

# Mandatory Managed Care in New York State Nursing Homes

A Review and Assessment of Current Access & Quality as the State  
Mandates Medicaid Managed Long Term Care for Nursing Home Residents



By:

Richard J. Mollot, Executive Director

Victoriya Baratt, Public Policy & Law Intern

Joanna Smykowski, Public Policy & Law Intern

**The Long Term Care Community Coalition**

[www.nursinghome411.org](http://www.nursinghome411.org)

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## **A note on how to use this report.**

New York has the largest nursing home population of any U.S. state, and the move to Mandatory Managed Long Term Care will be a seismic shift for New Yorkers who need nursing home care, and their families, for many years to come. To provide a framework, this report begins with a [brief review](#) of issues relevant to nursing home care and managed long term care (MLTC) for nursing homes. Following this background, we have ‘crunched the numbers’ in various ways in order to provide useful information and insights into the current state of nursing homes in MLTC, and its implications for communities across the state.

To facilitate use of the information in this report, the Table of Contents contains internal links; by clicking on a page number the reader should be able to go directly to the page of interest. [Chapter VI](#) provides information on how the nursing homes that are currently in MLTC are performing, as a whole, on the parameters we identified as being strong indicators of whether or not a nursing home is providing good care. [Chapter VII](#) addresses access to nursing homes. This is a central issue since, while New Yorkers on Medicaid (including those on both Medicare and Medicaid) will be required to join an MLTC plan, the MLTC plans will not be required to contract with all nursing homes in their service areas.

This in turn raises perhaps the most important question for New Yorkers: since MLTC plans do not have to contract with any willing nursing home provider, what is there to stop the plans, which have their own expenses, profit goals and ‘bottom lines’ to meet, from only contracting with the cheapest nursing homes? The answer, in short, is not much. In the absence of standards to ensure that MLTC plans don’t send people to the cheapest nursing homes (which are likely to be spending the least on staffing and other resident care costs), we believe it is important to shed light on the quality of nursing homes that the individual plans are choosing. Thus, [Chapter VIII](#) provides information on the individual MLTC plans and the quality of their nursing homes, including rankings of the plans on each of the selected indicators, and [Chapter IX](#) provides information on nursing homes across the state that have serious and known problems, but with which the plans are contracting to care for their beneficiaries. Recommendations for improving quality, access and the efficient use of public funds that pay for this care are provided in [Chapter X](#).

This report, and all of the relevant data we have collected on the plans (current as of summer/fall 2013), are available on our nursing home website: [www.nursinghome411.org](http://www.nursinghome411.org) (click on “NY State Issues” on the left).

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## Table of Contents

<b>Executive Summary .....</b>	<b>5</b>
<b>I. Introduction .....</b>	<b>10</b>
<b>II. Brief History &amp; Perspectives.....</b>	<b>11</b>
<b>III. Pros and Cons of Managed LTC for Nursing Home Residents .....</b>	<b>12</b>
<b>IV. Quality Measurement .....</b>	<b>14</b>
<b>V. Overview of Nursing Home Care in New York .....</b>	<b>15</b>
Table 1: Nurse Staff Hours, New York vs. National Averages .....	16
Table 2: Nursing Homes Now in MLTC Plans .....	17
<b>VI. Overview of Nursing Homes Currently in MLTC Plans.....</b>	<b>17</b>
Table 3: Overall Star Ratings .....	18
Table 4: Staffing Star Ratings.....	20
Table 5: Antipsychotic Drug Use Rates.....	21
Table 6: Citation Rates .....	22
Table 7: Complaint Rates .....	23
<b>VII. Current Access to MLTC Nursing Homes in NYS Counties.....</b>	<b>23</b>
Table 8: Capital Area.....	24
Table 9: Central New York.....	25
Table 10: New York City Metropolitan Area .....	25
Table 11: Western New York .....	26
<b>VIII. Can You Trust Your MLTC Plan to Send You to a Good Nursing Home? .....</b>	<b>27</b>
<b>The Best &amp; The Worst MLTC Plans .....</b>	<b>28</b>
Nursing Home Compare Overall Star Rating.....	28
Nursing Home Compare Staffing Star Rating.....	29
Rate of Antipsychotic Drug Use .....	30
Violations of Minimum Standards .....	31
Complaints of Violation of Minimum Standards, Abuse & Neglect.....	32
<b>Overall Quality of Each MLTC Plan vs. NY State Average .....</b>	<b>33</b>
Aetna.....	33
AgeWell.....	34
Amerigroup .....	34
ArchCare.....	35
Catholic Health.....	36
CenterLight.....	36
CPHL .....	37
Complete Senior Care .....	37
Eddy Senior Care .....	38
Elant .....	38
Elderplan .....	39
ElderServe .....	39
Fidelis .....	40
GuildNet .....	40
Healthfirst .....	41
HHH Choices.....	41

Independence Care .....	42
Independent Living for Seniors .....	42
MetroPlus.....	43
PACE CNY .....	43
Senior Health Partners.....	44
Senior Network Health.....	44
Senior Whole Health .....	45
Total Aging in Place .....	45
Total Senior Care.....	46
United Health Care.....	46
VillageCare Max .....	47
VNSNY Max .....	47
WellCare of NY .....	48
<b>IX. Averages are Nice, But How Good is the Home They are Sending Me To? .....</b>	<b>48</b>
<b>MLTC Nursing Home Cases of Abuse, Neglect &amp; Substandard Care .....</b>	<b>49</b>
Albany .....	50
Bronx .....	50
Brooklyn .....	53
Broome.....	54
Cattaraugus.....	55
Chenango .....	55
Clinton.....	55
Delaware .....	56
Dutchess.....	56
Erie .....	56
Herkimer .....	57
Monroe .....	57
Nassau.....	59
New York.....	59
Oneida.....	61
Onondaga.....	62
Orange.....	63
Queens.....	64
Rensselaer.....	66
Rockland.....	66
Schenectady .....	67
Staten Island .....	68
Suffolk .....	69
Tompkins.....	74
Washington.....	75
Westchester .....	75
<b>Special Focus Facility Nursing Homes in MLTC.....</b>	<b>77</b>
<b>A Special Case: Mosholu Parkway Nursing &amp; Rehab .....</b>	<b>79</b>
<b>Chapter X: Recommendations .....</b>	<b>80</b>
<b>Appendix: NY State Medicaid Fraud Control Convictions: September 2009 – June 2013.....</b>	<b>84</b>

## Executive Summary

### Background

In January 2011, New York State began an initiative to make major changes to its health care system. The center point of this effort has been the restructuring, or “redesign,” of New York’s Medicaid program. As Governor Cuomo stated shortly after taking office, a “fundamental restructuring” of the state’s Medicaid program is “of compelling public importance.” The three goals of this restructuring, iterated by the governor, are to improve care, reduce costs and achieve a more “efficient administrative structure.”

Care for nursing home residents, among our most vulnerable New Yorkers, makes up close to one third of Medicaid spending on long term care. In fact, nearly half of all nursing home residents are “dually eligible” for Medicare and Medicaid. Thus, the inclusion of nursing home care in Medicaid redesign provides an opportunity for the state to save significant money.

At the same time, given the vulnerability of this population, this move comes with significant risks. Individuals and families who need nursing home care are a singular kind of health care consumer. Long term care is generally accessed under considerable stress and duress. Typically someone is faced with the onset of a serious condition (perhaps even hospitalization) that requires either 24 hour skilled nursing care and monitoring (for those who qualify for nursing home care) or significant services and supports in a non-institutional setting on an ongoing basis. These are not situations that provide easy opportunities to be an informed consumer. And, once choices are made, it is difficult for individuals (unless they have significant expertise) to (re)navigate the system. As a result, many more people than necessary are institutionalized in nursing homes and too many of our nursing home residents get stuck in facilities that lack sufficient staff and are unable to provide care that meets even the minimum federal requirements.

The manner in which New York is implementing Medicaid redesign is by shifting the program from “fee for service” to Mandatory Managed Long Term Care. Under fee for service, Medicaid pays for covered services when costs for those services are incurred. Under Managed Long Term Care (MLTC), the state will pay insurance companies at specific overall rates to cover the expenses for their plan’s beneficiaries. As of October 2013, this has already been substantially rolled out for individuals accessing care in the community. Starting in January 2014, the state will begin implementing it for nursing home residential care.

### Purpose of this Study

Given the enormous and unprecedented changes underway, we undertook this study to identify (to the greatest extent possible) the present state of MLTC plans’ relationships (i.e., contracting for services) with nursing homes and assess how this may be useful for identifying potential strengths and weaknesses as the state mandates the inclusion of residential care in MLTC. Fundamentally, under MLTC, the plans take on the risks – and reap the rewards – of variations in their members’ health care usage. When a member has lower needs, the plan makes more money. Conversely, when the members’ needs are higher, the plan makes less money and could potentially lose money on that individual at that time. The overall payment to the plans is supposed to balance out these differences among the members and, if all

works well, incentivize the plans to fit their members with the services that best meet their needs. However, from a consumer perspective, it is essential that there are safeguards to ensure that this actually happens, that people with higher needs are not shortchanged by being provided care that is cheaper either because there is less of it (quantity) or it is subpar (quality). Given the vulnerability and frailty of most nursing home residents, the need for safeguards in this area is particularly acute.

The report thus has three central purpose: (1) To shed light on the state of MLTC-nursing home contracting in NY State (to identify what nursing homes are currently partnered with MLTC plans and find out if there are any contracting patterns that are relevant to consumers, the public and policy makers); (2) To provide insights into the potential implications of these contracting patterns on communities as the state moves nursing home care into mandatory MLTC; and (3) to use our findings as a basis for recommendations for policymakers, the public and providers (including the MLTC plans themselves) on ways to protect nursing home residents, ensure a strong provider industry (able to provide sufficient access to quality care for New York communities into the future) and ensure an appropriate use of tax-payer funds as this enormous transition is designed and implemented.

### **Key Findings**

Almost 75% of New York State nursing homes already participate in one or more MLTC plan (for non-residential LTC services). While an MLTC plan is not required, at this time, to contract with a nursing home in its plan for *all* available services, the choices that plans have made in the current nursing home “marketplace” for their plan participants are meaningful.

Furthermore, one can expect, logically, that existing parties will be inclined to contract with businesses with whom they already have a relationship in a given sector, rather than to seek and develop new relationships. To that end, NY State Department of Health (DOH) officials have stated that they did not expect to require a special state review of a contract between an MLTC Plan and a nursing home for residential care services where there is already an existing contract between the Plan and the facility. This will likely further increase the probability of MLTC plans contracting for residential care with their current nursing homes.

Lastly, from a systemic perspective, the state has a large number of nursing home residents, a high occupancy rate (overall) and a very powerful industry. Nursing homes cannot be built and certified overnight. Thus, while contracting patterns will undoubtedly be dynamic, to some extent, it is extremely unlikely that a large percentage of nursing homes will simply disappear.

### *Overall Quality of MLTC Nursing Homes and Comparison to the Industry as a Whole*

There was significant overlap between the quality of MLTC nursing homes and the industry in NY State as a whole on the key indicators that we looked at for each home: overall star rating from Nursing Home Compare (the federal database with quality and other information on all nursing homes in the U.S. that participate in Medicare and/or Medicaid), staff rating from Nursing Home Compare, antipsychotic drug use rates, citation rates (for failing to meet minimum standards) and rates of complaints made to the NY Department of Health.

Importantly, this overlap between MLTC homes and New York State nursing homes as a whole is not necessarily a good thing. Our nursing homes tend to perform poorly as a whole in compared to those in other states. We were recently ranked among the most poorly performing states in the country by Families for Better Care's national Nursing Home Report Card. Our staffing levels are in the lowest quintile of states and our antipsychotic drugging rates have remained high. In the case of staffing, widely considered one of the most important cohorts of good care, our data indicated that almost half (47%) of MLTC nursing homes had staffing below the average range and only three (3) percent met or exceeded the threshold identified in a federal study as being sufficient to meet the needs of typical nursing home residents.

### *Current Access to MLTC Nursing Homes*

Access is an important issue as the state implements nursing home MLTC. Historically, individuals have been able to access care at any nursing home that participates in the Medicare/Medicaid system (the vast majority of nursing homes, including over 600 in New York State alone). In MLTC, the plans will have significant leeway in choosing how many nursing homes with which they contract, from as few as one (1) in some of the less populace counties upstate to eight (8) in some (but not all) of the counties in the New York City Metro area.

Limited access is a double-edged sword. On one hand, it means that individuals and their families have greatly reduced choice in terms of where their plan will send them, and the choices that the plans will offer. On the other hand, it gives MLTC plans an enormous amount of power, especially in areas where there are a lot of nursing homes. While the state is developing guidelines for nursing home pricing, especially for the initial transition period, they are not mandatory and there may be little to prevent a downward spiral wherein plans contract with the cheapest nursing homes in an area, precipitating cost-cutting by nursing homes on staffing and other direct resident care expenses in order to stay competitive. Consumers will be in the middle and, though they can switch plans to go to a nursing home in a different plan's network, it is questionable how many will have the knowledge – no matter the wherewithal – necessary for such an undertaking.

Quality is supposed to be a core component of the move to mandatory Managed Long Term Care. Yet, with only months to go before nursing home MLTC begins, it is unclear how needed improvement in quality will be realized.

Our findings indicated significant disparity among the counties in terms of percentage of nursing homes in the county now in MLTC. Some counties, including a number of the larger ones in the NY Metropolitan Area, have close to parity. Other sizable counties, such as Albany and Onondaga, have only about half of their nursing homes in MLTC. A few counties had more MLTC nursing homes than nursing homes in the county, due to inclusion by a plan of nursing homes outside of a county to serve the county's residents. There were also smaller counties with no nursing homes now in MLTC.

### *Overall Quality of Each MLTC Plan vs. NY State Average*

In order to find out how the individual MLTC plans ‘measured-up’ in terms of the quality of the nursing homes with which they are choosing to contract, and facilitate easy access to this information by the public and other stakeholders, we compiled data on every MLTC plan operating in New York State in 2013 and the individual nursing homes with which they are contracting and charted the overall performance of each plan’s nursing homes against the state average. As noted earlier, the state average is a highly imperfect measure, even when bringing together a range of relevant parameters. However, we believe that the individual indicators are valuable and, together, provide meaningful insights into the overall quality of an MLTC plan’s nursing homes. Unsurprisingly, we found a significant range in plan performance overall and among the selected criteria. For ease of reference, Chapter VII in the Table of Contents lists each of the MLTC plans in alphabetical order and the Table is hyperlinked so that one can go directly to information on a specific plan.

### *Abuse, Neglect and Substandard Care in MLTC Nursing Homes*

Given both the large number of nursing homes currently in MLTC, and the small number of nursing homes with which plans are mandated to contract for residential care, the issues of quality assurance and control becomes even more essential. Will care managers in a plan with a small number of facilities be pressured to direct individuals to whatever facility in their plan has an opening, whether or not that facility can provide good care for the individual? Will plans with a large number of nursing homes make rote determinations, shuffling their members off to whatever nursing home meets the plan’s budgetary or census needs, irrespective of the needs of the individual (or the quality of the home)?

Quality is supposed to be a core component of the move to mandatory Managed Long Term Care. Yet, with implementation of nursing home MLTC looming, it is unclear how needed improvement in quality will be realized. For New York’s families and communities, it would be unconscionable, from our perspective, to undertake major changes to the nursing home system without addressing these issues and taking meaningful steps to ensure that this change *reduces* the chances of someone being relegated to a poorly performing facility, *not increases* it. It is bad enough that people wind up in these facilities now; it would be terrible if the state set up a system in which it essentially paid insurance companies to direct frail elderly and disabled New Yorkers to them.

With that in mind, [Chapter IX](#) presents the results of our research into MLTC nursing homes with known significant problems. We found that several nursing homes that have been designated Special Focus Facilities in recent years, among the worst nursing homes in the country, are in MLTC. There are many MLTC nursing homes with a 1-Star rating from Nursing Home Compare, which means that they “qualify” as a Special Focus Facility as a result of their longstanding issues meeting even minimum federal standards for safety, quality of care and dignity. There were a substantial number of MLTC nursing homes identified as having a history of serious resident abuse and harm, including cases where this harm was ignored and/or covered up by facility staff. These cases are illustrative of the kind of care to which MLTC plans should *not* be relegating their members. Yet such nursing homes exist, in MLTC, across the state, from Rochester to Albany to Suffolk County.



## Recommendations

The final chapter presents our [recommendations](#) as the transition to MLTC gets under way, particularly for achieving the overarching goals that Governor Cuomo identified when he launched the State’s Medicaid Redesign initiative: improving quality and efficiency. These recommendations focus on the need to insert meaningful standards for quality for the nursing home care provided under MLTC and ensure that the state – specifically the Department of Health – has both the authority and resources to ensure compliance with these standards.

Quality assurance and the ability to provide effective oversight may be perennial issues, but the systemic transformation underway and the increased risk this change places on nursing home residents call for reconsideration and reengagement. Fundamentally, for basic quality assurance, the imposition of decent minimum safe staffing standards for nursing home care is crucial. With the addition of a new “player” in the field, it will be necessary to ensure that incentives are in

place and appropriately aligned so that care improves and the public gets a better “bang for its buck.” To that end, we recommend financial policy options for the state, including a standard medical loss ratio and the development of both meaningful criteria and financial allocations for the next generation of nursing home quality incentives (New York’s current “quality pools”).

Our recommendations also address the critical need for the state to ensure that there is adequate consumer education and empowerment. Central to this is the establishment of the planned ombudsman program for MLTC. This ombudsman program must be truly independent of both the government and industry, sufficiently financed so that it is capable of providing effective monitoring across the state and, similarly, so that it is able to respond to the diverse needs of LTC consumers whether they live upstate or downstate, in urban, suburban or rural counties. In addition to the new ombudsman, resources should be allocated to educating the existing LTC Ombudsman Program, which will remain continue to be critically important for individuals in nursing homes and assisted living, and which will maintain its authority in those settings under state and federal law.

With the addition of a new “player” in the field, it will be necessary to ensure that incentives are in place and appropriately aligned so that care improves and the public gets a better “bang for its buck.”

## I. Introduction

Since January 2011, New York State has been undertaking major changes to its payment and delivery system for long term care. The central point of this effort has been the restructuring, or “redesign,” of New York’s Medicaid program. As Governor Cuomo stated on January 5, 2011, days after taking office, a “fundamental restructuring” of the state’s Medicaid program is “of compelling public importance.” The three goals of this restructuring iterated by the governor are to improve care, reduce costs and achieve a more “efficient administrative structure.”<sup>1</sup>

Care for nursing home residents, among our most vulnerable New Yorkers, makes up close to one third of Medicaid spending on long term care. In fact, nearly half of all nursing home residents are “dually eligible” for Medicare and Medicaid services.<sup>2</sup> As *The Wall Street Journal* reported in 2011,

As the U.S. wrestles with rising health expenses, one group of patients stands out for government-paid care that is both ultra-costly and plagued with problems.

They are the people who receive both Medicare, the program for those 65 and older or disabled, and Medicaid, the one for the poor. Statistics on these 9.7 million “dual eligibles” are stark. ...Chronic diseases and heavy use of nursing homes in this older population account for much of its outsize cost.<sup>3</sup>

Funding and, especially, how funding mechanisms are structured, are fundamentally important to ensuring quality of care. This is particularly true in the case of nursing home care, given both the special vulnerabilities of those who need this level of care and the enormous challenges that residents have to being selective consumers of their care (i.e., it is very difficult, if not impossible, for the typical nursing home resident to change providers when they are unhappy with their care). Thus, the inclusion of nursing home residential care in the state’s Medicaid Redesign will have enormous implications for nursing home residents now and for many years to come. It is possibly the most significant development since passage of the federal Nursing Home Reform Law in 1987, which established our country’s standards for nursing home care, quality of life and dignity.

Given the enormous ramifications of including nursing home care in managed long term care (MLTC), we undertook this study to identify (to the greatest extent possible) the present state of MLTC plans’ relationships (i.e., contracting for services) with nursing homes and assess how

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<sup>1</sup> Governor Andrew M. Cuomo, January 5, 2011 ([http://www.health.ny.gov/health\\_care/medicaid/redesign/](http://www.health.ny.gov/health_care/medicaid/redesign/)).

<sup>2</sup> James M. Verdier, *Coordinating and Improving Care for Dual Eligibles in Nursing Facilities: Current Obstacles and Pathways to Improvement*, Mathematica Policy Research Inc., March 2010 ([http://www.mathematica-mpr.com/publications/pdfs/health/nursing\\_facility\\_dualeligibles.pdf](http://www.mathematica-mpr.com/publications/pdfs/health/nursing_facility_dualeligibles.pdf)).

<sup>3</sup> Janet Adamy, *Overlapping Health Plans Are Double Trouble for Taxpayers*, *The Wall Street Journal*, June 27, 2011.

this may be useful for identifying potential strengths and weaknesses as the state mandates the inclusion of residential care in MLTC.<sup>4</sup>

To that end, there are three central purposes to this study: (1) To gain insights into the state of MLTC-nursing home contracting in NY State, to identify what nursing homes are currently partnered with MLTC plans and find out if there are any contracting patterns that are relevant to consumers, the public and policy makers; (2) To gain insights into the potential implications of these contracting patterns on communities as the state moves nursing home care into mandatory MLTC; and (3) to use our findings as a basis for recommendations for policymakers, the public and providers (including the MLTC plans themselves) on ways to protect nursing home residents, provide for a strong provider industry (able to provide sufficient access to quality care for New York communities) and ensure an appropriate use of tax-payer funds as this enormous transition is designed and implemented.

## II. Brief History & Perspectives

Nursing homes have traditionally been the places where people go when they are in need of significant levels of long term care, generally at the point when they are not able to live safely on their own. The large majority of nursing home residential care is paid for by Medicaid. Because of the highly institutionalized nature of most nursing homes, and pervasive problems of poor care, resident abuse and neglect (in nursing homes across the state and across the country), more and more individuals have been trying to access services in their homes and communities, and in assisted living and other residential care settings that promise to provide safety and care in less institutional settings. Yet there is still a considerable need for nursing home care (approximately 108,000 New Yorkers live in nursing homes today). This need is likely to remain stable or increase as our population ages and people live longer with serious health issues and chronic conditions. From the public's perspective, with taxpayers footing the bill for the majority of nursing home LTC through Medicaid (close to \$8 billion in New York in 2011 alone),<sup>5</sup> we have a strong interest in seeing that our money is spent on care that meets or exceeds the minimum standards required by law.

Though the 1987 federal Nursing Home Reform Law<sup>6</sup> set forth meaningful requirements to ensure decent care and minimum rights for vulnerable residents, it still has not been fully implemented. The state and federal enforcement agencies responsible for ensuring that these minimum standards are met often fail to identify problems or, when they do, cite them

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<sup>4</sup> MLTC plans currently contract with nursing homes throughout the state for non-long term residential care services that many nursing homes provide. It is important to note that while an MLTC plan is not currently obliged to contract with the same facilities for residential care as it does for other services, it is valuable to see what nursing homes the plans have already contracted with and reasonable to assume, we believe, that the plans will be inclined to turn to those nursing homes for residential care as well.

<sup>5</sup> Source: Kaiser Family Foundation, Distribution of Medicaid Spending on Long Term Care. Accessed at <http://kff.org/medicaid/state-indicator/spending-on-long-term-care/?state=NY>.

<sup>6</sup> Discussed above. The Nursing Home Reform Law was part of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87), landmark legislation that implemented federal standards for nursing home care. For more information on the Reform Law, see [http://www.theconsumervoice.org/advocate/issueindex/archivedissues/obra#Federal\\_Law\\_and\\_Regulations](http://www.theconsumervoice.org/advocate/issueindex/archivedissues/obra#Federal_Law_and_Regulations).

effectively.<sup>7</sup> As a result, inadequate care, poor quality of life, resident abuse and neglect are among the many problems that continue to plague nursing homes.

The federal government and the state have worked over the years to try and improve nursing home care and conditions in a variety of ways, including monitoring and enforcement of minimum standards, various financial incentives (including rewards for “good” care and fines for failing to meet the aforementioned standards) and provider training programs. One of the principal means of providing financial incentives, used by New York and the majority of the state, is case-mix reimbursement.<sup>8</sup> In a case-mix system, facilities are paid (reimbursed) for care based upon the case-mix (roughly, overall needs, of their residents). A facility that is home to residents with higher needs (such as people with dementia or who are ventilator dependent) receives higher rates than a facility that has residents with lower needs.

In addition to case-mix reimbursement, there are other factors that contribute to the complexity of nursing home reimbursement, such as rate add-ons and other financing mechanisms. And, aside from reimbursement, there are other issues that the state must deal with in paying nursing homes, such as the large number of rate appeals (facilities suing the state to increase their reimbursement) which, because they require significant Department of Health resources to respond to, are costly to the state. Given especially the enormity of the nursing home industry in New York (almost one in ten U.S. nursing home residents are in New York), the idea of simplifying and streamlining nursing home payment through mandatory MLTC is a particularly attractive one for the state.

### III. Pros and Cons of Managed LTC for Nursing Home Residents

From a consumer perspective, the movement to MLTC has both potential benefits and pitfalls. A significant potential benefit of MLTC is that it can be a vehicle for educating consumers about their care options and a means of ensuring that consumers receive the kind of care that they need and want. Historically, many people have been placed in nursing homes who could safely live outside of facilities with the right services and supports. A well-designed and functioning MLTC plan would help avoid that.

On the other hand, MLTC has a significant, intrinsic potential to be disadvantageous to consumers and the public. By essentially privatizing Medicaid long term care, MLTC adds an additional financial stratum to our system that is likely to reduce the amount of money that goes directly to providing care. At the same time, the state’s plan is to *decrease* costs, not increase them. In short, not only will MLTC plans be taking a piece of the pie, the pie itself will be shrinking over time. This situation inherently puts financial pressure on the nursing home

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<sup>7</sup> I.e., so that they prevent the problem from reoccurring. For more information, see LTCCC’s studies, *Nursing Home Residents at Risk* (2005) and *Nursing Home Oversight in New York State: A Regional Assessment* (2006) available at <http://www.nursinghome411.org/?articleid=10016>. There are also numerous excellent Government Accountability Office reports on this issue, such as *Nursing Homes: Addressing the Factors Underlying Understatement of Serious Care Problems Requires Sustained CMS and State Commitment* (2009), available at <http://www.gao.gov/products/GAO-10-70>.

<sup>8</sup> For more information on Medicaid case-mix reimbursement for nursing home care, and the use of case-mix to improve nursing home care, access and efficiency, see LTCCC’s national report and resources at <http://www.nursinghome411.org/?articleid=10006>.

industry, which already claims, perennially, that it is insufficiently funded. Financial pressure on the industry (whether perceived or real) often results in cutbacks to spending on resident care, including critical direct care staffing.

Adding to this concern is the fact that the *manner* in which New York State is implementing MLTC for nursing home care will increase the potential risk that those who need nursing home care may wind up in poorly performing nursing homes. Currently, people faced with the need for nursing home care can select from any licensed facility: over 600 in NY State alone. Under mandatory MLTC that will all change. New York is not requiring MLTC plans to let their members choose from any licensed home. Instead, the state is setting up specific minimum requirements for plans.

As of this writing (October 2013), the state has not yet finalized its requirements for “network adequacy” – the minimum number of nursing homes in an area with which an MLTC plan will be required to contract. On October 2, 2013, the state’s Nursing Home Transition Workgroup held a meeting in which the state proposed, as a final Workgroup recommendation, the following standard minimum contracting requirements for MLTC Plans:

- Eight nursing homes in Queens, Bronx, Suffolk, Kings, Erie, Westchester and Monroe
- Five nursing homes in New York (Manhattan) and Staten Island
- Four nursing homes in Oneida, Dutchess, Onondaga and Albany
- Three nursing homes in Broome, Niagara, Orange, Rockland, Rensselaer, Chautauqua, Schenectady, Ulster and
- Two nursing homes in all other counties (or 1 if only one NH in the county).

In addition to substantially curbing access for the frail elderly and disabled who need nursing home care, this system inherently incentivizes nursing home cost-cutting. This is due to the fact that the less money that the MLTC plans pay for care, the more money that they can keep for themselves as profits (or, for non-profits, surpluses). Thus, MLTC plans have an incentive to contract with the least expensive nursing homes. This is particularly true in counties, such as in the New York Metropolitan Area, where there are many nursing homes from which to choose. An MLTC plan can simply offer a nursing home a ‘take-it-or-leave-it’ contract, at a low rate, knowing that there are other nursing homes that it can choose to fulfill its minimum contracting requirements in the area if that nursing home says no. While the state is establishing benchmark rates for the beginning phase of mandatory MLTC implementation, use of the benchmark rates is not mandatory. Even during the phase in period (currently planned to be two years), the MLTC plans and the individual nursing homes are free to negotiate a rate that works for them. Missing from this negotiation is someone representing what works best for the residents.<sup>9</sup>

As a result, in order to be competitive, nursing homes will face pressure to reduce their costs. Since New York State does not require minimum safe staffing levels for nursing homes, and there is minimal accountability for how nursing homes use their reimbursement funds (i.e.,

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<sup>9</sup> DOH staff stated at the October 2 meeting that the intent, for the transition period, is that the benchmark be the guarantee (not to be discounted), which should ease consumer and provider concerns, at least for the short term.

whether a certain percentage must be used to actually pay for resident care and services rather than spent on administrative salaries or profits), LTCCC and other advocates for residents are concerned that nursing homes will reduce spending on direct care, especially on direct care staff.

In order to gain insights into how MLTC plans will approach integrating residential nursing home care into their plans, LTCCC undertook this study of current contracting patterns across the state to identify and assess any relevant patterns relating to quality and access.

#### IV. Quality Measurement

Nursing home quality is notoriously difficult to quantify. Nursing Home Compare, the federal website that provides information for the public on all Medicare/Medicaid nursing homes in the country, includes a Five Star Quality Rating system.<sup>10</sup> The system is based on health inspections (state agency surveys), staffing (numbers of direct care staff employed by a facility) and quality measures (a facility's performance on a range of important indicators such as prevalence of pressure ulcers, use of antipsychotic drugs and percentage of residents reporting that they are in pain).

Nursing home staffing & quality measures are self-reported and unaudited, making them of limited value in determining a facility's quality of care.

These are all crucial factors. Unfortunately, there are significant problems with all three which seriously undermine the validity of the Five Star System and nursing home quality measurement, as currently implemented, as a whole. While a discussion of quality measurement and criteria utilized is beyond the scope of this report, following is a brief review of the major, known problems with each of the three factors upon which the system is based:<sup>11</sup>

1. **Health Inspections.** The nursing home inspection system, known as the survey system, has a myriad of longstanding problems. Nursing homes are surveyed approximately annually and, though these are supposed to be a surprise, there are numerous factors that enable facilities to have a good idea when their annual inspection will take place and, at that time, take steps to clean up problems, boost staffing and fix other problems for which they might be cited by surveyors. And, even more problematic than facilities' ability to anticipate and prepare for their surveys, is the fact that study after study have indicated that the nursing home problems that *are* identified in a survey are often underrated in terms of both their scope (number of residents harmed or affected) and severity (the level of harm caused).<sup>12</sup> As a result, many nursing homes

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<sup>10</sup> <http://www.medicare.gov/NursingHomeCompare/search.html>.

<sup>11</sup> For more information on nursing home quality measurement and the serious shortcoming in our system's identification and measurement of problems see, *inter alia*, LTCCC's nursing home website, [www.nursinghome411.org](http://www.nursinghome411.org), which has a number of our studies on these issues and the Government Accountability Office's website, [www.gao.gov](http://www.gao.gov), which has the GAO's studies on nursing home oversight.

<sup>12</sup> See, for example, LTCCC's two reports assessing oversight in New York and comparing it against oversight in other states and by federal inspectors at <http://www.nursinghome411.org/articles/?category=lawgovernment>.

(even so-called ‘good’ nursing homes) can flout minimum requirements for resident care and dignity for years with virtual impunity. Even problems that lead to resident death are often not cited as causing serious harm. It is thus no surprise that a 2007 national report, “Where should Momma go? Current nursing home performance measurement strategies and a less ambitious approach,” concluded that “performance measurement models are better at identifying problem facilities than potentially good homes.”<sup>13</sup>

2. **Staffing.** Direct care staffing levels are one of the most – if not the most – important factors correlating with quality of resident care. The Nursing Home Reform Law requires all nursing homes to have sufficient staff to ensure that every resident attains and maintains his or her highest practicable physical, emotional and social well-being. Yet nursing homes are permitted to systematically fail to meet this minimum standard and are rarely cited for insufficient staffing. Staffing levels are reported on Nursing Home Compare and elsewhere to give the public access to information on this critical component of nursing home care. Unfortunately, this information is self-reported by the facilities and is not audited by the states or by CMS. The 2010 Affordable Care Act (“Obamacare”) mandated that CMS collect verified data on staffing for Nursing Home Compare. As of October 2013, that requirement has yet to be implemented.
3. **Quality Measures.** Like staffing data, quality measures are self-reported by nursing homes and are, thus, of questionable validity.

Given these issues, it is important to keep in mind that the ratings used here and elsewhere provide only a limited picture and, as “Where should Momma go?” found, are more useful at identifying where poor care is happening than where one can count on getting good care.

## V. Overview of Nursing Home Care in New York

Before assessing the state of nursing homes in Managed Long Term Care, it is important to have a good basic understanding of the state of nursing home care overall in New York. This is necessary in order to have a basis for making useful comparisons. For example, what does it really mean to be an “average” nursing home in New York? How does nursing home care in New York compare to that in other states? Is our Department of Health identifying and addressing problems effectively?

As noted above, there are significant weaknesses in how we measure and assess nursing home quality. Yet, to the extent possible, it is important to know where New York fits in the scheme of things. According to the 2013 national *Nursing Home Report Card* issued by Families for Better Care, a non-profit organization “dedicated to creating public awareness of the conditions in our nation’s nursing homes and other long-term care settings and developing effective solutions for improving quality of life and care,” New York is at “the

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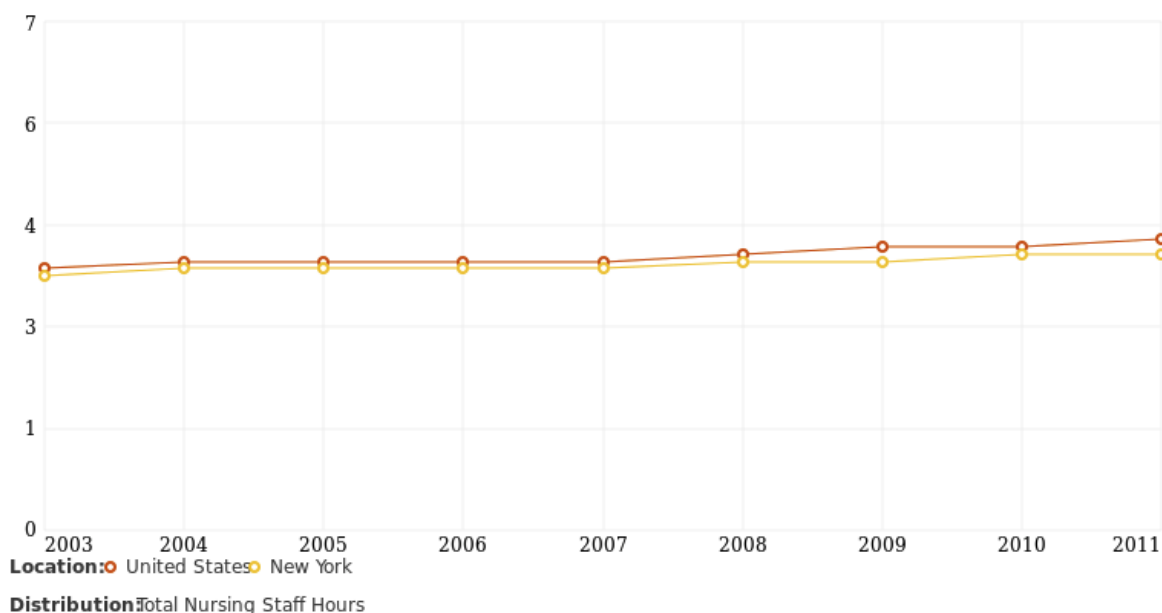
<sup>13</sup> Charles D Phillips, Catherine Hawes, Trudy Lieberman and Mary Jane Koren, “Where should Momma go? Current nursing home performance measurement strategies and a less ambitious approach,” BMC Health Services Research 2007, 7:93 (page 1). This article is available at <http://www.biomedcentral.com/1472-6963/7/93>.



bottom of the barrel,” among the lowest ranked states for quality and safety of our nursing home care and earning a failing grade in the report card.<sup>14</sup>

Direct care staffing levels are widely acknowledged as key to good resident care. One of the biggest and most frequent complaints that LTCCC hears from residents and families is that a facility does not have enough staff to provide adequate care. Data obtained by the Kaiser Family Foundation on the most recent years available (2003-2011) indicate that New York State nursing homes’ staffing level is persistently below the national average:

**Table 1: Nurse Staff Hours, New York vs. National Averages**



In fact, while the staffing trends in New York and across the country are rising, the state is actually falling behind (relatively speaking), going from 1/10 of an hour less direct care staff time (per resident per day) than the national average in 2007 to twice that gap in 2011.<sup>15</sup>

LTCCC’s 2005 study of nursing home oversight, report, *Nursing Home Residents at Risk*, found that New York DOH: (1) Does not identify problems very well (finding, for instance, that federal surveyors identified over four times the number of violations than did DOH surveyors

<sup>14</sup> The Report Card is available at <http://nursinghomereportcards.com/>. Families for Better Care’s website is <http://familiesforbettercare.com/>. The report card website notes that its grading methodology is based on “staffing data compiled by the Kaiser Health Foundation, performance measures from the Center for Medicare and Medicaid Services’ Nursing Home Compare, and the Office of State Long-Term Care Ombudsman complaint data.” For more information see <http://nursinghomereportcards.com/grading-methodology/>.

<sup>15</sup> Accessed at <http://kff.org/other/state-indicator/nurse-hours-per-resident-day/#>. As noted on the website, the sources for these data are the “Kaiser Commission on Medicaid and the Uninsured analysis of 2011 Online Survey, Certification, and Reporting system (OSCAR) data.”

