

**“In the Hands of Strangers: Are Nursing Home Safeguards Working?”**  
**Summary of Testimony of Andrew M Kramer, MD**

Ten years ago I provided testimony at a similar hearing before the Senate Special Committee on Aging where I identified major problems with the survey process related to consistency and ability to detect deficient practice in areas of critical importance to residents. The comments of the committee led to a bold initiative to modify the survey process using the same scientific methods that I used in my research, leading to the Quality Indicator Survey (QIS).

So ten years later, where are we? We still have very good nursing homes, good nursing homes, not so good nursing homes, and poor nursing homes. We still do not have a national nursing home survey process or consumer reporting system that consistently identifies which of these categories a nursing home is in. We continue to struggle with enforcement in part because of our inability to identify poor performers with confidence. And we have not provided a national measurable quality standard that all nursing facilities can strive to meet.

But we are making substantial process in the six states where QIS is being rolled out (CT, FL, KS, LA, MN, and OH). In these states, we have found that: 1) Most surveyors prefer QIS (e.g. “the QIS survey provides for a more consistent survey that is reproducible.”); 2) issues of extreme importance to residents are being cited in QIS that were only rarely identified in the traditional survey process (e.g. choices, dignity, dental care, nurse staffing, nutrition) making it a more resident-centered survey process; 3) survey consistency is improved in the QIS states, with deficient practice identified more in some survey district offices that had an extended history of very few deficiencies on most surveys; 4) providers and provider associations are using the QIS tools for quality improvement and training; 5) providers claim that “computers kept surveyor attention focused on care and care related issues;” and 6) state agency managers, regional office evaluators, and CMS central office can use the data obtained on the computer throughout the QIS process to monitor and improve surveyor consistency.

For several reasons it has taken a full decade to accomplish this. First, developing and testing a consistent assessment approach spanning the full federal code of regulations, a rigorous training method, and the necessary software was a difficult task. Second, although many state surveyors, providers, resident advocates, CMS central office staff, and researchers are critical of the traditional survey process, many were initially reluctant to support large-scale change. Currently, there is a highly committed CMS team working on QIS. Third, budget uncertainty and the amount of funding allocated to QIS has resulted in numerous state agencies applying to be trained in QIS and even purchasing hardware in their state budgets, and then being told to wait until CMS has the funds to train them. At the current rate of 3 new states per year, it will take about 15 more years to roll out QIS nationally and even that may not happen unless there is a funding commitment so that survey agencies and states can prepare for training and purchase hardware. With the commitment of an additional \$20 million, training could be completed in the other states and the infrastructure development could be finished in less than five years.

Given what has occurred in the states that have implemented QIS, nothing on the horizon would have a bigger impact on safeguarding the lives of nursing home residents and improving their quality of life than to fund the final refinement and implementation of QIS in the remaining states.

**“In the Hands of Strangers: Are Nursing Home Safeguards Working?”**

**Testimony of Andrew M Kramer, MD, Professor of Medicine, University of Colorado**

**May 15, 2008**

Ten years ago, I provided testimony for a similar hearing before the Senate Special Committee of Aging entitled, “Betrayal: The Quality of Care in California Nursing Homes.” I had just assisted the GAO in a study of the nursing home survey process using a rigorous, resident-centered assessment approach for evaluating the quality of care and quality of life of residents in nursing homes.<sup>1</sup> In that study and hearing, I demonstrated major problems with consistency, ability to detect deficient practice, and resident-centeredness of the survey process.<sup>2</sup>

After learning about the process that my research team used to measure quality for nursing home residents, Committee Chair Senator Grassley asked me a series of questions about whether the process that we had developed could be used by state surveyors to conduct the survey, to which I indicated that it could, and we discussed the development that would be needed, some of the strengths of the approach for the survey, and the resources that would be required to train surveyors because the process is very different from the current survey process although it is based on the same code of regulations.<sup>3</sup> The development, testing, and implementation of this

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<sup>1</sup> General Accounting Office. California nursing homes: care problems persist despite federal and state oversight. Report to the Special Committee on Aging, U.S. Senate. Report number: GAO/HEHS-98-202, 1998. Washington DC.

<sup>2</sup> A. M. Kramer. “Betrayal: The Quality of Care in California Nursing Homes”. Special Committee on Aging, United States Senate :One Hundred Fifth Congress, Second Session. Serial Number. 105-30, 1998, page 139. Washington DC.

