<image/>	Mumber of facilities       Number of states and overalls       Average Average for total ansume of total ansu
	5,013,223,03

Nursing Homes Post COVID: Issues of Interest to Health Care Journalists and the Public

> Richard Mollot Long Term Care Community Coalition

www.nursinghome411.org

### + The Long Term Care Community Coalition

- LTCCC: Nonprofit, nonpartisan organization dedicated to improving care & quality of life for the elderly & adult disabled in long-term care (LTC).
- Our focus: People who live in nursing homes & assisted living.

#### What we do:

- Policy analysis and systems advocacy;
- Monitor and report nursing home quality and performance data;
- Public education.
- Richard Mollot: Executive Director
- Website: www.nursinghome411.org.

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### Nursing Homes Were a Disaster Waiting to Happen

Long before COVID-19, poor care and lax oversight were widespread and well-known.

#### The New York Times

GIVE TH

#### OPINION

#### Nursing Homes Were a Disaster Waiting to Happen

Long before Covid-19, poor care and lax standards were widespread and well known.

April 28, 2020



A resident at a nursing home in Kirkland, Wash. Grant Hindsley for The New York Times

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# Agenda



BACKGROUND: Nursing Homes: Where we are and how we got here.

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#### SEPARATING FACT FROM FICTION



NEW STUDY: US Nursing Home Finances: Spending, Profitability and Capital Structure

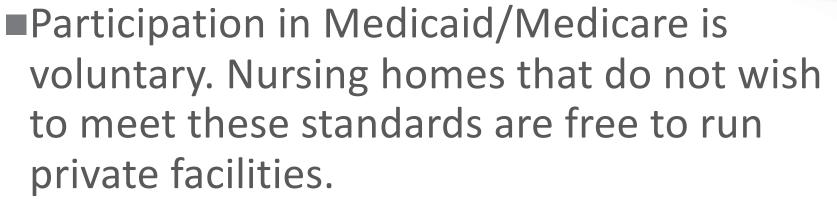


DATA RESOURCES: A brief review of how publicly available information can be useful.

## Background

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- + The Nursing Home Reform Law
  - The law passed in 1987.
  - Every nursing home that participates in Medicaid/Medicare agrees to meet or exceed the standards laid out in the Reform Law and its implementing regulations.







### + The Nursing Home Reform Law

- The federal law requires that every nursing home resident is provided the care and quality of life services sufficient to attain and maintain their highest practicable physical, emotional, & psychosocial well-being.
- The law emphasizes individualized, patient-centered care.
- Importantly, the law lays out specific resident rights from good care and monitoring to a quality of life that maximizes choice, dignity, & autonomy.
- "Effective" infection control and sufficient staffing have been required since the beginning.



Question: If the law and standards are so strong, why aren't nursing homes decent and safe places to live and work?

Answer: Laws and standards can only make a difference if they are enforced.



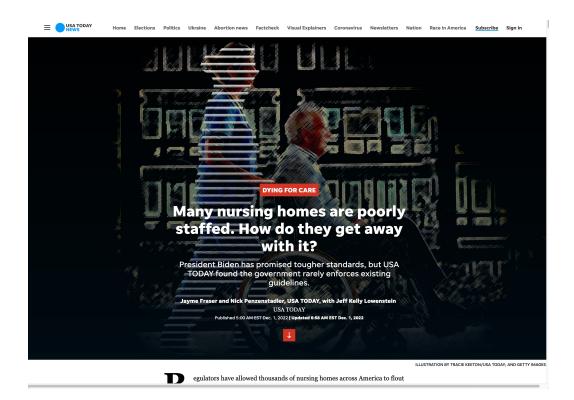
### + The Problem(s)

Federal data, our studies, and countless federal reports indicate that baseline requirements are largely unenforced.



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Weak Enforcement = Opportunities for Predatory Operators & Investors



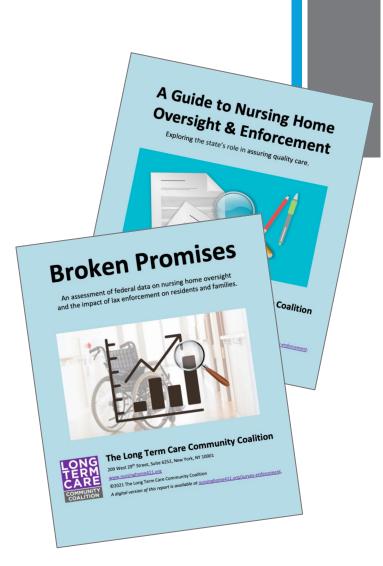
Long-term care continues to be understaffed, poorly regulated and vulnerable to predation by for-profit conglomerates and privateequity firms.