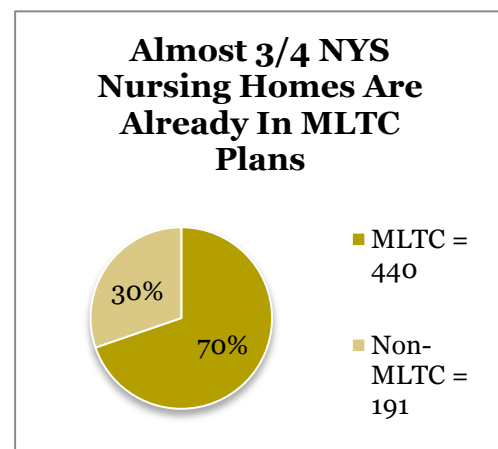


for the same homes); (2) Writes fewer deficiencies per facility than 38 other states and finds more of its facilities deficiency-free than 36 other states; (3) Has a complaint substantiation rate lower than 40 other states; and (4) Under rates the scope and severity of violations as compared to both federal surveys and the national average.<sup>16</sup>

Subsequent LTCCC studies have found that identification of nursing home care problems and substantiation of resident care complaints is a problem across the state<sup>17</sup> and New York DOH has a fraction of the number of surveillance staff compared to other big states like California and Texas.<sup>18</sup> As regards long term care as a whole, the Long Term Care Scorecard, a joint effort of AARP, The Commonwealth Fund and The Scan Foundation, found that New York ranks in the bottom quartile of states overall.<sup>19</sup>

In short, as a result of the historical sub-par performance of New York’s nursing homes (as a whole) and the history of systemic failure to adequately identify and cite New York nursing homes when they fail to meet minimum standards, it is important to view quality measures and relative performance indicators critically. For instance, an “average” nursing home in New York State is quite likely to actually be performing below average as compared to national figures (which are themselves rather poor).

**Table 2: Nursing Homes Now in MLTC Plans**



## VI. Overview of Nursing Homes Currently in MLTC Plans

We were surprised to find that a large number of nursing homes across New York State already contract with MLTC plans. Though, as noted earlier, the plans are not obliged, currently, to contract for residential care with all of the nursing homes that they currently contract with for other services, the choices that plans have made in the current nursing home “marketplace” are meaningful. Furthermore, one can expect, logically, that existing parties will be inclined to contract with businesses with which they already have a relationship in a given sector, rather than to seek and develop new

<sup>16</sup> *Nursing Home Residents at Risk*, LTCCC (2005). Available at [http://www.ltccc.org/documents/LTCCCMay2005Report\\_D7.pdf](http://www.ltccc.org/documents/LTCCCMay2005Report_D7.pdf).

<sup>17</sup> *Nursing Home Oversight in New York State: A Regional Assessment*, LTCCC (2006). Available at <http://www.ltccc.org/news/documents/NYoversightreportCRJune12.pdf>.

<sup>18</sup> *Nursing Home Surveillance in 10 States - A Comparison of Resources & Financing*, LTCCC (2012). Available at <http://www.ltccc.org/publications/>.

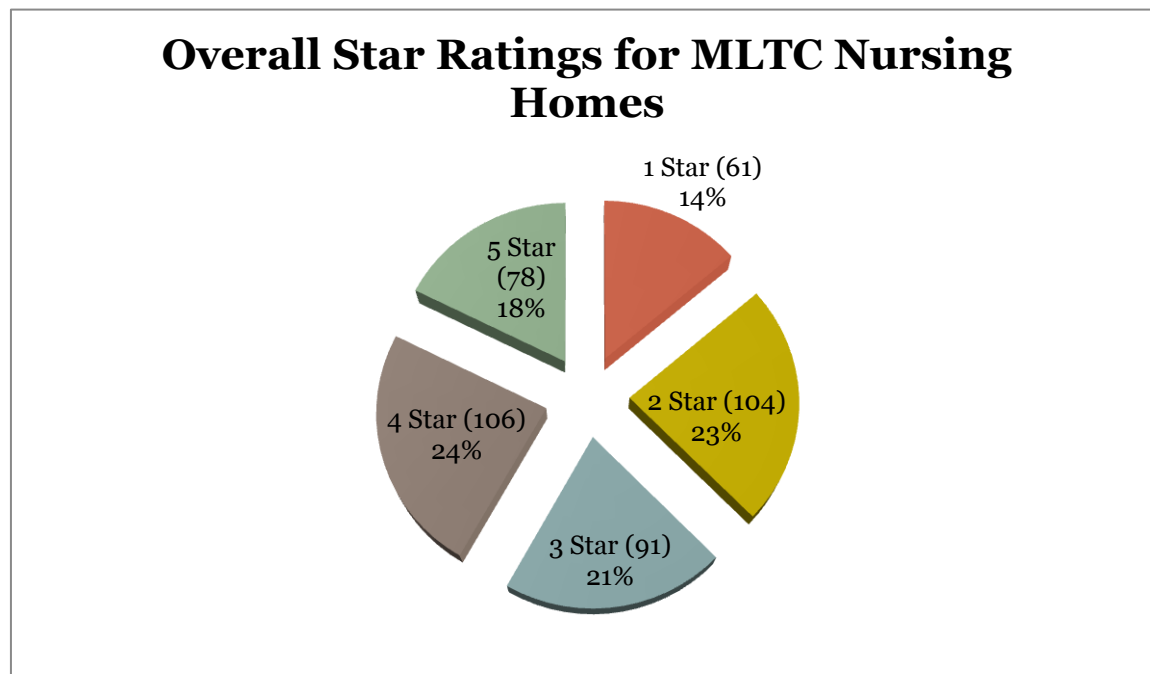
<sup>19</sup> Susan C. Reinhard, Enid Kassner, Ari Houser, and Robert Mollica, *Raising Expectations: A State Scorecard on Long-Term Services and Supports for Older Adults, People with Physical Disabilities, and Family Caregivers* (2011). Accessed at <http://www.longtermscorecard.org/Report.aspx>.

relationships. To that end, at the October 2, 2013 meeting of the NYS Nursing Home Transition Workgroup, state officials stated that they did not expect to require a special state review of a contract between an MLTC plan and a nursing home for residential care services where there is already an existing contract between the plan and the facility.

Lastly, from a systemic perspective, the state has a large number of nursing home residents, a high occupancy rate (overall) and a very powerful industry. Nursing homes cannot be built and certified overnight. Thus, while contracting patterns will undoubtedly be dynamic, to some extent, it is extremely unlikely that a large percentage of nursing homes will simply disappear. The goal, from both a consumer and public perspective, is to ensure that the changes to come steer the industry toward providing better quality care and a more efficient use of public funding than it has historically.<sup>20</sup>

The following tables provide overall information on nursing homes in NY State that currently contract with MLTC plans and information on how the MLTC nursing homes compare with NY State nursing homes as a whole. Given the high percentage of facilities in MLTC, it is important to understand that the state's overall scores are heavily weighted by those of the MLTC plans (as a whole) in the following.

**Table 3: Overall Star Ratings**



<sup>20</sup> This would dovetail precisely with the goals announced by Governor Cuomo for Medicaid Redesign, discussed in the Introduction.

Nursing Home Compare, the federal website providing quality and other information on every U.S. nursing home that participates in Medicare and/or Medicaid, includes the Five Star Quality Rating System which provides ratings for nursing homes based on a combination of their staffing, inspection (survey) outcomes and performance on a variety of quality measures.<sup>21</sup> While, as discussed earlier, there are problems with the quality of all of these data, they do provide some of the best information available on a nursing home's quality and safety.

In this five star system, the worst nursing homes have a one star rating and the best have a five star rating. Three stars are average. Again, it is important to understand that average does not equal good or even "so-so." Average is within the context of the various parameters, subject to significant weaknesses in the ability to identify problems.

Table 3 shows the star rating of MLTC nursing homes overall. Fourteen percent (14%) have a one star rating, meaning that they are among the worst nursing homes in the state (and in the country). If the MLTC plans continue their current contracting patterns when nursing home care becomes part of MLTC, this means that one in seven New Yorkers could be sent to a nursing home that is known to have longstanding serious and significant problems meeting the minimum standards of care.

Currently, 14% of MLTC nursing homes are one star – amongst the worst performing facilities in the United States.

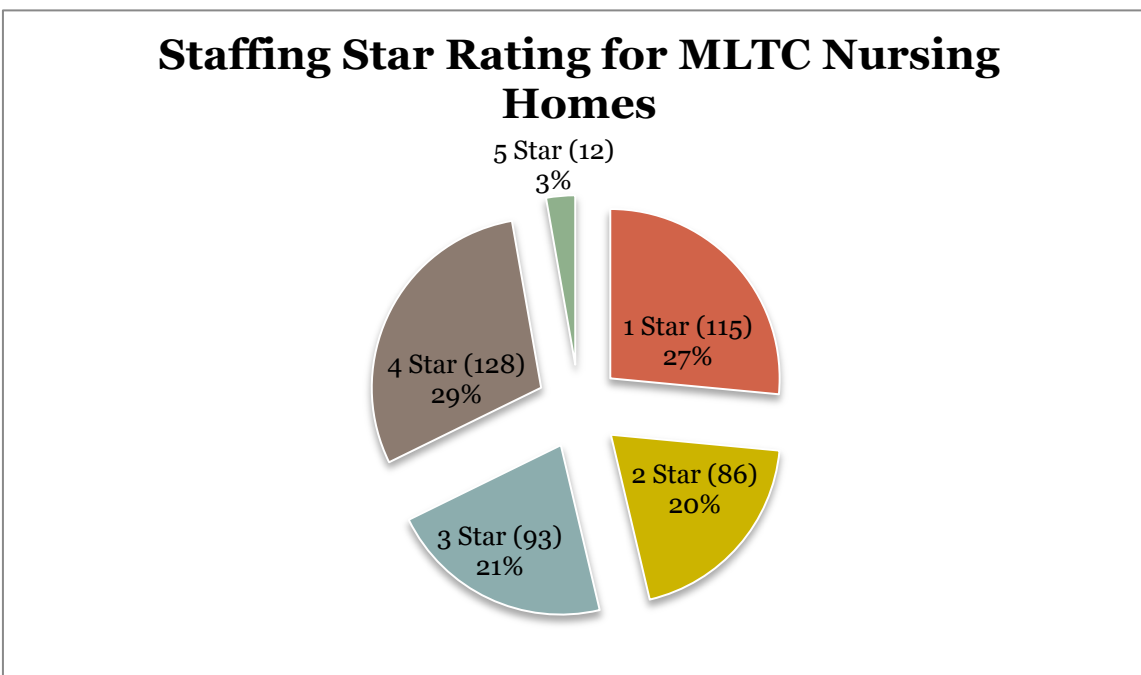
An additional 23% of the MLTC nursing homes have two stars, meaning that they are known to provide profoundly subpar care, just above the very worst in the industry. Under current contracting patterns, close to one in four MLTC plan participants could wind up being sent to this level of facility.

Taken together (one star and two star facilities), close to 40% of the population could be assigned to a subpar facility when managed LTC is implemented for nursing home care, unless steps are taken to ensure that there are protections in place to prevent this from happening.

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<sup>21</sup> <http://www.medicare.gov/nursinghomecompare/search.html>. For information on how ratings are calculated, see *Design for Nursing Home Compare Five-Star Quality Rating System: Technical Users Guide* (2012) available at <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Downloads/usersguide.pdf>.

**Table 4: Staffing Star Ratings**



*NOTE: There were six nursing homes for which star staffing data were not available*

The staffing star ratings for MLTC nursing homes paints an even more alarming picture of the facilities with which MLTC plans are contracting. More than one in four MLTC nursing homes have only a one star staffing rating (the lowest possible). Another 20% have two stars, indicating significantly subpar staffing. Only three percent (3%) had a five star rating.

Of all of the indicators used to determine nursing home quality, staffing is perhaps both the most important and, unfortunately, the most difficult to get a good understanding of from the reported data. The data upon which the Five Star Rating System is based are (as noted earlier) self-reported by the nursing homes and unaudited by either the state or the federal government. Because it is widely believed that nursing homes systematically inflate their staffing stats, the Affordable Care Act (ACA) mandated that CMS implement a system to collect true, verifiable data. Unfortunately, 3.5 years after passage of the ACA, that system has yet to be implemented.

Putting aside questions of the reliability of these data, the Five Star system itself is set up in a way that may give false impressions about the seriousness and pervasiveness of low staffing. According to a federal study conducted under the Bush Administration, “Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes,” the threshold for providing good care for nursing home residents is, on average, approximately 4.5 hours of direct care staff time per resident per day.<sup>22</sup> Yet, in the Five Star system, a facility need only *report* having 4.4 hours of direct care staff time to receive the highest rating of five stars. This means that anything less

<sup>22</sup> Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes, Report To Congress: Phase II Final (December 2001). Available at <http://www.allhealth.org/briefingmaterials/abt-nursestaffingratios%2812-01%29-999.pdf>.

than a five star rating indicates that a nursing home staffing is below this threshold. The following graph from CMS shows what these stars mean in terms of hours of resident care per day:

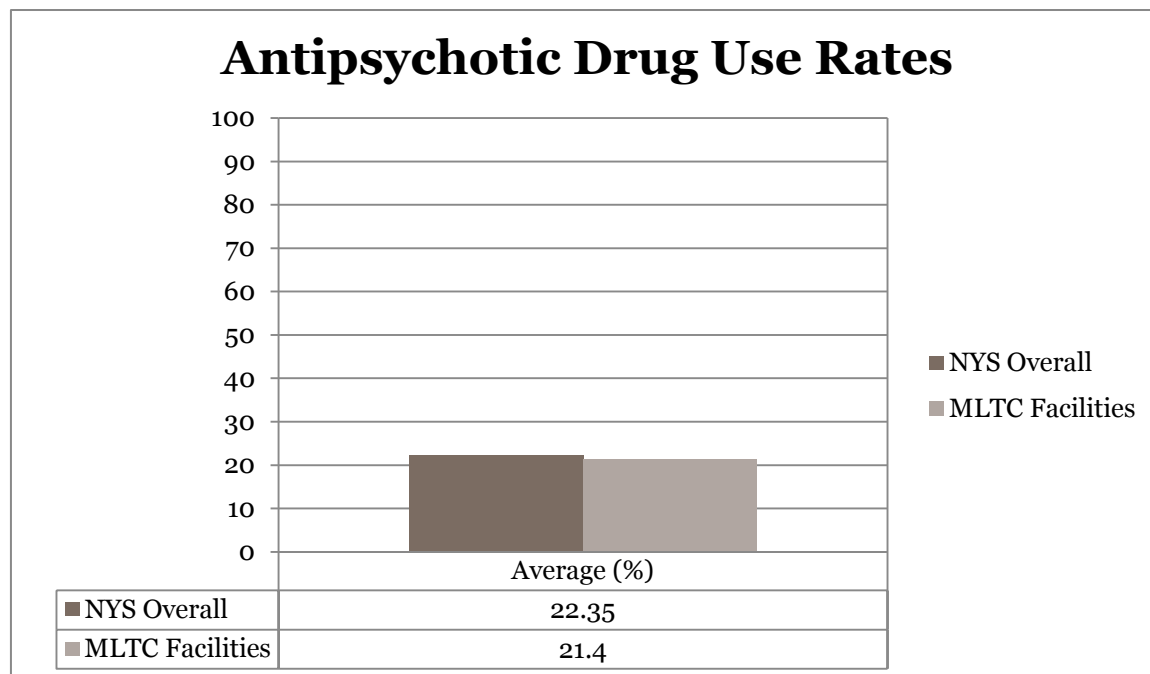
**National Star Cut points for Staffing Measures (updated April 2012)**

Staff type	1 star	2 stars lower	2 stars upper	3 stars lower	3 stars upper	4 stars lower	4 stars upper	5 stars
RN	< 0.283	≥0.283	< 0.379	≥0.379	< 0.513	≥0.513	< 0.710	≥0.710
Total	< 3.262	≥3.262	< 3.661	≥3.661	< 4.173	≥4.173	< 4.418	≥4.418

Note: Adjusted staffing values are rounded to three decimal places before the cut points are applied.

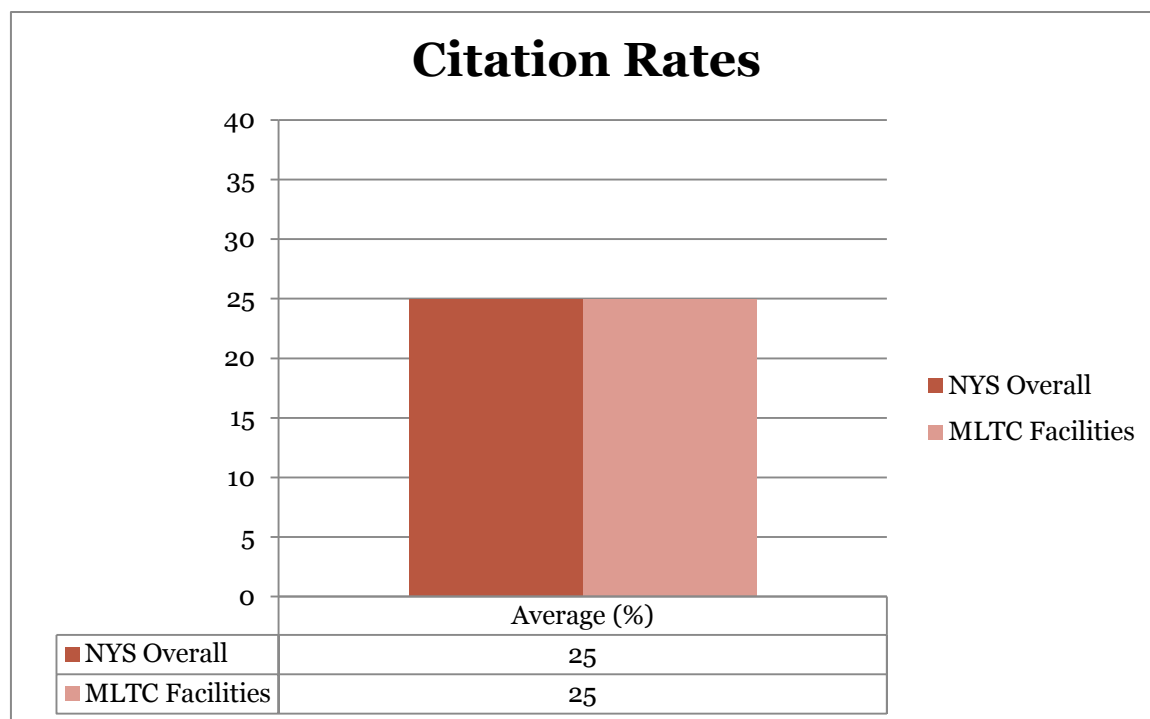
While a four star rating is at the lower range of the threshold in the federal government study (and thus likely to be acceptable for the typical resident in the typical nursing home), three stars (the so-called average rating) is clearly indicative of subpar staffing that may result in resident harm and neglect. A two or one star staffing rating indicates even more serious staffing problems. Thus, under current MLTC plan–nursing home contracting patterns, a whopping two-thirds of the facilities are clearly understaffed based on their own, self-reported and unaudited reporting.

**Table 5: Antipsychotic Drug Use Rates**



MLTC facilities had a slightly lower usage rate for antipsychotic medications.<sup>23</sup> Given the known dangers of antipsychotic drugs, lower rates are better. However, these levels (both state overall and MLTC facilities) are quite high. Reducing the unnecessary use of antipsychotic is a persistent problem in nursing homes across the country. Unfortunately, New York has been one of the states with the poorest performance in reducing its rates since the Centers for Medicare and Medicaid Services (CMS) made this a national priority in early 2012.<sup>24</sup> New York nursing homes, as a whole, failed to come close to meeting the modest goals (set by the industry itself!) for reducing antipsychotic drug use in 2012.

**Table 6: Citation Rates**



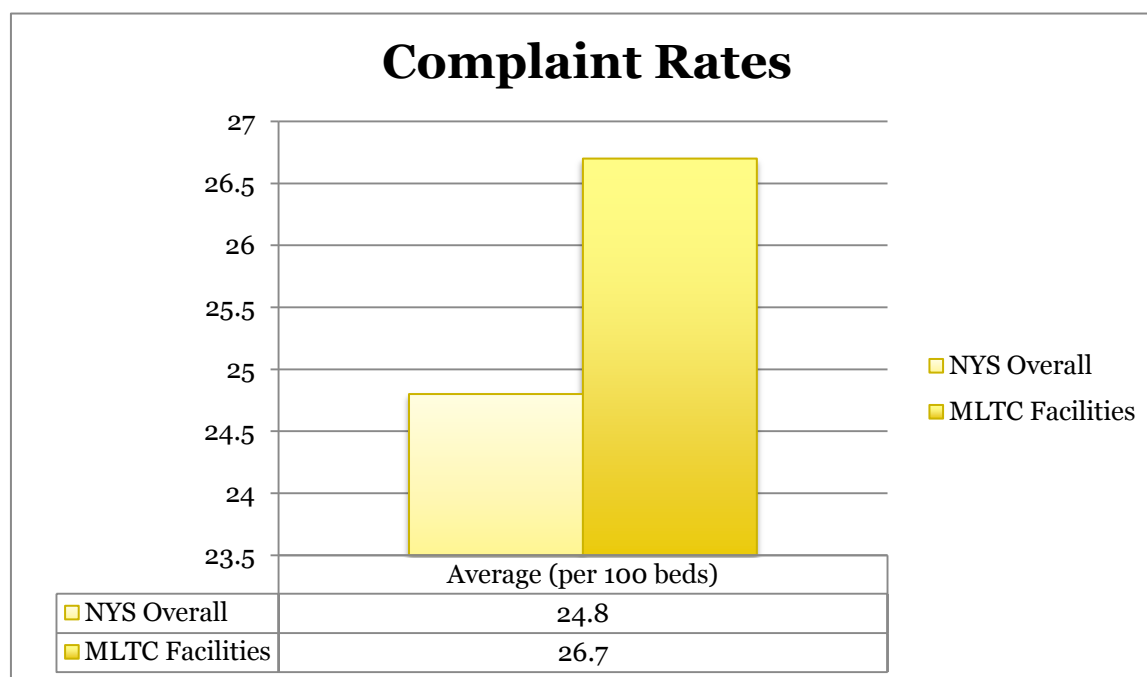
MLTC facilities had the same number of average citations as NYS facilities overall, indicating that MLTC selection, at least to date, has not resulted in a selection towards higher quality nursing home care (to the extent this is accurately reflected by a facility's citation record).<sup>25</sup>

<sup>23</sup> Data for MLTC nursing homes were collected from Nursing Home Compare in May-June 2013. New York State overall data are from a report of all providers, broken down by state, for the 2<sup>nd</sup> quarter of 2013 provided by CMS. Both sets of data are from the Quality Measure for antipsychotic drugging for long stay residents (with exclusions for certain conditions) which is published in Nursing Home Compare.

<sup>24</sup> For more information on the antipsychotic drugging problem and resources on improving dementia care see LTCCC's dedicated website page at <http://www.nursinghome411.org/articles/?category=antipsychotic>.

<sup>25</sup> These data were collected from the New York State Health Department's nursing home website, <http://nursinghomes.nyhealth.gov/>. The website notes: "This report displays citations for the three most recent Certification Surveys, and citations for Complaint Surveys during the past three years."

**Table 7: Complaint Rates**



The complaint rate for MLTC nursing homes is approximately eight (8) percent higher than for nursing homes overall in New York. This is a significant number, especially given that about 2/3 of NYS nursing homes are in MLTC. It is also an important number because, unlike citation rates and the staffing and star ratings, it comes directly from the nursing home community. Thus, though complaint rates are not verified, they are also not subject to some of the serious issues with the other indicators, such as the fact that nurse staffing is self-reported by the nursing homes (and unaudited by either NYDOH or CMS).

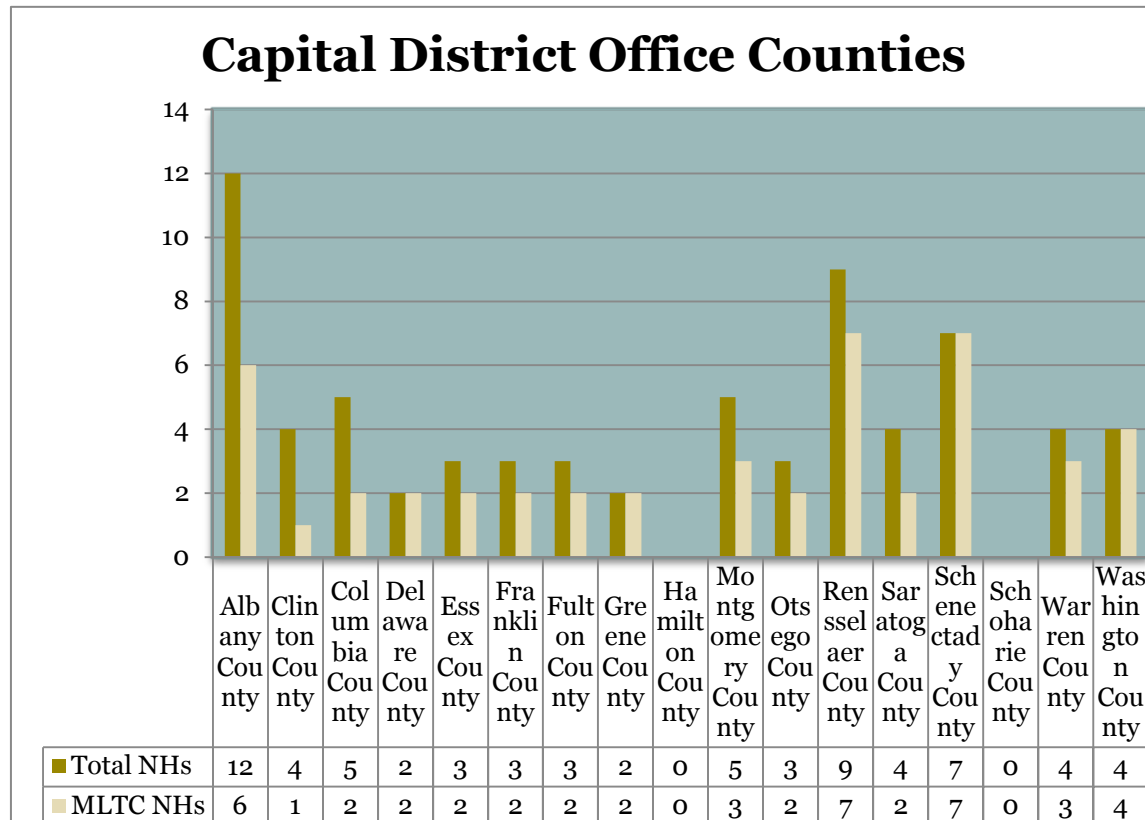
## **VII. Current Access to MLTC Nursing Homes in NYS Counties**

The following tables provide information for each New York State county on the number of nursing homes in the county vs. the number of nursing homes currently in MLTC plans serving the county. It is important to note that in some cases there are more nursing homes in MLTC plans serving the county than are actually in the county because some plans utilize nursing homes outside the county (and in a couple of incidents outside of the state) for its members in a particular county. Proximity to nursing home care is, of course, essential to access to care and meaningful access to a range of nursing home is critical to ensuring consumer choice. Though we did not map out where the nursing homes in MLTC plans are situated (either within a county or outside of it), in researching the nursing homes on Nursing Home Compare and the New York State Nursing Home Profiles websites we did not notice any gross

anomalies, such as an MLTC plan contracting with a nursing home in Rochester to serve the New York Metropolitan Area.

Due to the large number of counties in the state, the following information is broken down into regional charts. There are four charts: Capital District, Central New York, Metropolitan NYC Area and Western New York. This organization also enables one to get an overview of contracting patterns in a region and to compare access in neighboring counties.

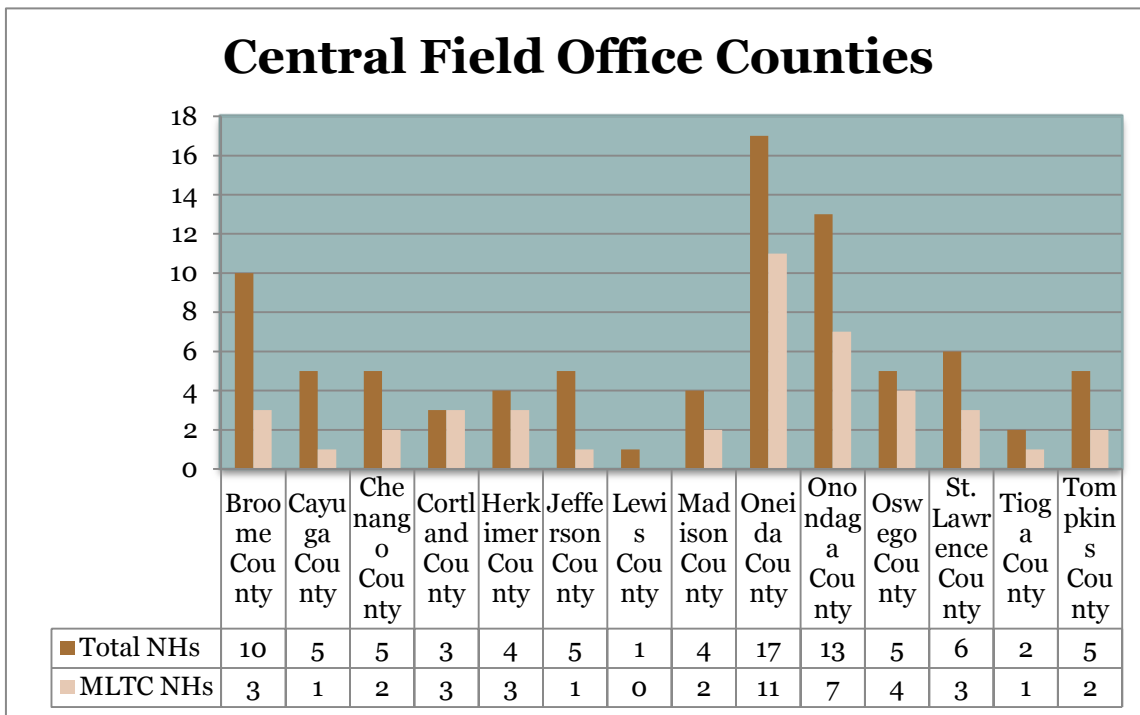
**Table 8: Capital Area**



Counties in the Capital District area have a wide diversity in access to MLTC nursing homes. Some of the counties have parity while others have 50% or less MLTC coverage.

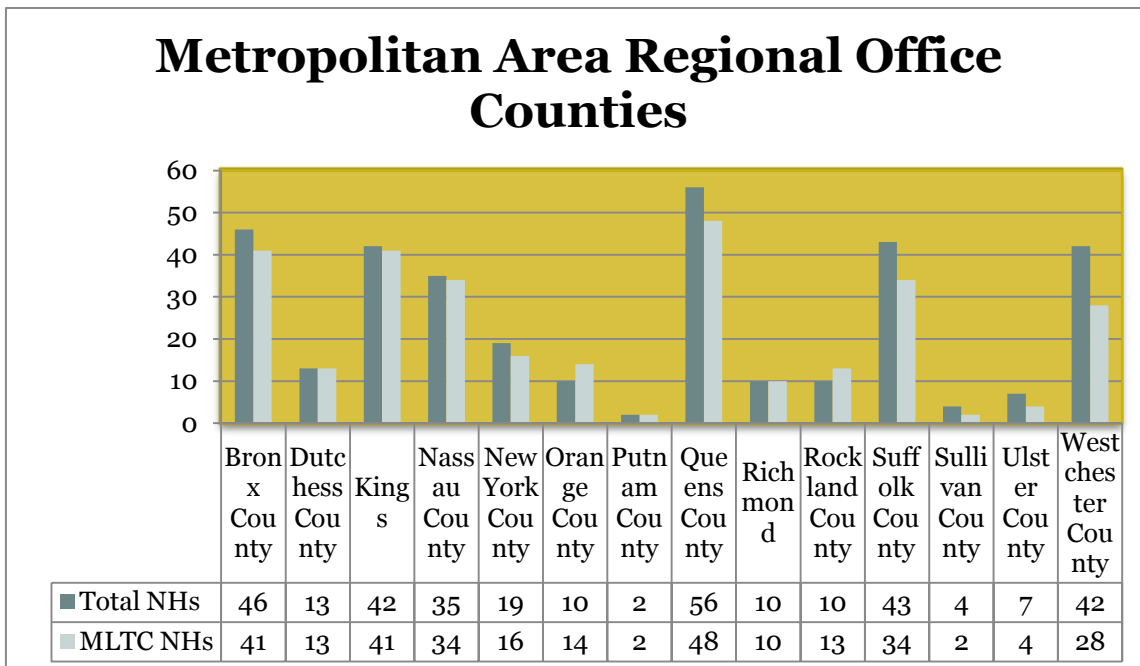


**Table 9: Central New York**



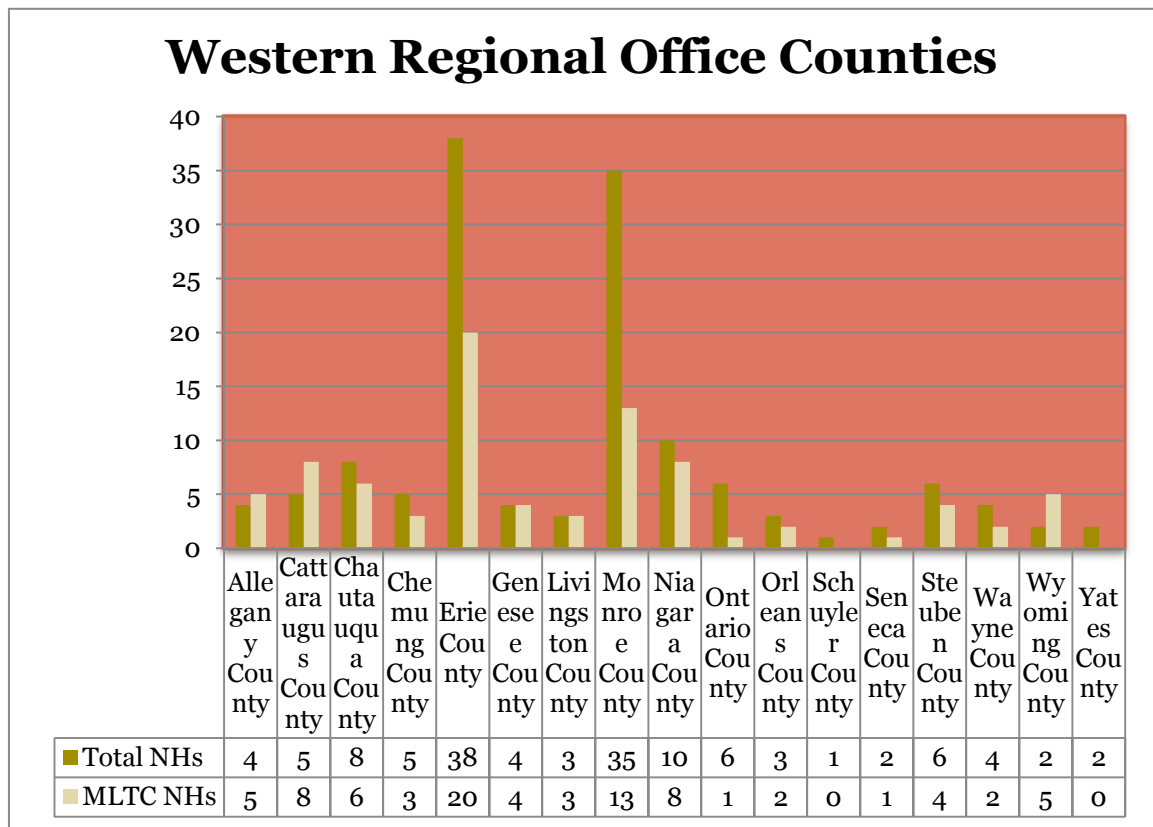
Like the Capital District area, counties in central New York State have a wide disparity of MLTC coverage.

**Table 10: New York City Metropolitan Area**



The Metropolitan Area, which has a large share of the state’s nursing homes also appears to have the most parity overall between nursing homes in a county and nursing homes in MLTC serving that county. A couple of the counties even have more nursing homes in MLTC than nursing homes in the county, a result of nursing homes in neighboring areas serving people in the county.

**Table 11: Western New York**



Like the Central and Capital areas, the Western region of the state has significant diversity in coverage from county to county. Neither Schuyler nor Yates counties (both small in terms of nursing home population) have any nursing homes in MLTC while the largest counties in the region, Erie and Monroe have about half or less nursing home MLTC participation rates. Several counties have more MLTC nursing homes than nursing homes in the county, due to reliance on nursing homes beyond county lines.

## VIII. Can You Trust Your MLTC Plan to Send You to a Good Nursing Home?

People who need nursing home care have always had a choice to go to any nursing home that they choose. For Medicaid recipients, who make up the large majority of nursing home residents in New York and nationally, this means that they can choose among over 600 nursing homes in New York State alone, and approximately 15,000 nation-wide that accept Medicaid and/or Medicare.

The advent of mandatory managed long term care (MLTC) will change that dramatically. In January 2014 the state will begin implementing its plan to integrate nursing home care into MLTC. Under this plan, instead of having the choice to go to any Medicaid participating nursing home, people will be required to choose among the facilities with which their MLTC insurance plan contracts. Though the MLTC plans will be responsible for ensuring that everyone in their plan is in a place that can provide appropriate care to meet his or her needs (and allow those with “special needs” to go to a nursing home that the plan does not contract with if their own nursing homes cannot provide that kind of care), the state considers any nursing home that is licensed to operate as providing good and appropriate care for purposes of MLTC.

In other words, the state will allow MLTC plans to contract with *any* licensed facility, whether or not it is adequately staffed; has a record of poor care, abuse and neglect (even those designated as a “Special Focus Facility”);<sup>26</sup> or a history of fraud. Though plans will be providing guidance to people on choosing a nursing home in their network, there is nothing to stop them from directing people to nursing homes with a history of poor care. In fact, if those nursing homes are the cheapest, they have an incentive to do exactly that. People will have the right to switch plans to go to a nursing home out of their network, but to what extent will individuals and their families have knowledge of this right, no matter the ability to effectively exercise it?

“...the state will allow MLTC plans to contract with *any* licensed facility, whether or not it is adequately staffed; has a record of poor care, abuse and neglect...”

