

LONG TERM CARE (LTC) E- NEWSLETTER – September 2014: Volume 12, Number 8

The [LTC E-Newsletter](#) is a monthly electronic newsletter of the [Long Term Care Community Coalition](#). Note to Readers: To go directly to an article, click on its page number in the Table of Contents. Once you are at the article, click on any underlined text for a link to more information or to send a message in “Spotlight on Advocacy.”

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Please Join Us as an Attendee or Sponsor

- LTCCC’s Annual Event -

Honoring
Mary Jane Koren, M.D.
 October 22, 2014 6-8pm
 Alzheimer’s Association, NYC
 Email sara@ltccc.org or call 212-385-0355 for tickets or more information.

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[Serious Flaws Found in Federal Nursing Home Compare Rating System](#)

On August 24, 2014, [The New York Times](#) published a report on its front page, [Medicare Star Ratings Allow Nursing Homes to Game the System](#), which described how staffing and quality measure information on the [Nursing Home Compare Five Star Rating System](#) are self-reported, largely unaudited and widely understood to generally be inflated by nursing homes. As a result, the rating system is itself inflated due to that erroneous information increasing facilities' overall star ratings.

[LTCCC](#), in partnership with the [Center for Medicare Advocacy](#), [California Advocates for Nursing Home Reform](#) and [Consumer Voice](#), has been working for several years to advocate for improvements to Nursing Home Compare, which we believe is an essential resource for the public. The 2010 Affordable Care Act requires CMS to implement a staffing rating system based on payroll data, not facilities' unaudited self-reporting. Unfortunately, CMS has, to date, failed to implement this system despite the legal mandate.

Our experience indicates that many problem facilities have four or five stars for staffing and quality measures. In addition, we have serious concerns in regard to the validity of the inspection star rating (the other component of the five star system), since numerous studies have shown that nursing home surveyors often fail to appropriately identify nursing home problems, even when those problems cause serious injury or death to residents.

Nevertheless, Nursing Home Compare is, by far, the most reliable resource for evaluating nursing homes. Private entities, such as "A Place For Mom," generally receive payment from the facilities to which they refer people and, thus, are not independent. We encourage the public to use Nursing Home Compare as a basis for further evaluation and to keep in mind the conclusion made in a 2007 study: "...for consumers, performance measurement models are better at identifying problem facilities than potentially good homes." [[Where should Momma go? Current nursing home performance measurement strategies and a less ambitious approach](#)]

Editor's Notes: The Times' article is accompanied by an excellent video which we highly recommend. These were followed on August 25 by an [editorial](#) on the "flawed rating system" and the need to improve Nursing Home Compare. On August 26, Representative Cummings (MD), ranking Democrat on the US House Committee on Oversight and Government Reform, issued a [press release and letter to CMS](#) "...requesting a briefing to address serious concerns that some nursing home facilities are gaming CMS's current "five-star" rating system to mislead consumers about the quality of care they provide."

[<http://www.nytimes.com>]

[CMS Issues Final Rule on Nursing Home Payment Rates & Permissible Uses of Civil Money Penalties \(CMPs\)](#)

On August 5, 2014 CMS issued its final rule for the 2015 Prospective Payment System for Skilled Nursing Facilities in the US. The rule includes a \$750 million increase in payments to nursing homes and final criteria for states' uses of CMPs. This represents a 2% increase for nursing

homes over 2014 rates. This rate increase is 35% higher than the previous year's 1.3% rate increase. In addition to addressing reimbursement rates for 2015, the rule includes final requirements for states' uses of CMPs.

[Click here](#) for links to the CMS fact sheet on the final rule and for LTCCC's briefing paper on the provisions related to permissible uses of CMPs. [Click here](#) for LTCCC's dedicated website page on CMPs and their use to improve resident care and quality of life.

[<http://www.nursinghome411.org/?articleid=10083>]

[End-of-life care: An industry with soaring profits, funded by taxpayers](#)

[As more hospices enroll patients who aren't dying, questions about lethal doses arise](#)

In a series of articles, including two published on August 21, 2014, [The Washington Post](#) has been reporting on the hospice industry in America. The articles detail serious cases of abuse of the hospice system, the resulting personal costs to individuals and families as well as the significant costs to taxpayers.

In the first story highlighted above, *End-of-life care*, the author writes that the boom in hospice care "...has been accompanied by what appears to be a surge in hospices [enrolling patients who aren't close to death](#), and at least in some cases, this practice can expose the patients to the more powerful pain-killers that are routinely used by hospice providers. Hospices see higher revenues by recruiting new patients and profit more when they are not near death."