E. Tammy Kim, "This Is Why Nursing Homes Failed So Badly," The New York Times (Dec. 31, 2020)

#### + LTCCC's 2021 Project

What can we expect from those responsible for ensuring that nursing home residents are safe and treated with dignity?

To what extent are requirements for nursing homes – and the agencies responsible for overseeing them – being realized in the lives of nursing home residents?



This study was conducted with the generous support of **The New York Community Trust**. To view or download, visit <u>https://nursinghome411.org/survey-enforcement/</u>

# Summary of findings

#### Frequency

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Annually, surveyors recorded one citation for every 13 residents in the threeyear period from 2018 to 2020.

#### Severity

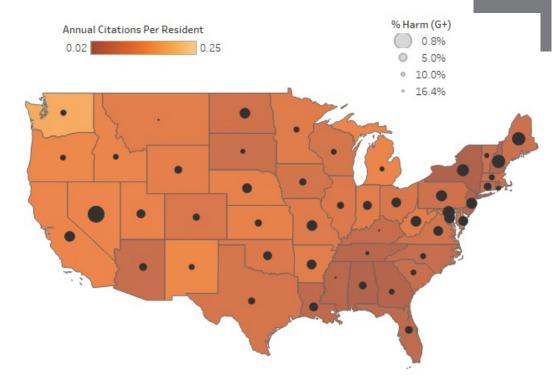
Harm (G or above) citations are rare. Of the 290,000 citations, 5.0% were categorized as Harm. 1.8% were categorized as Immediate Jeopardy (J or above).

#### Citations by Category

- Infection Prevention & Control (F880) citations accounted for 7.8% of all deficiencies.
- Antipsychotics (F758), Pressure Ulcers (F686), and Resident Rights (F550) each accounted for roughly 2%.
- Sufficient Staffing (F725) accounted for 1%.
- Quality of Life (F675) accounted for 0.1%.

## + Summary findings: State & Region

- State and regional enforcement and severity varied considerably but were often consistent across categories of nursing home care.
- New Jersey and New York ranked in the bottom-quintile in most citation metrics evaluated in this report.
  - In an average year in New York, there was one citation for every 50 residents. In Alaska, there was one citation for every four residents.
- Region 2 (New York) ranked at the bottom of most enforcement metrics, meaning the region had lower enforcement rates. Region 10 (Seattle) ranked first and second in most enforcement metrics.

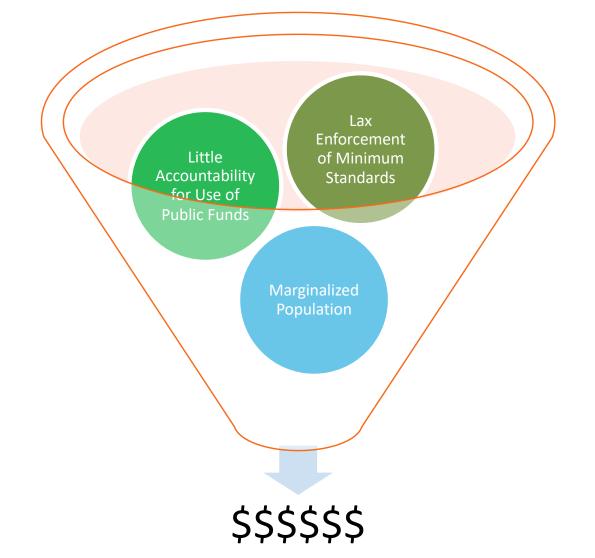


Darker  $\rightarrow$  lower citation rate. Larger circles  $\rightarrow$  lower % of Harm citations.

To download the Guide or Report, go to

https://nursinghome411.org/survey-enforcement.

The U.S. System Enables Operators to Maximize
 Profits by Providing Substandard Care & Conditions



 Nursing Home Profits and the Inevitability of Low Staffing & Poor Care
 Separating Truth From Fiction Despite claims of "razor-thin margins" for-profit ownership has been increasing for many years.

+

Over the years, the nursing home industry has become increasingly sophisticated and opaque.



- These mechanisms were originally employed as a means to escape legal and financial accountability for death and suffering caused by substandard care.
- In recent years, Real Estate Investment Trusts (REITs), private equity, and other, similarly sophisticated investors have entered the market.