Because the state is not requiring that MLTC plans contract with nursing homes that provide good care, without a history of abuse and neglect, a central purpose of this study was to identify what nursing homes MLTC plans are contracting with and whether there are nursing homes that the plans are using that have a history of significant problems or other signs that they may not be providing adequate care. Though the MLTC plans may not necessarily contract with all of the same nursing homes for residential LTC as they are, now, for other services, we believe that it is likely that there will be significant overlap (since the plans already have contractual relationships with these facilities). In any case, current contracting is clearly indicative of the types of providers with which the MLTC plans are willing to contract for services to their members.

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<sup>26</sup> The Special Focus Facility Program is a federal program that identifies the worst nursing homes in the country for special oversight for a two year period. At the end of the two years, the facility is supposed to have either developed permanent solutions to its longstanding problems and “graduate” or be removed from Medicaid & Medicare. Unfortunately, there have been numerous instances where these facilities have remained in the program for longer than two years or “graduated” but then continued to have serious problems.

## The Best & The Worst MLTC Plans

The following charts rank the MLTC plans on each of the criteria we selected as important indicators of quality. While, as discussed above, these are not perfect, each offer important insights into a nursing home's quality. The charts are based on data collected in the summer 2013. The state average is included in each chart (in red font) for purposes of comparison.

### Nursing Home Compare Overall Star Rating

ArchCare	4.3
United Healthcare	4.1
Catholic Health	4
VillageCare Max	4
Healthfirst	3.9
Aetna	3.8
Senior Whole Health	3.8
MetroPlus	3.7
Senior Health Ptnrs	3.7
AgeWell	3.6
WellCare of NY	3.6
CenterLight	3.4
HHH Choices	3.4
Amerigroup	3.3
CPHL	3.3
Elderplan	3.3
ElderServe	3.3
GuildNet	3.3
Independence Care	3.3
VNSNY Max	3.3
Elant	3
<b>NY State Overall</b>	<b>3</b>
Fidelis	2.9
Complete Sr Care	2.8
Senior Network Health	2.8
Independent Living for Srs	2.7
Total Aging in Place	2.7
Total Senior Care	2.6
Eddy Sr Care	2
PACE CNY	1.3

Nursing Home Compare, the federal resource with information on all nursing homes in the U.S. that participate in Medicaid/Medicare, includes a 5-Star rating system based on a range of quality related criteria.

This table ranks the MLTC plans by overall star rating of nursing homes in the plan. **Higher is better.**

The top three plans are ArchCare, United Healthcare and Catholic Health.

The bottom three plans are PACE CNY, Eddy Senior Care and Total Senior Care.

Importantly, there was not a single MLTC plan that had an average nursing home star rating of five (5) which is superior.

## Nursing Home Compare Staffing Star Rating

Independent Living for Srs	3.7
Total Aging in Place	3.7
Eddy Sr Care	3.5
Catholic Health	3.3
Senior Network Health	3.2
CPHL	3.1
Elant	3.1
MetroPlus	3
<b>NY State Overall</b>	<b>3</b>
Total Senior Care	3
VillageCare Max	2.8
Complete Sr Care	2.8
Healthfirst	2.7
VNSNY Max	2.7
Fidelis	2.7
PACE CNY	2.7
WellCare of NY	2.6
GuildNet	2.5
ArchCare	2.4
Aetna	2.4
Amerigroup	2.4
CenterLight	2.3
ElderServe	2.3
Senior Whole Health	2.2
AgeWell	2.2
HHH Choices	2.2
Elderplan	2.2
Independence Care	2.2
United Healthcare	2.1
Senior Health Ptnrs	2.1

Nursing Home Compare's 5-Star rating system includes a separate star rating for direct care staffing. The data are self-reported by the facilities and are not audited by either the state or CMS. They are supposed to reflect nurse and CNA staffing hours for the two-week period prior to a nursing home's state inspection.

This table ranks the MLTC plans by staffing star rating of nursing homes in the plan. **Higher is better.**

The top three plans for staffing adequacy are Independent Living for Seniors, Total Aging in Place and Eddy Senior Care.

The bottom three plans are Senior Health Partners, United Healthcare and Independence Care.

**Important Note:** The "best" plans on this important criteria were only slightly above average. None had a superior score (four or five stars) or a score that matched the level identified as generally sufficient to prevent resident harm. *This should be a serious concern for the public and policymakers.* Coupled with the fact that two-thirds of the plans were actually below average, it indicates a need to ensure that MLTC plans do not place their members into facilities with insufficient staff.

## Rate of Antipsychotic Drug Use

Total Aging in Place	8.5
Catholic Health	12.3
Complete Sr Care	13.9
Senior Network Health	16.5
Eddy Sr Care	16.8
Senior Health Ptnrs	17.2
CenterLight	18.4
VillageCare Max	18.6
Independent Living for Srs	19.2
United Healthcare	19.3
VNSNY Max	19.3
Healthfirst	19.6
AgeWell	20
Independence Care	20.2
Elant	20.4
WellCare of NY	21.2
HHH Choices	21.2
GuildNet	21.2
Elderplan	21.3
ElderServe	21.4
<b>NY State Overall</b>	<b>21.4</b>
Amerigroup	21.5
Total Senior Care	21.6
Fidelis	21.8
CPHL	22.1
ArchCare	23.3
PACE CNY	24.2
Aetna	24.8
MetroPlus	24.8
Senior Whole Health	26.3

This table ranks the MLTC plans by average rates (percentage of residents) receiving these drugs in the nursing homes in the plan. These data are from the Quality Measure for antipsychotic drugging for long stay residents published in Nursing Home Compare. **Lower is better.**

The inappropriate use of antipsychotic drugs is a widespread and serious problem in nursing homes. Too often, these powerful and dangerous drugs are given to residents as a form of chemical restraint rather than providing the care that residents need and for which facilities are paid. There is an FDA “Black Box Warning” against use of antipsychotics on elderly people with dementia and a national campaign, started in 2012, to reduce drugging rates. Unfortunately, New York State nursing homes failed to achieve the moderate national reduction goals set for 2012. Too many of our nursing homes continue to use these drugs unnecessarily, putting residents at significantly increased risk of stroke, heart attack, Parkinsonism and falls (as well as increased agitation, confusion and disorientation).

The top three plans (with nursing homes having the lowest drugging rates) are Total Aging in Place, Catholic Health and Complete Senior Care.

The bottom three plans (with the highest drugging rates) are Senior Whole Health, MetroPlus and Aetna.

For further information and resources on antipsychotic drugging visit <http://www.nursinghome411.org/article/s/?category=antipsychotic>.

## Violations of Minimum Standards

Catholic Health	16.7
Senior Network Health	18.4
United Healthcare	19.4
Senior Health Ptnrs	20.8
Aetna	21
Total Senior Care	21
ElderServe	21.3
MetroPlus	21.7
Elant	22
AgeWell	22.4
Healthfirst	22.5
Senior Whole Health	22.8
WellCare of NY	22.9
VillageCare Max	23.7
VNSNY Max	23.7
GuildNet	23.9
Eddy Sr Care	24
CenterLight	24.2
ArchCare	25
<b>NY State Overall</b>	<b>25</b>
Amerigroup	25.2
HHH Choices	25.4
Elderplan	25.7
Fidelis	26.1
CPHL	26.3
Independence Care	27
Complete Sr Care	34.2
Total Aging in Place	36
PACE CNY	43
Independent Living for Srs	46.3

This table ranks the MLTC plans by the average numbers of deficiencies cited by the New York State Department of Health. These data are from the Department of Health's New York State Nursing Home Profile available at [www.nursinghomes.nyhealth.gov/](http://www.nursinghomes.nyhealth.gov/).

**Lower is better.**

The top three plans (with nursing homes having the lowest citation rates) are Catholic Health, Senior Network Health and United Healthcare.

The bottom three plans (with the highest citation rates) are Independent Living for Seniors, PACE CNY and Total Aging in Place.

**Important Note:** There are many violations of minimum care standards that occur every day in nursing homes which are not cited and therefore are not reflected here. See Chapter IV: Quality Measurement for more information.

## Complaints of Violation of Minimum Standards, Abuse & Neglect

Independent Living for Srs	17.4
Total Senior Care	17.6
ElderServe	18
Aetna	18.5
Senior Health Ptnrs	18.7
United Healthcare	19.4
GuildNet	20.1
Healthfirst	20.2
Senior Whole Health	20.5
Elderplan	20.9
Independence Care	21.4
Catholic Health	21.8
HHH Choices	22.1
CenterLight	23
AgeWell	23.3
WellCare of NY	23.4
ArchCare	24.3
MetroPlus	24.3
Eddy Sr Care	24.4
<b>NY State Overall</b>	<b>24.6</b>
Amerigroup	25.5
Total Aging in Place	26.1
VNSNY Max	27.5
VillageCare Max	27.9
Fidelis	27.9
CPHL	28.3
Elant	32.5
Complete Sr Care	32.6
PACE CNY	34.6
Senior Network Health	35.9

This table ranks the MLTC plans by the average numbers of complaints for the nursing homes in their plans as reported by the New York State Department of Health. These data were taken directly from the Department of Health's New York State Nursing Home Profile, available at [www.nursinghomes.nyhealth.gov/](http://www.nursinghomes.nyhealth.gov/), in the summer of 2013. They reflect complaints received per 100 occupied beds over approximately the last four years. **Lower is better.**

The top three MLTC plans (with nursing homes having the lowest complaint rates) are Independent Living for Seniors, Total Senior Care and ElderServe.

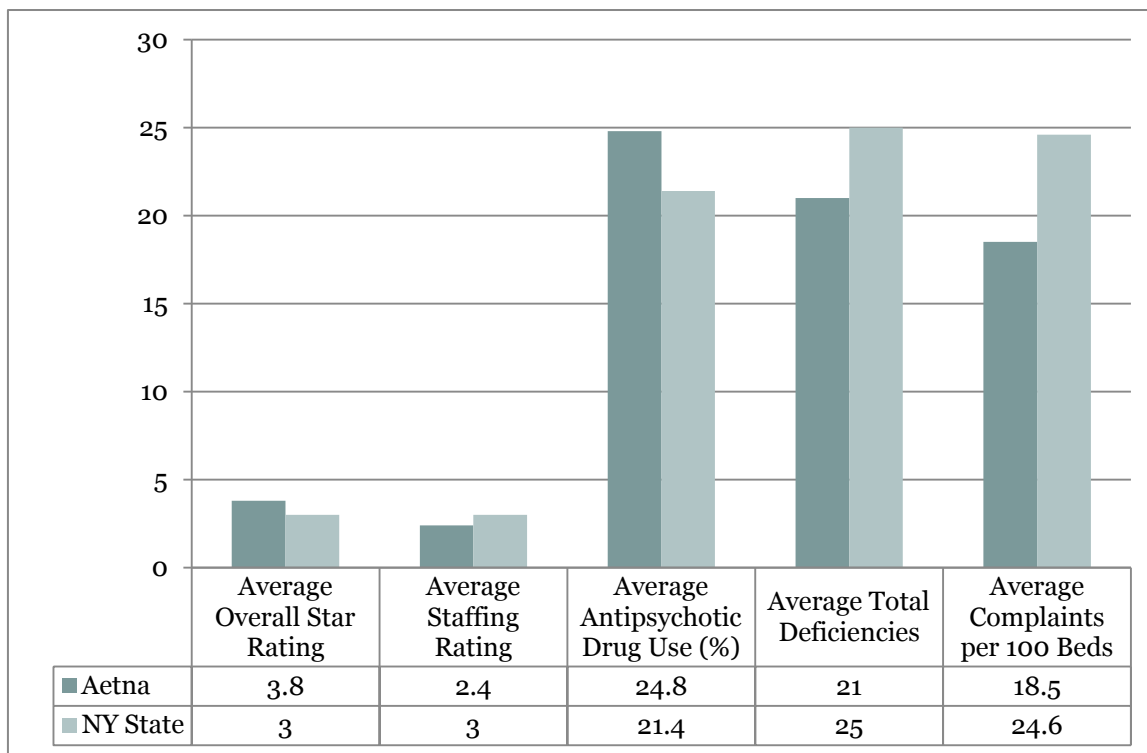
The bottom three plans (with the highest complaint rates) are Senior Network Health, PACE CNY and Complete Senior Care.



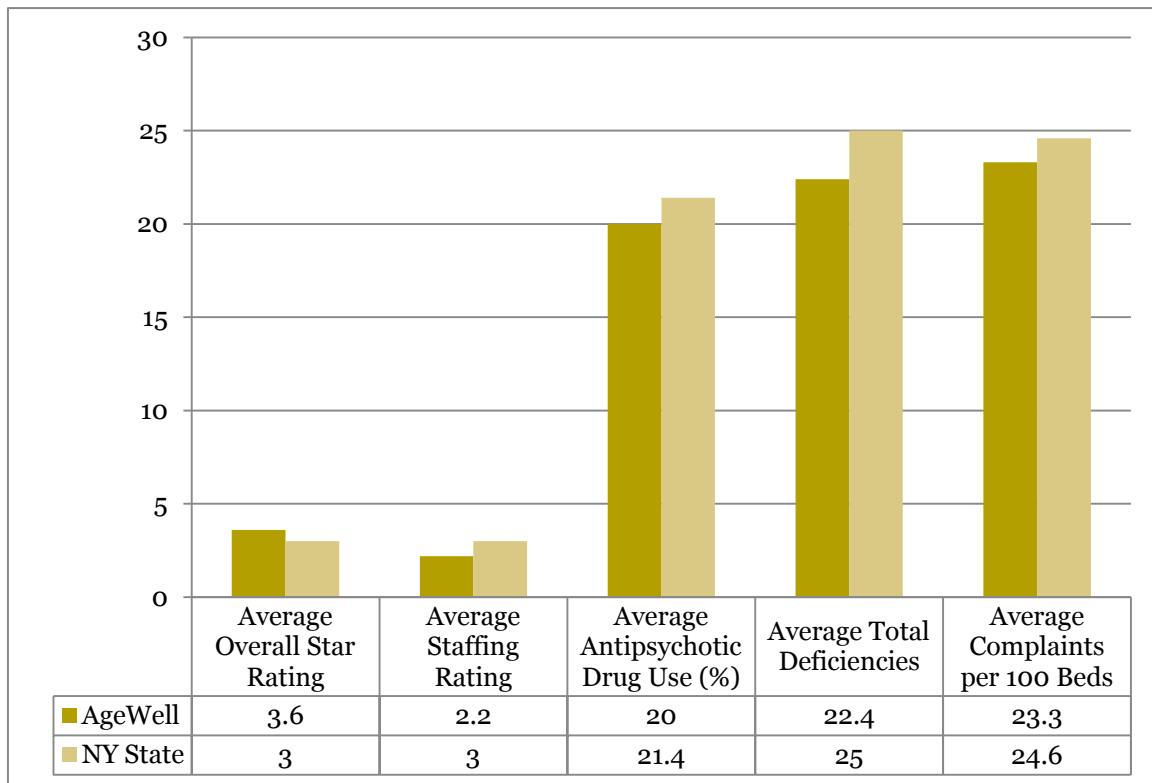
### Overall Quality of Each MLTC Plan vs. NY State Average

The following charts provide information on the individual MLTC plans operating in New York State in 2013 and the nursing homes with which they are contracting. Each chart includes information on several indicators that we believe are highly relevant to quality of care, including the overall star rating and the staffing star rating from Nursing Home Compare, the average percent of long-stay residents receiving antipsychotic drugs (2011 Q3 - 2012 Q1), total citations (from the last three surveys) listed on the NY State nursing home profile website (as of May-June 2013) and total complaints per bed (also from the last three surveys, from the NY State website, as published on the website May-June 2013).