<sup>3</sup> A. M. Kramer. “Betrayal: The Quality of Care in California Nursing Homes”. Special Committee on Aging, United States Senate :One Hundred Fifth Congress, Second Session. Serial Number. 105-30, 1998, page 204. Washington DC.

revised survey process, called the Quality Indicator Survey (QIS), became part of the Nursing Home Initiative in CMS and a contract to develop it was funded in fall 1998.<sup>4</sup>

So ten years later, where are we?

We still have very good nursing homes, good nursing homes, not so good nursing homes, and poor nursing homes. We still do not have a national nursing home survey process or consumer reporting system that consistently identifies which of these categories that a nursing home is in. We have continued to struggle with enforcement in part because of our inability to identify poor performers with confidence.<sup>5</sup> And we have not provided a national measureable quality standard that all nursing facilities can strive to meet.

But, we are making substantial progress in the six states where QIS is being rolled out (CT, FL, KS, LA, MN, and OH). Following the QIS development contract, in 2005 CMS funded a demonstration of the QIS in five states with two survey teams per state in CT, OH, KS, LA, and CA followed by a statewide training demonstration in FL beginning in 2007. At this stage, statewide roll out is underway in five of these states, one new state has been trained (MN), and three more are scheduled for training next year (NC, NM, WV). We found dramatic results in these states where QIS is implemented with over 700 surveys of record to date.

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<sup>4</sup> A.M.Kramer, D. Zimmerman. "Evaluating the Use of Quality Indicators in the Long-Term Care Survey Process: Final Report. RTI international. 2005. North Carolina.

<sup>5</sup> H. Louwe, C. Parry, A. Kramer, and M. Feuerberg. Improving Nursing Home Enforcement: Findings from Enforcement Studies. Denver, CO: University of Colorado, Division of Health Care Policy and Research. 2007.

Many differences exist between QIS and the traditional survey process. First, in QIS, the surveyors select larger and statistically valid samples of residents to review during the survey. The surveyors use tablet computers to randomly select 40 current residents of the facility and 30 residents admitted in the last six months all of whom will be investigated in the first two days of the survey. In the traditional survey, a much smaller sample of residents is chosen through a combination of reviewing MDS results, survey history, touring the facility in a process that varies from state to state and surveyor to surveyor. In fact there is an industry built around helping nursing homes try to predict which residents will appear in the survey sample because it can influence your survey results so much.

Second, the care received by every one of the residents in the QIS sample is assessed on site through a combination of resident, family and staff interviews, resident observations, and chart reviews that are highly structured and replicable. These assessments are based on the code of federal regulations and include issues of great concern to residents. For example, some of the resident interview questions include:<sup>6</sup>

- Do you participate in choosing when to get up?
- Do you have tooth problems, gum problems, mouth sores, or denture problems?
- Do you have mouth/facial pain with no relief?
- Does staff help you as necessary to clean your teeth?
- Do you feel there is enough staff available to make sure you get the care and assistance you need without having to wait a long time?

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<sup>6</sup> “Quality Indicator Survey Resource Manual” found at [http://www.uchsc.edu/hcpr/qis\\_manual.php](http://www.uchsc.edu/hcpr/qis_manual.php)

- Do you feel the staff treats you with respect and dignity? For example, does staff take the time to listen to you and are staff helpful when you request assistance?
- Do you receive assistance for things you like to do, such as supplies, batteries, books? (Facility should have items available for residents to use).
- Are there activities offered on the weekends, including religious events?
- Are there activities available in the evenings?

Every question requires a clear yes or no response, in contrast to the traditional process, where conversational interviews are conducted during which the surveyors are suppose to elicit residents concerns in all the regulatory areas, and yes they all do it differently and on much smaller numbers of residents.

Structured resident observations are made to such as these related to personal care:<sup>7</sup>

- 1) **Based on general observations, did you see any of the following?** (Mark all that apply)
- a. Unpleasant body odor (other than signs of incontinence)
  - b. Skin is unclean (i.e., food on face & hands)
  - c. Eyes are matted
  - d. Mouth contains debris, or teeth/dentures not brushed, or mouth odor, or dentures not in place
  - e. Teeth broken/loose, or inflamed/bleeding gums, or problems with dentures
  - f. Hair is uncombed and not clean
  - g. Facial hair not removed or unshaven

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<sup>7</sup> “Quality Indicator Survey Resource Manual” found at [http://www.uchsc.edu/hcpr/qis\\_manual.php](http://www.uchsc.edu/hcpr/qis_manual.php)

- h. Fingernails are unclean and untrimmed
- i. Clothing and/or linens are soiled (other than signs of incontinence)
- j. Glasses are dirty or broken
- k. None of the above

**Comments:**

For weight loss, actual weights are recorded from the record for both long-term residents and new admissions and then weight loss is calculated, with exclusions for residents on weight loss programs and receiving terminal care.<sup>8</sup> In the traditional survey, the decision to investigate weight loss is based on an MDS item where the facility reports whether a resident has lost 5% or more of their weight in 30 days or 10 % or more in the last 180 days.