# + As a result... Care Suffers As More Nursing Homes Feed KIN Money Into Corporate Webs

75% of U.S. nursing homes use related party transactions, a mechanism through which operators can hide profits while falsely claiming to the public that they operate on "razorthin" margins, lose money on Medicaid beneficiaries, or cannot afford to hire the staff necessary to provide promised care. How troubled Syracuse nursing home

fed \$60M into owner's corporate web

\$39.2 million

\$2.09 million

s4.6 million to Upstate Services

14.8 million

Van Duyn

### Myth #1 Nursing homes are underpaid

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Myth: Nursing home payment is insufficient to provide good care.
 Reality: Most nursing homes are run for-profit and are seen as attractive investments.

- The industry's longstanding argument that it does not get paid enough to provide sufficient staffing, baseline infection control protocols, etc... is unsubstantiated by independent data.
- In fact, nursing homes are increasingly operated by for-profit entities.
- Private equity and REITs have increasing, substantial investment in the sector.
- There are virtually no limitations on the use of public funds to pay for administrative staff or siphon off into profits.
- As noted above, operators commonly use related party transactions to hide profits (and perpetuate the myth of "razor-thin margins").

### + Medicaid Funding

#### LTCCC POLICY BRIEF

#### NURSING HOME MEDICAID FUNDING: SEPARATING FACT FROM FICTION

Background. Medicaid is the primary funding source for the majority of nursing home services in the US. Managed by states using a mix of state and federal funding, Medicaid covers more than 60% of residents nationwide. Each state has broad flexibility to determine eligibility standards and payment methods and design reimbursement rates.

Industry Claims vs. Facts. Nursing home providers and trade associations claim that Medicaid rates are inadequate and less than the cost of actual care, which then leads providers to leverage other payor sources, such as Medicare and private pay. The industry also blames low Medicaid rates for substandard care. However, recent studies suggest that <u>for-profit facilities have maximized profits</u> for

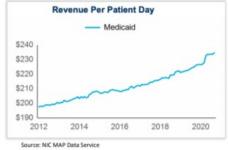
owners and investors while skimping on resident care.

Nursing homes received an

a 2.2% increase from 2018

 Medicaid rates have <u>steadily</u> increased in the past decade, rising 12.6% since 2012, according to the <u>National Investment</u> <u>Center for Seniors Housing & Care</u> (NIC)

average of <u>\$214 per resident per</u> day in Medicaid funding in 2019,



- An NIC report with data through September 2020 shows a <u>national average reimbursement</u> rate of \$235, though this \$21 increase from 2019 is likely a <u>COVID-related boost</u>
- Although industry leaders claim that nursing homes are <u>losing money</u> on Medicaid residents and blame <u>closures</u> and financial struggles on low reimbursement rates, typical <u>nursing home</u> profits are in the 3 to 4 percent range, according to Bill Ulrich, a nursing home financial consultant
- In fact, most nursing homes "outsource a wide variety of goods and services to companies in
  which they have a financial interest or that they control." This practice, called related-party
  transactions, can be used to "siphon off higher profits, which are not recorded on the nursing
  home's accounts," giving the false impression that a nursing home has low profits or is losing

One Penn Plaza, Suite 6252, New York, NY 10119 | P: 212-385-0355 | E: info@ltccc.org www.NursingHome411.org Medicaid rates have steadily increased in the past decade...

More financial accountability for facilities would decrease the likelihood of facilities funneling cash to owners and investors at the expense of better resident care.

#### nursinghome411.org/ltc-medicaid-funding/

### + Medicare Funding

According to the Medicare Payment Advisory Commission...

- The marginal profit from Medicare nursing home patients in 2020 averaged 25%.
- The average Medicare profit margin has been above 10% for over 20 years.

Unfortunately, the focus of Medicare rate setting has been almost entirely on controlling costs rather than ensuring quality. Medicare prospective payments are based on estimated costs and not on actual expenditures. This system allows nursing homes to keep staffing and operating expenses low in order to maximize profits.

\* Medicare Payment Advisory Commission, *Report to the Congress: Medicare Payment Policy,* Chapter 7 (March 2022).

NOTE: These profit margins do not take into account profits hidden in administrative costs or relatedparty transactions.