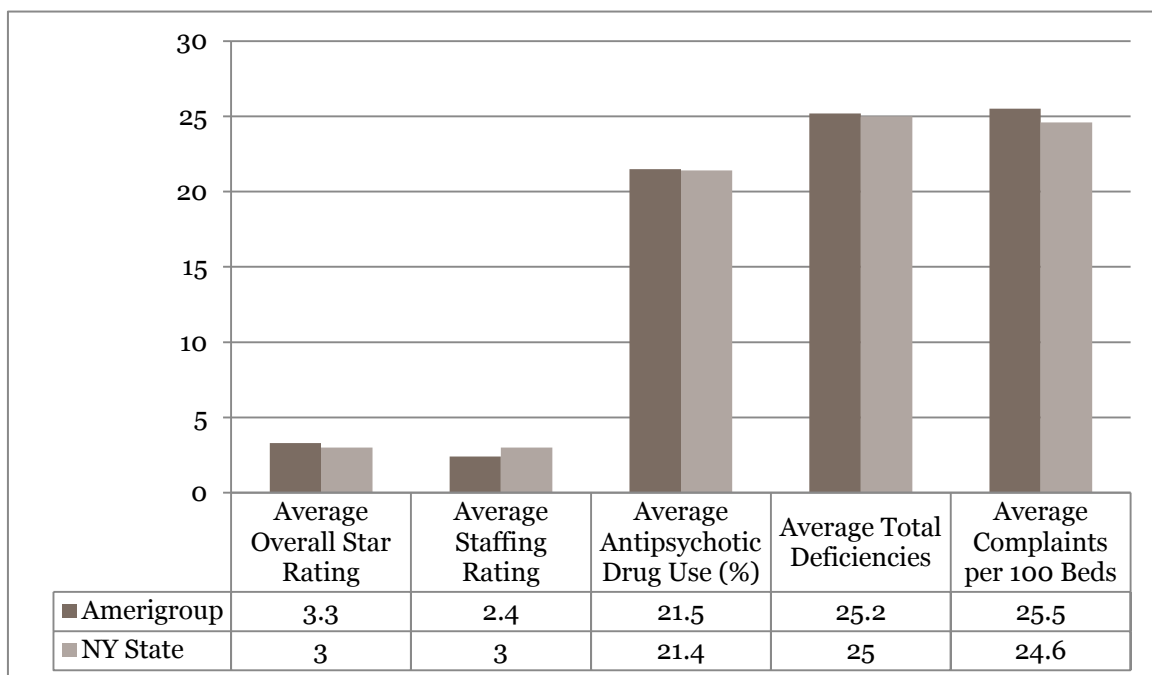
#### **Aetna**



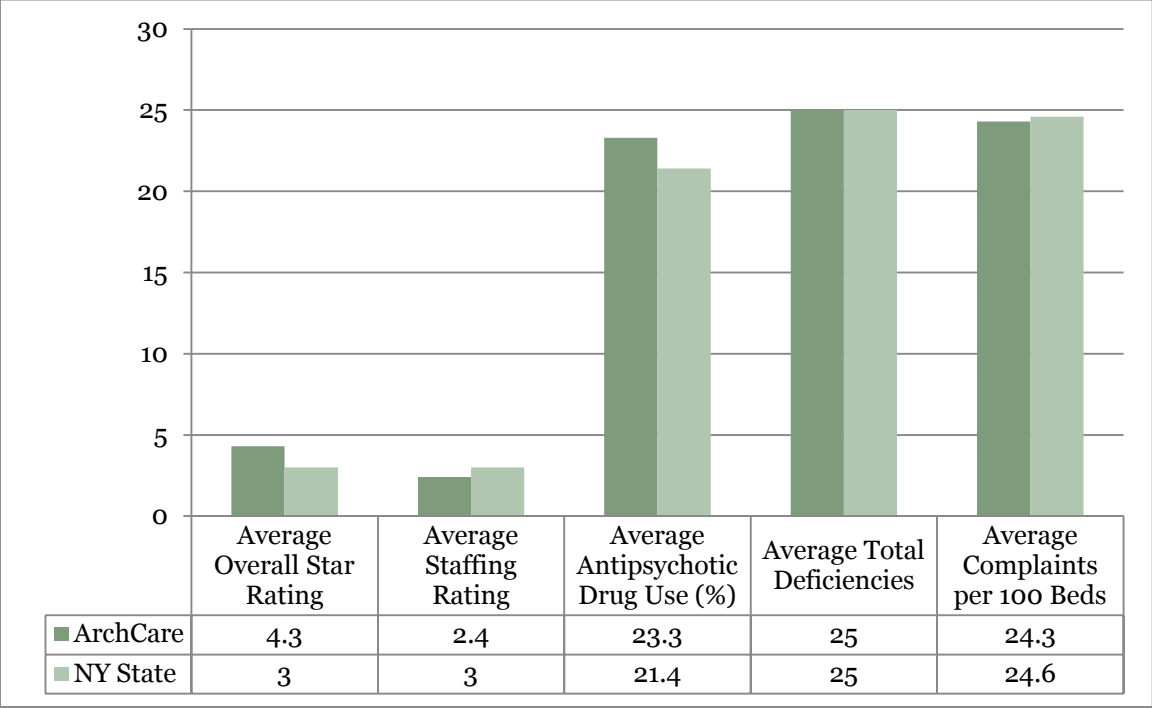
## AgeWell



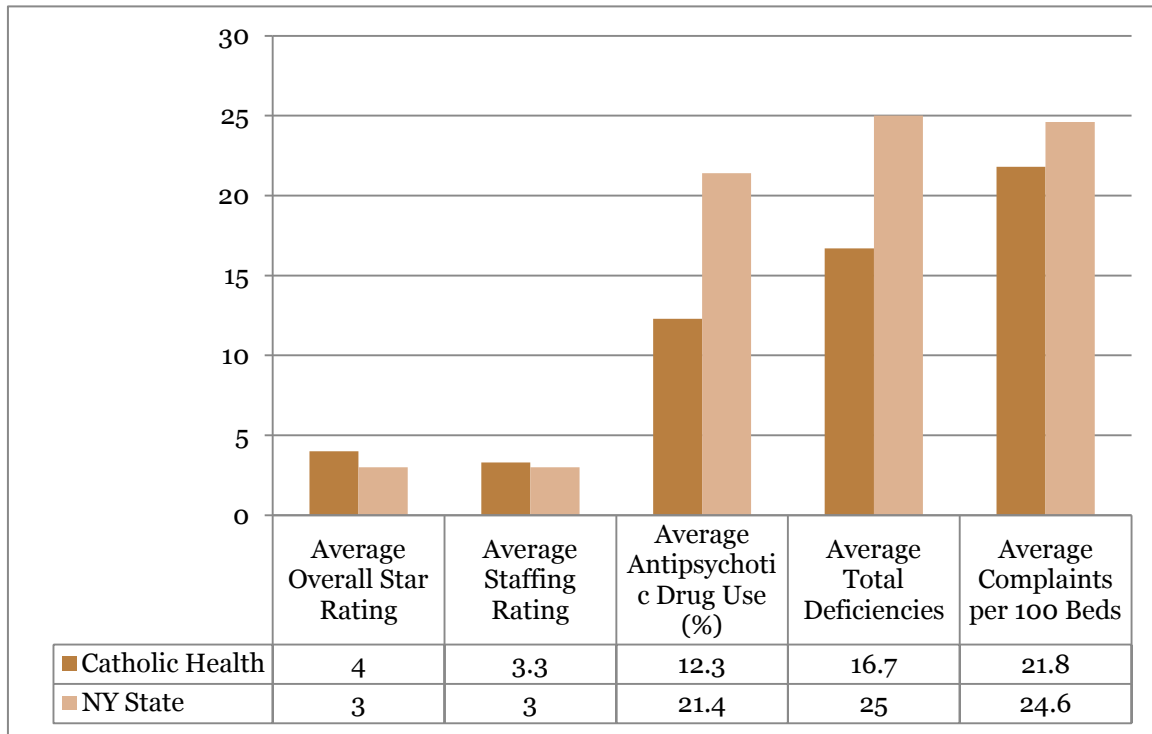
## Amerigroup



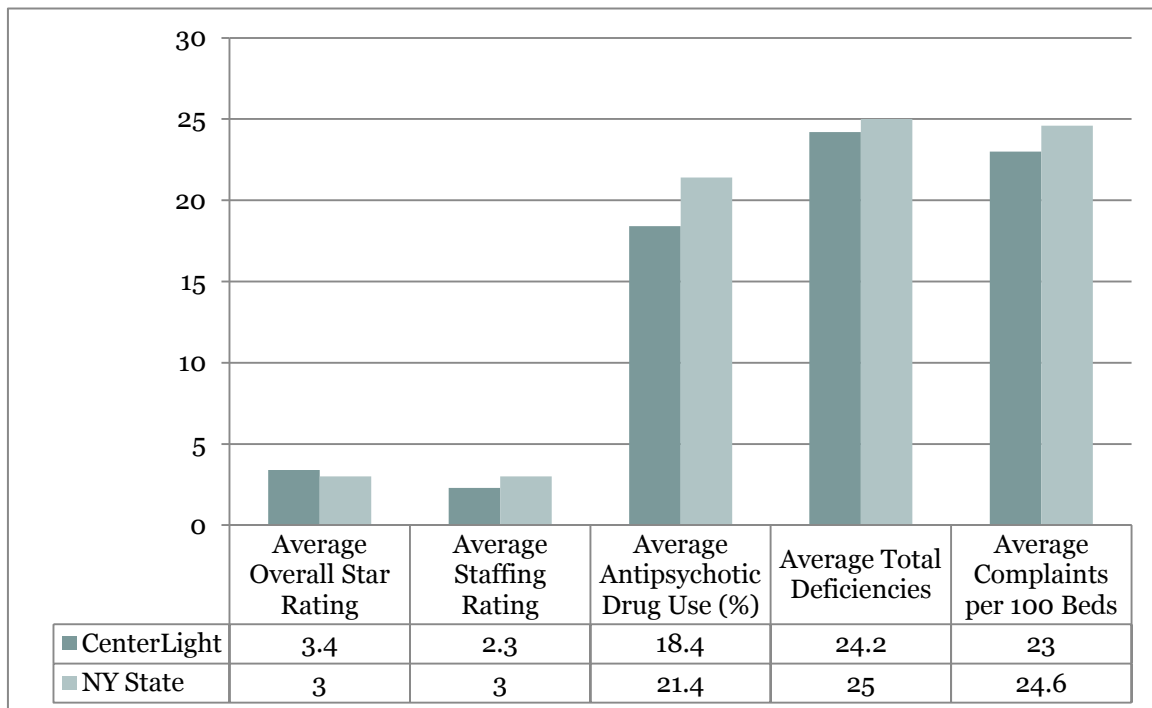
ArchCare



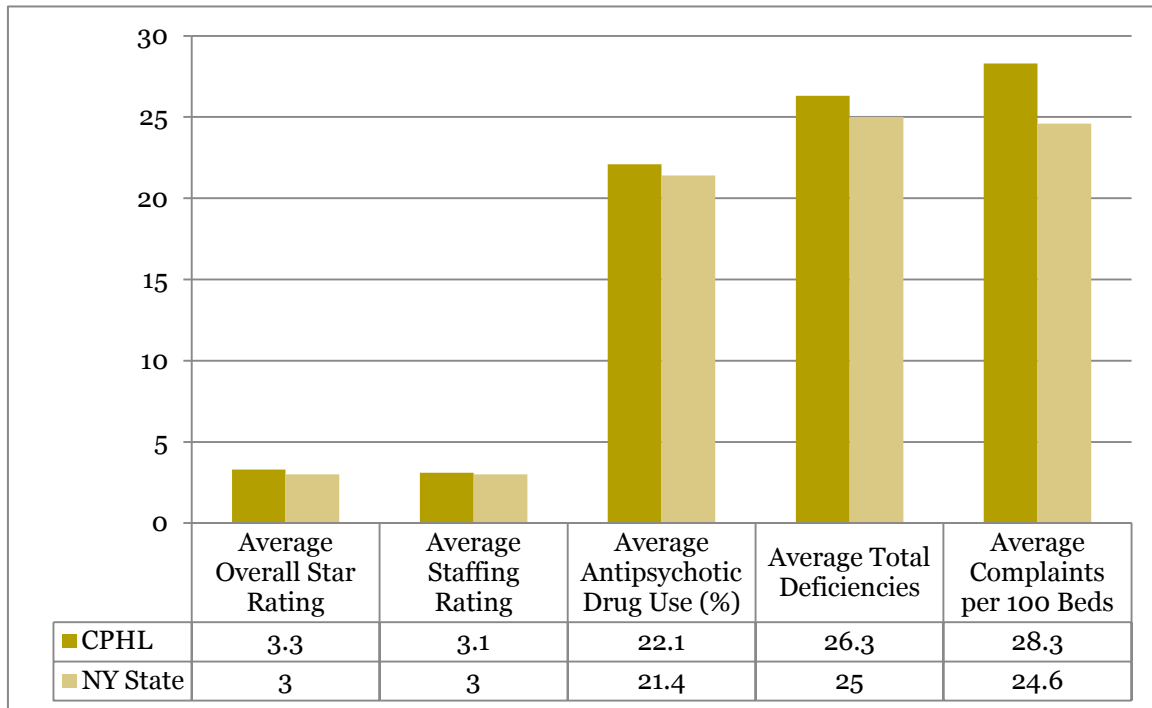
## Catholic Health



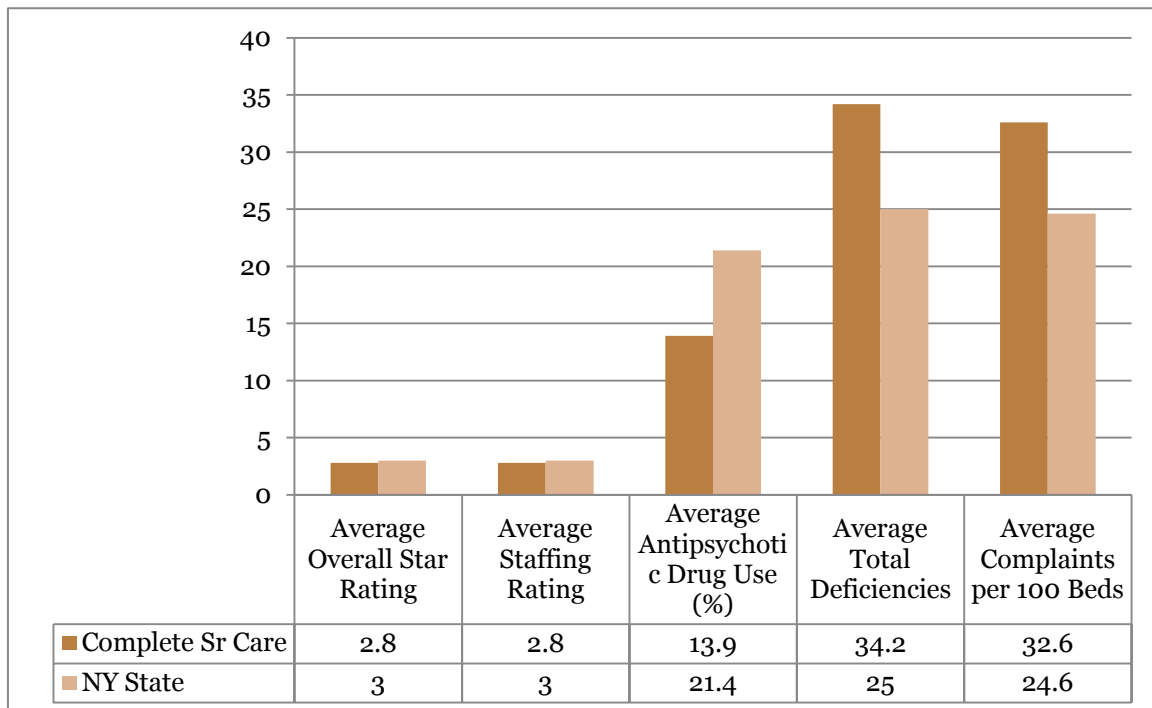
## CenterLight



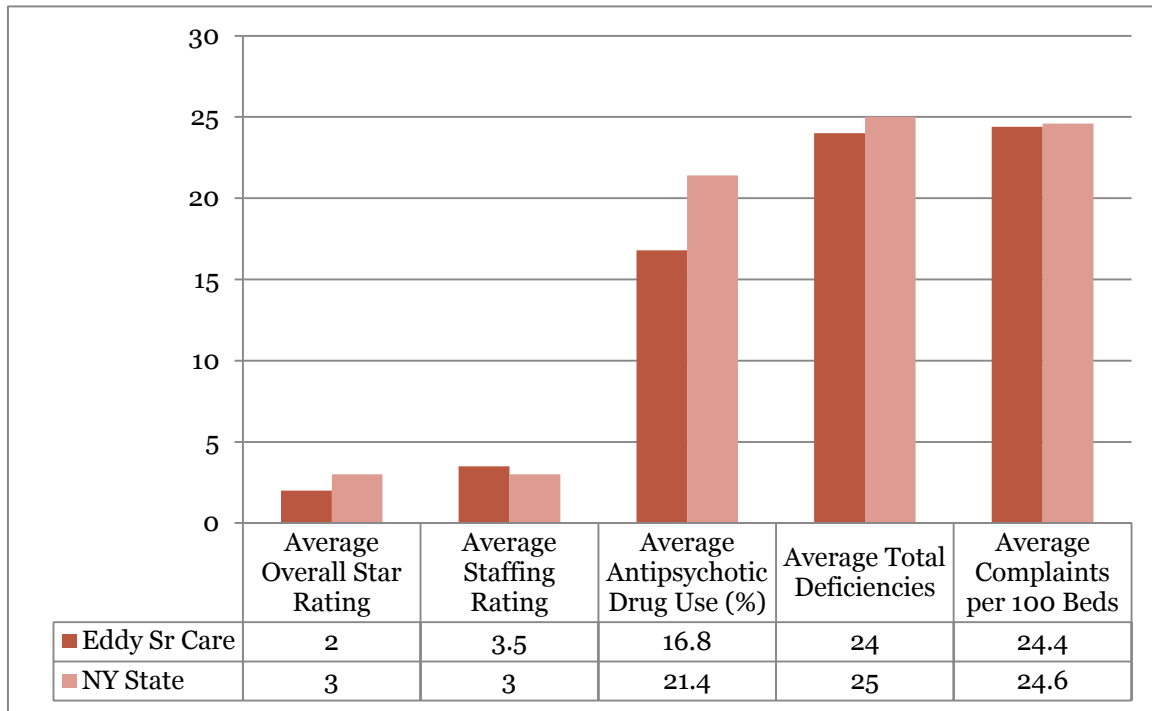
## CPHL



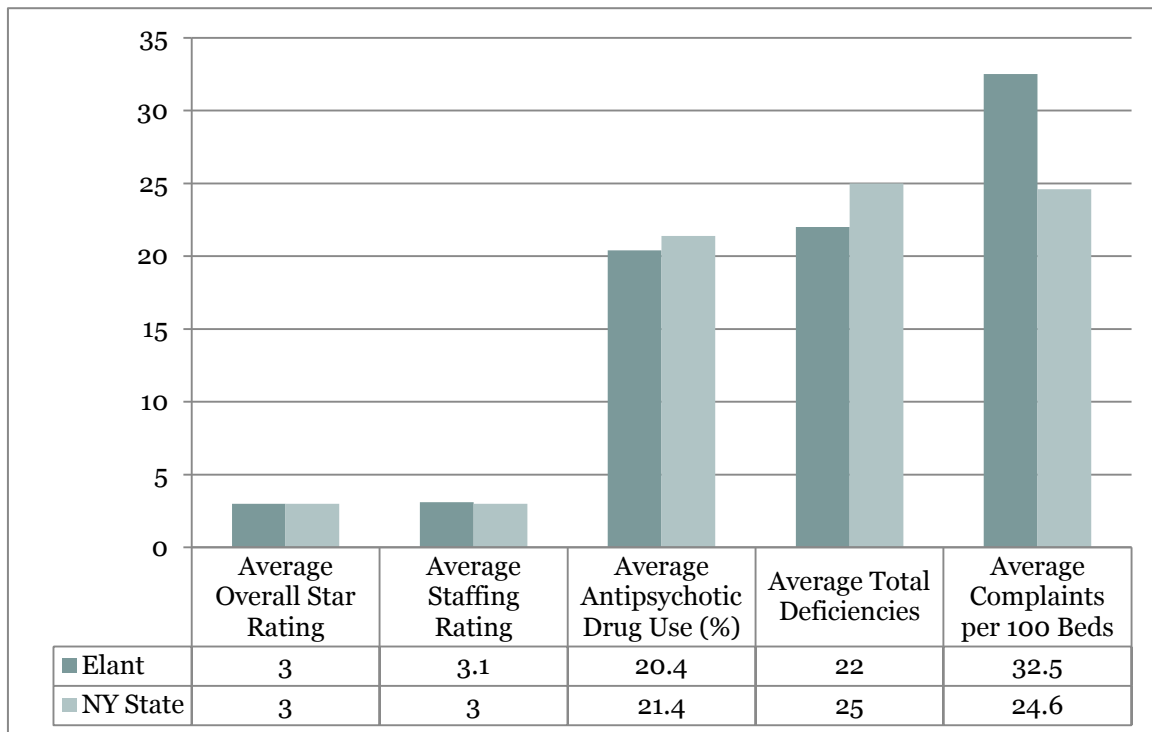
## Complete Senior Care



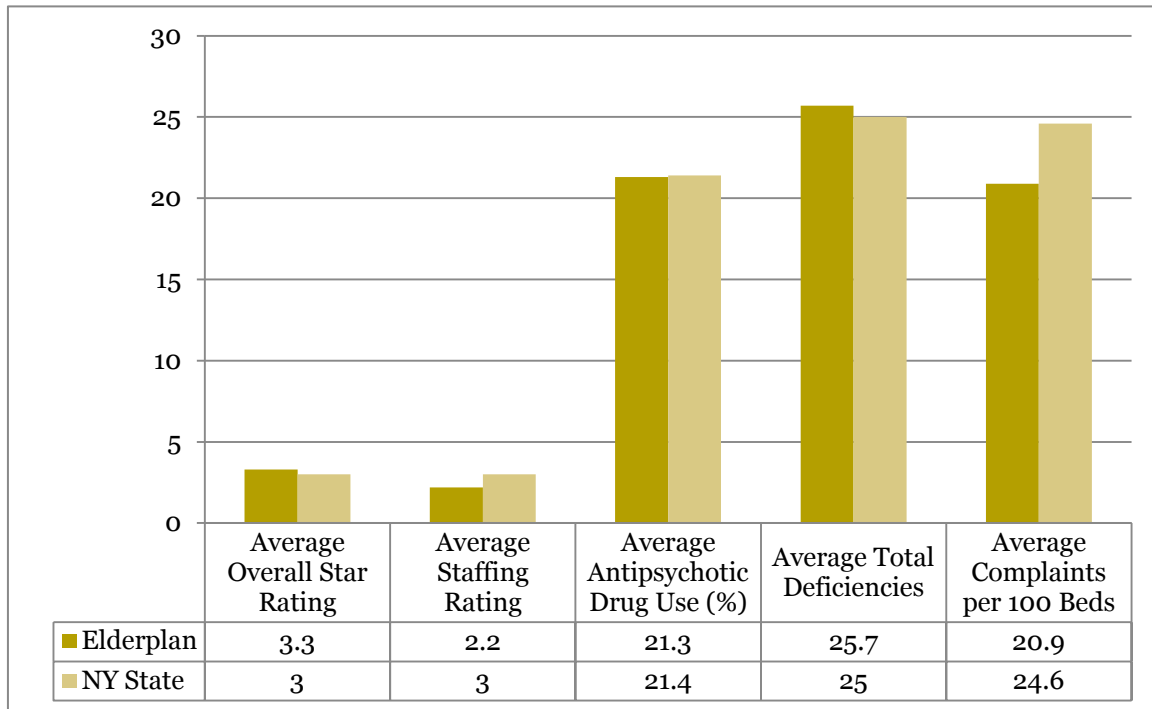
## Eddy Senior Care



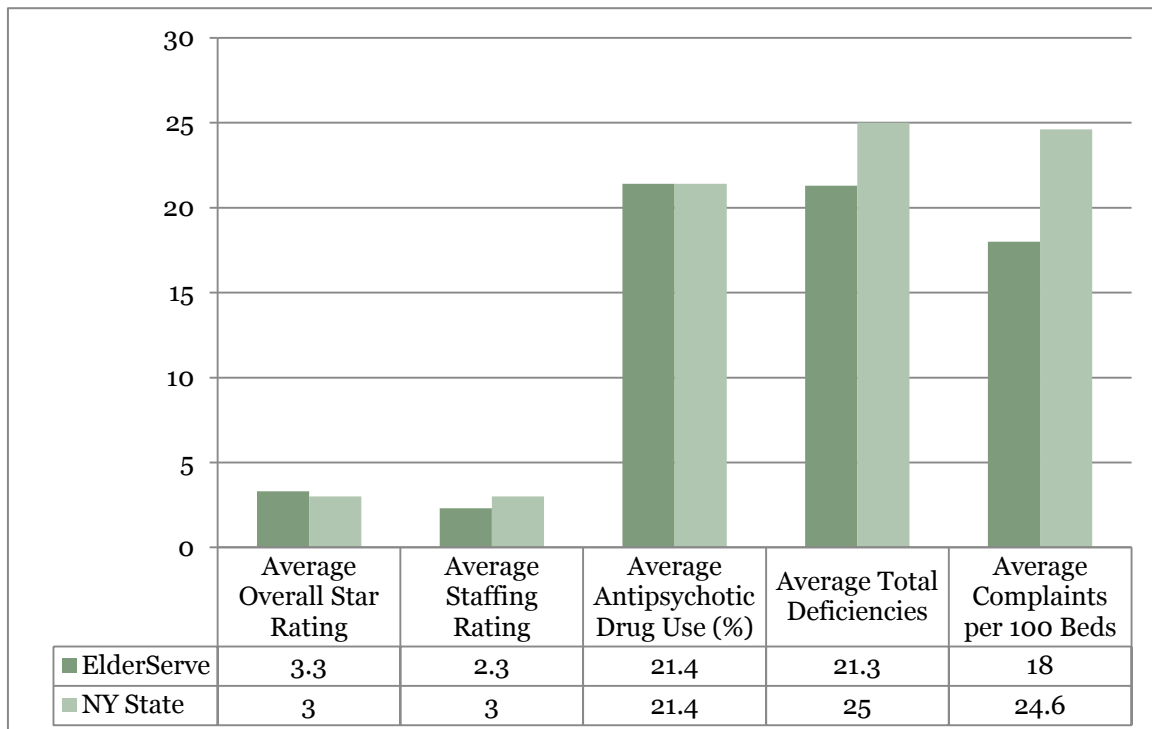
## Elant



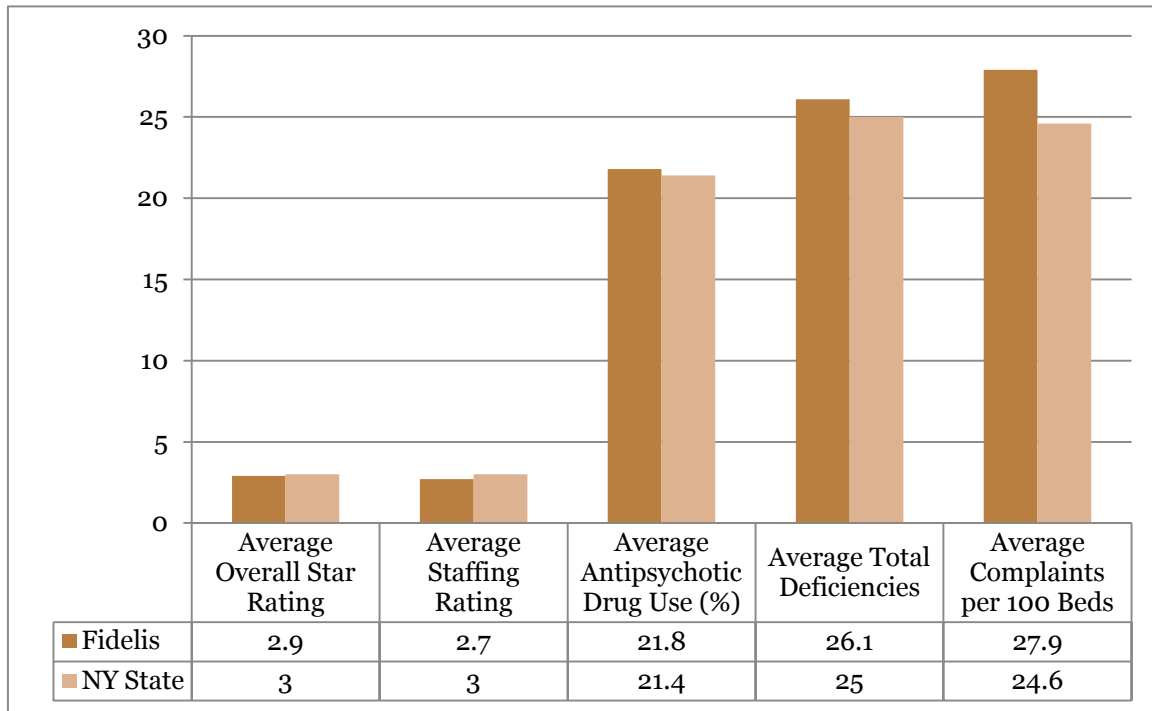
## Elderplan



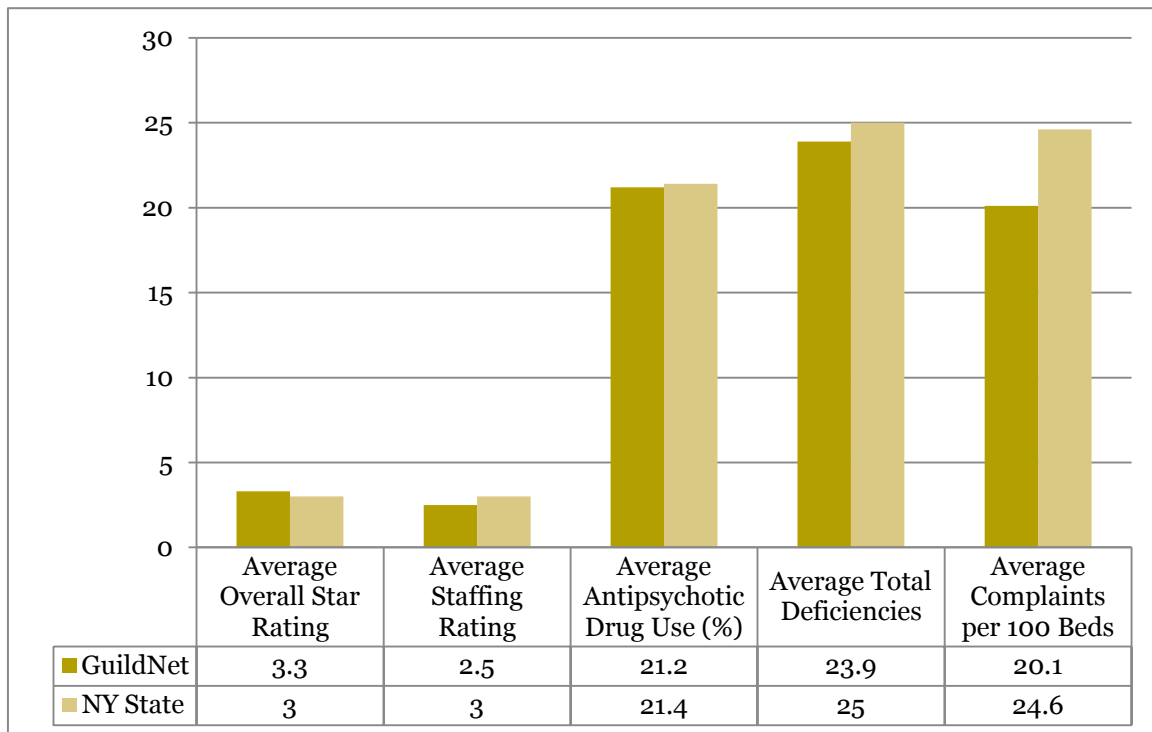
## ElderServe



## Fidelis

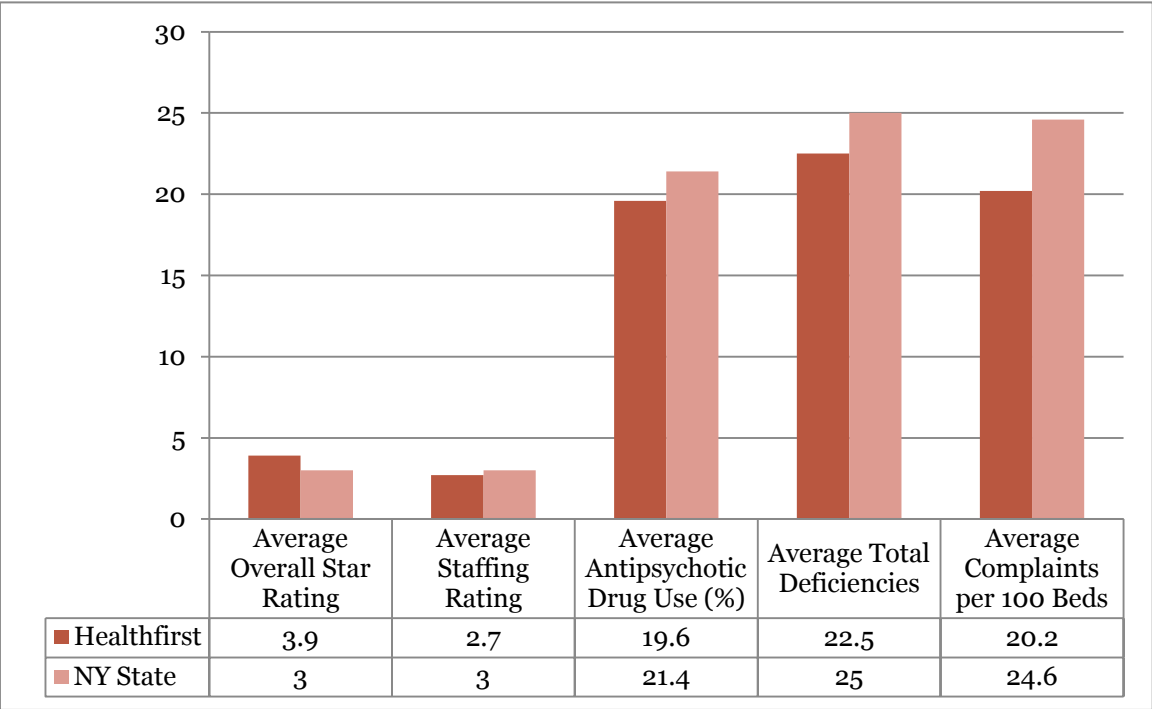


## GuildNet

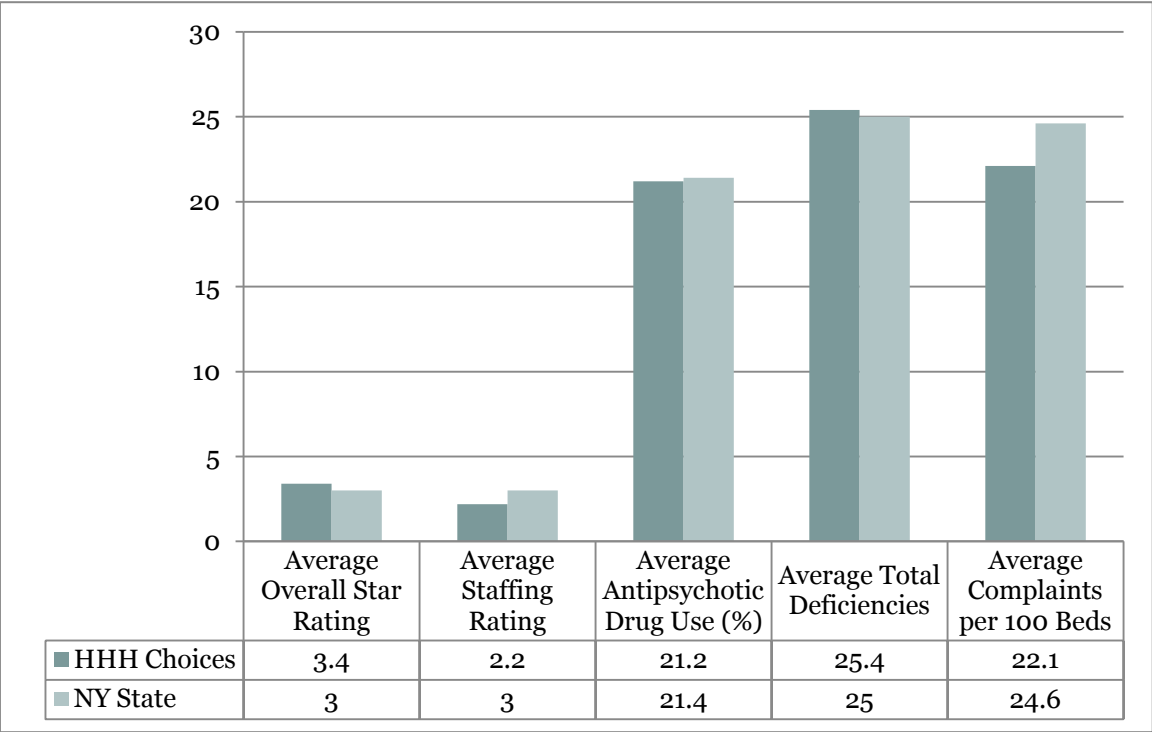




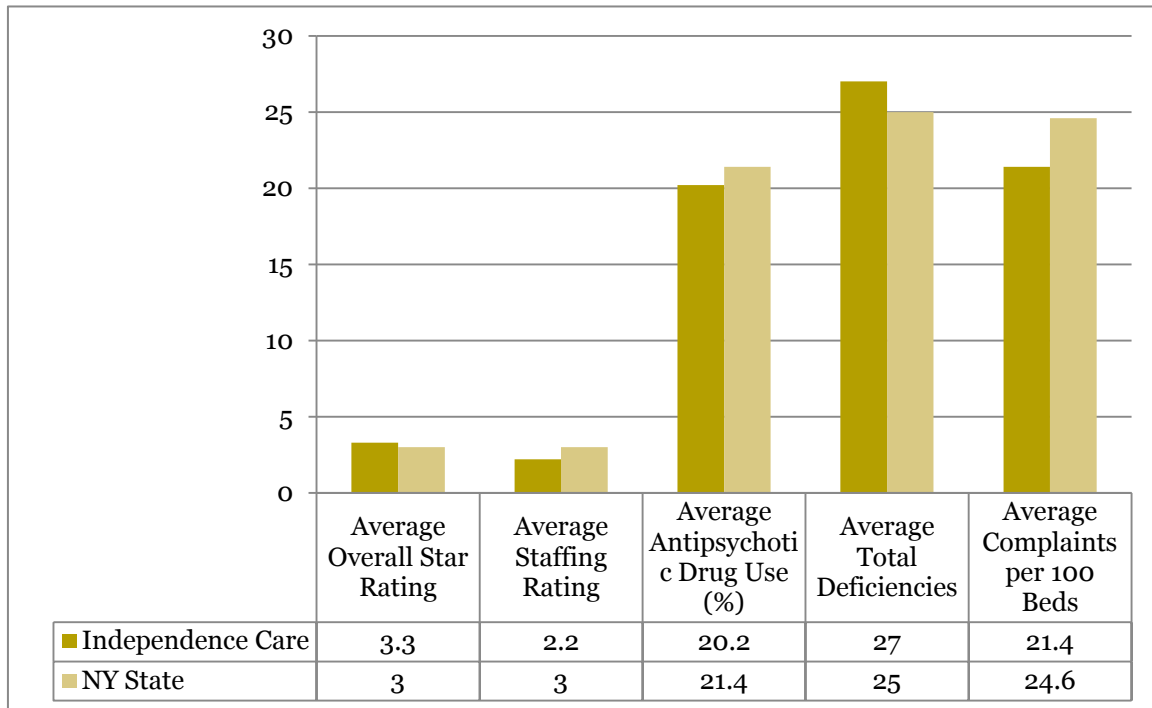
Healthfirst



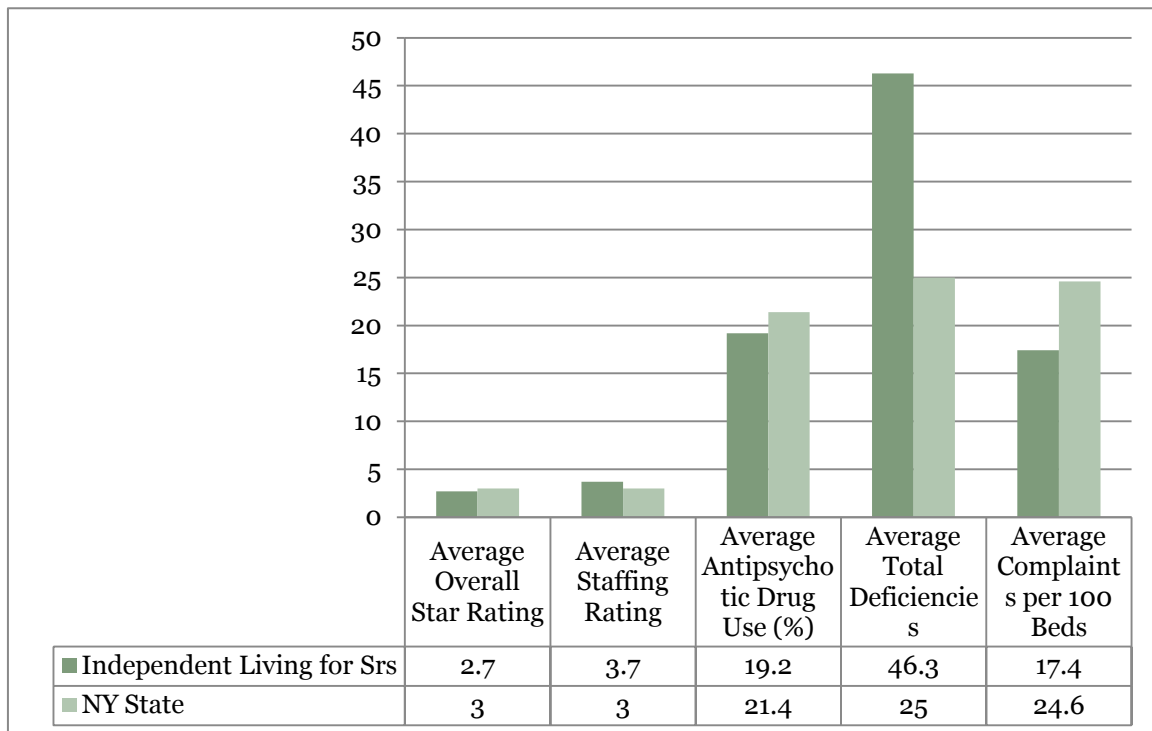
HHH Choices



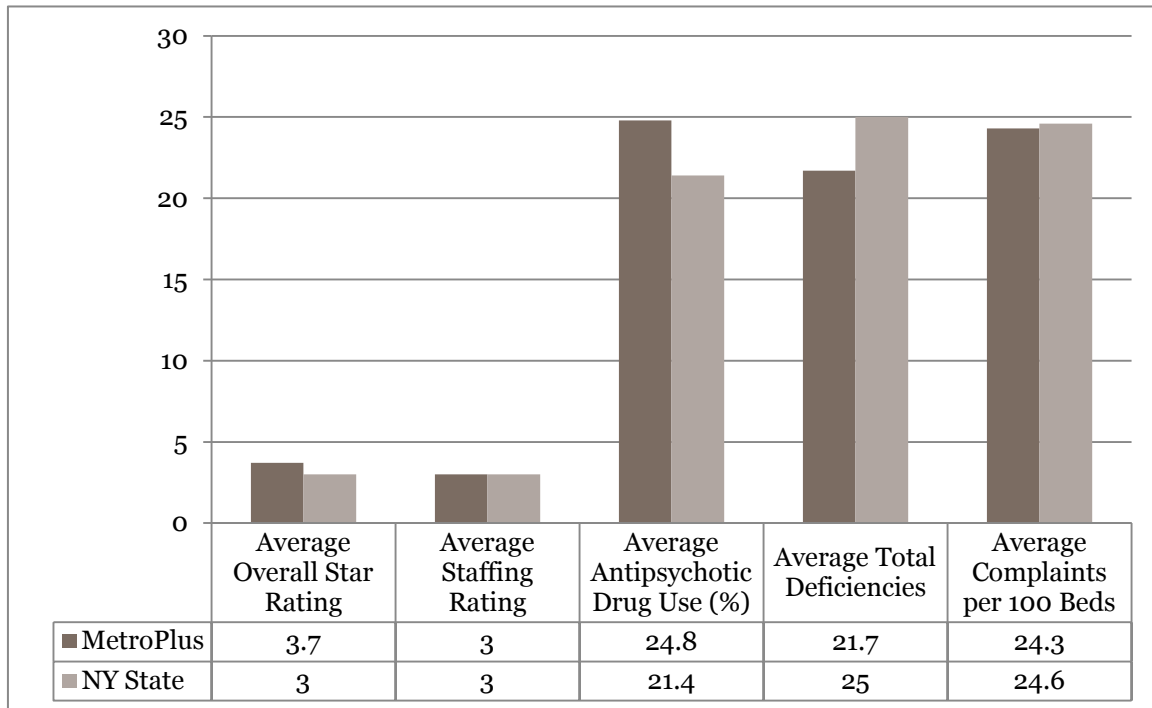
## Independence Care



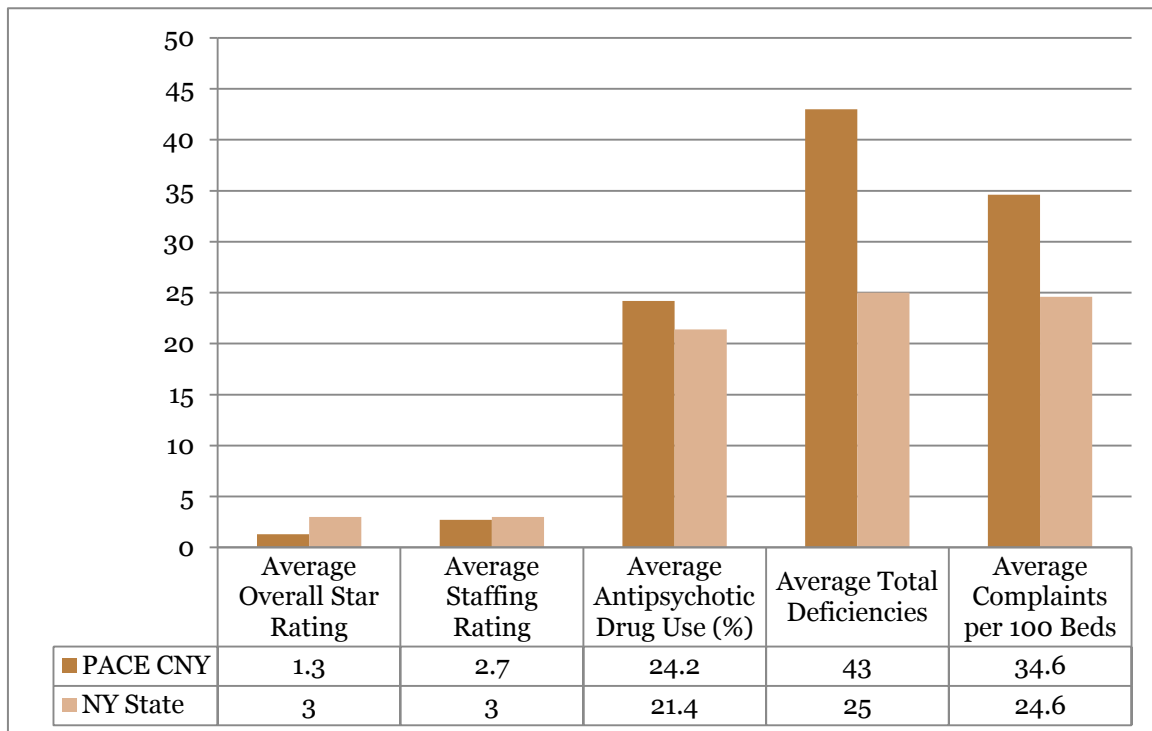
## Independent Living for Seniors



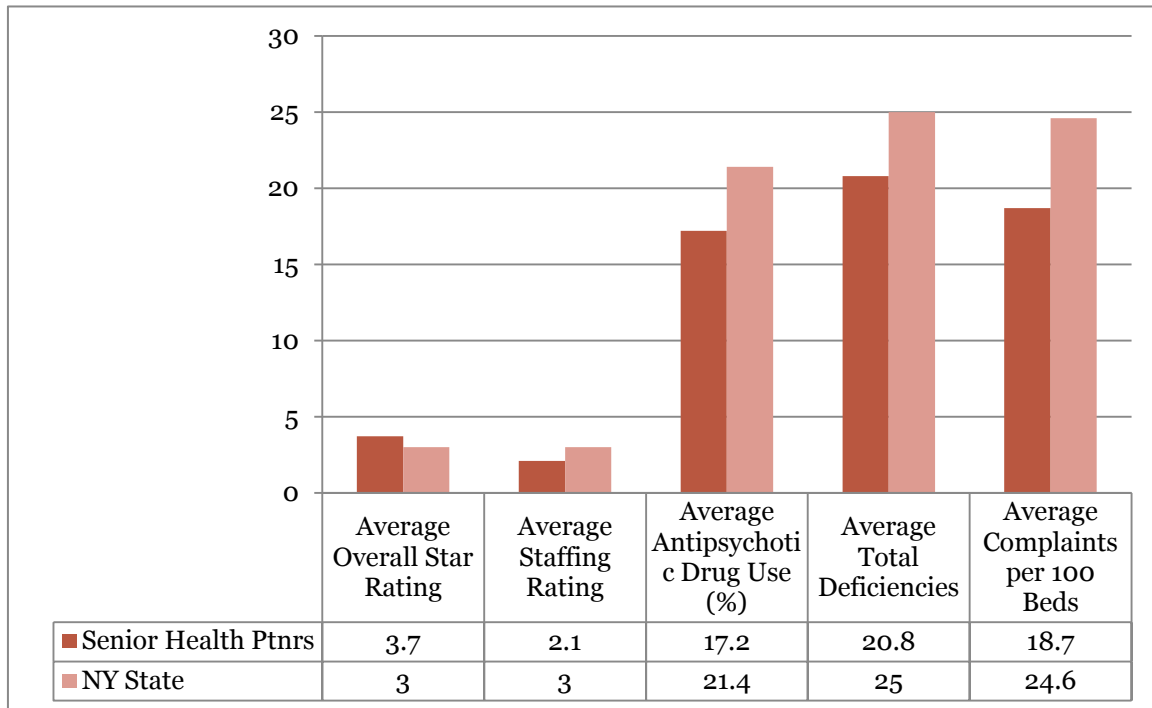
## MetroPlus



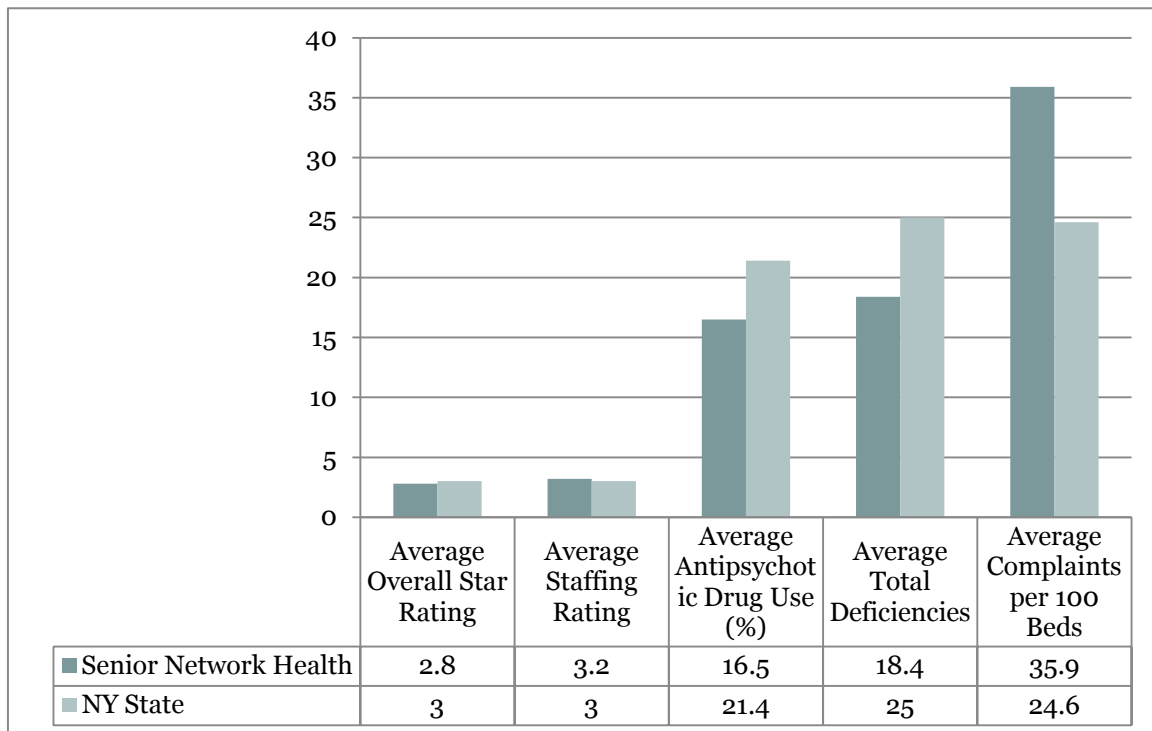
## PACE CNY



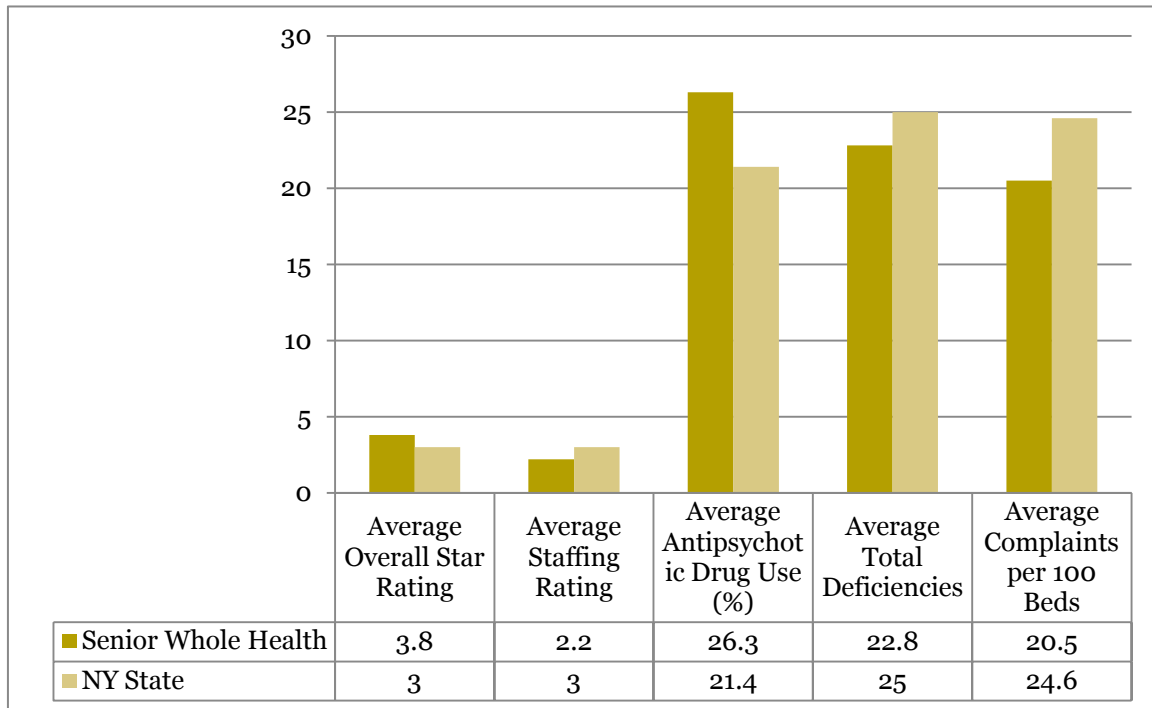
## Senior Health Partners



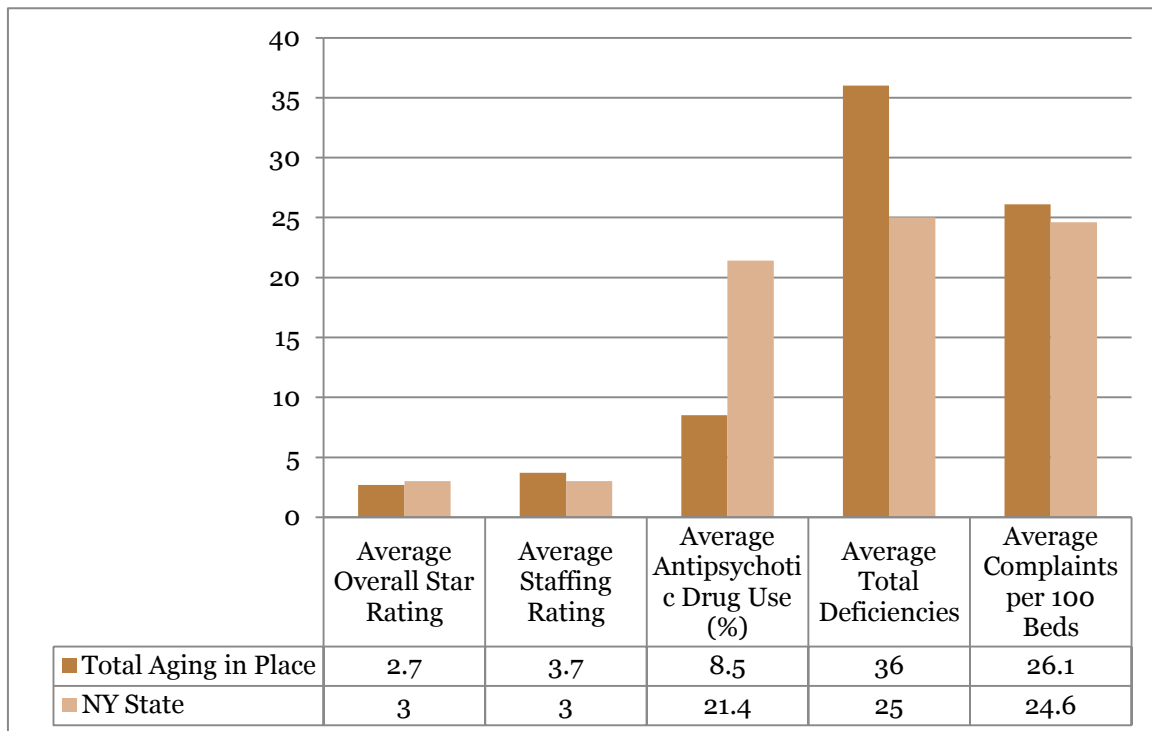
## Senior Network Health



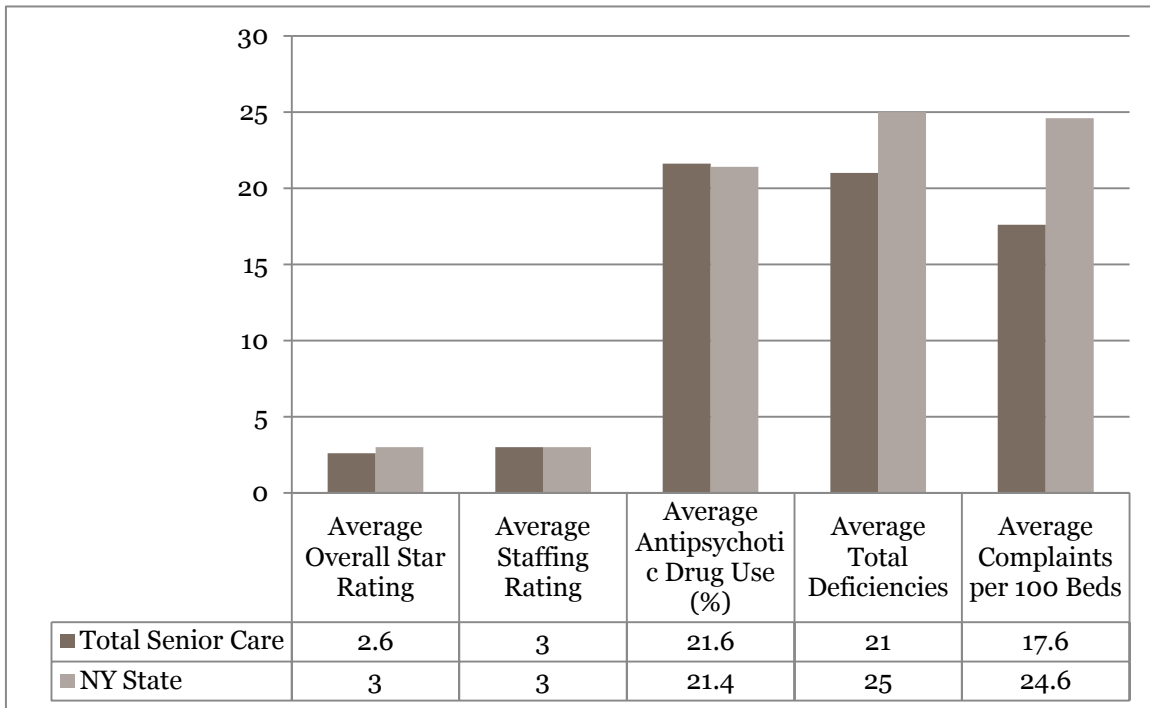
### Senior Whole Health



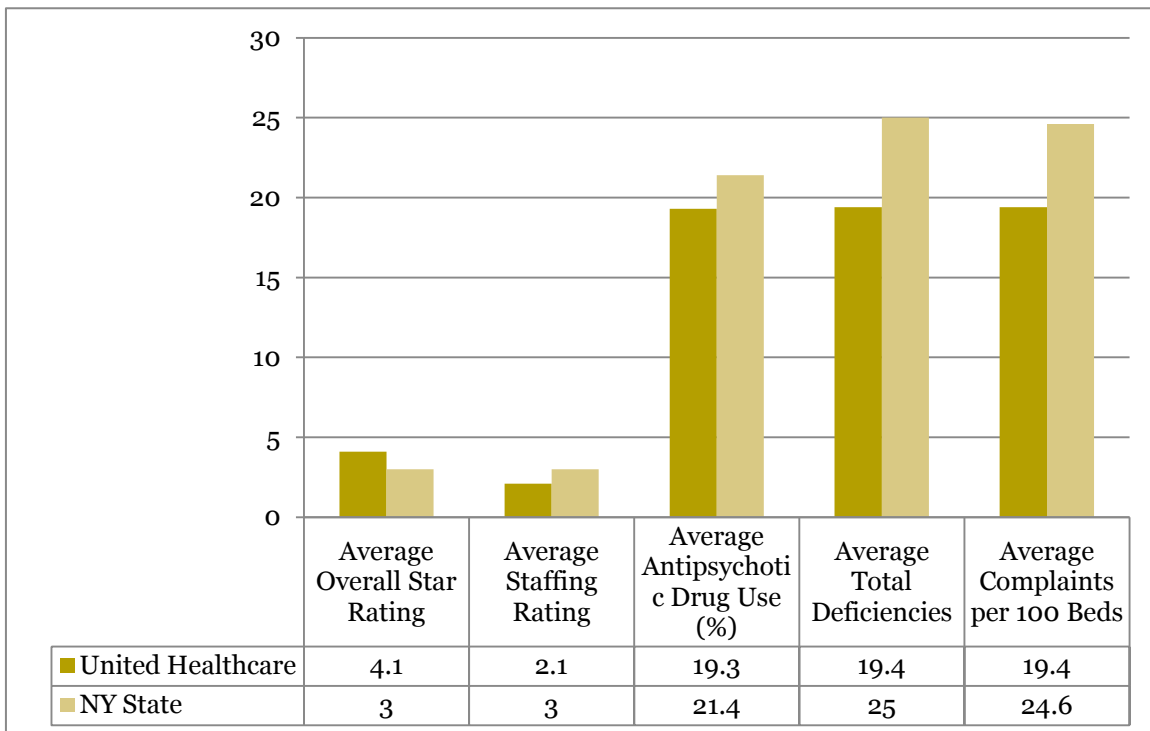
### Total Aging in Place



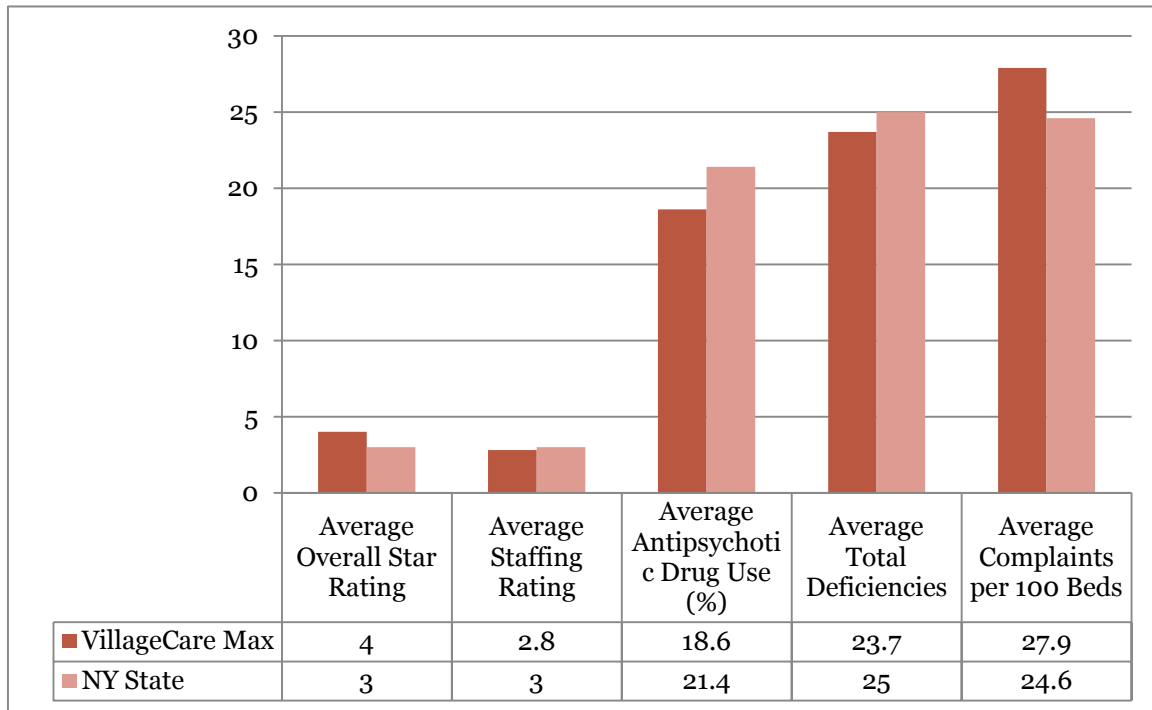
## Total Senior Care



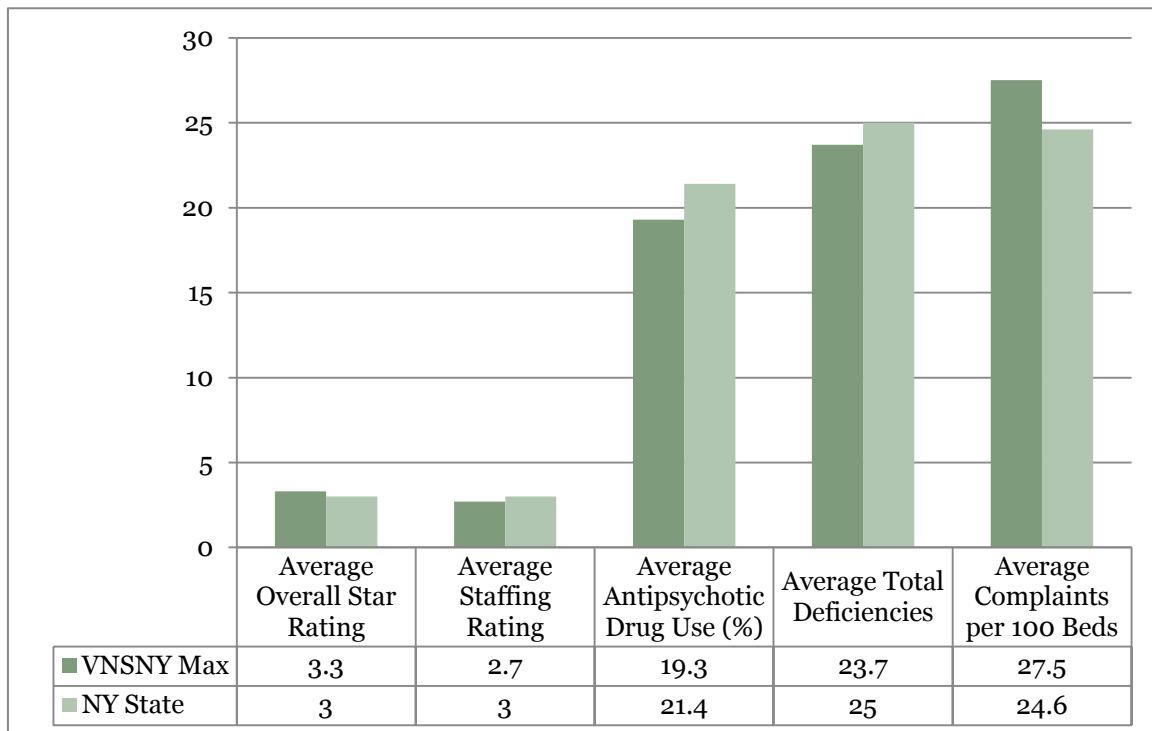
## United Health Care



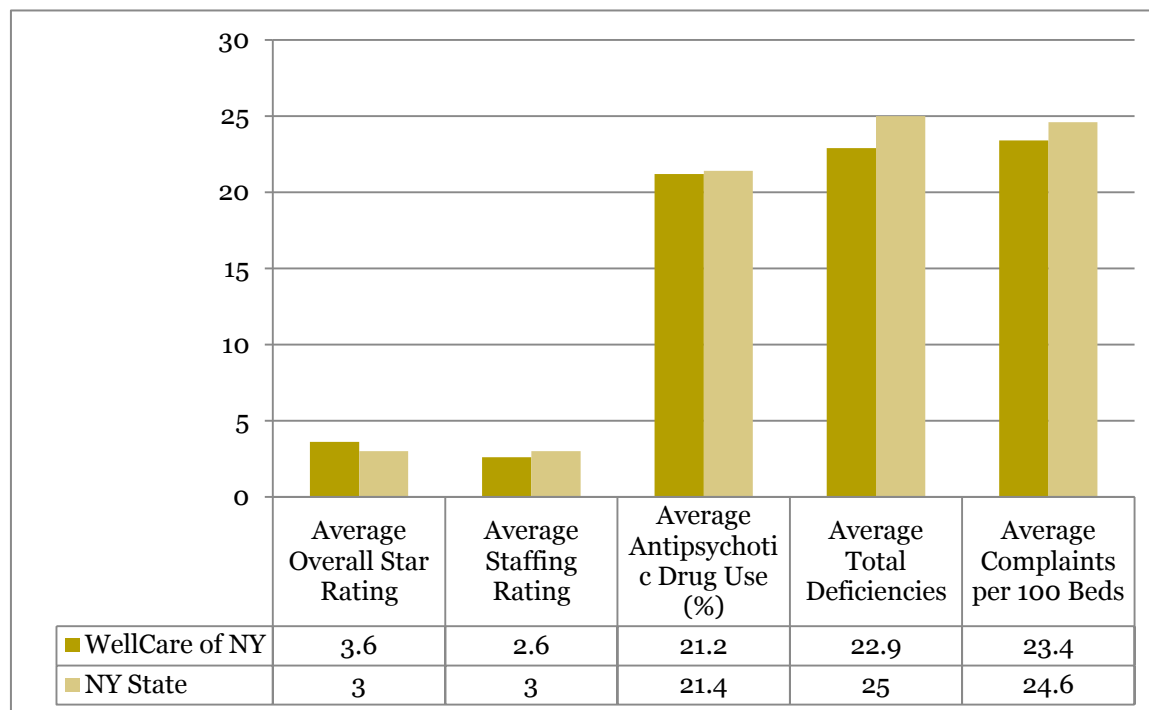
## VillageCare Max



## VNSNY Max



## WellCare of NY



## IX. Averages are Nice, But How Good is the Home They are Sending Me To?

Average scores on important quality indicators give valuable insights into the quality that can be expected from a Managed Long Term Care (MLTC) insurance plan. They provide a quick and concise picture of the basic quality of the major care providers (nursing homes) that a plan is willing to contract with, i.e., to whom they are willing to send their plan members for care.

However, averages don't make much of a difference when one is faced with going to a nursing home or helping a loved one who needs nursing home care. Everyone wants to go to a good nursing home. Nobody wants to go to a bad nursing home or see their loved one sent to a bad nursing home. Nevertheless, once New York State mandates MLTC for nursing home care, we will be dependent on our MLTC plan to provide a selection of suitable homes, and to make sure that we are not sent to a home with substandard care, that does not have enough staff to meet our basic needs, that will strip us of our dignity or warehouse us in an institution.

As discussed earlier, Governor Cuomo has made improving quality of care a top priority for Medicaid

“While the state budget processes will, by necessity, take care of financial integrity, the question remains as to how we will ensure *quality* integrity for our nursing home system.”



Redesign. New York State spends an enormous amount of money on care yet, as the Governor and other state leaders have recognized, we do not get outcomes that are commensurate with what we pay. In the nursing home sector, which cares for over 100,000 frail elderly and disabled New Yorkers every day, this is especially evident.

While the state budget processes will, by necessity, take care of financial integrity, the question remains as to how we will ensure *quality* integrity for our nursing home system. Everyone agrees that, fundamentally, people should not be sent to poor nursing homes. Yet it is not clear how the shift to MLTC will safeguard against this. In fact, as discussed above, without protections to prevent it, it is possible that the shift to MLTC will increase incentives to place people in the cheapest nursing homes.

The purpose of the following sections is to shed light on some of the nursing homes with a known history of serious problems, including criminally poor care, that are currently in the MLTC system.

### **MLTC Nursing Home Cases of Abuse, Neglect & Substandard Care**

The following cases and reports of serious abuse, neglect and other problems in 64 MLTC nursing homes were identified through research conducted in July 2013. We performed internet searches via Google and searched Westlaw Next using the search terms “nursing home abuse” and “nursing home neglect.” We also searched the Nursing Home Abuse Lawyer Blog and the listing of fraud, abuse and neglect cases reported by the New York State Medicaid Fraud Control Unit. Cases and reports are generally limited to those occurring and/or adjudicated within the past four years. A few cases falling outside of that time frame are included where we felt that they indicated a pattern of behavior within a nursing home.

It is important to remember that many instances of abuse, even those leading to serious injury and death, go unreported, and even fewer become the subject of a lawsuit. In addition, quite often plaintiffs agree not to disclose their case to the public as part of a settlement agreement. Thus, the following is by no means a comprehensive list.

**Note:** The following is organized by county. Under each county (which is also a sub-chapter listed in the Table of Contents, for ease of reference), the nursing homes that we identified are listed in alphabetical order with their Nursing Home Compare overall star rating, followed by the MLTC plan(s) in which they participate and a synopsis of the serious poor care, abuse or neglect reported for that nursing home. Additional data are provided at <http://www.nursinghome411.org/articles/?category=nystateissues>. For the most current information on these or any nursing homes, go to Nursing Home Compare (<http://www.medicare.gov/nursinghomecompare>) or NY State Nursing Home Profile (<http://www.nursinghomes.nyhealth.gov/>).

## Albany

### **Albany- Daughters of Sarah Nursing Center** [NH Compare Rating: 4]

MLTC: Fidelis

On January 2<sup>nd</sup>, 2013, Rashawn Owens, a Certified Nurse Aide (CNA) at Daughters of Sarah Nursing Center, was sentenced to forty days time served and five years probation. CNA Owens fractured a resident's right femur while changing the resident's brief. After the surgery to fix the fracture the resident developed respiratory distress and died.<sup>27</sup>

## Bronx

### **Bronx- Beth Abraham Health Services:** [NH Compare Rating: 1]

MLTC: Amerigroup, CenterLight, HHH Choices

Three resident abuse and neglect cases against Beth Abraham were found:

1. Alvarez v. Beth Abraham Health Services: In 2001, at the age of 24, Gualbert Alvarez dove into shallow water, striking his head and causing major spinal injuries. Following a three month coma and numerous surgeries, Mr. Alvarez was transferred to Rusk Institute for Rehabilitation, then to Pelham Bay Nursing Home and then to Beth Abraham Health Services in 2001. In 2004, Mr. Alvarez developed stage II pressure ulcers which started at his feet and within 11 days developed a stage IV pressure ulcer. Mr. Alvarez sued the nursing home, alleging that they were negligent for failing to adhere to protocol for pressure sore prevention. At trial, the jury agreed that Beth Abraham Health Services had been negligent and awarded a sum of \$750,000 for pain and suffering damages.<sup>28</sup>
2. In 2011, the *New York Daily News* reported that on May 4<sup>th</sup>, 2009, a 64 year old resident of Beth Abraham Health Services, suffering from schizophrenia and prone to wandering off, strayed from the facility at 1:48 a.m. Though his exit from the facility was later found to have been caught on videotape (at 1:48 a.m.), his disappearance was only discovered at 7:45 a.m. by a house cleaner. During the time span that he was absent from the facility, nursing supervisor Dorothy Bain and nurse aides Estrie Henry McNalley and Vicky Williams falsified documents to say that the resident had been given his medications and checked on. The three women were fired from the facility and later rehired. In 2011, all three women were arrested for endangering the welfare

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<sup>27</sup> The Long Term Care Community Coalition requests and receives, on a quarterly basis, reports from the New York State Medicaid Fraud Control Unit (MFCU) on their convictions involving nursing homes or their staff. For more information on this and other MFCU cases, see, in this report, "New York State Medicaid Fraud Control Unit Convictions Involving Nursing Home Residents: September 2008 – June 2013." (Hereinafter MFCU Convictions).

<sup>28</sup> *Nursing Home Negligence Causes Pressure Ulcers; Substantial Pain and Suffering Damages Verdict Affirmed on Appeal*, John Hochfelder, New York Injury Cases Blog (January 25, 2013). Accessed at <http://www.newyorkinjurycasesblog.com/2013/01/articles/medical-malpractice-1/bed-sores/>.

of a physically disabled person, falsifying records and willful violation of the health law by the NY State Medicaid Fraud Control Unit.<sup>29</sup>

3. Citing LTCCC's quarterly report on sanctions against nursing homes for substandard care, in December 2009 the NY Nursing Home Abuse Lawyer Blog reported that, as a result of deficiencies found during an April 2009 survey, Beth Abraham Health Services was fined \$21,150. According to the Blog, the facility was sanctioned due to its failure to properly monitor a 66 year old resident's RT/INR levels for a week. As a result, she was admitted to the hospital with critical INR levels, and died two days later from bleeding in the brain. In addition, the facility was cited for not having a written policy regarding the reporting of critical lab values.<sup>30</sup>

**Bronx- Gold Crest Care Center:** [NH Compare Rating: 3]

MLTC: Independent Living for Seniors

In 2013, *ABC Local* reported on a case of abuse in the Gold Crest Care Center. Diana Valentin suspected that her 89 year old grandmother Ana Louisa Medina, a resident at Gold Crest Care Center, was being abused after she noticed some bruises. Having been told that the bruises on the elderly woman's hands were a result of her banging on the handrails, Ms. Valentin decided to verify this by placing a hidden camera in her grandmother's room. What Ms. Valentin discovered from the video footage was evidence of ongoing physical abuse. Sandra Kerr, a nurse's aide, was recorded physically abusing the resident, including twisting her arm and slamming her against the bed. Sandra Kerr has been arrested and charged with endangering the welfare of a physically disabled person. As of this July 2013 she is pending trial. In addition, Gold Crest was cited in its May 2012 survey for, among other things, employing individuals guilty of abuse and failing to have policies in place to avoid abuse and/or neglect of its residents.<sup>31</sup>

**Bronx- Morris Park Nursing Home:** [NH Compare Rating: 2]

MLTC: Fidelis, Senior Network Health

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<sup>29</sup> *Three nursing home aides lied about missing schizophrenic patient in wheelchair*: AG, Kathleen Lucadamo, The New York Daily News (February 24, 2011). Accessed at <http://www.nydailynews.com/new-york/nursing-home-aides-lied-missing-schizophrenic-patient-wheelchair-ag-article-1.134215>.

<sup>30</sup> Source: Bronx (NYC) Nursing Home Abuse Lawyer Report: Resident Dies After Bronx Facility Fails To Monitor Lab Values, New York Nursing Home Abuse Lawyer Blog (December 19, 2009). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2009/12/bronx-nyc-nursing-home-abuse-l.html>. *The Monitor*, Enforcement Actions Against Nursing Homes, Long Term Care Community Coalition (Winter 2009). Accessed at [http://www.ltccc.org/enforcements/documents/Enforce\\_winter2009\\_10.pdf](http://www.ltccc.org/enforcements/documents/Enforce_winter2009_10.pdf).

<sup>31</sup> Sources: (1) *Woman says grandmother abused at nursing home*, Matt Kozar, ABC Local (February 15, 2013). Accessed at [http://abclocal.go.com/wabc/story?section=news/local/new\\_york&id=8995262](http://abclocal.go.com/wabc/story?section=news/local/new_york&id=8995262). (2) *Elderly Alzheimer's Patient Reportedly Abused at Gold Crest Care Center in Bronx, NY*, New York Nursing Home Abuse Lawyer Blog (February 16, 2013). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2013/02/elderly-resident-reportedly-ab.html>. *Nurse aide slapped with charges for 'abusing' elderly Bronx patient*, Rebecca Harshbarger, New York Post (February 16, 2013) Available at [http://www.nypost.com/p/news/local/bronx/nurse\\_aide\\_slapped\\_with\\_charges\\_DldYQ6aieHOXhh0zcrASKK](http://www.nypost.com/p/news/local/bronx/nurse_aide_slapped_with_charges_DldYQ6aieHOXhh0zcrASKK). Statement of Deficiencies, NY State Department of Health (May 21, 2012). Accessed at [http://nursinghomes.nyhealth.gov/nursing\\_homes/deficiency/376/QEYN](http://nursinghomes.nyhealth.gov/nursing_homes/deficiency/376/QEYN).

In 2012, New York Nursing Home Abuse Lawyer Blog reported that the Morris Park Nursing Home was fined \$10,000 by the New York State Department of Health following a choking death at the facility. In 2010, a 68 year old resident was served dinner in his room which he shared with another resident. While the deceased was served a puree consistency meal, the other resident was served a chopped consistency meal. Although the now deceased resident was known to wander and steal food in addition to having a heightened risk of aspiration, he was not monitored during dinner. A short time after being served dinner, the resident came out of his room and walked over to the nurses desk, reportedly slurring his speech and turning red. The staff called a code and tried to administer CPR. When the resident was suctioned and intubated, a piece of fruit was found lodged in his throat. The resident died shortly thereafter. It appeared that the resident had taken some fruit from the dinner plate of his roommate and this was the food on which he choked. As a result, the facility was cited with not providing sufficient supervision.<sup>32</sup>

**Bronx- Regeis Care Center:** [NH Compare Rating: 4]

MLTC: CenterLight, Senior Whole Health, Total Senior Care

In 2013, *The Gotham Gazette* reported on the issue of antipsychotic drug use in nursing homes and the case of George LaRocca. When George LaRocca was admitted to Regeis Care Center, he was capable of carrying out his activities of daily living and was only beginning to show the symptoms of forgetfulness attributed to his Alzheimer's disease. However, on May 15<sup>th</sup>, 2007, less than a year after his admittance to the facility, Mr. LaRocca died from a bloodstream infection brought on by severe bedsores. Mr. LaRocca's son felt certain that the two antipsychotic medications (Seroquel and Haldol) that were administered to his father were responsible for his death. At trial, Regeis' own medical expert testified that he believed that the medications for which Mr. LaRocca had no medical need predisposed him to skin breakage that resulted in bedsores. The Regeis Care Center settled with the family for an undisclosed amount.<sup>33</sup>

