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NURSE AIDE MISCONDUCT INVESTIGATIONS

Nursing homes, home health services, and other providers of health care services frequently employ nurse aides to perform routine patient care and carry out nurses' and physicians' orders. Nurse aides have close contact with dependent or vulnerable patients that frequently occurs when no one else is present, providing opportunities to abuse, neglect, or steal from patients. To protect vulnerable patients, both the federal and state governments have instituted a system of training and certification requirements for nurse aides and a system of investigating complaints of misconduct by nurse aides. Currently, approximately 23,800 of Wisconsin's 106,300 nurse aides are employed by nursing homes.

By state and federal law, nursing homes are required to report incidences of alleged misconduct by nurse aides to the Department of Health and Family Services, which conducts an investigation of each incident to determine whether "willful and wanton" misconduct occurred. If so, a notation is made on the statewide Nurse Aide Registry, and the nurse aide is prohibited from ever again working in a nursing home that receives federal Medicare or Medical Assistance reimbursement.

Investigation Delays Have Limited Program Effectiveness

Since 1992, the Department has accepted 2,128 complaints for investigation and found 439 cases of misconduct. However, delay in initiating investigations has hampered the Department's efforts to gather evidence and may have resulted in an inability to substantiate actual cases of misconduct.

The federal government requires the "timely review and swift investigation" of complaints, and the Wisconsin Administrative Code directs completion within 60 days of filing. However, of 1,918 complaints investigated, the Department has resolved only 4.2 percent within 60 days; average disposition exceeded 11 months. By January 1997, the backlog of cases pending had reached 477. Delay reduces the Department's ability to conduct a useful investigation: by the time the investigations were initiated, we found cases in which the nurse aide had been found to have engaged in misconduct in another case, the nurse aide or witnesses could not be located, or the alleged victim had died. Prompt resolution of the misconduct complaints is necessary for other reasons, including fairness for the accused nurse aides, and to promote efficient operation of facilities employing nurse aides, which in many cases have difficulty hiring sufficient qualified staff and in some cases may retain the accused nurse aide on paid suspension until the case is resolved.

The Department has been prompt in deciding which complaints to accept for investigation. Investigators in seriously delayed cases we reviewed completed their work in an average of 47.6 days, leading us to conclude that the 60-day standard for completing the investigation and issuing a decision is reasonable. However, in a sample of 70 seriously delayed cases that we reviewed, we found cases were assigned to investigators from 8 to 36 months after complaints were received, and decisions by unit managers required an average of 75 days after investigators submitted their findings.

Several Management Improvements Are Needed

Managers cite the case backlog as the cause of delays in assigning cases and attribute the delay in reaching decisions to inadequate investigative work. However, the Department has relied extensively on limited-term staff, even though managers believe six to eight months of experience is required to become a skilled investigator. In addition, written

guidance on how to conduct investigations is either out-of-date or does not exist, and staff training in investigative techniques has been limited. Responsibility for supervising investigators has also been ill-defined.

Beginning in January 1997, the Department assigned additional investigators, both temporary and permanent, in an effort to reduce the backlog. By August, the backlog had been reduced by more than one-half, to 210 cases. At the current rate, the backlog will be eliminated by March 1998.

The Department has also initiated efforts to provide supervision, written guidance, training, and management information to investigators and other staff involved in the misconduct investigation process. These improvements, if completed on a timely basis, will make it possible for the Department to stay current with new complaint activity.

New Responsibilities Will Require Expanded Efforts

1997 Wisconsin Act 27, the biennial budget, assigned significant new responsibilities to the Department. Beginning in October 1998, it will be required to investigate allegations of misconduct by all non-licensed health care workers who have contact with vulnerable individuals in a wide range of health facilities and settings; complaints against licensed health professionals will be investigated by the Department of Regulation and Licensing. More than 5,000 facilities, organizations, and services will be required to report incidents of suspected misconduct. In the coming year, the Department of Health and Family Services will need to complete extensive planning to ensure this expanded program does not encounter the same delays that nurse aide misconduct investigations have experienced.

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