#### + Funding is NOT the Problem

#### **OIG:** Adverse Events in Skilled Nursing Facilities: National Incidence Among Medicare Beneficiaries

- OIG found that one-third of residents who were in a nursing home for short-term care were harmed w/in an average of 15.5 days.
- Almost 60 percent of the injuries were preventable and attributable to poor care.
- Much of the preventable harm was due to substandard care, inadequate resident monitoring, and failure or delay of necessary care.
- As a result, six percent of those who were harmed died, and more than half were rehospitalized.
- "Because many of the events that we identified were preventable, our study confirms the need and opportunity for SNFs to significantly reduce the incidence of resident harm events."

Even when profits are high, nursing homes fail to provide adequate care, safety, or treat residents humanely.

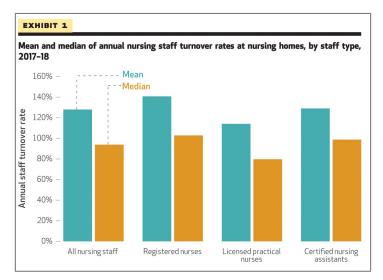
### Myth #2 It's impossible to find enough nursing staff

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 Myth: Nursing homes cannot find sufficient nursing staff to provide appropriate care & life with dignity.

**Reality**: Too many nursing homes don't *retain* sufficient staffing due to poor & dangerous working conditions & low pay.

- **2009 Study**: "As far back as the mid 1970s studies have documented average turnover rates for registered nurses (RNs), licensed vocational nurses (LVNs) and certified nurses aides (CNAs) ranging between 55% and 75%. Rates have remained high throughout the decades, often exceeding 100% for CNAs, the most common type of care giver in nursing homes."<sup>1</sup>
- 2021 Study: "Mean and median annual turnover rates for total nursing staff were roughly 128 percent and 94 percent, respectively. Turnover rates were correlated with facility location, for-profit status, chain ownership, Medicaid patient census, and star ratings."<sup>2</sup>



1. Mukamel, Dana B et al. "The costs of turnover in nursing homes." *Medical care* vol. 47,10 (2009): 1039-45. <u>https://doi.org/10.1097/MLR.0b013e3181a3cc6</u>

<sup>2.</sup> Gandhi, Ashvin, Yu, Huizi, and Grabowski, David. "High Nursing Staff Turnover In Nursing Homes Offers Important Quality Information." *Health Affairs* vol. 40, No. 3 (2021). <u>https://doi.org/10.1377/hlthaff.2020.00957</u>

### US Nursing Home Finances: Spending, Profitability and Capital Structure

First ever study of the income and expenses which nursing homes report to the government every year

<u> https://journals.sagepub.com/doi/10.1177/2</u> 7551938231221509

### Study of Nursing Home Finances

- Problem: NH lobby associations provide misleading narrative
  - Government rates are inadequate

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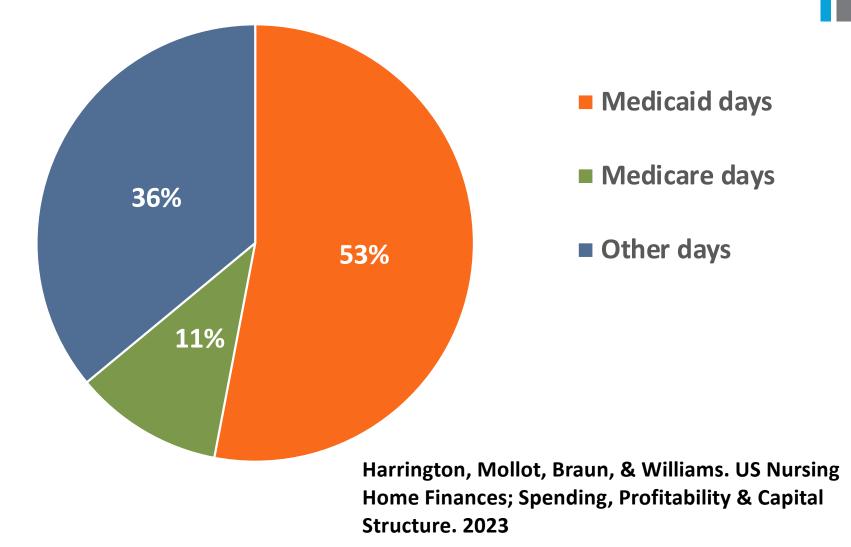
Staff shortages make it impossible to hire nurses
 Some NHs face bankruptcy and may close

### Study Aims: to examine 2019 Medicare cost report data

- revenues, expenses, profits and losses
- related party expenditures (same or common owners)
- expenditures for direct care vs capital, administration and profits