**Bronx- Riverdale Nursing Home** [NH Compare Rating: 2]

MLTC: Fidelis

On February 8<sup>th</sup>, 2010, Pamela Davis, a Licensed Practical Nurse at Riverdale Nursing Home, was sentenced to conditional discharge and five days community service for striking a patient in the back with her keys and kicking him.<sup>34</sup>

**Bronx- Wayne Center for Nursing and Rehabilitation** [NH Compare Rating: 2]

MLTC: AgeWell NY, CenterLight, Fidelis, Independence Care, Metroplus

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<sup>32</sup> *Resident Chokes to Death at Morris Park Nursing Home in the Bronx*, New York Nursing Home Abuse Lawyer Blog (December 1, 2012). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2012/12/resident-chokes-to-death-at-mo.html>.

<sup>33</sup> *Investigation: How NYC Nursing Homes Drug Seniors Into Submission*, Elbert Chu, Gotham Gazette (February 25, 2013). Accessed at <http://www.gothamgazette.com/index.php/health/4143-investigation-how-nyc-nursing-homes-drug-seniors-into-submission>.

<sup>34</sup> MFCU Convictions.

On February 23<sup>rd</sup>, 2012, Iris Perez, a social worker at Wayne Center for Nursing and Rehabilitation, was sentenced to serve two to six years in prison and signed a confession of judgment in favor of the victim for \$400,000. Ms. Perez stole over \$400,000 from a resident suffering from dementia and transferred the funds to her account and to the accounts of her family members.<sup>35</sup>

## Brooklyn

### **Brooklyn - Bishop Henry B. Hucles Episcopal Nursing Home** [NH Compare Rating: 3]

MLTC: Amerigroup, Fidelis, Healthfirst

A 72 year old female resident had pressure ulcers and an abdominal wound when she was admitted to the nursing facility in January 2013. Shortly after, the resident developed a pressure ulcer in her lower back in which the depth could not be determined due to infection around the wound. The NYS Department of Health (DOH) found that “[b]ased on record review and staff interviews, the facility did not ensure that the resident who entered the facility without a pressure ulcer received the necessary care and services to prevent the development of an unstageable pressure ulcer on sacrum. Specifically the licensed and registered nursing staff did not provide evidence that they performed ongoing monitoring and assessment for a resident identified as high risk for skin breakdown.” As a result of this and other failures to meet minimum standards, the DOH cited the facility for a violation of this health regulation as well as many others. Other violations included: failure to “ensure that food was stored, prepared, distributed and served under sanitary conditions,” failure to “ensure that the environment for residents and staff was kept safe, functional, sanitary, and comfortable,” failure to “ensure that exit corridors are maintained free of storage which will interfere with the safe usage of the corridor during fire or other emergency,” and failure to “ensure a pest free environment.”<sup>36</sup>

### **Brooklyn- Brooklyn Queens Nursing Home:** [NH Compare Rating: 3]

MLTC: Fidelis, Senior Whole Health

In 2010, *Lawyers and Settlements* reported on the settlement between the family of John Danzy and the Brooklyn Queens Nursing Home. Upon admittance to Brooklyn-Queens Nursing Home, John Danzy weighed 237 pounds and was able to ambulate with the help of a cane. Nine months later, Mr. Danzy weighed 148 pounds and was suffering from a number of pressure ulcers. At this time, Mr. Danzy’s daughter transferred him to a different facility. Six months later, Mr. Danzy succumbed to an infection from the bed sores sustained at Brooklyn-Queens Nursing home. During the lawsuit that followed, an FBI official testified that the facility had falsified records to make it seem that the pressure ulcers had been documented

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<sup>35</sup> MFCU Convictions.

<sup>36</sup> Sources: *NYSDOH: Brooklyn Nursing Home Fails to Prevent Bedsores*, New York Nursing Home Abuse Lawyer Blog (June 20, 2013). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2013/05/brooklyn-nursing-home-fails-to-5.html>. and Statement of Deficiencies, NY State Department of Health (January 8, 2013). Available at [http://nursinghomes.nyhealth.gov/nursing\\_homes/deficiency/645/MECU](http://nursinghomes.nyhealth.gov/nursing_homes/deficiency/645/MECU).

when they occurred in order to disguise their negligent care. According to the report, the nursing home will be forced to pay roughly \$19 million dollars in damages to the family of John Danzy.<sup>37</sup>

**Brooklyn - Bushwick Center for Rehabilitation and Healthcare** [NH Compare Rating: 4]

MLTC: ArchCare, Centers Plan, Fidelis, HHH Choices, MetroPlus, WellCare

Upon admission to Bushwick, a resident was placed on two medications. The resident was an 80 year old female with various underlying medical conditions. The medications that the resident was prescribed were in error. One medication, Haldol, had an error dosage. The other, Seroquel, was prescribed for the resident's insomnia, which it was discovered she did not have. The facility was cited in December 2012 for several violations, including the failure of a facility's duty to keep a resident's drug regimen free from unnecessary drugs.<sup>38</sup>

**Brooklyn- The Heritage Rehab. and Health Care Center** [NH Compare Rating: 5]

MLTC: MetroPlus, Senior Whole Health, WellCare

On April 6<sup>th</sup>, 2010, Glenda Blakeslee, a Certified Nurse Aide at The Heritage Rehabilitation and Health Care Center, was sentenced to a one year conditional discharge and was ordered to surrender her CNA certificate. CNA Blakeslee had punched an 84 year old resident suffering from dementia in the chest with a closed fist.<sup>39</sup>

**Broome**

**Broome- Absolut Center for Nursing and Rehabilitation** [NH Compare Rating: 2]

MLTC: Fidelis

On December 13<sup>th</sup>, 2010, Yolanda Gulley, a Certified Nurse Aide at Absolut Center for Nursing and Rehabilitation, was sentenced to a one year conditional discharge. CNA Gulley attempted to reposition an 83 year old resident whom she knew should only be repositioned by two people, as per her care plan. The resident subsequently fell out of the bed and suffered injuries to her head. CNA Gulley denied knowing how the resident became injured.<sup>40</sup>

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<sup>37</sup> *New York Nursing Home Loses \$19 Million Lawsuit Charging Elder Care Neglect*, Charles Beson, Lawyers and Settlements (January 2, 2010). Accessed at [http://www.lawyersandsettlements.com/articles/nursing-home-abuse/nursing-home-abuse-elder-care-neglect-4-13387.html?utm\\_expid=3607522-2.QRdCdW42SWGLZa0nRc6K3w.0#.UeSq1Pm1HnE](http://www.lawyersandsettlements.com/articles/nursing-home-abuse/nursing-home-abuse-elder-care-neglect-4-13387.html?utm_expid=3607522-2.QRdCdW42SWGLZa0nRc6K3w.0#.UeSq1Pm1HnE).

<sup>38</sup> Sources: *Brooklyn Nursing Home Fails to Keep Drug Regimen Free from Unnecessary Drugs*, New York Nursing Home Abuse Lawyer Blog (February 27, 2013). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2013/02/brooklyn-nursing-home-fails-to-4.html>. Statement of Deficiencies, NY State Department of Health (December 10, 2012). Available at [http://nursinghomes.nyhealth.gov/nursing\\_homes/deficiency/564/M8ZD](http://nursinghomes.nyhealth.gov/nursing_homes/deficiency/564/M8ZD).

<sup>39</sup> MFCU Convictions.

<sup>40</sup> MFCU Convictions.

## Cattaraugus

### **Cattaraugus- Gowanda Rehabilitation and Nursing Center** [NH Compare Rating: 3]

MLTC: Fidelis

Two resident abuse and neglect cases against Gowanda Rehabilitation and Nursing Center were found:

1) Resulting from an incident that occurred on August 28<sup>th</sup> and 29<sup>th</sup> in 2008, Licensed Practical Nurse Jeanette Sovereign and Certified Nurse Aide Jeffrey Perry faced charges by the New York State Medicaid Fraud Control Unit. Jeffrey Perry was charged for physically restraining a resident. The resident, who was suffering from dementia, was tied to a chair with a gait belt. Jeanette Sovereign was charged for knowing that the resident was being physical restrained and not reporting it. On April 13<sup>th</sup>, 2009, Jeanette Sovereign was sentenced to a one year conditional discharge and a \$245 fine. On April 27<sup>th</sup>, 2009, Jeffrey Perry was sentenced to a one year conditional discharge, surrender of his CNA certificate and a \$450 fine.<sup>41</sup>

2) On January 26<sup>th</sup>, 2010, Sheila Lewis, a Certified Nurse Aide at Gowanda Rehabilitation and Nursing Center, was sentenced to sixty days incarceration, three years probation, a \$250 fine, \$785 restitution and the surrender of her CNA certificate. Nurse Lewis had stolen a check from a resident and filled it out to say that it was payable to “Diamonds and Pearls,” cashed it at a Tops Market and kept the cash for herself.<sup>42</sup>

## Chenango

### **Chenango- Valley View Manor Nursing Home** [NH Compare Rating: 2]

MLTC: Fidelis

On July 17<sup>th</sup>, 2012, Virginia Prewitt, a registered nurse at Valley View Manor Nursing Home, was sentenced to three years probation and one hundred hours of community service. Nurse Prewitt was caught on a surveillance camera falsely stating in records that she had administered medication that she had actually destroyed and discarded.<sup>43</sup>

## Clinton

### **Clinton- Champlain Valley Physicians Hospital Medical Center:** [NH Compare Rating: 5]

MLTC: Fidelis

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<sup>41</sup> MFCU Convictions. See also *Gowanda care center responds following workers’ prosecutions*, Tim Latshaw, Observer Today ( December 11, 2008).

<http://www.observertoday.com/page/content.detail/id/515547/Gowanda-care-center-responds-following-workers--prosecutions.html?nav=5011>.

<sup>42</sup> MFCU Convictions.

<sup>43</sup> MFCU Convictions.



In 2010, the *Maryland Nursing Home Lawyer Blog* reported that Champlain Valley Physicians Hospital Medical Center settled with the family of Lottie D'Aust for \$190,000 following a wrongful death and negligence lawsuit. Lottie D'Aust died from suffocation as a result of being trapped between her mattress and the guard rails of her bed. The attorney representing the family argued that Lottie did not require guard rails and that the facility was negligent by not furnishing a bed alarm for Lottie to call for help. The Medical Center settled with the family for \$190,000 while the jury was still deliberating.<sup>44</sup>

## Delaware

### **Delaware- Mountainside Residential Care Center** [NH Compare Rating: 5]

MLTC: WellCare

On September 8<sup>th</sup>, 2010, Lisa Barnes and Linda Roberston, two Certified Nurse Aides at Mountainside Residential Care Center, were sentenced to a fine of \$750 and to surrender their CNA certifications. CNA Barnes and CNA Robertson had transferred a resident from the floor to the resident's wheelchair without doing any assessment for injuries.<sup>45</sup>

## Dutchess

### **Dutchess- Ferncliff Nursing Home Co. Inc.** [NH Compare Rating: 1]

MLTC: Fidelis

In 2011, the *New York Nursing Home Abuse Lawyer Blog* reported that, following prosecution by the NY State Medicaid Fraud Control Unit, two nurse aides working at Ferncliff Nursing Home were ordered to surrender their certifications. The nurses had violated a resident's care plan and falsified records to cover it up. One of the aides attempted to transfer a 94 year old resident, in violation of the care plan which stated that two aides are required to transfer the resident. As a result of this breach of the care plan, the resident suffered a fall which resulted in a broken arm. The aide then asked a fellow aide to lie and state that she had participated in transferring the resident as the care plan required, which she did.<sup>46</sup>

## Erie

### **Erie- Rosa Coplon Jewish Home and Infirmary** [NH Compare Rating: 3]

MLTC: Total Aging in Place

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<sup>44</sup> *Bed Rail Suffocation Settlement in Nursing Home Case—Family Paid \$190,000*, Lebowitz and Mzhen, Maryland Nursing Home Lawyer Blog (April 30, 2010). Accessed at [http://www.marylandnursinghomelawyerblog.com/2010/04/bed\\_rail\\_suffocation\\_settlement.html](http://www.marylandnursinghomelawyerblog.com/2010/04/bed_rail_suffocation_settlement.html).

<sup>45</sup> MFCU Convictions.

<sup>46</sup> *Two Ferncliff Nursing Home Aides Punished For Trying to Cover-up Fall*, Nursing Home Abuse Lawyer Blog (September 27, 2011). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2011/09/two-ferncliff-nursing-home-aid.html>.



In 2008, Certified Nurse Aide (CNA) Patricia Penman physically abused an elderly resident at Rosa Coplan Jewish Home and Infirmary. The resident was a 100 year old woman, suffering from dementia and physical disabilities. CNA Penman slapped the resident while providing patient care. She was charged with endangering the welfare of an incompetent or physically disabled person and willful violation of health laws. On March 5<sup>th</sup>, 2009, Patricia Penman was sentenced to a one year conditional discharge.<sup>47</sup>

## **Herkimer**

### **Herkimer- Folts Home** [NH Compare Rating: 3]

MLTC: Fidelis, Senior Network Health

On January 13<sup>th</sup>, 2010, Margaret Tillson, a Certified Nurse Aide at Folts Home, was fined \$100 dollars for striking a 91 year old resident on the nose and back and for holding the resident's arm back. The resident suffered bruising as a result of this incident which was treated with ice.<sup>48</sup>

## **Monroe**

### **Monroe- The Hurlbut Nursing Home** [NH Compare Rating: 2]

MLTC: Fidelis

On September 24<sup>th</sup>, 2012, Gloria Thomas, the business office manager at The Hurlbut Nursing Home, was sentenced to five years probation and ordered to pay restitution in the amount of \$22,293.35, to be divided between the nursing home and the insurance company that had previously paid out to the Hurlbut. MFCU investigator had found that Ms. Thomas had diverted over \$20,000.00 from the patient fund account for her own use and used the business account to steal \$585 in Wegmans gift cards and \$462 in money orders from Hurlbut.<sup>49</sup>

### **Monroe- Jewish Home of Rochester** [NH Compare Rating: 4]

MLTC: Fidelis

In 2010, the *New York Nursing Home Lawyer Blog* reported that the Jewish Home of Rochester settled with the family of their former resident, Gertrude Kash. The lawsuit alleged negligence, medical malpractice and violation of the public health law. Ms. Kash initiated the lawsuit but passed away before a settlement was reached. The case was carried on by Ms. Kash's daughter, who also wrote about it in LTCCC's newsletter, *The Monitor*.

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<sup>47</sup> MFCU Convictions. See also *Rosa Coplan Jewish Home employee arrested for patient abuse*, Amherst Bee (October 10, 2008). [http://www.amherstbee.com/news/2008-12-10/front\\_page/002.html](http://www.amherstbee.com/news/2008-12-10/front_page/002.html).

