



ZIMMET HEALTHCARE
SERVICES GROUP, LLC

THE UNEXPECTED TRUTH:

Understanding how SNF publicly reported data is being used against the industry is key to a successful defense.

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Skilled Nursing Facilities (SNFs) have emerged as a favorite target of aggressive personal injury attorneys. Exemplary clinical practice (and meticulous documentation) is always the best defense, but this qualitative measure remains subject to interpretation by third-party medical professionals. Attorneys now augment their complaints with quantitative submissions predicated on readily available facility-specific staffing data to support a new specious contention:

“Deliberate (i.e. profit-driven), facility-wide understaffing negatively impacted overall patient care, thus resulting in specific injury.”

This argument uses the very data providers report to state and federal agencies against them. For example:

“CMS reports that, given ABC Care Center’s 2014 resident population, the facility should have provided an average of 4.1 nursing hours per patient day (its “Expected Hours”). However, ABC provided only 3.4 hours per day, and this severe understaffing resulted in harm.”

The system on which “Expected Hours” is calculated is widely recognized as flawed and unreliable. Nevertheless, the narrative resonates with judge, jury and the court of public opinion.

The staffing figures are taken from several publicly available sources, most notably Nursing Home Compare and Medicare & Medicaid cost reports. The regulatory source attribution adds gravitas to the argument; challenging its merits requires expert understanding of the data reporting system’s structural deficiencies, including:

- CMS maintains that the “Expected Hours” figure is not a required (or even a target) staffing benchmark, it serves only to facilitate comparative analysis.
- Expected Hours is calculated from a one-day snapshot of months-old Resource Utilization Group (RUG) scores that are designed to reflect patients at their highest level of functional need, even if the underlying acuity occurred only once on a single shift.
- The RUG-III classification system is based on 20-year-old time studies that have been universally discredited by academia and regulatory agencies.
- Plaintiff “experts” cherry pick from flawed staff reporting profiles, often selecting elements from noncomparable twelve-month averages to further overstate the equation.

Exposing the system’s many fallacies is essential to discrediting the Expected Hours argument. The challenge is explaining the plaintiff’s fundamental misuse of data to those unfamiliar with SNF reporting metrics.

Zimmet Healthcare is the industry leader in SNF resource utilization, data analytics, quality benchmarks and cost reporting. Our team is available to provide expert analysis and testimony that reveals the truth about the “Expected Hours” argument: “Numbers don’t lie, but they are easily manipulated.”

Contact us for additional information at
info@zhealthcare.com
(732) 970-0733