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

Richard Mollot
Long Term Care Community Coalition
www.nursinghome411.org

<table>
<thead>
<tr>
<th>Affiliated entity</th>
<th>Number of facilities</th>
<th>Number of states and territories with operations</th>
<th>Average overall star rating</th>
<th>Average total annual per resident</th>
<th>Total amount of fines in dollars</th>
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<td>6</td>
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<td>2.6</td>
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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](http://www.nursinghome411.org).
Nursing Homes Were a Disaster Waiting to Happen

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

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

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
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.
- Participation in Medicaid/Medicare is voluntary. Nursing homes that do not wish to meet these standards are free to run private facilities.
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.
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 private-equity firms.

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 https://nursinghome411.org/survey-enforcement/
Summary of findings

- **Frequency**
  - Annually, surveyors recorded **one citation for every 13 residents** in the three-year 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 → lower citation rate.
Larger circles → 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

- Marginalized Population
- Little Accountability for Use of Public Funds
- Lax Enforcement of Minimum Standards

$$$$$$$
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...

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 “razor-thin” margins, lose money on Medicaid beneficiaries, or cannot afford to hire the staff necessary to provide promised care.
Myth #1
Nursing homes are underpaid
**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 leverag other payor sources, such as Medicare and private pay. The industry also blames low Medicaid rates for substandard care. However, recent studies suggest that for-profit facilities have maximized profits for owners and investors while skimping on resident care.

- Medicaid rates have steadily increased in the past decade, rising 12.6% since 2012, according to the National Investment Center for Seniors Housing & Care (NIC).
- Nursing homes received an average of $214 per resident per day in Medicaid funding in 2019, a 2.2% increase from 2018.
- An NIC report with data through September 2020 shows a national average reimbursement rate of $235, though this $21 increase from 2019 is likely a COVID-related boost.
- Although industry leaders claim that nursing homes are losing money on Medicaid residents and blame closures and financial struggles on low reimbursement rates, typical nursing home 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 money.

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

[Source: NIC MAP Data Service](https://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 related-party 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 within 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
**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.”

- **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.”

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

https://journals.sagepub.com/doi/10.1177/27551938231221509
Study of Nursing Home Finances

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

53% Medicaid days
36% Medicare days
11% Other days

Harrington, Mollot, Braun, & Williams. US Nursing Home Finances; Spending, Profitability & Capital Structure. 2023
US Nursing Home Revenues and Expenses in Billions, 2019 (N=11,752)

Income
- Inpatient: 117.7
- Other: 8.6

Expenses
- Allowed: 115.3
- Disallowed: 4
- Depreciation: 6.4

Profit Margin: 0.58%
Profit Margin minus disallowances: 5.7%
Profit Margin minus disallowances & depreciation: 8.8%
Range from 83% profit to 161% loss

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

US NH Expenditures as a Percent of Net Revenues in 2019

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nursing services</td>
<td>27%</td>
</tr>
<tr>
<td>Support services</td>
<td>21%</td>
</tr>
<tr>
<td>Ancillary services</td>
<td>10%</td>
</tr>
<tr>
<td>Property and other</td>
<td>11%</td>
</tr>
<tr>
<td>Administration</td>
<td>14%</td>
</tr>
<tr>
<td>Employee benefits</td>
<td>8%</td>
</tr>
<tr>
<td>Profits</td>
<td>9%</td>
</tr>
</tbody>
</table>

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

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
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
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*

Nursing homes that do not meet 4.1 HPRD have 86% higher substantiated complaints.
Data Visualization: Chains have 24% lower RN staffing than non-affiliated nursing homes

Ownership Summary: For profit, Government, Non profit, HHS Regions: Region 1, Region 10, Region 2 and 7 more, State/s: All

Data can be visualized for a variety of criteria, with the ability to drill down to the state and county levels.
LTCCC’s state pages

- Use clickable map to find your state
- State pages contain state-specific
  - Staffing
  - Ratings
  - Ombudsman resources
  - And more...

nursinghome411.org/states
**Nursing Home Staffing Q3 2021**

LTCCC's **Q3 2021 Staffing Report** provides user-friendly files for every state that contain facility-level data on: 1) Nurse staff levels (RN, LPN, and CNA, including Admin & DON, NA in Training, Med Aide/Tech); 2) Important non-nursing staff levels, including administrators and activities staff; 3) Contract workers; 4) Summary staffing data at the state, CMS region, and national levels.