<sup>48</sup> MFCU Convictions.

<sup>49</sup> MFCU Convictions.

Ms. Kash had been admitted to Jewish Home of Rochester for rehabilitation following a fall



Ms. Gertrude Kash

and loss of balance. Three weeks into her stay, a nurse failed to perform the required daily catheterization of her bladder, which was part of her care plan. As a result, Ms. Kash had to get up in the middle of the night to empty her overfull bladder. She was unable to make it and was found on the floor by the nursing staff after slipping in her own urine. She complained immediately of back pain. No bed alarm was in place at the time, even though that, too, was part of her care plan.

The gravity of this injury was not diagnosed by staff, including her doctor, and was treated only with pain medicine. A week later she was found again on the floor of her room (there was still no bed alarm in place. At that point she was sent for a CT scan which revealed a fractured vertebrae. She returned to the Jewish Home after the CT scan but no treatment of her fracture and declining neurological condition was offered other than increased pain medication for her steadily increasing pain. She was never evaluated again by her doctor or any other physician or nurse practitioner after the CT scan.

Ms. Kash continued to decline precipitously in health and pleas from her family for more medical intervention went unheeded. Finally a relative from out of town who is also a doctor came to see her and determined that she was paralyzed from the chest down. As her daughter reported in The Monitor article, "It had now been two weeks since the first fall. She was rushed to the hospital where it was determined that the damage to her spinal cord caused by the fracture, swelling and bleeding was now irreversible. She lived for an additional three years confined to a wheelchair paralyzed from the chest down."<sup>50 51</sup>

#### **Monroe- Kirkhaven Nursing Home [NH Compare Rating: 3]**

MLTC: Independent Living for Seniors

On July 8<sup>th</sup>, 2009, Monique Jones, a Certified Nursing Aide at Kirkhaven Nursing Home, was sentenced to three years probation. Monique Jones had physically abused a resident during patient care. While caring for the 88 year old resident, Monique Jones became agitated and kicked the resident in the area of the rib cage.<sup>52</sup>

#### **Monroe- Shore Winds Nursing Home: [NH Compare Rating: 1]**

MLTC: Fidelis

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<sup>50</sup> *Settlement Approved in Brighton, New York Fall Case*, New York Nursing Home Abuse Lawyer Blog (December 22, 2010). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2010/12/settlement-approved-in-brighto.html>.

<sup>51</sup> *My Mother's Nursing Home Nightmare*, Laurie Kash, The Monitor (Spring 2013). Available at [http://www.ltccc.org/newsletter/documents/ltccc\\_spring2013\\_web.pdf](http://www.ltccc.org/newsletter/documents/ltccc_spring2013_web.pdf).

<sup>52</sup> MFCU Convictions.

In 2009, *Your News Now* reported that on December 21<sup>st</sup>, 2008, Kipper Allen Stevens, a nurse at Shore Winds Nursing Home, was caught by a co-worker sexually abusing a disabled woman. The co-worker reported the activity and Stevens was charged with rape and endangering the welfare of an incompetent or physically disabled person by the Medicaid Fraud Control Unit. In 2010, Stevens plead guilty to a misdemeanor for endangering the welfare of an incompetent or physically disabled person. Stevens was sentenced to nine months in jail.<sup>53</sup>

## Nassau

### Nassau - Daleview Care Center [NH Compare Rating: 3]

MLTC: Fidelis, VNSNY Choice

A registered nurse at Daleview Care Center in Farmingdale, New York was sentenced to five years probation after falsifying records on a resident's nursing home chart. Nurse Kennedy reportedly failed to properly assess a resident (with a history of falls who had previously suffered a fractured hip) after a fall, failed to properly document the fall, and later submitted a false statement that she had no knowledge of the fall.<sup>54</sup>

### Nassau- Meadowbrook Care Center [NH Compare Rating: 4]

MLTC: Aetna, Elderplan, Guildnet

On September 28<sup>th</sup>, 2010, Carolyn Williams, a Certified Nurse Aide at Meadowbrook Care Center, was sentenced to a one year conditional discharge. The special conditions included the surrender of her CNA certificate and the provision that she refrain from caring for any incompetent person, regardless of the nature of the incompetence. CNA Williams used a Hoyer lift without the assistance of another aide and falsified the CNA accountability record to hide this act. While operating the Hoyer lift herself, the lift fell onto the resident who then needed stitches to treat facial lacerations.<sup>55</sup>

## New York

### New York- Amsterdam Nursing Home [NH Compare Rating: 5]

MLTC: Centers Plan, GuildNet, Healthfirst, Independence Care, VillageCare

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<sup>53</sup> *LPN Pleads Guilty to Endangerment*, Ray Mullman, South Carolina Nursing Home Blog (June 25, 2010) (based on a report in The Democrat & Chronicle). Accessed at

<http://www.scnursinghomelaw.com/2010/06/articles/abuse-and-neglect/lpn-pleads-guilty-to-endangerment/>.

*LPN Charged with Rape Out on Bail*, Leah George, YNN- Rochester (July 21, 2009). Accessed at [http://rochester.ynn.com/content/top\\_stories/477808/lpn-charged-with-rape-out-on-bail/](http://rochester.ynn.com/content/top_stories/477808/lpn-charged-with-rape-out-on-bail/).

<sup>54</sup> Sources: (1) *Nurse At Farmingdale Nursing Home Sentenced To Probation For Falsifying Chart After Fall*, New York Nursing Home Abuse Lawyer Blog (December 28, 2011). Accessed at

<http://www.newyorknursinghomeabuselawyerblog.com/2011/12/nurse-at-farmingdale-nursing-h.html>. (2)

Quarterly Enforcement Action Against Nursing Home, Long Term Care Community Coalition Winter Report (Winter 2011). Available at

[http://www.ltccc.org/enforcements/documents/ltccc\\_winter\\_2011\\_enforcements\\_000.pdf](http://www.ltccc.org/enforcements/documents/ltccc_winter_2011_enforcements_000.pdf).

<sup>55</sup> MFCU Convictions.

In 2011, the *New York Nursing Home Abuse Lawyer Blog* reported that Jose Ramos, a nurse's aide at Amsterdam Nursing Home, was sentenced to seven years in prison for sexually abusing a 61 year old stroke victim who was a resident at the facility. He was caught by a nurse who responded to the resident after her call light turned on three times. The resident was completely dependent, partially paralyzed and completely mute as a result of her stroke, leaving her utterly defenseless. At the trial, she testified by looking at specific letters to spell out words which were then read out loud by an interpreter. Following his 7 year sentence, Ramos will have to register as a sex offender and serve ten years probation.<sup>56</sup>

**New York - Rivington House** [NH Compare Rating: 4]

MLTC: Amerigroup, Fidelis, VillageCare

An investigation in July 2010 revealed that Rivington House had deficiencies that resulted in harm to the facility's residents. In one such case, it was determined that "the facility did not ensure that a resident with [dementia and a] history and suspected use of illicit drugs was assessed, monitored and treated in a timely manner. Specifically, a resident was found with syringe and drug paraphernalia in the bathroom on 5/3/2010. The facility did not do a compressive [sic] assessment, did not ascertain what the resident took and did not notify the physician. The following day the resident collapsed with staff present and subsequently expired." In addition, the policy at Rivington is to notify the physician in charge about a resident's drug abuse, if they have any. This policy was not followed in this case. DOH fined Rivington House \$10,000. Interestingly, even though the resident died, DOH cited this as "actual harm that is not immediate jeopardy."<sup>57</sup>

**New York- Terence Cardinal Cooke Health Care Center:** [NH Compare Rating: 2]

MLTC: ArchCare, CenterLight, Fidelis, WellCare

Three resident abuse and neglect cases against Terence Cardinal Cooke Health Care Center were found:

1) Torres v Terence Cardinal Cooke Health Care Center:

This lawsuit came about as a result of Roberto Torres' 27 month long stay at Terence Cardinal Cooke Health Care Center during which he developed a number of pressure ulcers and other ailments. The facility attempted to argue that the resident's short stays at hospitals during this time period absolves them of responsibility for these ulcers and ailments, asserting that they may have been inflicted on Mr. Torres while he was being treated at the hospitals. The Supreme Court of New York rejected this argument, stating that the continuous treatment

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<sup>56</sup> *Prison Sentence After Conviction in N.Y. Nursing Home Sexual Abuse Case*, New York Nursing Home Abuse Lawyer Blog (June 1, 2011). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2011/06/prison-sentence-after-convicti.html>.

<sup>57</sup> Sources: (1) *NYC Nursing Home Rivington House Fined \$10,000 for Actual Harm to Resident*, New York Nursing Home Abuse Lawyer Blog (February 12, 2013). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2013/02/nyc-nursing-home-rivington-hou-1.html>. (2) Statement of Deficiencies, NY State Department of Health (July 30, 2010). Available at [http://nursinghomes.nyhealth.gov/nursing\\_homes/deficiency/604/RSSU](http://nursinghomes.nyhealth.gov/nursing_homes/deficiency/604/RSSU). Note: Both quotes are from the Statement of Deficiencies.

doctrine applies in this situation and Marilexis Torres can bring this suit against the facility on behalf of the deceased.<sup>58</sup>

2) In 2010, the *New York Nursing Home Lawyer Blog* reported that a jury had awarded \$275,000 to the estate of John O'Dea who passed away in March 2007. Mr. O'Dea had experienced a fall at Terence Cardinal Cooke Health Care Center that resulted in a fractured hip and subsequent open reduction internal fixation surgery. Mr. O'Dea's widow claimed that the facility had never revised her husband's care plan despite his history of frequent falls and that this resulted in a greater likelihood that such falls would continue. The jury agreed with Mrs. O'Dea. The parties settled prior to the jury award for \$140,000 in damages.<sup>59</sup>

3) In 2011, the *New York Nursing Home Abuse Lawyer Blog* reported that Coral Quintyne, a licensed practical nurse working at Terence Cardinal Cooke Health Care Center, was arrested and prosecuted by the Medicaid Fraud Control Unit for administering methadone to the wrong resident which resulted in that resident needing to be hospitalized. Ms. Quintyne failed to alert anyone to this mistake and falsified records to cover it up. On February 4, 2011, she was sentenced to six months incarceration.<sup>60</sup>

## Oneida

### **Oneida- Betsy Ross Rehabilitation Center** [NH Compare Rating: 3]

MLTC: Fidelis, VNSNY Choice

On August 5<sup>th</sup>, 2011, Chanda Gantt, a Certified Nurse Aide at Betsy Ross Rehabilitation Center, was sentenced to one year conditional discharge, a \$750 fine and a \$200 surcharge and the surrender of her CNA certificate. When a 73 year old resident spit her food out onto the table during meal time, CNA Gantt spooned the food up and fed it back to the resident.<sup>61</sup>

### **Oneida- Focus Rehabilitation and Nursing Center at Utica** [NH Compare Rating: 2]

MLTC: Fidelis

On May 29<sup>th</sup>, 2013, Michele Brown, a Certified Nurse Aide at Focus Rehabilitation and Nursing Center at Utica, was sentenced to a one year conditional discharge. CNA Brown struck a resident during patient care after the resident had kicked the aide in the face. The aide responded by slapping the resident in the mouth, punching her and spraying peri-wash in the resident's face.<sup>62</sup>

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<sup>58</sup> *Torres v. Terence Cardinal Cooke Health Care Ctr.*, 906 N.Y.S.2d 784 (Sup. Ct. 2009) *aff'd*, 72 A.D.3d 588, 899 N.Y.S.2d 224 (2010). Accessed at <https://a.next.westlaw.com/>. [Subscription needed.]

<sup>59</sup> *New York Nursing Home Found Liable For Falls And Fractured Hip By NYC Jury*, New York Nursing Home Abuse Lawyer Blog (August 27, 2010). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2010/08/new-york-nursing-home-found-li.html>.

<sup>60</sup> *New York Nurse Sentenced To Six Months Incarceration After Cover-up Of Medication Error*, New York Nursing Home Abuse Lawyer Blog (May 15, 2011). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2011/05/at-terence-cardinal-cooke-in.html>.

<sup>61</sup> MFCU Convictions.

<sup>62</sup> MFCU Convictions.

**Oneida- The Pines at Utica Center for Nursing and Rehab.** [NH Compare Rating: 1]

MLTC: Fidelis, VNSNY Choice

On September 16<sup>th</sup>, 2009, Rhonda Woodson, a Certified Nurse Aide at The Pines at Utica Center for Nursing and Rehabilitation, was sentenced to three years probation with the condition that she surrender her CNA certificate. While Nurse Woodson was aiding another nurse in helping a resident in the shower, nurse Woodson flicked the ears and nose of the resident, sprayed water at and slapped the resident in the head.<sup>63</sup>

**Onondaga**

**Onondaga- The Crossings Nursing and Rehabilitation Centre** [NH Compare Rating: 3]

MLTC: Fidelis, VNSNY Choice

In 2008, *The Post-Standard* reported that in 2007, an 89 year old resident at The Crossings Nursing and Rehabilitation Centre died from aspiration. Immediately prior to her death, the resident was served dinner which was cut into small pieces for easier consumption. Shortly after the resident was served her dinner, an aide noticed that the resident's mouth was open, she was not breathing and her lips had turned blue. At this time, the aide failed to call a "code blue" to alert the other personnel that they should come to aide in the situation and to activate the 911 system. Neither the licensed practical nurse nor the registered nurse that arrived to the scene took these steps either. The nursing home was subsequently fined \$13,300 for a deficiency in protocol for "code blue" situations.<sup>64</sup>

**Onondaga- Loretto Health and Rehabilitation Center** [NH Compare Rating: 1]

MLTC: Fidelis, PaceNY

Two resident abuse and neglect cases against Loretto Health and Rehabilitation Center were found:

1) On October 26<sup>th</sup>, 2011, Mindie Riggall, a Certified Nurse Aide at Loretto Health and Rehabilitation Center, was sentenced to a one year conditional discharge, restitution of \$72 and the surrender of her CNA certification. CNA Riggall had stolen the personal property of a number of the nursing home's residents.<sup>65</sup>

2) On December 4<sup>th</sup>, 2012, Celeste Stevens, a Certified Nurse Aide at Loretto Health and Rehabilitation Center, was sentenced to a one year conditional discharge. CNA Stevens was assigned to supervise a resident whose care plan required two person transfers. CNA Stevens attempted to move the resident by herself which caused the resident to fall and fracture his right hip. To cover up the incident, CNA Stevens had another aide help her transfer the resident to his bed and then falsify records to state that it was a two person transfer.<sup>66</sup>

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<sup>63</sup> MFCU Convictions.

<sup>64</sup> *Nursing home fined \$13,300*, James T. Mulder, *The Post-Standard* (November 19, 2008). Accessed at <http://www.syracuse.com/poststandard/stories/index.ssf?/base/business-14/122708870870210.xml&coll=1>.

<sup>65</sup> MFCU Convictions.

<sup>66</sup> MFCU Convictions.

### **Onondaga- St. Camillus Residential Health Care Center [NH Compare Rating: 1]**

MLTC: Fidelis, VNSNY Choice

On February 23<sup>rd</sup>, 2011, Tabitha Valentin, a Certified Nurse Aide at St. Camillus Residential Health Care Center, was sentenced to five years probation and restitution of \$2,270 after it was discovered that she had stolen jewelry from residents at the nursing home.<sup>67</sup>

### **Onondaga- Van Duyn Home and Hospital: [NH Compare Rating:1]**

MLTC: Fidelis, PaceNY

In 2009, a press release by then Attorney General Cuomo announced that criminal charges had been filed against Maura Quinn. On January 31, 2009, a number of the nursing staff at Van Duyn Home and Hospital asked Maura Quinn, the charge nurse on duty that was responsible for supervising nurses and aides and the care of the residents on her floor, to assess the condition of a 93 year old resident complaining of severe pain. The resident was terminally ill, with a history of colon cancer, chronic renal failure, hypertension, amnesia and pneumonia. Although Ms. Quinn was repeatedly alerted to the failing health of the resident and his complaints of pain, Ms. Quinn neglected to check his status or administer any additional pain medicine. The resident died later that evening. Maura Quinn was charged with endangering the welfare of an incompetent or physically disabled person as well as willful violation of health laws by the NY State Medicaid Fraud Control Unit and was sentenced to a one year conditional discharge.<sup>68</sup>

## **Orange**

### **Orange - Elant at Newburgh [NH Compare Rating: 2]**

MLTC: Elant Choice, Fidelis

The Nursing Home Abuse Lawyer Blog reported in July 2011 on several instances of seriously poor care at Elant at Newburgh uncovered in a survey by the Department of Health on April 25, 2011. One resident was given additional pain medication to cope with leg pain. Although the resident stated that the medication was ineffective in reducing the amount of pain she was feeling, the pain medication was not monitored consistently, nor was documentation made of the medication's ineffectiveness. A catheterized resident with a history of urinary sepsis did not receive proper treatment of the catheter. As a result, the resident developed a urinary tract infection. Another resident, although noted to be monitored for aspiration, was allowed to eat a meal unsupervised in her room. Although by all accounts the Certified Nurse Aides were aware of the resident's condition, the resident was not required on this occasion

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<sup>67</sup> MFCU Convictions.

<sup>68</sup> Attorney General Cuomo Charges Onondaga County Nurse With Neglecting A Terminally Ill Cancer Patient In The Final Hours Of His Life, Attorney General Press Release (September 16, 2009). Accessed at <http://www.ag.ny.gov/press-release/attorney-general-cuomo-charges-onondaga-county-nurse-neglecting-terminally-ill-cancer>.



to eat in the dining hall, as had been prescribed. This is a choking risk for the resident. Allowing her to eat alone in her room could have proven fatal.

Elant was cited for violating numerous standards in this survey, including ensuring that each resident's drug regimen must be free of unnecessary drugs, taking appropriate measures to make sure that the facility is free from accident hazards and establishing and maintaining a sufficient infection control program. According to its latest survey, in April 2013, many of these problems continue. The summary of citations for this facility on the Department of Health's website states that this facility has almost double the number of health deficiencies as the statewide average, with eight deficiencies related to actual harm or immediate jeopardy to residents (as opposed to a state average of one violation of this magnitude).<sup>69</sup>

## Queens

### **Queens- Bishop Charles Waldo Maclean Episcopal Nursing Home:** [NH Compare Rating: 2]

MLTC: Fidelis, Healthfirst

Two resident abuse and neglect cases against Bishop Charles Waldo Maclean Episcopal Nursing Home were found:

1) In 2004, *The New York Times* reported that Lillie Gardner, a resident at Bishop Charles Waldo Maclean Episcopal Nursing Home, died from exposure after spending a number of hours on the roof of the nursing home. Lillie Gardner suffered from Alzheimer's disease which can cause confusion and a tendency to wander. Ms. Gardner's family attributed her death to the facility's negligence. According to *The Times*, state investigators suspended part of Medicaid and Medicare subsidies in response.<sup>70</sup>

2) In 2013, *MyFoxNY* reported that former nursing home director Julie Clifford is facing charges with the possible sentence of four years imprisonment upon conviction for covering up the disappearance of an elderly resident. The resident, Alan Frazer, suffers from dementia. Ms. Clifford is believed to have falsified records to state that Mr. Frazer had left the facility against medical advice. As of June 13, 2013, Mr. Frazer had not been found and is considered a missing person. Julie Clifford has been charged with endangering the welfare of an incompetent or physically disabled person in the first degree, falsifying business records in the first degree, two counts of falsifying business records in the second degree and willful violation of health laws.<sup>71</sup>

### **Queens- Forest View Center for Rehabilitation and Nursing** [NH Compare Rating: 5]

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<sup>69</sup> Sources: (1) *New NYS DOH Certification Survey Published for Elant at Newburgh*, New York Nursing Home Abuse Lawyer Blog (July 8, 2011). Accessed at [www.newyorknursinghomeabuselawyerblog.com/2011/07/new-doh-certification-survey-p.html](http://www.newyorknursinghomeabuselawyerblog.com/2011/07/new-doh-certification-survey-p.html). (2) New York State Nursing Home Profile, accessed at [http://nursinghomes.nyhealth.gov/nursing\\_homes/inspection/226](http://nursinghomes.nyhealth.gov/nursing_homes/inspection/226).

<sup>70</sup> *Nursing Home Is Penalized Over a Death*, Sabrina Tavernise, The New York Times (February 12, 2004). Accessed at <http://www.nytimes.com/2004/02/12/nyregion/nursing-home-is-penalized-over-a-death.html>.

<sup>71</sup> *Nursing home director accused of covering up missing patient*, Glenn Wilburn, MyFoxNY, (June 15, 2013). Accessed at <http://www.myfoxny.com/story/22540248/nursing-home-director-accused-of-covering-up-missing-resident>.



MLTC: Aetna, Amerigroup, Centers Plan, Elderserve Health, Fidelis, HHH Choices, MetroPlus, Senior Whole Health, WellCare

On June 6<sup>th</sup>, 2009, Daphne Paulwell was sentenced to an unconditional discharge. Daphne Paulwell, a Certified Nurse Aide (CNA) at Forest View Center for Rehabilitation and Nursing, was charged by the New York State Medicaid Fraud Control Unit for unlawfully restraining a resident. CNA Paulwell physically restrained a resident by tying a bed sheet across the resident's chest and underneath her arms.<sup>72</sup>

**Queens - Parker Jewish Institute for Health Care and Rehab** [NH Compare Rating: 2]

MLTC: Aetna, AgeWell, Fidelis, Guildnet, Independence Care, Senior Whole Health, VillageCare

In July 2011, a diabetic woman was admitted to Parker Jewish Institute for short term rehabilitation. When she was admitted, the physician did not note the specific dosage that she required of insulin. As a result, the woman had a higher dose of insulin administered than she was supposed to. This led to her hospitalization and ultimately her death, less than a week after her admittance. Parker Jewish Institute was cited for Immediate Jeopardy by the NYS Department of Health and fined \$12,000.<sup>73</sup>

**Queens- Rockaway Care Center** [NH Compare Rating: 4]

MLTC: Aetna

On March 1<sup>st</sup>, 2011, Esmeralda Laureano, a Certified Nurse Aide at Rockaway Care Center, was sentenced to three years probation with the condition that she attend anger management classes. CNA Laureano stomped on the chest of an 80 year old resident who refused to comply with her instructions to sit in his wheelchair and was on the floor at the time that the incident occurred.<sup>74</sup>

**Queens- Dr. William O. Benenson Rehabilitation Pavilion:** [NH Compare Rating: 5]

MLTC: Aetna, VillageCare, VNSNY Choice

In 2010, *ABC Local* reported that on March 20, 2010, Jessie Joiner, a practical nurse at Benenson Rehabilitation Pavilion, knocked a resident out of her wheelchair and, instead of reporting the fall, left the resident on the floor for someone else to find. The fall resulted in a broken hip which required surgery to correct. Unbeknownst at the time to Ms. Joiner, this incident was caught on video camera in the hallway where this incident occurred. In addition to this incident, Ms. Joiner admitted to taking roughly twenty pills of Percocet for her own use that were meant for a resident and then destroying the correlating paperwork for the drugs to cover up her actions. She was charged by the Medicaid Fraud Control Unit with endangering the welfare of a vulnerable elderly person, falsification of business records, criminal

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<sup>72</sup> MFCU Convictions.

<sup>73</sup> Sources: (1) *Queens Nursing Home Fined \$12,000 by Department of Health for Medication Error that Resulting in Resident's Death*, New York Nursing Home Abuse Lawyer Blog (June 20, 2013). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2013/06/queens-nursing-home-fined-1200.html>. (2) Statement of Deficiencies, NY State Department of Health (July 13, 2011). Available at [http://nursinghomes.nyhealth.gov/nursing\\_homes/deficiency/459/5G36](http://nursinghomes.nyhealth.gov/nursing_homes/deficiency/459/5G36).

<sup>74</sup> MFCU Convictions.

possession of a controlled substance, petit larceny, endangering the welfare of an incompetent or physically disabled person and willful health violation. In March 2012, she was sentenced to three year's probation and forced to surrender her license.<sup>75</sup>

## **Rensselaer**

### **Rensselaer- Diamond Hill Nursing and Rehabilitation Center [NH Compare Rating: 1]**

MLTC: Fidelis, VNSNYS Choice

On March 4<sup>th</sup>, 2011, Jessica Tremper, a Certified Nurse Aide at Diamond Hill Nursing and Rehabilitation Center, was sentenced to a one year conditional discharge, 40 hours of community service to be completed by May 6<sup>th</sup>, 2011 and the surrender of her CNA certificate. CNA Tremper had falsified documents in a resident's medical records to show that she had turned and repositioned the resident (as required by the resident's care plan) when she had not actually done so.<sup>76</sup>

## **Rockland**

### **Rockland - Northern Riverview Heath Care Center [NH Compare Rating: 2]**

MLTC: Centers Plan, Fidelis, WellCare

Five residents had falls that resulted in actual harm to each resident. One of the residents was admitted with several diagnoses, including dementia and ataxia. The care plan for this resident stated that an alarm was to be in place on his wheelchair at all times when the resident was out of bed. Despite this, the resident was discovered on the floor on the evening of February 20th, and it was discovered that a monitoring device was not in place, contrary to care plan specifications. The facility did not conduct a complete investigation. Additionally, no new interventions were put in place to prevent a repeat of the incident. As a result, the resident suffered another fall on April 20th while in the dining room, after which the Assistant Director of Nursing stated that, again, a wheelchair monitor was not in place.

DOH cited the facility for numerous violations, including failing to ensure that the facility was free of accident hazards and failure to develop and implement written policies and procedures that prohibit mistreatment and/or neglect.<sup>77</sup>

### **Rockland- Summit Park Nursing Care Center: [NH Compare Rating: 4]**

MLTC: Fidelis, WellCare

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<sup>75</sup> Nurse charged with abusing patient, stealing drugs, Jessie Joiner, ABC Local (April 22, 2010). Accessed at <http://abclocal.go.com/wabc/story?section=news/local&id=7401013>.

<sup>76</sup> MFCU Convictions.

<sup>77</sup> Sources: (1) *N.Y. Nursing Home Fall Attorney Report: Rockland Nursing Home Cited in May Deficiency Report*, York Nursing Home Abuse Lawyer Blog (January 3, 2012). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2012/01/rockland-nursing-home-cited-in.html>. (2) Statement of Deficiencies, NY State Department of Health (May 6, 2011). Available at [http://nursinghomes.nyhealth.gov/nursing\\_homes/deficiency/246/32CH](http://nursinghomes.nyhealth.gov/nursing_homes/deficiency/246/32CH).

In 2008, *ABC Local* reported that on August 31<sup>st</sup>, 2008, Sister Mary Murray, a 90 year old Catholic nun and resident of the Summit Park Nursing Care Center, died when a closet fell on top of her. The resident, who suffered from dementia and heart disease, was found unconscious and bleeding from the injury and was taken to the hospital where she passed away. The freestanding closet was not properly bolted to the floor, which is why it was possible for it to fall over as it did.<sup>78</sup> Sister Mary's family reported that they were led to believe that this was an isolated "freak accident" and were shocked to find out from an *Eyewitness News* investigation that there had been previous incidents with falling closets. The facility did not bolt the closets to the wall until after Sister Mary's death. Although there has not been any disciplinary action against any individual working at Summit Park Nursing Care Center, the Department of Health has fined the facility \$17,000 after inspecting the home and finding immediate jeopardy to resident health and safety.<sup>79</sup>

### Schenectady

#### **Schenectady- Dutch Manor Nursing and Rehab. Centre** [NH Compare Rating: 3]

MLTC: Fidelis, VNSNY Choice

On January 9<sup>th</sup>, 2013, Jodi L. Montenaro, the business office manager at Dutch Manor Nursing and Rehabilitation Centre, was sentenced to three weekends in jail, five years probation and restitution of \$4,450.20. Ms. Montenaro stole property from the patient checking account as well as from a resident. The total amount of money stolen exceeded \$1000.<sup>80</sup>

#### **Schenectady- Glendale Home:** [NH Compare Rating: 2]

MLTC: Fidelis, SeniorCare

Two cases of resident abuse and/or neglect were found for Glendale:

1) In 2009, *New York Nursing Home Abuse Lawyer Blog* reported that Glendale Home was fined \$20,800 in civil money penalties for neglecting to toilet their residents appropriately. As a result of understaffing, the nurses were allegedly unable to attend to resident's calls for assistance in a timely fashion. One resident recounted that the nurses became angry at her for calling them for assistance and would tell her she had to wait. Unable to wait indefinitely and unable to get to the restroom on her own, this resident admitted that on a few occasions she couldn't help wetting the bed. Glendale staff admitted that there were times when they were so understaffed that they are unable to attend to resident's needs for prompt toileting or for routine turning in bed.<sup>81</sup>

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<sup>78</sup> *Elderly nun dies in closet accident*, ABC Local (October 25, 2008). Accessed at <http://abclocal.go.com/wabc/story?section=news/local&id=6468020>.

<sup>79</sup> *Family wants answers in nun's death*, Jim Hoffer, Eyewitness News (February 04, 2009). Accessed at <http://abclocal.go.com/wabc/story?section=news/investigators&id=6500088>.

<sup>80</sup> MFCU Convictions.

<sup>81</sup> *Glendale NY Nursing Home Fined For Failing To Toilet Residents*, New York Nursing Home Abuse Lawyer Blog (June 2, 2009). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2009/07/glendale-ny-nursing-home-fined.html>.

2) On May 14<sup>th</sup>, 2013, Judith Sanders, a Registered Nurse at Glendale Home, was sentenced to a fine of \$100 and a conditional discharge to surrender her license. Nurse Sanders administered a narcotic to the wrong resident who then required hospitalization. She also failed to administer medication to two other residents on eight separate occasions.<sup>82</sup>

**Schenectady- Pathways Nursing and Rehabilitation Center** [NH Compare Rating: 2]

MLTC: Fidelis, VNSNY Choice

On September 26<sup>th</sup>, 2012, Elesia Howard, a Certified Nurse Aide at Pathways Nursing and Rehabilitation Center, was sentenced to a one year conditional discharge with the provision that she surrender her CNA certification. CNA Howard yelled at and pinched a 72 year old female resident while bathing and clothing her.<sup>83</sup>

**Staten Island**

**Staten Island- Eger Health Care Center of Staten Island** [NH Compare Rating: 2]

MLTC: ArchCare, CenterLight, Centers Plan, Elderplan, ElderServe Health, Fidelity, GuildNet, VillageCare

On January 27<sup>th</sup>, 2010, Milagros Gallo, a Licensed Practical Nurse at Eger Health Care Center of Staten Island, was sentenced to three years probation. Nurse Gallo had stolen multiple pills of Percocet from residents on several dates and forged her co-workers signatures to falsify records and conceal the thefts.<sup>84</sup>

**Staten Island - Golden Gate Rehab. Health & Care Center** [NH Compare Rating: 4]

MLTC: Amerigroup, Fidelis, WellCare

Robert Messina stayed at Golden Gate Rehab several times, alternating between the facility and Staten Island University Hospital over the course of a year according to a June 13, 2011 report in the *Staten Island Advance*. He first entered the hospital with “a working diagnosis of encephalopathy, or brain dysfunction,” according to the report, and “a variety of other health problems, including obesity, diabetes, hypertension, gallstones and high cholesterol, court papers stated.” During his stay in the hospital he was diagnosed and underwent treatment for severe pressure ulcers throughout his body. He was then released to Golden Gate on a ventilator with all but his spinal and ankle bedsores healed. According to the *Advance* report, “Over the next year, Messina was transferred between the hospital and nursing home several times. During that time, he suffered respiratory failure and a breakdown of muscle fibers that led to kidney failure, said his lawyer. On one occasion, Messina was brought back to SIUH [the hospital] after a spinal ulcer had ‘explode[d],’ and was found to have osteomyelitis, an acute or chronic bone infection, in his right hip, said Ashley [Messina’s attorney].”

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<sup>82</sup> MFCU Convictions.

<sup>83</sup> MFCU Convictions.

<sup>84</sup> MFCU Convictions.

Messina brought suit against the two facilities but dropped his action against Golden Gate. Nevertheless the jury found Golden Gate 25% percent responsible.<sup>85</sup>

**Staten Island- Silver Lake Specialized Rehab. and Care Center** [NH Compare Rating: 4]

MLTC: Amerigroup, Senior Health Partners, United Healthcare

On June 20<sup>th</sup>, 2012, Kathleen Scano, a registered nurse at Silver Lake Specialized Care Center, was sentenced to a one year conditional discharge after the successful completion of a drug treatment program. Nurse Scano had signed out Percocet tabs over the course of four months, falsely stating that they were for residents but instead keeping them for personal use.<sup>86</sup>

**Suffolk**

**Suffolk- Hamptons Center for Rehabilitation** [NH Compare Rating: 1]

MLTC: Fidelis

On June 10<sup>th</sup>, 2013, Nancy Szydlowski, an administrator at Hamptons Center for Rehabilitation, was sentenced to three years probation, a \$2,500 fine and is precluded from caring for any incompetent person. Ms. Szydlowski had been charged with three class E felony counts for falsifying business records in the first degree, tampering with physical evidence and offering a false instrument for filing in the first degree after she tried to cover up the elopement of a resident.<sup>87</sup>

**Suffolk - Hilaire Rehab and Nursing** [NH Compare Rating: 3]

MLTC: AgeWell, Fidelis, WellCare

In a 2011 post by New York Nursing Home Abuse Lawyer's Blog, Hilaire Rehab and Nursing facility was reported to have contributed numerous times to actions which put the residents at harm. Twenty-one percent of residents found to be at "high risk" for developing bedsores (meaning that care should have been taken to make sure that they did not develop bedsores) developed bedsores. Among the deficiencies noted by the Department of Health was failure to ensure that services are provided by qualified persons in accordance with their care plans.

A resident with a history of wandering and barricading herself in her room had no intervention in place to prevent her behavior other than 15 minute room checks. As a result, the resident successfully barricaded herself in her room on no fewer than two occasions. The resident, who had a history of dementia and psychotic disorder, also had a roommate. Because of the barricade, the room was not immediately accessible.

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<sup>85</sup> Sources: (1) *\$5.4M medical malpractice award for Staten Island man*, Frank Donnelly, SILive.com (June 13, 2011). Available at [http://www.silive.com/northshore/index.ssf/2011/06/54m\\_medical\\_malpractice\\_award.html](http://www.silive.com/northshore/index.ssf/2011/06/54m_medical_malpractice_award.html). (2) *Messina v DeBlasi*, 2010 NY Slip Op 51903(U) [29 Misc 3d 1219(A)]. Accessed at <http://law.justia.com/cases/new-york/other-courts/2010/2010-51903.html>.

<sup>86</sup> MFCU Convictions.

<sup>87</sup> MFCU Convictions.

In addition, a physician ordered an antibiotic to treat a resident's urinary tract infection, however the medicine was not administered until three days later.<sup>88</sup>

#### **Suffolk - Long Island State Veteran's Home** [NH Compare Rating: 4]

MLTC: AgeWell

A CNA was charged with photographing nursing home residents and texting the pictures to a friend. The pictures were taken without the knowledge or consent of the victims, and illustrated disturbing images. In many instances, the residents were incapable of consenting to the images or stopping the abuse because they were late stage dementia residents. In some photos, the residents are shown with gruesome bedsores, and in others, they have a look of fear. Perhaps the most disturbing images are photos of a resident's genital area covered with feces. The nursing aid, David Rover, was arrested in March and has been charged with seven counts of unlawful surveillance, one count of dissemination of an unlawful surveillance image and two counts of offering a false instrument for filing. Attorney General Schneiderman, in his press release, called these illegal actions "abusive and alarming." Rover was arraigned in May and can face up to four years in prison if convicted.<sup>89</sup>

#### **Suffolk- Medford Multicare Center for Living:** [NH Compare Rating: 1]

MLTC: Fidelis, WellCare

Fifteen resident abuse and neglect cases against Medford Multicare Center for Living were found:

- 1) On May 19<sup>th</sup>, 2009, Jacqueline Francis, a Certified Nurse Aide at Medford Multicare Center for Living, was sentenced to three years probation and surrender of right to care for any incompetent person. Jacqueline Francis' failure to shower a resident as required, obtain assistance for Hoyer lift transfer and to diaper resident was caught by a concealed camera in a resident's room. Jacqueline Francis then falsified business records to conceal her neglect.<sup>90</sup>
- 2) On May 20<sup>th</sup>, 2009, Betty Chelsak, a Certified Nurse Aide at Medford Multicare Center for Living, was sentenced to three years probation and surrender of right to care for any incompetent person. Betty Chelsak's failure to perform range of motion therapy, obtain assistance for Hoyer lift transfer, turn and position resident and to diaper the resident was

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<sup>88</sup> Sources: (1) *Huntington, NY Nursing Home Cited for Deficiencies in June Survey*, New York Nursing Home Abuse Lawyer Blog (November 22, 2011). Accessed at

<http://www.newyorknursinghomeabuselawyerblog.com/2011/11/huntington-ny-nursing-home-cit.html>. (2)

Statement of Deficiencies, NY State Department of Health (June 14, 2011). Available at

[http://nursinghomes.nyhealth.gov/nursing\\_homes/deficiency/290/7CER](http://nursinghomes.nyhealth.gov/nursing_homes/deficiency/290/7CER).

<sup>89</sup> Sources: (1) *A.G. Schneiderman Announces Indictment Of Aides Who Photographed Nursing Home Residents*, Office of the Attorney General (May 15, 2013). Accessed at <http://www.ag.ny.gov/press-release/ag-schneiderman-announces-indictment-aides-who-photographed-nursing-home-residents>. (2) *Nursing Home Aide Arrested for Secretly Photographing Resident*, New York Nursing Home Abuse Lawyer Blog (April 4, 2013).

Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2013/04/nursing-home-aide-arrested-for.html>.