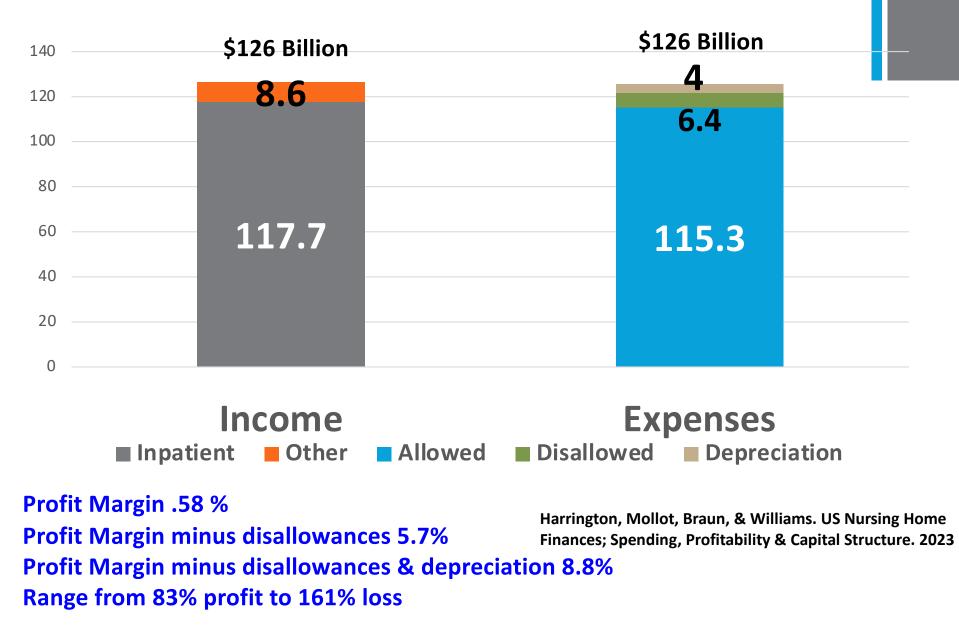
## US Nursing Home Payer Mix, 2019 (11,752 NHs, 1,355,000 beds, 81% occupancy)

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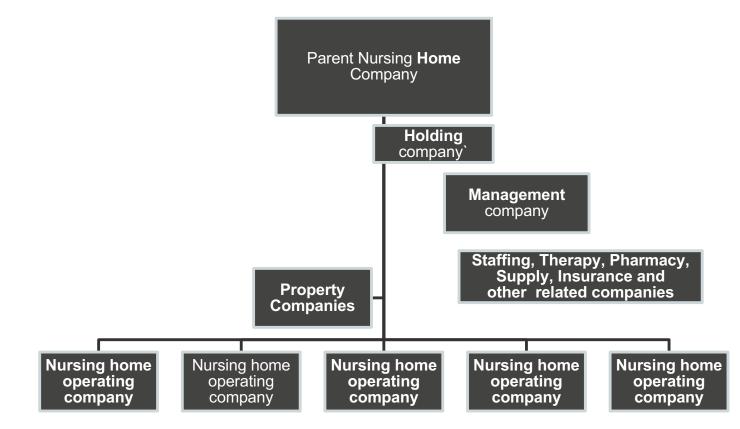


# US Nursing Home Revenues and Expenses in Billions, 2019 (N=11,752)

-

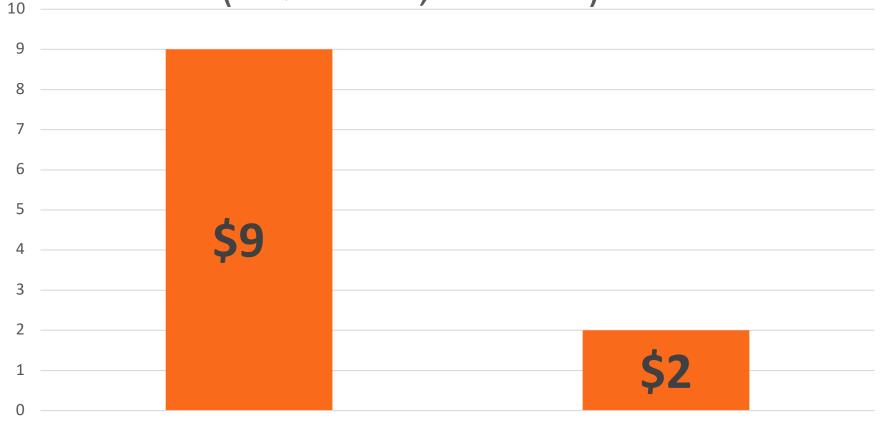


### NHs hide profits in multiple related party companies



Related-party organizations are used to hide profits and funnel money away from resident care, reduce taxes, and reduce liability