Third, following preliminary investigation, rates of occurrence of 162 care issues spanning the regulations are determined. In-depth investigations then proceed in areas where the facility exceeds statistically derived thresholds that suggest areas where deficient practice may result. If very few areas trigger, then fewer survey resources are expended in that facility because they do not have as many quality of care and life concerns. If many areas trigger, well let's just say it is going to be a long survey. Even this in-depth investigation is structured by protocols that surveyors follow and respond to specific guidance in a structured format. The documentation collected on the tablet pc throughout the process is then uploaded into the statement of deficiencies.

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<sup>8</sup> Ibid

Fourth, state survey agency managers, regional office evaluators conducting federal oversight, and CMS central office can use the data generated through this structured process to monitor consistency and rigor of the survey process. Desk audit reports are generated based on QIS surveys that yield information on variation in survey practices between states, district offices, survey teams and even surveyors. These results have been provided to survey agency managers and used by them to determine the sources of inconsistency and introduce corrective action. Regional Office surveyors from five of the ten regions who have been trained in QIS will be trained in June to use this same information to target federal oversight activities. CMS central office is beginning a survey consistency initiative based on this information. Unfortunately, the same type of information cannot be generated on the traditional surveys because the structure does not exist; something that many of the survey agencies doing QIS surveys have requested.

So what have we learned in the QIS implementation?

First, we learned that a large majority of surveyors prefer QIS and never want to return to the traditional process once they become proficient in QIS.<sup>9</sup> But it does take a full month to train a surveyor in the QIS process in order to ensure that they are complying with it. Following are several of the many favorable comments from surveyors,<sup>10</sup> but you should talk to survey agency directors and surveyors in any of the states that are implementing QIS to confirm these comments.

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<sup>9</sup> A. M. Kramer. "Quality Indicator Survey Demonstration: The Big Picture", Chapter 8 in Evaluation of the Quality Indicator Survey (QIS), Final Report for Contract #500-00-0032, TO#7. Cambridge, MA: Abt Associates Inc. 2007.

<sup>10</sup> Comments from Connecticut surveyors or from the written survey of the first 52 registered QIS surveyors.

"I like the fact that I can talk to more residents. I can sit down on a one on one. I like the fact that it is more focused and that it is looking at other areas other than nursing and care issues.

"Before I used to write a lot of quality of care tags, but now I have included quality of life tags because of the way it is structured. You look at the whole facet of that person's life in the nursing home, which includes activities, which includes social services, finance, a lot more."

"The increased resident interviews give a broader picture of what the residents are experiencing in the home and what problems or concerns they have."

"Overall I think the QIS survey provides for a more consistent survey that is reproducible. More information about residents and the facility is obtained. I feel the QIS identified the problems and gives structured pathways to investigate areas."

"I think it is very objective, more than subjective. It directs you to the correct tag you need to use or gives you several tags that you can choose from. Still using your surveyor judgment, but it narrows the tags rather than sometimes you're not sure what tag to use."

Second, we learned that many issues of extreme importance to residents are being cited in QIS that were less frequently identified in the traditional process.

Non-compliance with a number of regulations related to quality of life and resident rights has been identified more frequently in QIS, such as:

- F159 Facility Management of Resident Funds
- F157 Inform of Accidents/Significant Changes, Transfer
- F156 Inform Residents of Services/Charges/Legal Rights
- F463 Resident Call System
- F248 Activity Program Meets Individual Needs
- F242 Self-Determination - Resident Makes Choices
- F247 Notice Before Room/Roommate Change
- F241 Dignity

A number of important quality of care issues have been identified more in QIS surveys, such as:

- F272 Comprehensive Assessments
- F329 Drug Regimen is Free from Unnecessary Drugs
- F279 Develop Comprehensive Care Plans
- F281 Services Provided Meet Professional Standards
- F324 Supervision/Devices to Prevent Accidents
- F429 Pharmacist Reports Irregularities
- F325 Resident Maintain Nutritional Status Unless Unavoidable

Several areas related to personal care and functional well-being are cited more under QIS:

F309 Provide Necessary Care for Highest Practicable Well Being

F312 ADL Care Provided for Dependent Residents

F318 Range of Motion Treatment & Services

Concerns about oral health are identified more under QIS because of the direct questioning in this area. This has led to more dental services citations (F411 and F412) and in some states, like FL and KS, greater opportunities for both training and provision of dental services in long-term care facilities are now available. And as we would expect, direct questioning about staffing has led to more frequent identification of nurse staffing problems (F356).