<sup>90</sup> MFCU Convictions.

caught by a concealed camera in the resident's room. Betty Chelsak then falsified business records to conceal her neglect.<sup>91</sup>

3) On May 20<sup>th</sup>, 2009, Kim Purdum, a Licensed Practical Nurse at Medford Multicare Center for Living, was sentenced to three years probation, surrender of LPN license and right to care for any incompetent person. Kim Purdum neglected to order blood tests necessary for the monitoring of Coumadin dosages, a blood thinning medication. As a result, the resident suffered internal bleeding and extensive external bruising. When the resident was tested and taken to the emergency room, Kim Purdum altered the records to make it look as if she had included the order for the tests.<sup>92</sup>

4) On July 1<sup>st</sup>, 2009, Nichole Stumpf and Leticia Virgil-Green, Certified Nurse Aides at Medford Multicare Center for Living, were sentenced to conditional discharges. The two aides failed to use a Hoyer lift as is required when transferring the patient from her bed to her wheelchair. This failure was caught on the hallway surveillance cameras. The resident complained of pain following this incident and an x-ray revealed a fractured femur. Both aides provided falsified written accounts of the incident.<sup>93</sup>

5) On October 16<sup>th</sup>, 2009, Toni Miller, a Licensed Practical Nurse at Medford Multicare Center for Living, was sentenced to five years probation with the conditions that she surrender her LPN license and is excluded from employment as a caretaker for incompetent individuals and narcotic and alcohol treatment. Toni Miller was captured on camera administering heart medication to a resident without first checking the resident's apical pulse, as required. Nurse Miller also failed to administer required hydration fluids to the resident. She then falsified records to say that she both took the apical pulse and administered fluids.<sup>94</sup>

6) On August 12<sup>th</sup>, 2010, Valerie Bryant, a Certified Nurse Aide at Medford Multicare Center for Living, was sentenced to one year probation with narcotics conditions and the condition that during the time of the probation she refrain from being employed as the care taker of any incompetent person, whether this incompetence is age related or due to physical or mental disability. CNA Bryant lifted a resident that had fallen to the floor and put him back into bed without reporting the incident to a registered nurse so that the resident could be assessed for injuries. CNA Bryant then denied having done so when the resident reported the fall and supplied a written statement that denied her knowledge that the resident had fallen.<sup>95</sup>

7) On August 24<sup>th</sup>, 2010, Christine Butzbach, a Certified Nurse Aide at Medford Multicare center for Living, was sentenced to a conditional discharge and 280 hours of community service. The conditions of her discharge are that she must surrender her certification within a week, must refrain from any employment where she would be taking care of an incompetent person, regardless of the nature of the incompetency and provide updates every three months proving that she is either gainfully employed or in school or both. CNA Butzbach was observed bringing a resident and a Hoyer lift into the resident's room, then exiting the room

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<sup>91</sup> MFCU Convictions.

<sup>92</sup> MFCU Convictions.

<sup>93</sup> MFCU Convictions.

<sup>94</sup> MFCU Convictions.

<sup>95</sup> MFCU Convictions.



with the Hoyer lift. The witness who observed this states that it appeared that CNA Butzbach had used the Hoyer lift without the assistance of another person. An investigation revealed that she had used the Hoyer lift without the requisite assistance of another caregiver on numerous other occasions. She had also signed the resident's accountability record for the dates she had done this. CNA Butzbach later admitted that she had done the transfer alone.<sup>96</sup>

8) On October 25<sup>th</sup>, 2010, Patricia Ellis, a Certified Nurse aide at Medford Multicare Center for Living, was sentenced to time served after serving seven days in jail, the surrender of her license and three years probation. An additional condition that during the period of her probation, Ms. Ellis must refrain from being employed as care taker of any incompetent person, regardless of the nature of the incompetence was added. CNA Ellis had lifted a resident who had fallen on the floor without seeking a nurse to assess the resident for injuries. She had placed the resident back in bed and neglected to report the incident or initiate the required paperwork.<sup>97</sup>

9) In 2010, the *New York Post* reported on a lawsuit filed against Medford Multicare Center on Long Island by the family of Robert Knowles. Mr. Knowles was admitted to Medford Multicare Center at age 57, following a fall that broke his spine and rendered him a quadriplegic. He was to stay at Medford while he recovered and while his family prepared their home for his wheelchair. Though he had become a quadriplegic as a result of his fall, his mind was intact. On March 21<sup>st</sup>, 2009, Mr. Knowles' ventilator accidentally disconnected. A surveillance tape of the nurse's station at the time that this occurred shows a number of staff ignoring the flashing light that indicates that a ventilator had become dislodged. Mr. Knowles struggled to get air for 24 minutes before his situation was attended to and he was rushed to a hospital. He is left with permanent severe brain damage and a seizure disorder.<sup>98</sup>

10) In 2010, the *New York Nursing Home Abuse Lawyer Blog* reported that Nicole Campo was brought up on criminal charges for neglect and falsifying medical records. Nicole Campo was a registered nurse working at Medford Multicare Center for Living. Ms. Campo had repeatedly ignored an 82 year old resident's call bell which the resident was using in an attempt to get help transporting herself to the restroom. After ringing for an aide a number of times, the resident wet her bed and became so frustrated that she transferred herself to her wheel chair and wheeled herself to the nurses' station to inquire as to why she was being ignored. Nurse Campo lied that a nurse's aide was to blame for the deficiency and the aide was promptly fired. Video surveillance, however, shows that Campo had lied and she was sentenced to three years probation with the condition that she refrain from obtaining employment that involves caring for any incompetent person and that she complete a substance abuse program.<sup>99</sup>

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<sup>96</sup> MFCU Convictions.

<sup>97</sup> MFCU Convictions.

<sup>98</sup> *LI nurses 'ignored' gasp man*, Reuven Blau, New York Post (November 28, 2010). Accessed at [http://www.nypost.com/p/news/local/li\\_nurses\\_ignored\\_gasp\\_man\\_rltooJg8Tmf8XzFgNS0AhK](http://www.nypost.com/p/news/local/li_nurses_ignored_gasp_man_rltooJg8Tmf8XzFgNS0AhK).

<sup>99</sup> *Nurse At Medford Multicare Center Sentenced After Neglecting Resident And Falsifying Medical Records*, New York Nursing Home Abuse Lawyer Blog (August 11, 2010). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2010/08/nurse-at-medford-multicare-cen.html>.



11) On February 1<sup>st</sup>, 2011, Rima Chaudhry, a Licensed Practical Nurse at Medford Multicare Center for Living, was sentenced to three years probation with the term that she comply with psychological and narcotics conditions. LPN Chaudhry repeatedly administered Digoxin, a heart medication, to a resident without first taking the resident's apical pulse to determine whether the medication should be administered. She then falsely recorded an apical pulse in the record to make it appear that she had recorded it.<sup>100</sup>

12) On May 19<sup>th</sup>, 2011, Janet Coleman, a Licensed Practical Nurse at Medford Multicare Center for Living, was sentenced to five years probation with the condition that she may not be employed as a caretaker of any incompetent person, regardless of the nature of the incompetence. She was also required to surrender her LPN license. LPN Coleman was the Unit Manager at the nursing home when she was caught on hidden camera falsifying records to say that she provided treatment to a resident, including cleaning his g-tube site and ears.<sup>101</sup>

13) On August 11<sup>th</sup>, 2011, Marie Pierre, a Certified Nurse Aide at Medford Multicare Center for Living, was sentenced to a conditional discharge with community service, including 60 days incarceration or 280 hours of community service in lieu of incarceration. The community service may not be done at a medical or health care facility. CNA Pierre was caught on hidden camera failing to provide range of motion exercises and failed to change a resident for up to six hours.<sup>102</sup>

14) On August 4<sup>th</sup>, 2011, Paulette Marie George, a Certified Nurse Aide at Medford Multicare Center for Living, was sentenced to 8 months incarcerations, part of which is to be served as community service and probation. CNA George was convicted for neglecting and endangering four residents in her care and falsifying documents to cover up her neglect. CNA George was seen on camera transporting residents to breakfast without taking them to the showers and using a Hoyer lift alone.<sup>103</sup>

15) On December 12<sup>th</sup>, 2012, John Grayovski, a Certified Nurse Aide at Medford Multicare Center for Living, was sentenced to three years probation with the condition that he not work as a caretaker for disabled or incompetent people for three years and surrender his CNA certificate. CNA Grayovski transferred an elderly resident without assistance during which time the resident fell and suffered a skin tear. CNA Grayovski then failed to report the incident and concealed the skin tear; he later denied that he had attempted to transfer the resident by himself. The resident subsequently required thirteen stitches for the skin tear.<sup>104</sup>

### **Suffolk- Our Lady of Consolation Nursing and Rehab. [NH Compare Rating: 5]**

MLTC: CenterLight, WellCare

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<sup>100</sup> MFCU Convictions.

<sup>101</sup> MFCU Convictions.

<sup>102</sup> MFCU Convictions.

<sup>103</sup> MFCU Convictions.

<sup>104</sup> MFCU Convictions.

On August 13<sup>th</sup>, 2009, Danielle Lewis, a Certified Nurse Aide at Our Lady of Consolation Nursing and Rehabilitative Care Center, was sentenced to three years probation and restitution of \$3,470. A 77 year old resident at the care center gave CNA Lewis a \$1,700 check for holiday cards that she wanted to give the staff. Instead of purchasing cards, Danielle Lewis deposited the check into her own personal account. An investigation revealed 10 more checks that the defendant similarly cashed for her own use.<sup>105</sup>

**Suffolk- San Simeon by the Sound** [NH Compare Rating: 5]

MLTC: VNSNY Choice

Two resident abuse and neglect cases against San Simeon by the Sound Center for Nursing and Rehabilitation were found:

1) On January 8<sup>th</sup>, 2010, Donald Finley, a Licensed Practical Nurse at San Simeon by the Sound Center for Nursing and Rehabilitation, was sentenced to three years probation with the condition that he surrenders his LPN license and not work in the health care field in any capacity during the three year term. He must also submit to psychiatric, drug and alcohol conditions of his probation. He also received two fines, each \$750 and an additional fine of \$205. LPN Finley had failed to give a resident his medication, failed to change another resident's bandage, failed to perform a blood sugar test for another resident, and falsified documents to say that he completed the aforementioned treatments.<sup>106</sup>

2) On December 18<sup>th</sup>, 2009, Donna Naeem, a Certified Nurse Aide at Sam Simeon by the Sound Center for Nursing and Rehabilitation, was sentenced to a conditional discharge with the conditions that she surrender her CNA certificate or not renew it and that she must not seek employment in the health care industry in any capacity. CNA Naeem had punched an 86 year old resident in the head.<sup>107</sup>

**Suffolk- St. Catherine of Siena Nursing and Rehab.** [NH Compare Rating: 5]

MLTC: WellCare

On January 21<sup>st</sup>, 2010, Roudlie LaForest, a Certified Nurse Aide at St. Catherine of Siena Nursing and Rehabilitation Care Center, was sentenced to a conditional discharge. CNA LaForest transferred a resident without assistance which resulted in the resident falling. The fall resulted in a fractured femur which CNA LaForest failed to attend to or report. Mr. LaForest put the resident back in bed and falsified records regarding the incident.<sup>108</sup>

**Tompkins**

**Tompkins- Beechtree Care Center** [NH Compare Rating: 1]

MLTC: Fidelis

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<sup>105</sup> MFCU Convictions.

<sup>106</sup> MFCU Convictions.

<sup>107</sup> MFCU Convictions.

<sup>108</sup> MFCU Convictions.

On September 7<sup>th</sup>, 2012, Valerie Allen, a Certified Nurse Aide at Beechtree Care Center, was sentenced to a one year conditional discharge and restitution of \$666.82. Ms. Allen had stolen a credit card from a resident's room and used it to purchase \$600 dollars worth of merchandise.<sup>109</sup>

## Washington

### Washington- Indian River Rehabilitation & Nursing Center [NH Compare Rating: 1]

MLTC: Fidelis

In March 2013, the *Poststar* reported that state investigators were looking into the death of a resident at Indian River Rehabilitation and Nursing Center. The resident, John Zellars, passed away on February 23<sup>rd</sup>, 2013. According to the *Poststar*, the 58 year old man had been at the facility for a few months as a result of kidney problems whereupon he died unexpectedly. Aside from the sudden and unexpected nature of his death, there was concern regarding the care he received. By the time Mr. Zellars was found in bed, he had entered a state of *rigor mortis* which, according to an anonymous source close to the investigation, takes 6-12 hours to set in. This indicates that he was unchecked and uncared for for a considerable period of time. As of the March publication of the article the Medicaid Fraud Control Unit was investigating.<sup>110</sup>

### Washington- Pleasant Valley Nursing Home: [NH Compare Rating: 2]

MLTC: Fidelis

In 2013, the *Poststar* reported that in June 2012, Tiffany Vanalen, a licensed practical nurse neglected to give five residents their medication and falsified records to state that she had indeed disbursed medication. In 2012, Vanalen was charged by the New York State Medicaid Fraud Control Unit for felony neglect, totaling fifteen charges. Since then, the 15 felony charges have been reduced to a handful of misdemeanor charges and a date for the hearing has not been set as of this writing. This incident follows a Department of Health investigation of Pleasant Valley Nursing home that revealed bloody rags in the kitchen and medications being administered to the wrong residents.<sup>111</sup>

## Westchester

### Westchester- Elant at Brandywine Nursing Home [NH Compare Rating: 1]

MLTC: Elant Choice, Fidelis,

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<sup>109</sup> MFCU Convictions.

<sup>110</sup> *State officials investigating Granville nursing home death*, Jon Alexander, *Poststar* (March 13, 2013). Accessed at [http://poststar.com/news/local/state-officials-investigating-granville-nursing-home-death/article\\_9db6e764-8c08-11e2-b0eb-0019bb2963f4.html](http://poststar.com/news/local/state-officials-investigating-granville-nursing-home-death/article_9db6e764-8c08-11e2-b0eb-0019bb2963f4.html).

<sup>111</sup> *Watching out for nursing home abuse, neglect*, Jon Alexander, *Poststar* (May 18, 2013). Accessed at [http://poststar.com/news/local/watching-out-for-nursing-home-abuse-neglect/article\\_4dcafb0c-c02c-11e2-9d6b-0019bb2963f4.html](http://poststar.com/news/local/watching-out-for-nursing-home-abuse-neglect/article_4dcafb0c-c02c-11e2-9d6b-0019bb2963f4.html).

In 2010, the *New York Nursing Home Abuse Lawyer Blog* reported that in 2009, Elant at Brandywine Nursing Home received a \$38,150 fine from the federal government, subsequent to a jeopardy citation after a resident wandered out of the facility. A resident of the home with a cognitive impairment had eloped from the facility and then eloped again two days later. The second time he was found over three hours later at a distance of three miles from the facility. He was found by a staff member on her way to work at the facility. The staff was found to have not taken appropriate precautions under the circumstances so that he would not be able to wander out of the facility undetected.<sup>112</sup>

**Westchester - Somers Manor Nursing Home** [NH Compare Rating: 1]

MLTC: Elderplan

A 70 year old woman was admitted with several warning signs for the development of pressure sores. During examinations of the resident in December 2012, it was discovered that she had developed a stage 3 pressure ulcer in her back, and that the nurses were improperly caring for her in a number of ways. They did not give the resident her seat cushion assistance and improperly applied healing ointment to her skin. In December 2012, the facility was cited for six health inspection deficiencies, and among these was the failure to properly prevent or heal bedsores.<sup>113</sup>

**Westchester- Sutton Park Center for Nursing & Rehabilitation:** [NH Compare Rating: 3]

MLTC: Fidelis

In 2009, the *NY Daily News* reported on the case of Verda Henry, a resident at Sutton Park Center for Nursing & Rehabilitation following a fall that resulted in an injury to her arm. Although she was only expected to stay at the facility while recuperating, Verda died in the facility two years later as a result of a severe bed sore. Although the family, which visited daily, requested to take Verda home on numerous occasions, each request was denied. Verda's daughter Patricia recounts that there was not enough resident care and that in the long stretches of time that she would spend visiting her mother, there were never any aides or nurses coming to feed her or otherwise take care of her. Verda Henry grew very weak and became immobile. The advanced bed sore was not discovered until Patricia Henry went to change her mother's dressing gown and discovered it at the bottom of her spine. The bed sore had become infected and was the cause of Verda Henry's death. The outcome of the lawsuit against the facility by the resident's daughter has not been recorded at the time that this report was published.<sup>114</sup>

**Westchester- Waterview Hills Rehabilitation & Nursing Center:** [NH Compare Rating: 2]

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<sup>112</sup> *Westchester County NY Nursing Home Abuse Attorney Report: Elant At Bradywine In Briarcliff Manor Fined \$38,150 After Elopement Incident*, New York Nursing Home Abuse Lawyer Blog (May 23, 2010). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2010/05/westchester-county-ny-nursing.html>.

<sup>113</sup> Source: Statement of Deficiencies, NY State Department of Health (December 21, 2012). Available at [http://nursinghomes.nyhealth.gov/nursing\\_homes/deficiency/360/E22H](http://nursinghomes.nyhealth.gov/nursing_homes/deficiency/360/E22H).

<sup>114</sup> *Family sue nursing home after fatal bed sore horror takes matriarch's life*, Dorain Block, Daily News (September 8, 2009). Accessed at <http://www.nydailynews.com/new-york/bronx/family-sue-nursing-home-fatal-bed-sore-horror-takes-matriarch-life-article-1.403110>.

MLTC: Fidelis

In 2009, New York Nursing Home Lawyer Abuse Blog reported that on May 16<sup>th</sup>, 2008, Pierre Obas, a 72 year-old nursing assistant at Waterview Hills Rehabilitation and Nursing Center, tied a female resident to her wheelchair, using a sheet as the restraint. Mr. Obas had become irritated that the resident had requested assistance a number of times throughout the night and tied her up so that he could take an hour long nap. At sentencing, Mr. Obas was required to surrender his nursing assistant certification for a period of one year.<sup>115</sup>

### **Special Focus Facility Nursing Homes in MLTC**

The Special Focus Facility Program is a federal program that identifies the worst nursing homes in the country for special oversight for a two year period. At the end of the two years, the facility is supposed to have either developed permanent solutions to its longstanding problems and “graduate” or be removed from Medicaid & Medicare. Unfortunately, there have been numerous instances where these facilities have remained in the program for longer than two years, persistently providing extremely poor care, and even cases wherein a facility has “graduated” but then continued to have serious problems.

In 2013 this limited but important program was further limited as a result of federal sequestration. Thus, while the following list is instructive, it is important to understand that all facilities that have a one star overall Nursing Home Compare rating are, for all intents and purposes, the equivalent of a Special Focus Facility, among the worst in the United States.

#### **Current Special Focus Facilities (as of Fall 2013):**

##### **Mercy Living Center**

MLTC: Fidelis

##### **Pleasant Valley**

MLTC: Fidelis

##### **Van Duyn Home And Hospital**

MLTC: Fidelis, PaceNY

##### **Wingate at Beacon**

MLTC: VNSNY Choice

#### **Special Focus Facilities in the recent past:**

##### **Achieve Rehabilitation and Nursing Facility**

MLTC: Fidelis, VNSNY Choice

##### **Central Park Rehabilitation and Nursing Center**

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<sup>115</sup> *Westchester County Nursing Home Aide Sentenced For Abuse Of Resident*, New York Nursing Home Abuse Lawyer Blog (August 11, 2009). Accessed at <http://www.newyorknursinghomeabuselawyerblog.com/2009/08/westchester-county-nursing-hom.html>.

MLTC: Fidelis

**Dr. William Benenson Rehabilitation Pavilion**

MLTC: Aetna, VillageCare, VNSNY Choice

**Elant at Newburgh**

MLTC: Elant Choice, Fidelis

**The Hamptons Center For Nursing & Rehabilitation**

MLTC: Fidelis

**Highland Care Center**

MLTC: Fidelis

**Marcus Garvey Nursing Home\***

MLTC: Fidelis, Senior Whole Health

**Pathways Nursing & Rehabilitation Center**

MLTC: Fidelis, VNSNY Choice

**Loretto Utica Residential HCF (Now Focus Rehab & Nursing)+**

MLTC: Fidelis

\* Marcus Garvey was a designated SFF twice, which is highly unusual and contrary to the purpose of the SFF Program, which is to give facilities two years of intense oversight in which they either develop permanent solutions to their persistent, serious problems or be removed from Medicaid/Medicare. Marcus Garvey "graduated" from the program (for a 2nd time) in mid 2013.

+ Loretto Utica was an SFF for 25 months. It is listed in 2012 as having graduated from the SFF Program though it is unclear what this means since the facility was actually sold in foreclosure to a company called Focus and it now operates under the Focus name according to a November 2011 article in the *Utica Observer-Dispatch*. This article was accessed at <http://www.uticaod.com/news/x1439485561/Loretto-Utica-Center-sold-services-to-continue-under-new-owner>.

## A Special Case: Mosholu Parkway Nursing & Rehab

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THE PEOPLE OF THE STATE OF NEW YORK :  
 :  
-against- :  
 :  
MOSHOLU PARKWAY NURSING AND :  
REHABILITATION CENTER, LLC and :  
ISSAC SHAPIRO :  
Defendants :  
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Mosholu is not “officially” part of our list of MLTC nursing home cases because its felony complaint case is pending (as of fall 2013). Mosholu is being prosecuted by the state for 122 counts of Willful Violation of Health Laws, 122 counts of Endangering the Welfare of an Incompetent or Physically Disabled Person and one count of Endangering the Welfare of a Vulnerable Elderly Person or an Incompetent or Physically Disabled Person in the First Degree.

These violations are alleged to have taken place between January 1, 2010 and May 11, 2011. Following is an excerpt from the complaint filed with the court.

Deponent also states that as part of her duties as a Nurse Investigator for the DOH, and pursuant to 10 NYCRR 400.3, the deponent requested access to the facility’s video surveillance equipment and obtained and reviewed a video recording made by a surveillance camera at the Mosholu Facility. The video revealed that on or about April 9, 2011, at approximately 4:40 p.m., Robert R., a 56 year old mentally incapacitated paraplegic resident, was seriously burned while smoking unsupervised in the smoking room at the Mosholu Facility. Deponent further states that the full name of resident Robert R. is known to Deponent and set forth in medical records maintained by the Defendants. Deponent further states that the video recording depicts Robert R. in possession of both a cigarette and a match. Shortly thereafter the video depicts Robert R. engulfed in flames. According to the time log on the video, Robert R. is engulfed in flames for almost four (4) minutes before any staff intervenes. The video depicts several staff members arriving on the floor but standing around without aiding Robert R. Several staff members are seen running past a fire extinguisher and a fire blanket which are in the adjoining room. Also visible on the video are approximately twenty-five (25) other residents of the Mosholu Facility, in the adjoining room, which is separated by a glass partition, watching Robert R. on fire. After Robert R. has been on fire for over five (5) minutes, the fire was put out by a staff member.

Deponent is also informed by Dr. STEVEN WALLACH, a physician at Jacobi Hospital who treated Robert R., that Robert R. suffered fourth degree burns to 60% of his body. Deponent is further informed by Dr. WALLACH, that the severe burns required the amputation of both of Robert R.’s legs and the removal of his genitals. As a result of the burns suffered at Mosholu Facility, Robert R. remained in the Jacobi Hospital Burn Unit in a condition where he was bedridden, with gastric and respiratory tubing, and on continuous pain medications until he expired on April 10, 2012.

Some of the additional allegations detailed in the felony complaint: (1) *the day after* this incident, a DOH Surveyor observed 16 residents smoking unsupervised in the facility; (2) *two days after* the incident, the Surveyor observed an additional nine residents smoking unsupervised in the facility; (3) *approximately one month after* the incident an unannounced fire drill was held after which it was found that staff failed to evacuate at least 15 residents.

**Mosholu is in the MLTC Plans of Aetna, CenterLight, Fidelis and Independence Care.**



## Chapter X: Recommendations

1. **Safe staffing is essential to prevent a “race to the bottom.”** New York State must join with the majority of other states and promulgate decent minimum safe staffing standards for nursing home care. For years there has been a safe staffing bill that winds up languishing in the New York State legislature, in large part due to lack of interest among the Senate majority. Recently this legislation was tied to hospital staffing standards and other requirements. While we support hospital safe staffing, we believe that it is essential that staffing standards be put in place for nursing home care now, in light of this move to managed long term care (MLTC). **Therefore we call on the legislature to pass a bill this year specifically mandating a minimum of 4.5 hours of direct care staff time per resident per day.**
2. **Strong and independent ombudsmen are needed to protect all consumers in MLTC, especially nursing home residents.**
  - a. **MLTC Ombudsman.** As part of its privatization of Medicaid LTC, the state has been planning to establish a special ombudsman program. Now that MLTC for people accessing long term care in the community is well underway, and as we face the implementation of MLTC for nursing home care, New York must act now to establish the ombudsman and ensure that it is provided with the resources and authority it needs to carry out its duties now and into the future. The MLTC Ombudsman should be:
    - i. **Independent**, in an agency separate from state government, local government and any provider-associated entities;
    - ii. **Sufficiently funded**, now and in the future, through the establishment of permanent funding indexes tied to inflation;
    - iii. **Capable**, through both local and central offices, of being responsive to the needs of individuals across New York State as well as monitoring and advocating on systemic issues; and
    - iv. **Accountable**, to the state and the public, through the establishment of a system for public reporting of the program’s activities (for examples, a complaint recording system similar to that of the existing LTC Ombudsman Program and an annual report similar to that of the Office of the NY State Medicaid Inspector General).
  - b. **LTC Ombudsman Program (LTCOP).** The LTCOP has existed for many years under the authority of the Older Americans Act. In New York State, the local LTCOP offices, which directly monitor care and serve to assist consumers and the public, vary greatly in their ability to vigorously and independently advocate. The federal government is currently establishing standards for state and local LTCOPs but, given the transition to MLTC and wide variations in LTCOP abilities across our state, New York should not wait for the federal government to act before addressing long standing issues relating to independence and effectiveness.
    - i. **Funding.** New York State should act now to ensure that the LTCOP is sufficiently funded, on the state and local level, to carry out its



mandates to monitor care and protect residents as the transition to mandatory MLTC for nursing home care gets underway. The New York State assisted living law (2004) and the federal Affordable Care Act (2010) both provided for additional LTCOP funding. To our knowledge, neither funding mechanism has been substantially carried through in a budgetary measure. *We simply cannot put individuals at greater risk in a new system, and add additional responsibilities and activities to the LTCOP, without the allocation of additional funding.*

- ii. **Independence and Integrity.** The state should take meaningful steps to overcome longstanding issues that prevent the program, particularly some of the local programs, from being fully independent and able to vigorously advocate for individual residents as well as, publicly, for systemic improvement. Programs should be housed in agencies that are independent of local or state government or provider industry influence. Funding allocated to the LTCOP, on any level, should be allocated to LTCOP activities under the direction of the LTCOP leadership (state or local, as appropriate), which itself must be independent of any agency within which its office is housed. LTCCC has submitted comments to the national ombudsman for rules for the operation of state and local entities which we believe are relevant for the state as well. They are available at <http://www.nursinghome411.org/articles/?category=nystateissues>. We are also working on further recommendations specific to New York which we expect to complete in 2014 (these will also be available on the above website).
- iii. **Training.** We recommend that the LTCOP provide training to coordinators and volunteers on MLTC, particularly on what the system is, the changes being put into place and, most importantly, residents' rights.

**3. Financial incentives must be in place and appropriately aligned so that care improves and the public gets a better 'bang for its buck.'**

- a. **Cap profit-taking.** New York should establish a standard medical loss ratio (MLR) for both MLTC plans and nursing homes with a ceiling on administration and profits similar to the MLR standard for health insurers established under the Affordable Care Act.<sup>116</sup>

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<sup>116</sup> According to CMS's Center for Consumer Information & Insurance Oversight, "The Affordable Care Act requires health insurance issuers to submit data on the proportion of premium revenues spent on clinical services and quality improvement, also known as the Medical Loss Ratio (MLR). It also requires them to issue rebates to enrollees if this percentage does not meet minimum standards. MLR requires insurance companies to spend at least 80% or 85% of premium dollars on medical care...." This description is posted on the CMS website at <http://www.cms.gov/CCIIO/Programs-and-Initiatives/Health-Insurance-Market-Reforms/Medical-Loss-Ratio.html>.

- b. **Specify minimum funds to be used for resident care.** New York should set minimum per diem rates (or, as appropriate under MLTC, allocations in premiums) for costs directly related to resident care and services.
- c. **Strengthen quality incentives.** New York should develop meaningful criteria and financial allocations for the next generation of nursing home quality incentives that will incentivize real, system-wide quality improvement.
  - i. Criteria should be broad-based, performance oriented and predicated on achieving good outcomes.
  - ii. The Department of Health must be provided resources and authority to monitor the program and nursing home performance.
  - iii. Sufficient funds should be apportioned to quality incentives to move the system towards one that, as a whole, pays for good care rather than for merely taking in residents.
- d. **Establish performance benchmarks.** The state should develop concrete benchmarks for the MLTC plans regarding quality improvement in nursing home care. New York's nursing homes as a whole have lagged behind other states in terms of quality and efficiency. The state must go beyond a carrot stick approach (such as quality pools) and have measurable and enforceable expectations so that the move to nursing home MLTC does more than provide lip-service to the Governor's goal of improving quality. MLTC plans that do not meet or exceed benchmarks should be required to allocate additional resources to improve quality or face removal from the system.
- e. **Limit add-ons and incentives not related to quality.** While it is important to provide for the financial stability of the provider industry, the state must move away from providing additional monies to providers that do not relate in any way to achieving the standards of care and quality of life that each facility is paid to achieve and to which each resident is entitled. For instance, while the so-called "Universal Settlement," in which providers are expected to be given \$100 million by New York to settle outstanding rate appeals, *might* make sense for the state financially in the short term (to eliminate the ongoing expenditure of DOH staff time and resources necessary to deal with the long list of outstanding appeals), it has no bearing on quality of care and is, fundamentally, of questionable legitimacy. Therefore, *the state should not approve incorporating the Universal Settlement into future rate benchmarks or, worse, guarantee these additional funds on an annual basis, into perpetuity, through some other funding scheme or mechanism.*

The state must go beyond a carrot stick approach... and have measurable and enforceable expectations so that the move to nursing home MLTC does more than provide lip-service to the Governor's goal of improving quality.

4. **Systemic performance must be monitored and assessed.** The Department of Health should be allocated resources and a mandate to conduct an annual assessment of the performance of the MLTC plans and nursing homes in MLTC in terms of quality, access and efficiency. This assessment should be as specific as possible (on the provider level) and be made public via the Department's website.
5. **The transition, and an accounting of its costs and benefits, must be transparent for policymakers and the public.** The New York State legislature should hold hearings after one year to address the effect of MLTC implementation on nursing homes (including on nursing home quality, access and efficiency); the impact, if any, on the effectiveness of DOH monitoring and oversight; and the change, if any, to the numbers of Medicaid Fraud Control Unit and Office of Medicaid Inspector General prosecutions and recoveries.
6. **Consumers must be informed and empowered.** The state (DOH and/or the legislature) should allocate resources and/or funds for a grassroots campaign to educate the public on the changes underway, what will change for them on the "front end" when they access care and their rights in terms of access and choice. The state should also actively seek comments and input from consumers and their representatives, on an ongoing basis during the transition period, on the positive and negative effects of the transition. This should be separate from complaint handling and geared toward getting input on systemically relevant issues.

#### Appendix: NY State Medicaid Fraud Control Convictions: September 2009 – June 2013

The New York State Medicaid Fraud Control Unit (MFCU) is housed in the state attorney general's office. It investigates and prosecutes health care providers and Medicaid administrators who abuse, neglect or mistreat residents in facilities paid to provide nursing and/or personal care services and/or who defraud the Medicaid program. For many years, LTCCC has worked with MFCU and strongly supported its efforts to hold nursing home providers accountable.

Nursing homes who accept Medicare and/or Medicaid agree to meet or exceed the standards laid out in the federal Nursing Home Reform Law (OBRA '87). These standards mandate that every resident (whether or not a beneficiary of Medicaid or Medicare) must receive the care and services necessary to attain and maintain his or her highest practicable physical, mental, and psycho-social well-being.

Fundamentally, when a nursing home fails to provide this minimum level of care and services, it is committing fraud: receiving payment for services that it has failed to provide. When a resident develops a pressure sore because his nursing home did not provide adequate assessment and care, that is fraud. When a resident is told to 'make' in her diaper because there is not enough staff to take her to the bathroom, that is fraud. And when a resident is restrained – physically or with powerful drugs – because the staff does not know any other way to approach her behavioral symptoms of dementia, that is fraud.

**Note:** The following chart contains all of the nursing home convictions reported by MFCU to LTCCC for this time period, not solely those of facilities currently in MLTC.

Nursing Home	Location	Defendant	Narrative	Sentence
United Helpers Nursing Home	Ogdensburg	Borasky, Christine, CNA	Defendant squeezed the hand of a resident so hard that defendant broke the 82 year-old resident's hand.	10/27/2008: Five years probation with the first 90 days in home confinement
Seneca Health Care Center	West Seneca	Jackson, Sheletta, CNA	Defendant failed to follow resident's care plan requiring a two-person assist. When the defendant alone transferred 99 year-old resident from wheelchair to toilet, resident fell and broke her leg. Defendant did not report the incident and did not obtain treatment	10/28/2008: One year conditional discharge with 50 hours of community service

			for the resident.	
Martin Luther Nursing Home	Clinton	Sanchez, Sarah, LPN	For her own use, defendant diverted and stole morphine sulphate prescribed for two nursing home residents.	9/30/2008: Three years probation
Daughters of Sarah Nursing Center	Albany	Wilson, Virginia, CNA	Defendant falsified safety check records by indicating she performed one-half hour safety checks of residents to which she was assigned. Surveillance footage showed Wilson never went near residents' rooms during her shift; one resident had fallen out of bed, sustained a head injury and did not receive timely treatment.	9/15/2008: One year conditional discharge
Gowanda Nursing Home	Gowanda	Austin, Cory, CNA	Austin took resident, who had become agitated and defiant when another staff member tried to give resident medications, to his room. Austin attacked and repeatedly pushed resident to the floor, yelled racial epithets, and pinned the resident to the bed with his knee in the patient's back.	1/13/2009: To be determined.
Bethany Gardens Skilled Living Center	Rome	Thaler, Amanda, CNA	Defendant stole an 89 year-old resident's gold and diamond engagement ring that her husband gave her in 1940. Defendant and her boyfriend, separately charged, pawned the ring for \$15. The engagement ring was recovered and returned to the resident.	1/16/2009: 90 days incarceration
Crouse Community Center, Inc.	Morrisville	Rathbun, Rainey, LPN	Defendant grabbed the face of a 61 year-old resident, who had become combative and spit at the defendant. The defendant grabbed the resident with such force that the resident sustained skin tears and his	3/11/2009: One-year conditional discharge

			wheelchair fell over backwards.	
Northwoods Rehabilitation and Extended Care Facility - Hilltop	Niskayuna	Kozakiewicz, Kimberly, LPN	On multiple occasions, defendant stole medications (controlled substances) from the facility for her own use. She falsified and forged nursing home records to conceal her thefts and also submitted a license renewal document to the NYS Department of Education falsely stating that no facility had fired her.	1/13/2009: Five years probation for the two felony convictions and time served (one day in jail) for the misdemeanor drug possession conviction
Rosa Coplon Jewish Home and Infirmary	Getzville	Penman, Patricia, C N A	The resident became combative while the defendant was assisting the resident. The defendant slapped the resident in the face.	3/5/2009: One-year conditional discharge
Westgate Nursing Home	Rochester	Phillips, Carla, C N A	Defendant stole five personal checks from a nursing home resident, issued the checks to her landlord, boyfriend, and herself, and forged the resident's signature. In total, the defendant stole \$1,700 from the resident.	3/4/2009: Five years probation, seven weekends of jail-supervised work release (community service), and restitution of \$1,700
Bethany Gardens Skilled Living Center	Rome	Stoddard, Sheldon L., Dietary Supervisor	Defendant's girlfriend, a CNA (separately charged and convicted), stole an 89 year-old resident's gold and diamond engagement ring that her husband gave her in 1940. The girlfriend gave the ring to the defendant, who pawned the ring for \$15. The engagement ring was recovered and returned to the resident.	3/18/09: Six months' incarceration
Forest View Center for Rehabilitation	Queens	Paulwell, Daphne, Certified Nurse	Defendant unlawfully restrained a resident by tying a bedsheet across the resident's chest and underneath	6/10/2009: Unconditional discharge

and Nursing		Aide	her arms.	
Gowanda Rehabilitation and Nursing Center	Gowanda	Sovereign, Jeanette P., Licensed Practical Nurse	Defendant failed to report and omitted from business records that a separately charged and convicted CNA unlawfully physically restrained a resident with a gait belt.	4/13/2009: One-year conditional discharge and \$245 fine
Gowanda Rehabilitation and Nursing Center	Gowanda	Perry, Jeff, Certified Nurse Aide	On two consecutive nights, defendant used a gait belt to tie a resident with dementia to a chair.	4/27/2009: One-year conditional discharge--surrender of CNA certificate and \$450 fine
Masonic Care Community of New York	Utica	Marrero, Henry, Certified Nurse Aide	Assigned to care for 99 year-old resident, defendant slapped resident in face three times and one in the lower abdomen.	4/24/2009: One-year conditional discharge--surrender of CNA certificate and right to work in nursing homes
Medford Multicare Center for Living	Medford	Francis, Jacqueline, Certified Nurse Aide	Captured by concealed camera installed in resident's room with consent of resident's family, defendant failed as required to shower resident, obtain assistance for Hoyer lift transfer, and to diaper resident. Defendant falsified business records to conceal her neglect.	5/19/2009: Three years' probation surrender of right to care for any incompetent person
Medford Multicare Center for Living	Medford	Cheslak, Betty, Certified Nurse Aide	Captured by concealed camera installed in resident's room with consent of resident's family, defendant failed as required to perform range of motion therapy, obtain assistance for Hoyer lift transfer, turn and position resident, and to diaper resident. Defendant falsified business records to conceal her neglect.	5/20/2009: Three years' probation--surrender of right to care for any incompetent person

Medford Multicare Center for Living	Medford	Purdum, Kim, Licensed Practical Nurse	After defendant neglected to order necessary blood tests needed to monitor dosages of Coumadin, a blood thinning medication, resident suffered internal bleeding and extensive external bruising. When resident was tested and rushed to the ER, defendant went back into the records and altered them to make it appear as if she had originally included the order.	5/20/2009: Three years' probation--surrender of LPN license and right to care for any incompetent person
Rosewood Heights Health Center	Syracuse	Christian, Chasity, Certified Nurse Aide	Defendant punched a 77 year-old resident in mouth and stomach, causing bruising and swelling to resident's mouth.	4/20/2009: One-year conditional discharge--50 hours of community service
Waterview Hills Rehabilitation and Nursing Center	Purdys	Obas, Pierre, Certified Nurse Aide	Defendant tied resident to her wheelchair with a bedsheet, took her to a common room, turned off the lights, and napped while the resident remained restrained.	4/27/2009: One-year conditional discharge--surrender of CNA certificate
Adirondack Medical Center-Mercy Nursing Home	Franklin	Ette, John, Certified Nurses Aide	Defendant struck an 88 year-old female resident in the face, grabbed her arm, and pushed her back into her wheelchair. The resident sustained bruising on her face and a fractured right clavicle.	7/22/09: Time served (71 days) and completion of anger management program
Kirkhaven	Monroe	Jones, Monique, Certified Nurses Aide	While defendant was assisting an 88 year-old resident into bed, the resident became agitated. Defendant kicked the resident in the area of his rib cage.	7/8/09: Three years probation



Medford Multicare Center for Living	Suffolk	Stumpf, Nichole, Certified Nurses Aide	As revealed by the facility's hallway video recordings the MFCU obtained, defendant and co-defendant Leticia Virgil-Green (see below) transferred a 94 year-old resident from her bed to a wheelchair without using a hoier lift as required by the resident's care plan. The resident complained of pain and two days later an x-ray confirmed that she had a fractured femur. Both defendants provided false written accounts of the incident to the facility.	7/1/09: Conditional discharge
Medford Multicare Center for Living	Suffolk	Virgil-Green, Leticia, Certified Nurses Aide	See above.	7/1/09: Conditional discharge
Our Lady of Consolation Nursing and Rehabiliative Care Center	Suffolk	Lewis, Danielle, Certified Nurses Aide	A 77 year-old resident gave defendant a \$1,700 check for holiday gift cards she wanted to give to staff; defendant stole the money by depositing the check in defendant's bank account without purchasing any cards or returning the money. The investigation uncovered 10 additional checks the resident had written that defendant cashed for her own use.	8/13/09: Three years probation and restitution of \$3,470
Clinton County Nursing Home	Clinton	Spooner, Shane, Certified Nurse Aide	For his own amusement, defendant photographed with his cell phone the genitals of a 49 year-old resident suffering from traumatic brain injury and sent the picture in a text message to a co-worker.	10/23/09: Forty-five days' incarceration, three years' probation, 150 hours of community service, and \$500 fine.