### US Related Party Expenses Were \$11 Billion in 2019 (9.5% of revenues) (77% of 11,752 NHs)



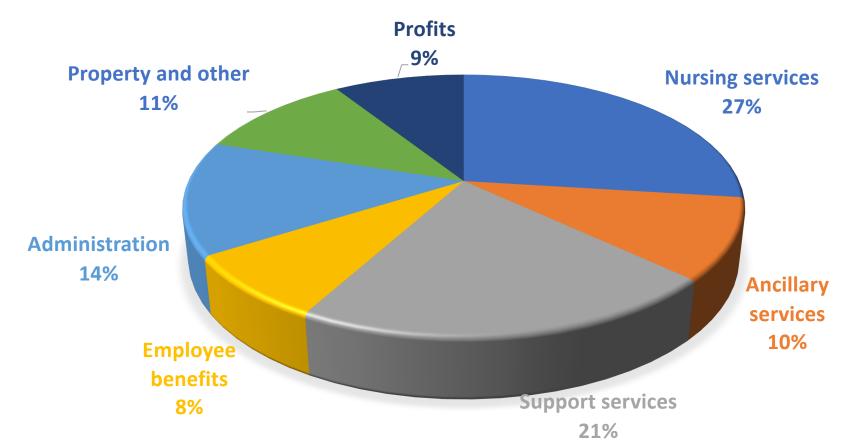
Allowed

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Disallowed

Harrington, Mollot, Braun, & Williams. US Nursing Home Finances; Spending, Profitability & Capital Structure. 2023.

# + US NH Expenditures as a Percent of Net Revenues in 2019



Direct Care Expenses = 66% Administration, Capital and Profits = 34%

Harrington, Mollot, Braun, & Williams. US Nursing Home Finances; Spending, Profitability & Capital Structure. 2023. Summary of Major Policy Reforms Needed

-

- 1. Establish adequate, evidence-based federal staffing minimums with adjustments for resident acuity
- 2. Strengthen enforcement, especially on chains
- 3. Increase ownership transparency and set federal certification criteria for ownership
- 4. Require greater financial transparency and accuracy
- 5. Improve financial accountability with direct care spending requirements and return of excess payments

### LTCCC Data Insights & Resources

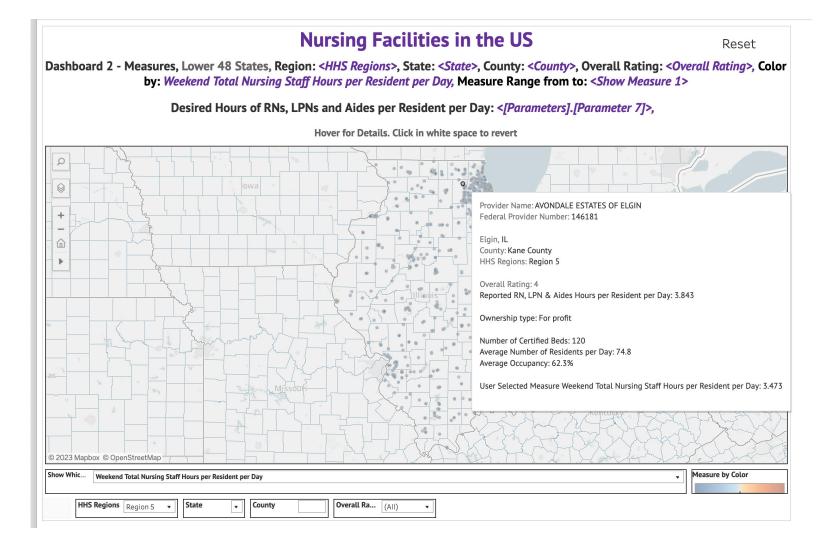
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# + Data are our friends

- Over the years, the availability of public data on nursing homes has greatly increased...
  - Staffing
  - Inspection results
  - So-called "quality measures"
- In response to the increased corporatization of the nursing home sector, CMS has required more and better reporting of ownership information
- Some of these data are better than others
- Transparency is not a substitute for effective oversight. However, it can be used to both inform and improve oversight and accountability.

