request for more surveyors.

Area lawmakers among those who requested the report

A primary focus of the Office of Performance Evaluation report will be whether the state survey process actually promotes better patient care. It will consider such issues as staff training and pay, the number and types of citations that are issued and the relationship between surveyors and providers.

Several lawmakers requested the report, including Rep. Caroline Troy, R-Genesee; Sen. Dan Johnson, R-Lewiston; Senate President Pro Tem Brent Hill, R-Rexburg; and House Majority Leader Mike Moyle, R-Star.

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“I’m hoping it will look at best practices in other states,” Troy said. “I’m not looking to punish the division and tell them they’re bad. My intent is how do we do things better, so everyone wins.”

Troy’s interest in the issue was sparked earlier this year, when she had lunch with a group of assisted living administrators. She asked what their biggest challenge was, and they all pointed to the Division of Licensing.

“They don’t feel like they’re partners with the division,” she said. “Of course we want to keep people safe — and I applaud the division for being concerned about that — but we need to be able to make common-sense judgments. If facilities are reluctant to locate in Idaho and good administrators don’t want to come here, that’s not getting us where we want to be.”

Johnson, who served on the joint budget committee when it approved the \$750,000 appropriation for the division, hopes the Office of Performance Evaluation study will highlight where the bottlenecks are and why they’re there. Like Troy, he wants the focus to be on improving the overall system.

“With more and more people coming into the (health care) system, we need providers to be working with us,” he said. “We have to do our job and make sure protections are in place for patients, but we also need the businesses to succeed. If the report shuts down one side or the other, that doesn’t help us.”

The report is scheduled to be completed in January. It will be released publicly after it’s presented to the Legislature.

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