Medford Multicare Center for Living	Suffolk	Miller, Toni, Licensed Practical Nurse	Captured by a concealed camera installed in the resident's room with the consent of the resident's family, defendant administered heart medication to the resident on multiple occasions without first taking, as required by the physician's order, the resident's apical pulse. On several dates, defendant also failed to give the resident required hydration fluids. Defendant, however, falsely recorded in facility records that she both took the resident's apical pulse and administered hydration fluids.	10/16/09: Five years' probation, conditions of which include: surrender of LPN license; exclusion from employment as a caretaker for incompetent individuals; and narcotic and alcohol treatment .
The Pines at Utica Center for Nursing and Rehabilitation	Oneida	Woodson, Rhonda, Certified Nurse Aide	While assisting another CNA help an 80 year-old resident in the shower, defendant flicked the resident's ear and nose, sprayed water up the resident's nose, and slapped the resident's head.	9/16/09: Three years' probation, a condition of which requires defendant to surrender her CNA certificate.
Berkshire Nursing & Rehab	West Babylon	Pelzer, Candice, Certified Nurse Aide	Defendant CNA tied a resident's legs together with a bed sheet. The CNA did not advise anyone of the restraint and left the nursing home at the end of her shift without untying the resident.	1/8/10: Defendant sentenced to a Conditional Discharge with 3 special conditions being that Defendant will: (1) surrender her Certified Nurse's Aide Certificate to this Office by 2/8/10, (2) not seek employment in the health care industry in any capacity for 1 year, and (3) perform 100

				hours of community service. Defendant waived her right to appeal as to the plea and sentence. License Surrendered.
Blossom South Nursing and Rehabilitation Center	Rochester	Harding, Latoya, Certified Nurse Aide	Defendant CNA stole a credit card from a 90-year old resident with dementia and used it to pay her own cable, cellphone and utility bills as well as shop at Wal-Mart and a furniture store, stealing nearly \$2,500.	1/29/10:Thirty-one days of incarceration (time served), five years' probation and restitution of \$2,434.57.
Clinton County Nursing Home	Plattsburgh	Andrews, Dawn, Certified Nurse Aide	Defendant CNA left resident with dementia alone during toileting, in violation of her care plan posted on the resident's door. The resident fell to the floor and suffered a fractured hip.	1/19/10:Three-years' probation, one-hundred hours of community service, \$200 Victim Recoveries and Fined \$500.
Eger Health Care Center of Staten Island	Staten Island	Gallo, Milagros, Licenced Practical Nurse	Defendant LPN, stole multiple pills of Percocet from several residents on multiple dates and forged her co-workers signatures on the facility's medical charts to conceal her thefts.	1/27/10:Three years' Probation.
Folts Home	Herkimer	Tillson, Margaret, Certified Nurse Aide	Defendant CNA struck a 91-year old resident on the nose and back and held the resident's arm. The resident suffered bruising, which was treated with ice.	1/13/10:Fined \$100.
Gowanda Rehabilitation and Nursing	Gowanda	Lewis, Sheila, Certified Nurse	Defendant CNA stole a check from a resident, wrote it out to "Diamonds and Pearls", cashed it at a Tops	1/26/10:Sixty-days incarceration, three-years' probation, \$250

Center		Aide	Market and kept the cash for herself.	fine, \$785 restitution and ordered by court to surrender CNA certificate.
Riverdale Nursing Home	Bronx	Davis, Pamela, Licensed Practical Nurse	Defendant LPN struck a 75-year old resident in the back with her keys and kicked him in the buttocks.	2/8/10: Conditional Discharge with five days community service.
St. Catherine of Siena	Smithtown	LaForest, Roudlie, Certified Nurse Aide	Defendant CNA transferred resident without assistance and the resident fell, resulting in a fractured femur. Defendant put the resident back in bed without reporting the fall or getting medical assistance. Defendant then falsified reports about the incident.	1/21/10: Conditional Discharge. Court took no position on Certificate of Relief from Civil Disabilities. Defendant must apply upon completion of the Conditional Discharge.
San Simeon by the Sound	Greenport	Finley, Donald, Licensed Practical Nurse	Defendant LPN failed to administer a medication to one resident, failed to change a bandage for another resident, and failed to perform a blood sugar test for a third resident. Defendant falsely documented that he did perform the treatments.	1/8/10: Three years probation supervision with the conditions of probation that he surrender his LPN license and not work in the health care field in any capacity during the three year probation term, and submit to psychiatric, drug and alcohol conditions of probation. The Defendant surrendered his LPN license and

				registration and signed an affidavit of license surrender for the NYS Education Department's Office of Professional Discipline. Also two fines of \$750 each and a surcharge of \$205.
San Simeon by the Sound	Greenport	Naeem, Donna, Certified Nurse Aide	Defendant CNA punched an 86-year old resident in the head.	12/18/09: Conditional Discharge with special conditions being that she surrender her CNA certificate, or not renew it, and not seek employment in the health care industry in any capacity. License Surrendered.
Sunset Nursing Home	Boonville	Devoe, Angel, Admissions Coordinator	Defendant, as the Admissions Coordinator for the home, handled the patient incidental accounts. Using her position, she stole checks and cash, made the bookkeeping entries, but never deposited the amounts into the patient accounts. The total loss was over \$6,600.	2/3/10: One-year conditional discharge and restitution of \$6,626.22.
Northwoods Rehab ECC Troy	Troy	Gundersen, Robert Edward, Certified Nurse Aide	CNA fondled the breasts and vaginal area of a 78 year old woman who was physically helpless.	3/16/10: Ten year's probation and ordered to register as a level 2 Sex Offender, Order of Protection issued. Level 2 Sex Offenders must

				register with the Division of Criminal Justice Services, and reregister every three years by filing a new form, appearing at the law enforcement agency where he lives, reporting changes in address and employment.
Medford Multicare Center for Living	Medford	Campo, Nicole, Licensed Practical Nurse	LPN ignored the repeated call bell of an 82 year old resident. As a result, the resident urinated in her bed and became so frustrated that she got herself into her wheelchair and wheeled herself to the nurse's station, where Campo was standing. Campo blamed a young CNA, who was fired, and wrote a false statement to the facility during its investigation. The nursing home's security cameras confirmed the resident's version of events and revealed Campo's statement to be false.	3/25/10: Three years probation with special conditions that she refrain from employment caring for any incompetent person (age, physical disability, or mental disease or defect) and complete a state-approved substance abuse program.
Heritage Park Health Care Center	Jamestown	Blakeslee, Glenda, Certified Nurse Aide	CNA punched an 84 year old resident with dementia, with a closed fist, in the chest.	4/6/10: One-year conditional discharge and ordered to surrender her CNA certificate.

Fairport Baptist Homes	Fairport	Crawford, Glenda, Certified Nurse Aide	LPN slapped a 90 year old wheelchair bound woman with dementia and then wheeled her into an activities room and barricaded the door so that she could not get out of the room.	5/11/10: One-year conditional discharge with 32 hours of community service.
St. Margaret's Center	Albany	Layne, Delilah, Certified Nurse Aide	CNA was charged with two incidents. In the first, while the defendant was feeding a 14-year old child, she slapped the girl's forehead and forced juice down her throat so that juice came out of her nose, later tossing the child into her crib, causing a bruise to her head. In the second incident, she plugged the nose of a 7-year old child, who uses a suction machine, so that he became upset and flailed his arms.	5/19/10: One-year conditional discharge and ordered to surrender her CNA certificate; a surcharge was also imposed
Kaleida Health De Graff Memorial Hospital	North Tonawanda	Zakrzewski, Angela, CNA	The defendant performed a one-person transfer of a 91 year old resident with a mechanical lift in violation of the care plan that required a two-person assist. During the transfer, the lift tipped over and injured the resident.	8/19/2010: One-year Conditional Discharge and 24 hours of community service. Defendant also surrendered her CNA Certificate as part of the plea to the MFCU.
Margaret Tietz Nursing & Rehabilitation Center (MTNHRC)	Queens	Perrier, Marie, CNA	The defendant restrained a resident by using bed sheets to tie the resident to a handrail while the resident was seated in her wheelchair.	8/3/2010: Three years probation.

Medford Multicare Center	Medford	Bryant, Valerie, CNA	The defendant lifted resident who had fallen from the floor and put him back to bed without first getting a registered nurse to assess him for injuries. When the fall was reported by the resident, the defendant denied, in written statement to facility, that she was ever aware that resident had fallen.	8/12/2010: One year probation with narcotics conditions and the special condition that during the period of probation, she must refrain from being employed taking care of any incompetent person whether the incompetence is due to age or to physical disability or mental disease or defect.
Medford Multicare Center	Medford	Butzbach, Christine, CNA	The defendant was seen bringing a resident and a Hoyer Lift into the resident's room and then exiting the room with the Hoyer Lift. The witness told the resident's wife that she believed that the defendant transferred the resident using the Hoyer Lift without the requisite assistance of another caregiver. Investigation revealed that the defendant had done this on other prior occasions as well and that she signed the resident's accountability record for those dates. Defendant admitted to our investigator that she had performed the transfer alone.	8/24/2010: Conditional Discharge and 280 hours of community service. Special conditions include surrendering her certification within one week, must refrain from being employed in any capacity taking care of any incompetent person whether the incompetence is due to age or to physical disability or mental



				disease or defect and provide 3 month updates in which she must provide evidence that she is gainfully employed or in school or both.
Mountainside Residential Care Center	Margaretville	Barnes, Lisa, CNA	The defendant transferred the resident from the floor to her wheelchair without first having the resident assessed for injury.	9/8/2010: Fined \$750 and surrendered her CNA Certification.
Mountainside Residential Care Center	Margaretville	Robertson, Linda, CNA	The defendant transferred the resident from the floor to her wheelchair without first having the resident assessed for injury.	9/8/2010: Fined \$750 and surrendered her CNA Certification.
Northwoods Rehabilitation and ECF	Troy	Abel, Nancy, CNA	Through the use of a hidden camera, MFCU determined that from 2/23/09 through 4/10/09, defendant failed to render care to a resident but indicated in facility records that she had provided this care. Specifically, the defendant was to turn and reposition the resident and check her for incontinence, every two hours during her shift and the recorded evidence revealed that she failed to do so. Further, the defendant documented the medical record to reflect that proper care had been provided when it had not.	8/2/2010: Conditional Discharge; surrender of CNA certification; Fined \$300; Surcharges of \$410 and \$205.

Northwoods Rehabilitation and ECF	Troy	Inyeard, Monique, CNA	Through the use of a hidden camera, MFCU determined that from 2/23/09 through 4/10/09, defendant failed to render care to a resident but indicated in facility records that she had provided this care. Specifically, the defendant was to turn and reposition the resident and check her for incontinence, every two hours during her shift and the recorded evidence revealed that she failed to do so. Further, the defendant documented the medical record to reflect that proper care had been provided when it had not.	8/2/2010: Conditional Discharge; surrender CNA certification; Fined \$300; Surcharges of \$410 and \$205.
Northwoods Rehabilitation and ECF	Troy	Cooper, Cynthia, CNA	Through the use of a hidden camera, MFCU determined that from 2/23/09 through 4/10/09, defendant failed to render care to a resident but indicated in facility records that she had provided this care. Specifically, the defendant was to turn and reposition the resident and check her for incontinence every two hours and the recorded evidence revealed that defendant failed to do so. Further, she documented the medical record to reflect that proper care had been provided when it had not.	8/23/2010: Conditional Discharge; surrender of CNA certification; Fined \$200 and a Surcharge of \$205.
Northwoods Rehabilitation and ECF	Troy	Simpson, Michelle, CNA	Through the use of a hidden camera, MFCU determined that from 2/23/09 through 4/10/09, defendant failed to render care to a resident of Northwoods Rehabilitation and Extended Care Facility but indicated in facility records that she had provided this care. Specifically, the defendant was to turn and reposition the resident and check her for incontinence every two hours and the recorded evidence revealed that she failed to do so. Further, she documented the medical record to reflect that proper care had been provided when it had not.	8/30/2010: Conditional Discharge, must surrender CNA certification within 30 days and fined \$300.

Northwoods Rehabilitation and ECF	Troy	Ingram, Opal, CNA	Through the use of a hidden camera, MFCU determined that from 2/23/09 through 4/10/09, defendant failed to render care to a resident of Northwoods Rehabilitation and Extended Care Facility but indicated in facility records that she had provided this care. Specifically, the defendant was to turn and reposition the resident and check for incontinence every two hours and the recorded evidence revealed that she failed to do so. Further, the defendant documented the medical record to reveal that proper care had been provided when it had not.	8/30/2010: Conditional Discharge, must surrender CNA certification within 30 days and fined \$100.
Sunnyside Care Center	East Syracuse	Dwyer, Thomas, LPN	The defendant, a Licensed Practical Nurse, signed Medication Administration Records without actually dispensing medications to residents in order to hide the fact that he was unable to complete all of his duties during his work shift.	7/22/2010: One-year conditional discharge which includes not working in a nursing home.
Absolut Center for Nursing & Rehabilitation	Endicott	Gulley, Yolanda, CNA	The defendant, knowing that the 83-year old resident was a two-person assist, attempted to reposition the resident without assistance, who fell out of the bed and suffered injuries to her head. Defendant denied knowing how the resident was injured.	12/13/2010: One-year conditional discharge.
Jewish Home of Central New York	Syracuse	Radford, Kelly, LPN	The defendant stole narcotics meant for residents and falsified records stating that the residents had received the medications.	10/8/2010: One-year conditional discharge.

Meadowbrook Care Center	Freeport	Williams, Carolyn, CNA	While the defendant attempted a Hoyer transfer without assistance and falsified the CNA accountability record to conceal that fact. The Hoyer fell upon the resident who received stitches to treat facial lacerations.	9/28/2010: One-year conditional discharge with special conditions of surrendering her CNA certificate and refrain from caring for any incompetent person whether due to age, physical disability, or mental disease or defect.
Medford Multicare Center	Medford	Ellis, Patricia, LPN	The defendant lifted resident who had fallen from the floor without seeking an RN to assess him for injuries and put him back to bed. Did not report incident or initiate requisite paperwork.	10/25/2010: Time Served (defendant served 7 days in jail), surrendered her license, and three years probation with the condition that during the period of probation, she must refrain from being employed taking care of any incompetent person whether the incompetence is due to age, physical disability, mental disease, or defect.
St. Camillus Residential	Syracuse	Pritchard, Stephanie, CNA	The defendant stole jewelry from resident, which her boyfriend, Thomas White, pawned.	10/12/2010: Five-years probation and

Health Care Center				restitution of \$3,150.
Adirondack Tri County Nursing & Rehabilitation	North Creek	Hayes, Brenda, CNA	Defendant struggled with a 98-year old female resident, yelled and grabbed her forearms causing 2" x 1" bilateral bruises on both.	1/26/11: One-year conditional discharge.*
Avalon Gardens Rehabilitation and Health Center	Smithtown	Chi, Tolly, CNA	Defendant performed an unassisted hoyer lift transfer of a severely disabled child resident without obtaining assistance as required by the resident's care plan.	12/22/2010: One-year conditional discharge. *
Finger Lakes Center for Living	Auburn	Fedigan, Janine, CNA	In violation of the care plan, CNA Fedigan transferred an 80-year old resident out of bed alone, took resident to the toilet, and tried to apply his leg brace, which caused the resident to tip over in his wheelchair, hit his head and suffer a skin tear. CNA Fedigan and CNA Peterson picked him up and told resident and his wife not to tell anyone what had happened. CNA Fedigan claimed it happened while the resident was in the bathroom.	2/9/2011: One-year conditional discharge* and surrendered CNA license.
Finger Lakes Center for Living	Auburn	Peterson, Brandy, CNA		2/9/2011: One-year conditional discharge* and surrendered CNA license.
Medford Multicare Center	Medford	Chaudhry, Rima, LPN	The defendant routinely gave the resident heart medication, Digoxin, without first taking his apical pulse to determine whether she should give it and then falsely recorded an apical pulse in his medication administration record.	2/1/2011: A term of 3 years probation with the term that she comply with psychological and narcotics conditions.
Diamond Hill Nursing and Rehabilitation Center (formerly	Troy	Tremper, Jessica, CNA	Defendant falsely documented in the medical record that she turned and repositioned a resident.	3/4/2011: One-year conditional discharge*; 40 hours of community service to be completed by 5/6/11; and

Northwoods Rehabilitation and ECF-Troy)				surrender of CNA certificate.
Rockaway Care Center, LLC	Queens	Laureano, Esmeralda, CNA	The defendant stomped on the chest of an 80-year old resident who was lying on the floor after he refused to follow her instructions to sit in his wheelchair.	3/1/2011: A term of 3 years probation with anger management classes as a condition of probation.
St. Camillus Residential Health Care Center	Syracuse	Valentin, Tabitha, CNA	The defendant stole jewelry from nursing home residents.	2/23/2011: A term of 5 years probation and restitution of \$2,270.
Terence Cardinal Cooke HCC	Manhattan	Quintyne, Coral, LPN	The defendant gave methadone to the wrong resident, who had to be hospitalized. She did not report her error and falsified documents in an attempt to cover it up.	2/4/2011: Six months jail.
Van Duyn Home and Hospital	Syracuse	Quinn, Maura, RN	The defendant failed to respond to requests to assess the increased level of pain a resident was suffering.	12/22/2010: One-year conditional discharge.*
Crest Hall Care Center (also called Lakeview Rehabilitation and Care Center)	Middle Island	Thomas, Tamika, Receptionist	Defendant misused her access to residents' accounts, established for the payment of personal expenses, to steal \$1,465 from several residents over time.	5/9/2011: Conditional Discharge <sup>2</sup> and \$1,465 in restitution.
Ferncliff Nursing Home Co. Inc.	Rhinebeck	Post, Christopher, Certified Nurse Aide	Defendant falsely claimed he assisted another CNA in the transfer of a 94-year old resident, who slipped and suffered a broken arm.	5/5/2011: Unconditional Discharge and the surrender of her CNA

				certificate.
Ferncliff Nursing Home Co. Inc.	Rhinebeck	Thomas, Stephen, Certified Nurse Aide	Defendant transferred a 94-year old resident, who slipped and suffered a broken arm alone and asked another CNA to claim that they transferred the resident together in compliance with the care plan.	4/7/2011: Unconditional Discharge and the surrender of her CNA certificate.
Lily Pond Nursing Home	Staten Island	Ferry, Cynthia, Certified Nurse Aide	CNA was observed by EMT striking 40-year old resident about the head.	3/23/2011: Conditional Discharge, with the condition that she refrain from engaging in any employment in the health care field, and the surrender of her CNA certificate.
Lily Pond Nursing Home	Staten Island	Bernabe, Josefina V., Licensed Practical Nurse	Defendant, while working the evening shift as a Nurse Supervisor, was advised by an EMT worker that he witnessed CNA Ferry strike a 40-year old resident on the head. Defendant told the EMT worker not to report it to protect Ferry from getting in trouble.	3/23/2011: Conditional Discharge, with the condition the she refrain from engaging in any employment in the health care field, and the surrender of her LPN license.
McAuley Residence	Kenmore	Myers, Anne, Certified Nurse Aide	Defendant, working as the Range of Motion aide, filled in her initials on the patient records even though she did not complete the services the resident was supposed to receive.	3/24/2011: \$205 surcharge and the surrender of her CNA Certificate.

Medford Multicare Center	Medford	Coleman, Janet, Licensed Practical Nurse	Defendant was the Unit Manager at the home during the AG's Hidden Camera investigation and falsified the resident's records that she provided treatments to him, including cleaning his g-tube site and ears.	5/19/2011: A term of five-years probation. Conditions of probation include that the defendant may not be employed caring for any incompetent person whether the incompetence is due to age, physical disability, mental disease or defect as well as narcotic and alcohol conditions. The defendant also surrendered her LPN license.
Willow Point Nursing Home	Vestal	Ortloff, Eugene, Licensed Practical Nurse	Defendant forcefully cut the finger nails of an uncooperative resident, causing them to bleed.	4/19/2011: Conditional Discharge and the surrender of her LPN license.
Betsy Ross Rehabilitation Center	Rome	Gantt, Chanda, CNA	After a 73-year old resident spit onto the table during a meal, the defendant scooped it up and fed it back to her.	8/5/2011: One-year conditional discharge; \$750 fine; \$200 surcharge and surrender of her certificate to MFCU by September 1, 2011.



Daleview Care Center	Farmingdale	Kennedy, Kathleen, RN	The defendant failed to properly assess a resident (with a history of falls who had previously suffered a fractured hip) after a fall, failed to properly document the fall and later submitted a false statement that she had no knowledge of the fall.	7/20/2011: A five year term of probation.
Medford Multicare Center	Medford	Pierre, Marie, CNA	During a Hidden Camera Investigation, video surveillance showed that the defendant failed to provide range of motion exercises and failed to change the resident's brief for up to 6 hours.	8/11/2011: Conditional Discharge with Community Service. Condition which includes 60 days incarceration or 280 hours of community service in lieu of incarceration and the community service may not involve medical or health care services. The defendant also executed a written waiver of her right to appeal.
Medford Multicare Center	Medford	George, Paulette Marie, CNA	The defendant was convicted, after a jury trial, of neglecting and endangering four residents in her care as well as falsely documenting the records to cover up her actions. The defendant was seen, on the home's own security cameras, taking the fully-clothed residents to breakfast, never taking them to the showers. In addition, the defendant was convicted of transferring a resident with a Hoyer lift, alone.	8/4/2011: Eight months incarceration, some of which to be served community service, and probation for her convictions.

Medford Multicare Center	Medford	Pierre, Marie, CNA	In the investigation into whether Paulette George (above) was showering the residents in her care, Marie Pierre submitted a false statement in which she falsely claimed that Paulette George showered her residents.	8/11/2011: Conditional Discharge, a condition of which is the performance of 280 hours of community service in lieu of 60 days incarceration.
Northwoods Rehabilitation and ECF-Troy	Troy	Smith, Alicia, LPN	Video surveillance, during a hidden camera investigation, revealed that the defendant falsified the Medication and Treatment Administration Record to reflect care she had not given to the resident.	8/9/2011: A five year term of probation and the surrender of her license.
Beth Abraham Health Services	Bronx	Bain, Dorothy, Registered Nurse	A mentally and physically disabled resident, with a propensity to wander, eloped from the facility while under the care of RN Bain. The facility's video surveillance revealed that the resident was not in the facility during the six hours she documented caring for him and administering medications.	10/17/2011: One-Year Conditional Discharge with the condition being that she surrenders her license and refrain from working in the health care field for the duration of the CD.
Beth Abraham Health Services	Bronx	Williams, Vicky, Certified Nurse Aide	A mentally and physically disabled resident, with a propensity to wander, eloped from the facility while under the care of CNA Williams. The facility's video surveillance revealed that the resident was not in the facility during the 6 hours she documented caring for him.	10/31/2011: One-Year Conditional Discharge with the condition being that she relinquish her certificate and refrain from working in the healthcare field during the duration of the

				Conditional Discharge.
Loretto Health and Rehabilitation Center	Onondaga	Riggall, Mindie, Certified Nurse Aide	CNA stole personal property from multiple residents of the nursing home.	10/26/2011: One-Year Conditional Discharge, Restitution of \$72 and must surrender her CNA certification within 30 days.
Northwoods Rehabilitation and ECF-Troy	Rensselaer	Mayo, Leslie, Licensed Practical Nurse	Hidden Camera Case - the defendant failed to treat bedsores with anti-bacterial medications, but documented Treatment and Medication Administration Records to reflect that she did.	10/12/2011: Five-years Probation; surcharges of \$375 and license was surrendered.
Northwoods Rehabilitation and ECF-Troy	Rensselaer	Sousie, Lisa, Licensed Practical Nurse	Hidden Camera Case - the defendant failed to administer medications, including anti-coagulants and vitamins, and failed to treat bedsores with anti-bacterial medications, but documented Treatment and Medication Administration Records to reflect that she did.	10/12/2011: Three-years Probation; surcharges of \$400 and license was suspended.
Western NYS Veteran's Home	Genesee	Lawrence, Kristina, Certified Nurse Aide	Lawrence falsely documented on the Nourishment Monitoring Sheets of diabetic residents that she had provided the nourishment when other employees of the home found the snacks in either the garbage or unopened in the refrigerators.	10/6/2011: Three-years Probation, surcharge of \$200 and was also ordered to write a letter of apology.

Dr. William O. Benenson Pavilion	Queens	Joiner, Jessie, Licensed Practical Nurse	An 85-year old female resident suffered a fractured hip after the LPN knocked her out of a wheelchair and to the floor, after which the LPN failed to evaluate her or get immediate medical attention. The resident suffered a fractured hip. In addition, the defendant stole Percocet from the supply of narcotics.	3/12/12: The court sentenced the defendant to three-years probation. The defendant also surrendered her license.
Northwoods Rehabilitation and ECF at Cortland	Cortland	Damon, Jennie E., Licensed Practical Nurse	Defendant forcefully administered an insulin injection to a resident without her consent and over her objection.	3/7/12: One-year Conditional Discharge.
Northwoods Rehabilitation and ECF at Cortland	Cortland	Nauseef, Mary, Registered Nurse	Defendant made a false entry in a resident's Nursing Admission/Readmission Assessment and Wound record indicating that the resident had a diabetic ulcer on his foot.	3/7/12: One-year Conditional Discharge
Wayne Center for Nursing & Rehab	Bronx	Perez, Iris, Social Worker	Defendant social worker stole over \$400,000, from a resident suffering from dementia. The money was transferred to accounts in the name of the defendant and her family.	2/23/12: Defendant was sentenced to serve 2 - 6 years in prison and signed a Confession of Judgment in favor of the victim for \$400,000.
Williamsville Suburban Nursing Home	Williamsville	Jones, Laquita Shemik, Certified Nurse Aide	The defendant transferred the victim alone, using a mechanical lift, in violation of the resident's care plan.	2/1/12: One-year Conditional Discharge; \$205 Fine and surrendered her CNA certificate.

Northwoods Rehabilitation and ECF-Troy	Rensselaer	Klein, Gail, Licensed Practical Nurse	Hidden Camera Investigation: LPN failed to provide medication and decubitis care for a 53-yr old disabled resident of NH and falsely indicated in the medical record that care was provided.	3/30/12: Five year and three year terms of probation to run concurrently and defendant surrendered her license.
Rosewood Heights Health Center	Onondaga	Love, Chayla, Food Service Employee	Defendant, a food service worker, posted a picture on her Twitter account of a female resident, suffering from a mental illness, who had partially disrobed, revealing her upper body, in the dining area of the nursing home where she resided.	4/23/12: Fifteen days Jail.
United Helpers Nursing Home	Saint Lawrence	Borasky, Christine, Certified Nurse Aide	Borasky, a C.N.A., grabbed the right hand of a female resident and pressed on it with such force that she fractured the hand.	3/23/12: Re-sentencing: One - three years incarceration. (Admitted that she violated the terms of her probation and was resentenced.)
Beechtree Care Center	Ithaca	Allen, Valerie, Certified Nurse Aide	Defendant stole a credit card from the room of a resident and used it to purchase \$600 worth of merchandise.	9/7/2012: One-year Conditional Discharge and Restitution of \$666.82.
Beechwood Homes	Getzville	Jones, James, Certified Nurse Aide	With his hand, the defendant struck the leg of an 87 year old male resident, who sustained a fractured left femur.	8/15/2012: Eleven days Incarceration and three-years probation.
Pine Haven Home	Philmont	King, Volincia, Certified Nurse Aide	Defendant transferred a resident alone, in violation of the care plan, and also bandaged a laceration to the resident's leg without notifying the appropriate staff. The laceration was later discovered and treated with 7	6/28/2012: One-year Conditional Discharge and surrender of CNA

			stitches.	Certificate.
Roscoe Regional Rehab & Residential HCF	Roscoe	Ackerley, Miranda, Licensed Practical Nurse	Defendant made false entries in five diabetic patients' charts reflecting the results of blood sugar tests that were never administered.	9/6/2012: Three-years probation, conditions of which defendant agreed to surrender her license and refrain from being employed in any capacity pertaining to healthcare, homecare, or caring for the elderly or disabled.
Silver Lake Specialized Care Ctr.	Staten Island	Scano, Kathleen, Registered Nurse	Over the course of four months, defendant signed out Percocet tabs, falsely stating that they were for residents, and kept them for personal use.	6/20/2012: After successful completion of a drug treatment program, the defendant was sentenced to a one-year conditional discharge.
Valley View Manor Nursing Home	Norwich	Prewitt, Virginia, Registered Nurse	The defendant charted that medications were administered to approximately 15 residents and then was observed, via video recording from a surveillance camera, destroying and throwing out the medications.	7/17/2012: Three-years probation and 100 hours of community service.
Williamsville Suburban Nursing Home	Williamsville	Saow, Tweneboa, Certified Nurse Aide	Hidden Camera Investigation: CNA, observed, repeatedly transferring resident alone in violation of care plan.	6/27/2012: One-year Conditional Discharge and surrender of CNA certificate.

The Hurlbut	Rochester	Thomas, Gloria, Business Office Manager	Defendant diverted over \$20,000.00 from the patient fund account for her own use, used the business account to steal \$585 worth of Wegmans gift cards, and stole \$462 worth of money orders from the Hurlbut.	9/24/2012: Five-years Probation and Restitution Ordered of \$22,293.35 (\$10,000 to the Hurlbut and \$12,293.35 to the Insurance Company that previously paid out to the Hurlbut for the loss.) Two restitution orders were signed and filed.
Loretto Health and Rehabilitation Center	Syracuse	Stevens, Celeste, Certified Nurse Aide	The defendant was assigned to give intense supervision to a resident, whose Care Plan required 2-person transfers. Stevens attempted a one person transfer and he fell to the ground. Without telling anyone what happened, she had another CNA help her transfer him into bed and falsely recorded a 2 person assist. After the resident complained of pain it was discovered that he had suffered a fractured right hip.	12/4/2012: One-Year Conditional Discharge <sup>2</sup> .
Medford Multicare Center	Medford	Grayovski, John, Certified Nurse Aide	The defendant transferred an elderly resident without assistance during which the resident fell and suffered a skin tear. The defendant failed to report the incident and covered up the tear with a bootie, later denying the one person transfer. After the tear was discovered, the resident received 13 stitches to treat the wound.	12/12/2012: Three-Years' Probation Supervision with the condition that he not work caring for disabled or incompetent people for three years, and surrender of his CNA certificate.

Pathways Nursing & Rehabilitation Center	Niskayuna	Howard, Elesia, Certified Nurse Aide	While bathing and clothing a 72-year old female resident, the defendant yelled and pinched her breast.	9/26/2012: One-Year Conditional Discharge. Condition being surrender of her CNA certification.
Daughters of Sarah Nursing Center	Albany	Owens, Rashawn, Certified Nurse Aide	While caring for a Daughters of Sarah Nursing Home resident, defendant pushed residents' legs apart while changing the brief, causing a fracture of the residents' right femur. Following surgery, the resident developed respiratory distress and died.	1/2/2013: Forty-Days (Time Served) and Five-years Probation.
Dutch Manor Nursing and Rehab Centre	Schenectady	Montenaro, Jodi L., Business Office Manager	While manager for Dutch Manor Nursing and Rehabilitation Center, Montenaro stole property from the Patient Checking account and then also from a resident. The value of the stolen money exceeded one thousand dollars	1/9/2013; Jail - three weekends; Five-years Probation and Restitution of \$4,450.20.
Lakeside Beikirch Care Center	Brockport	Ford, John, Licensed Practical Nurse	Defendant failed to change the dressing on an 85 year old nursing home patient's PEG Tube (Percutaneous Endoscopic Gastrostomy) and then falsified the patient treatment administration record (TAR) by indicating that he did change the dressing for six consecutive dates in May 2012.	2/13/2013: Three-years Probation and a Fine of \$250.
Sunrise Nursing Home	Oswego	Scanlon-Howland, Johnna, Bookkeeper	The defendant made false withdrawal entries into the accounts of various residents and cashed checks on the Resident Trust Account.	2/8/2013: Five-years Probation, Restitution of \$45,000 and a Fine of \$5,000.
Focus Rehabilitation and Nursing	Utica	Brown, Michele F., Certified Nurse Aide	Defendant struck a resident while providing care. Resident had kicked defendant in the face during care, and the defendant responded by slapping resident in the mouth, punching her on the left cheek & spraying	5/29/2013: One-year Conditional Discharge.



Center at Utica			peri wash in resident's face.	
Glendale Home Schenectady County	Scotia	Sanders, Judith, Registered Nurse	RN at Glendale NH administered narcotic to wrong resident, who required hospitalization. Defendant also failed to administer medications to two other residents on eight separate occasions.	5/14/2013: Fine of \$100 and a conditional discharge to surrender her Registered Nurse License within 30 days.
Guilderland Center Nursing Home	Guilderland Center	Clark, Leonard, Certified Nurse Aide	CNA at Guilderland Ctr NH grabbed and injured the breast of a female resident. Defendant charged with one count each of Endangering the Welfare of a Vulnerable Elderly Person or an Incompetent or Physically Disabled Person, Wilful Violation of Public Health Law and Harassment in the Second Degree. Pled guilty on 1/24/13 to one count Wilful Violation of Public Health Law.	4/4/2013: Three-years Probation and surrender of CNA certificate.
Hamptons Center for Rehab	Southampton	Szydlowski, Nancy, Administrator	Defendant, the former administrator at the Hamptons Center for Rehabilitation and Nursing, had been arrested and charged with three class E felony counts: Falsifying business records in the first degree (PL §175.10), Tampering with physical evidence (PL §215.40(1)(a)) and Offering a false instrument for filing in the first degree (PL §175.35). She endeavored to cover-up the elopement of a resident who was found miles from the facility several hours after she left, by first failing to report the incident and then, after it was reported anonymously, directing her staff to falsify a nursing note while a DOH investigator waited for her to produce the resident's chart to him. She then	6/10/2013: Three-years Probation, Fine of \$2,500 and precluded from caring for any incompetent person.

			produced the falsified note to the DOH investigator.	
James G Johnston Memorial Nursing Home	Johnson City	Baker, Danyelle, Certified Nurse Aide	The defendant stole a cell phone from resident.	5/3/2013: Three-years Probation and Restitution of \$43.19.
Mills Pond Nursing	St. James	Tonsingh, Pauline, Certified Nurse Aide	Defendant, a CNA, wrongfully left resident alone on the toilet and resident fell over and hit her face against the railing. Defendant failed to get an RN to assess resident but instead moved her, dressed her and brought her into the dining room. The resident's eye started to swell and had blood tinged discharge. When asked, defendant falsely asserted both verbally and in writing, that patient was in that condition when she first saw the resident in her bed that morning. X-rays revealed a fractured orbital. Defendant pled guilty to one count of Endangering the welfare of an incompetent or physically disabled person (PHL §2803-d(7) and 12-b(2), a class A misdemeanor.	4/30/2013: Three-years Probation. Other probation conditions include prohibition from being employed and taking care of any incompetent person whether incompetence is due to age, physical disability or mental disease or defect.

Pleasant Valley	Argyle	Vanalen, Tiffany, Licensed Practical Nurse	LPN at Pleasant Valley noted in MARS that Synthroid medication was administered to residents but blister packs show that the medications were not given. Defendant charged in a Felony Complaint with five counts each Falsifying Business Records in the First Degree Class E felony and Wilful Violation of Health Laws, an unclassified misdemeanor. Felony Complaint replaced with Prosecutor's Information charging 5 counts Falsifying Business records in the Second Degree [PL175.05(1)] and 5 counts of Wilful Violation of Health Laws [PHL 12-b(2);2803-d(7)].	5/30/2013: One-year Conditional Discharge; 30 Hours of Community Service; \$348.70 in Restitution; a Fine of \$500 and her LPN license was suspended pursuant to a consent order with the NYS Office of Professional Discipline.
Sunnyside Care Center	East Syracuse	Andrews, Chester, Licensed Practical Nurse	Between March 24, 2011, and April 20, 2011, the defendant signed the narcotics log 24 times indicating that he removed a dose of the narcotic, Percocet, from a blister pack and administered it to resident "A.M." The defendant did not administer the Percocet and admitted converting those doses of the narcotic for his personal use.	4/30/2013: One-year Conditional Discharge and Restitution of \$28.