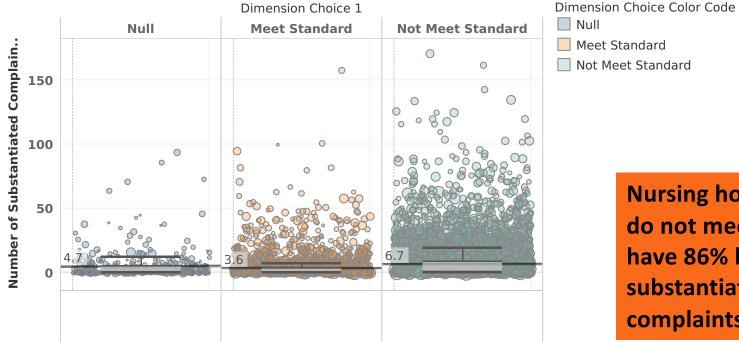
## + Staffing, Quality, & Ownership

# Searchable & Sortable Information on national, regional, state, county, and individual levels



Data Visualizations: Why is a Good Staffing Standard So Important?

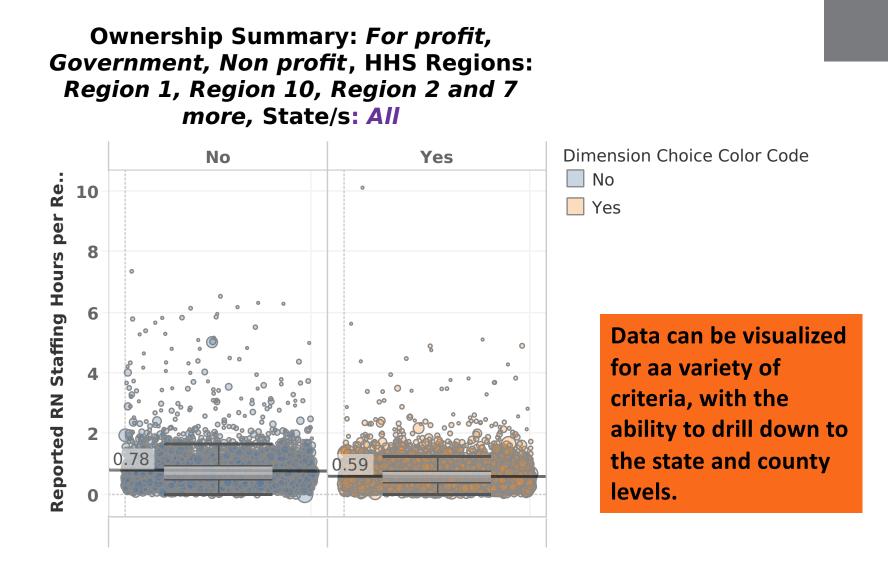
Does Measure Number of Substantiated *Complaints* (Vertical Scale) with Range: 0.0 to 171.0, vary by Meet Staff Standard (Horizontal Scale)? Color by Meet Staff Standard , Desired Staff Hours per Resident per Day: 4.1, Meet Staffing Standard? All **Ownership Type: All**, **HHS Regions: All**, State/s: All



Meet Standard Not Meet Standard

> Nursing homes that do not meet 4.1 HPRD have 86% higher substantiated complaints.

 Data Visualization: Chains have 24% lower RN staffing than nonaffiliated nursing homes

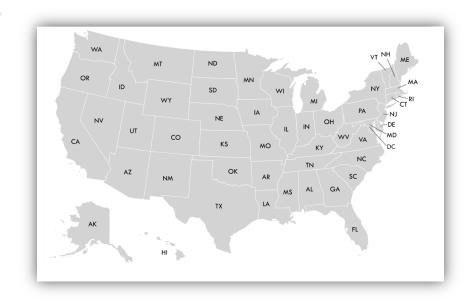


### LTCCC's state pages

- Use clickable map to find your state
- State pages contain state-specific
  - Staffing