Following are two of the complaints discussed in the article

In South Carolina, famed college football coach Jim Carlen, who was suffering from Alzheimers but could walk with a walker and speak, died days after entering a hospice as an in-patient because, according to family attorney Eric Bland, Carlen's diabetes and blood pressure medicine were withdrawn and replaced with lethal doses of morphine and klonopin, an anxiety medicine. An attorney for the hospice said they would dispute the allegations.

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In Tennessee, Shalynn Womack has testified to the state legislature about her mother, who had been receiving hospice care under a diagnosis of "failure to thrive." She entered an inpatient hospice for what was supposed to be a brief stay — a "respite" — but died after being given what her daughter called a "toxic cocktail" of morphine and other drugs.

The [second article](#) highlighted above provides some basic facts that the public should know before considering hospice care, including:

1. More than a million patients every year receive hospice care in the United States.

About [66 percent of hospice patients](#) spend their final days at home. Many receive just weekly nursing visits. In 2011, more than 5,300 hospice operations in the United States accepted Medicare, according to the National Hospice and Palliative Care Organization.

2. To [qualify for hospice care](#) under Medicare, a doctor and a hospice medical director must agree that a patient has six months (or less) to live.

Patients must also forsake “curative” treatments, [according to Kaiser Health News](#).

3. End-of-life care is a \$17 billion industry.

Hospice care is now dominated by for-profit companies, Whoriskey [author of *End-of-life care* article] reports. It’s largely supported by the U.S. government; Medicare funded [roughly \\$15 billion of industry revenue last year](#).

Some companies pay \$100-a-head for patient referrals, [according to Bloomberg](#).

4. Patients are staying in hospice care longer — and profits are soaring.

California offers some insight into the industry as a whole. The average length of a stay in California hospice care has increased over the past decade: [Profit per patient quintupled to \\$1,975](#), records show.

5. The number of ‘hospice survivors’ has recently surged.

Companies pad profits [by recruiting patients who aren’t terminally ill](#), Whoriskey reports. And healthier patients require fewer visits while staying enrolled longer. The proportion of patients who were discharged alive jumped about 50 percent between 2002 and 2012, according to a Post analysis.

6. Not all patients receive what doctors consider adequate medical attention during emergencies.

Pain, breathing problems and seizures, for example, sometimes flare up in ways that cannot be controlled without special attention. For those cases, hospices should offer either “continuous” nursing care at home or inpatient care at a medical facility, [Whoriskey reports](#). But about one in six American hospice outfits — serving more than 50,000 of the terminally ill — did not administer crisis care to any patients in 2012, according to an analysis of millions of Medicare billing records.

[Both articles are available at <http://www.washingtonpost.com>.]

[Join Us on October 22nd for LTCCC's Annual Event!](#)

LTCCC will be holding its annual event from 6-8pm on October 22, 2014 at the Alzheimer's Association in New York City. We are proud to be honoring Dr. Mary Jane Koren for her dedication to improving long term care and her support of initiatives to improve care for the frail elderly and disabled at The Commonwealth Fund, The Fan Fox & Leslie R. Samuels Foundation and the NY State Department of Health (among her many contributions to the field).

Last year was our most successful event ever! Please help us continue the momentum by joining us as an attendee, event sponsor or by advertising in our Event Program. For more information [click here](#) or contact Sara Rosenberg by email at sara@ltccc.org or phone 212-385-0355.

We're on the Web!

www.ltccc.org: Our main website, with access to all of our issues, policy briefs and research.

www.assisted-living411.org: For information on assisted living, including consumer issues and policies.

www.nursinghome411.org: For information on developments in nursing home care, regulation and policy issues.

LTCCC Links of Interest

[View](#) the latest enforcement actions against nursing homes in New York State.

[Read](#) the latest edition of LTCCC's quarterly newsletter, *The Monitor*.

LTCCC's dedicated [webpage on antipsychotic drugs and dementia care](#).

LTCCC Reports & Resources

[*Antipsychotic Drug Use in NY State Nursing Homes: An Assessment of Progress in the National Campaign to Reduce Drugs and Improve Dementia Care*](#)

[*NY State Nursing Homes in Managed Long Term Care*](#)

[*The New York State Long Term Care Ombudsman Program: An Assessment of Current Performance, Issues & Obstacles*](#)

[*Piecing Together Quality Long-Term Care: A Consumer's Guide to Choices and Advocacy in New York*](#)

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