Third, we found that there are more deficiencies in QIS than the traditional process on average, but 40% of facilities have the same number or fewer citations and 60% have more. In fact, in some survey district offices where they had a history of relatively few deficiencies, under QIS there were large increases in many of the facilities because the process was more consistent. We found zero deficiency facilities under QIS in every state, often in facilities that embrace the principles of culture change, the movement that is very attuned to the quality of life issues that surface in a QIS survey.

Fourth, providers although initially skeptical about QIS, are finding that they can use the tools year round for ongoing quality improvement to ensure that they are meeting the needs of their residents and if they do, they can improve care and have better survey results. They have also learned that the improvements required under QIS cannot be made within their survey window

and certainly not during the survey. Even with more deficiencies on average, many providers have come out in support of QIS once they learn about it and experience it. Marty Goetz, the CEO of River Garden Hebrew Home for the Aged, had this to say about QIS in a letter to Polly Weaver, Chief of Field Operations at the survey agency in FL:

“Prior to our recent experience we were especially apprehensive around QIS and the effects that it would have upon our Home and its culture of care. Many of us (including me) were initially concerned that too much reliance was being placed on the application of complex algorithms and technology; and the purpose of the on-site visit would be lost as professionals were being diverted to “managing their computers.” We were mistaken. Our experience was that the notebook computers kept surveyor attention focused on care and care related issues. Surveyors used their computers as interactive tools in driving the survey, but at no time did it appear that professional decision-making had been relegated to computers.”<sup>11</sup>

He went on to many other statements such as: “The QIS process and structure keeps everyone’s attention focused and doesn’t easily allow for “survey drift” (my term).”

As you know, this is a rare response to a regulatory process that is basically punitive. Favorable responses have been also been obtained from for-profit providers, such as:<sup>12</sup>

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<sup>11</sup> Quote from letter from Martin A. Goetz, Chief Executive Officer, River Garden Hebrew Home/Wolfson Health and Aging Center, Jacksonville, Florida.

<sup>12</sup> Quote from for-profit providers in Connecticut surveyed under QIS

"As the provider, we view the QIS survey as a more consistent and systematic process."

"The questions were good, and I just really liked the objectivity. I've had some uncomfortable experiences in the past with the traditional survey where I really thought personal feelings were in the way, and the QIS definitely, I thought, removed that, and we were all there for the same reason."

These provider responses are certainly not unanimous. In my frequent presentations on QIS over the last several years I have received a range of comments.

So why isn't QIS further along after 10 years?

First, development of a consistent quality of care and quality of life assessment approach spanning the full federal code of regulations turned out to be a difficult task. Formulating specific questions based on the regulations and interpretive guidance, developing structured protocols for conducting interviews and observations, and developing the software to support this data driven process all took time. Implementing a demonstration in five states where QIS was the survey of record had to be approached carefully to ensure that the process was feasible. Developing a cost-effective method to train surveyors to conduct QIS that ensured consistent application of the process was essential for larger scale roll out. Other systems have also had to change such as the Federal oversight and monitoring process, with regional office evaluators being trained in QIS and the QIS data being used to enhance their ability to identify inconsistency and improper application of the process.

In addition, the QIS demonstration had an independent CMS-funded evaluation that was completed more than a year later than projected. The evaluation (completed the end of last year) included observations of only 10 QIS surveys and was not conclusive due to the small sample sizes and other issues. According to the authors, “We qualify these findings by noting that comparisons between QIS and standard surveys were limited by sample size; thus the data we provide are best used for survey improvement purposes rather than to inform a decision about what type of survey process to use.”<sup>13</sup> The evaluation didn’t directly address the issue of consistency nor did the evaluators talk to QIS surveyors or staff in the facilities that were surveyed by QIS. However, the evaluators agreed that CMS should go forward with QIS and made recommendations about refinements to QIS that are being considered by CMS in the ongoing revision and improvement process.