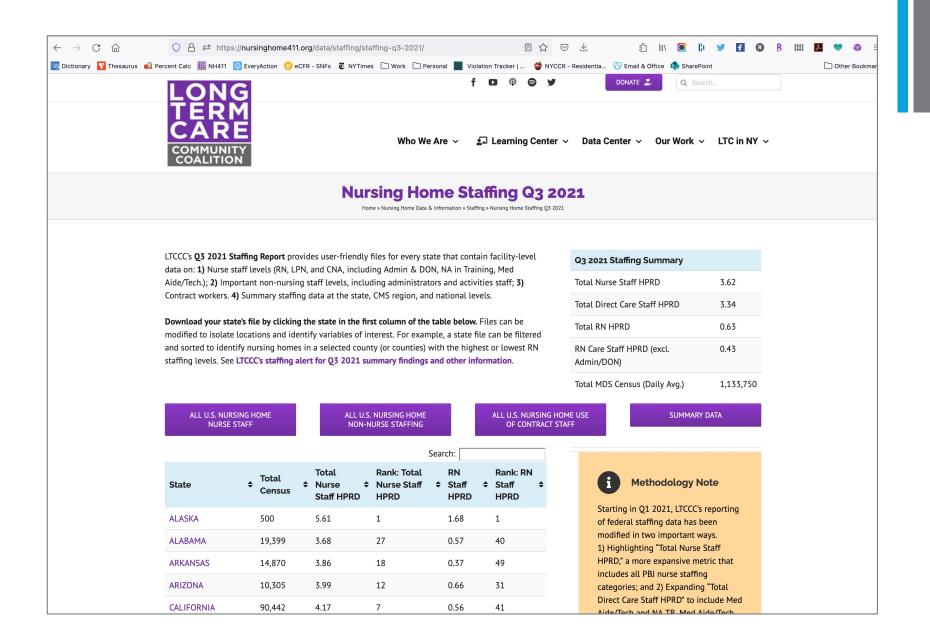
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- Ratings
- Ombudsman resources
- And more...

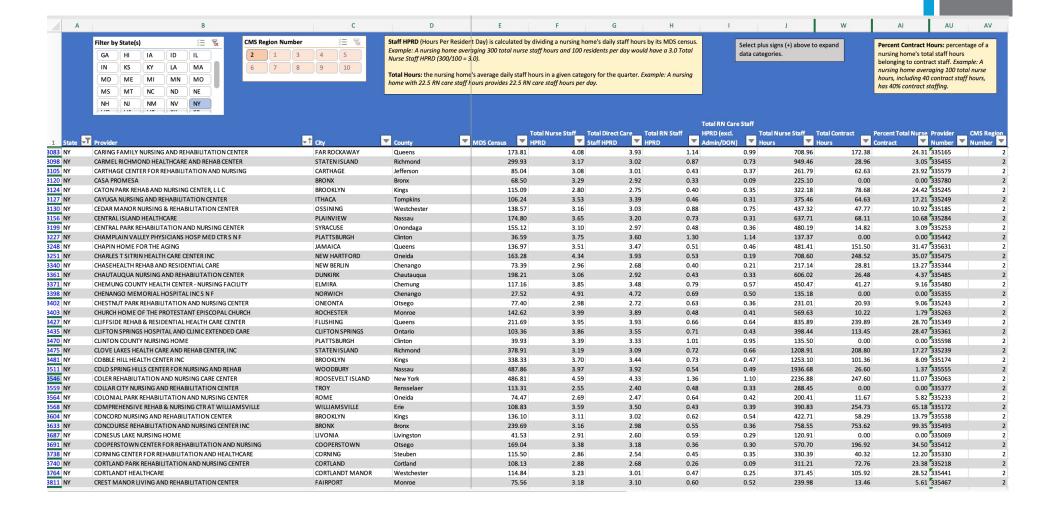


### nursinghome411.org/states

### Nursing Home Staffing Info – Updated Quarterly



# \* Searchable Staffing Data: State, County, City, & Facility Level



### + Conclusions

#### Federal data and numerous study clearly indicate that...

- The U.S. nursing home industry is increasingly run by for-profit entities.
- Operators have become increasingly sophisticated in obscuring information about ownership, related-parties, and where public funds allocated for care actually go.
- Oversight mechanisms, always weak, have not kept up.
- Industry arguments in defense of longstanding problems insufficient staffing, poor infection control, degrading conditions – are....

#### → Unsubstantiated and

- →Irrelevant... nursing homes are not warehouses or chicken farms (!?).
- Access to good data and information can be the basis for good and effective reporting.



Sign up for alerts: <u>nursinghome411.org/join/</u>

Contact: 212-385-0355 <u>richard@ltccc.org</u>

### Visit

### www.nursinghome411.org

### for

- Staffing and quality info for every U.S. nursing home;
- Guides & fact sheets on resident care standards;
- Webinars and podcasts with useful information and insights; and
- Resources for the public, including the Dementia Care Advocacy Toolkit.

### Thank You!

# Questions?

# Comments?

### nursinghome411.org