Download your state's file by clicking the state in the first column of the table below. Files can be modified to isolate locations and identify variables of interest. For example, a state file can be filtered and sorted to identify nursing homes in a selected county (or counties) with the highest or lowest RN staffing levels. See LTCCC's staffing alert for Q3 2021 summary findings and other information.

**Q3 2021 Staffing Summary**

<table>
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<th>Staff Category</th>
<th>Score</th>
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<tr>
<td>Total Nurse Staff HPRD</td>
<td>3.62</td>
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<tr>
<td>Total Direct Care Staff HPRD</td>
<td>3.34</td>
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<tr>
<td>Total RN HPRD</td>
<td>0.63</td>
</tr>
<tr>
<td>RN Care Staff HPRD (excl. Admin/DON)</td>
<td>0.43</td>
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<tr>
<td>Total MDS Census (Daily Avg.)</td>
<td>1,133,750</td>
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**State Staffing Data**

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<th>State</th>
<th>Total Census</th>
<th>Total Nurse Staff HPRD</th>
<th>Rank: Total Nurse Staff HPRD</th>
<th>Total RN Staff HPRD</th>
<th>Rank: RN Staff HPRD</th>
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<td>ARKANSAS</td>
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<td>CALIFORNIA</td>
<td>90,442</td>
<td>4.17</td>
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**Methodology Note**

Starting in Q1 2021, LTCCC's reporting of federal staffing data has been modified in two important ways: 1) Highlighting "Total Nurse Staff HPRD," a more expansive metric that includes all PBI nurse staffing categories; and 2) Expanding "Total Direct Care Staff HPRD" to include Med Aide/Tech & DON/NA Med Aides.
### Searchable Staffing Data: State, County, City, & Facility Level

<table>
<thead>
<tr>
<th>State</th>
<th>Provider</th>
<th>City</th>
<th>County</th>
<th>MDS Census</th>
<th>Total Nurse Staff Hours</th>
<th>Direct Care Staff Hours</th>
<th>Total RN Staff Hours</th>
<th>Total RN Care Staff Hours</th>
<th>Percent Total RN Care Contract</th>
<th>Contract Staffing</th>
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<tr>
<td>NY</td>
<td>Caring Family Nursing &amp; Rehabilitation Center</td>
<td>Far Rockaway</td>
<td>Queens</td>
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<td>Cawley Health Rehab &amp; Residential Care</td>
<td>New Hartford</td>
<td>Oneida</td>
<td>73.39</td>
<td>2.36</td>
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<td>Chemung County Health Center - Nursing Facility</td>
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<td>Chemung</td>
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<td>ChemungMemorialHospitalInc</td>
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<td>Chemung</td>
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<td>Chestnut Park Rehabilitation &amp; Nursing Center</td>
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<td>Otsego</td>
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<td>Church Of The Protestant Episcopal Church</td>
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<td>Monroe</td>
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<td>Cliffside Rehab &amp; Residential Health Care Center</td>
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<td>Queens</td>
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<td>3.99</td>
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<td>Clifton Springs Hospital &amp; Clinic Extended Care</td>
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<td>Clinton</td>
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<td>3.30</td>
<td>3.33</td>
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<td>0.95</td>
<td>135.50</td>
<td>0.00</td>
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<td>State Island</td>
<td>Richmond</td>
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<td>3.19</td>
<td>3.09</td>
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<td>Kings</td>
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<td>NY</td>
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<td>Woodbury</td>
<td>Nassau</td>
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<td>3.97</td>
<td>3.92</td>
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<td>0.49</td>
<td>939.68</td>
<td>26.03</td>
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<td>NY</td>
<td>Coll Abatement &amp; Rehabilitation Center</td>
<td>Rochester</td>
<td>Monroe</td>
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<td>3.70</td>
<td>3.44</td>
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<td>0.43</td>
<td>262.88</td>
<td>20.43</td>
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<tr>
<td>NY</td>
<td>Collar City Nursing &amp; Rehabilitation Center</td>
<td>Troy</td>
<td>Rensselaer</td>
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<td>2.55</td>
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<td>0.48</td>
<td>0.33</td>
<td>288.45</td>
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<td>Colonial Park Rehabilitation and Nursing Center</td>
<td>Rome</td>
<td>Oneida</td>
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<td>Comprehensive Rehab &amp; Nursing Services</td>
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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.
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.

Sign up for alerts: nursinghome411.org/join/
Contact: 212-385-0355 richard@ltccc.org
Thank You!

Questions?

Comments?

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