Second, although many state surveyors, providers, resident advocates, CMS central office staff, and researchers are critical of the traditional survey process, many were initially reluctant to support large-scale changes. While survey and certification leaders in CMS, Helene Fredeking and Steve Pelovitz, were supportive of changes to the survey process at the start of the CMS development contract, it was not until more recently that a critical mass of CMS staff, including Thomas Hamilton, Cindy Graunke, Fred Gladden, Karen Shoenemann, Bev Cullen, Debra Swinton-Speares, Kathy Lochary, Linda O’hara, and Joan Simmons provided the necessary

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<sup>13</sup> A. White, J Schnelle, R. Bertrand, K. Hickey, D. Hurd, D. Squires, R. Sweetland, and T. Moore. Executive Summary: Evaluation of the Quality Indicator Survey (QIS), Final Report for Contract #500-00-0032, TO#7. Cambridge, MA: Abt Associates Inc. page vi, 2007.

leadership and support to develop and implement QIS. Keeping the various stakeholders engaged in the QIS over the last ten years has also been essential.

Third, was the amount and uncertainty of the budget allocated to QIS. About \$9 million in federal funds have been invested over ten years in QIS development, testing, and training for roll out in 6 states (CT, OH, KS, LA, FL, MN). Budget uncertainty has resulted in numerous state agencies applying to be trained in QIS and even purchasing hardware from their state budgets, and then being told to wait until CMS has the funds to train them. At the current rate of three new states per year, it will take about 15 years to roll QIS out nationally and even that may not happen unless there is a funding commitment so that survey agencies and states can prepare for training and purchase hardware. With the commitment to CMS of \$20 million, training could be completed in all the states and the infrastructure development could be finished in less than five years.

Seeing what has happened in the states that have implemented QIS, I believe that there is nothing that would have a bigger impact on safeguarding the lives of nursing home residents and improving their quality of life than to fund the final refinement and implementation of QIS.



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**Governor's Gold Seal Award for Excellence in Long-Term Care**

January 3, 2008

Polly Weaver  
Chief, Bureau of Field Operations  
Florida Agency for Health Care Administration  
2727 Mahan Drive  
Tallahassee, Florida

Dear Ms. Weaver:

River Garden Hebrew Home for the Aged recently underwent a QIS inspection by a team working out of the Jacksonville field office. Since this was our first experience with the new QIS survey protocols and since Florida is at the forefront of implementation nationally, we thought we would share some thoughts that go beyond the standard post-survey on-line questionnaire.

Prior to our recent experience we were especially apprehensive around QIS and the effects it would have upon our Home and its culture of care. Many of us (including me) were initially concerned that too much reliance was being placed on the application of complex algorithms and technology; and that the purpose of the on-site inspection visit would be lost as professionals were diverted to "managing their computers." We were mistaken. Our experience was that the notebook computers kept surveyor attention focused on care and care related issues. Surveyors used their computers as interactive tools in driving the survey, but at no time did it appear that professional decision making had been relegated to computers.

Some thoughts now that we've had a few weeks to reflect upon the survey:

1. **Excellent Professionals:** Of the five AHCA surveyors, three of them had never surveyed us before, including the team leader, Judith Powell, RN. Four of the five on the team were nurses and the fifth was a long-standing surveyor, Stephanie Fox. These were outstanding surveyors who know the field well and represented AHCA, CMS, and their professions with excellence.
2. **Keep Survey Teams Intact:** It was apparent early on that the AHCA survey team was comfortable with the new survey and also with each other. We've come to more fully

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appreciate that successful implementation of QIS requires significant teaming and bonding by surveyors, each to the other. We're convinced that AHCA and CMS will get its best and most consistent outcomes by having intact teams that know each other and work well together. During our recent survey we were particularly impressed by how well the team interacted with each other as well as with our residents, families, and staff.

2. **Communication and Anxiety Reduction:** This team did a superb job in communicating easily and well with virtually everyone with whom they came in contact. When our staff expressed curiosity to surveyors regarding their computer notebooks, your staff took a moment to show them what they were doing and how it was flowing into the system –I cannot begin to tell you how important those simple acts of courtesy and kindness were in helping alleviate anxiety and apprehension among staff.
3. **Focused Surveyors:** The QIS structure and process keeps everyone's attention focused and doesn't easily allow for "survey drift" (my term). We were continually impressed by the team's comfort with the new structure and process, and in their commitment to remain focused on tasks, timelines, and communication.
4. **Staff Retention:** Within this new CMS' survey model, significant resources, including money and time are clearly being invested in surveyor education and training. For this new survey protocol to be successfully implemented AHCA needs to be assured of a stable professional workforce that is adequately compensated. And while are not aware of compensation being a problem, should it be identified as one please let us know and we will try to help.

River Garden is an organization that places a high value on mission, competence, and tenure. We know what it looks and feels like when people are comfortable with one another, and this survey team was especially so. The team was proud of themselves and their mastery of the work. And you have right to be proud of them and their leader Nancy Marsh.

Sincerely yours,



Martin A. Goetz  
Chief Executive Officer

MAG/rh