

LTCCC MONITOR

Working to improve long term care through research, education & advocacy

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Nursing Home Hidden Camera Investigations: An Innovative Idea

The New York State Office of the Attorney General's Medicaid Fraud Control Unit (MFCU), under the leadership of William J. Comiskey, is the first such unit to obtain criminal convictions based on evidence obtained from undercover surveillance cameras monitoring nursing home care. The use of cameras is an important part of the unit's Nursing Home Initiative, which focuses not only on individuals who abuse or neglect residents but has also examined cor-

“We hope that newly-elected Attorney General Cuomo will carry on these important efforts.”

porate and executive responsibility for poor nursing home conditions.

Since 2000, the current Nursing Home Initiative, which LTCCC worked to bring about through meetings with both the Attorney General and his staff, has secured convictions against two nursing home owners and three nursing homes, sending one owner to state

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2006 Annual Report Card on Government Protection

How did the state and federal governments do last year? Did things get better? Were consumers protected? Read our third annual “report card” to find out how YOUR elected officials and government offices are doing.

LONG TERM CARE COMMUNITY COALITION REPORT CARD	
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President and Congress	D
Centers for Medicare and Medicaid Services (CMS)	C
NY STATE GOVERNMENT	
Governor Pataki	F
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Attorney General Eliot Spitzer	A

Federal Government

President And Congress = D. Nursing home resident protections were largely neglected by the federal government in 2006, despite continued reports of harsh conditions and unnecessary suffering. The Nursing Home Reform Law, introduced by Representative Waxman of California, which would require good minimum standards for nursing home staffing, did not pass either house (see below for what you can do).

In addition, although assisted living is the fastest growing sector of senior housing, frequently providing numerous health and care services, it continues to be completely unregulated by the federal government. As a result, standards vary markedly from state to state and consumers are often unprotected against fraudulent treatment and unsafe conditions.

Centers for Medicare and Medicaid Services (CMS) = C. While we were pleased that the CMS regional office levied civil monetary penalties when New York State could not levy them and urged New York State to begin to propose such fines, we were disappointed that it reduced by 99% a fine against an

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Hidden Camera Investigations...

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prison for up to 12 years. It has secured civil settlements barring two nursing home owners from the nursing home industry and has recovered more than \$8 million in restitution for the Medicaid program. Importantly, the cases have led to corporate compliance agreements requiring the imposition of independent monitors to ensure the quality of future care.

The use of hidden cameras in residents' rooms (with permission of the resident and/or family) began in 2005. Earlier investigations involved many investigators, lawyers and auditors, often for years at a time. These investigations were labor-intensive because past events had to be reconstructed through painstaking analysis of thousands of documents and medical records, coupled with hundreds of interviews and sworn testimony. This new idea of using hidden cameras was innovative: it helped to find problems, often cited by residents and families, more quickly and more definitively.

On November 22, 2006, Attorney General Eliot Spitzer announced the findings of the unit's latest case – a hidden camera in Hollis Park Manor Nursing Home in Queens – which revealed persistent resident neglect and fraud. The medical director of the home was arrested, along with two licensed practical nurses and six nurse aides. In his press release, Attorney General Spitzer said, "Once again, our camera revealed chronic patient neglect and pervasive falsification of care records by nursing home employees."

In this case, the resident involved had a camera installed in his room for a five-week period. As a result, numerous care violations allegedly occurred.

Following are some of the alleged violations: a prescribed twice daily session of range of motion therapy was not given and appropriate pressure sore and incontinence care was also ignored, the resident often went without assistance with eating and drinking, and sometimes went without eating or drinking at all, and the facility failed to administer prescribed medications for seizures, pain, depression and nutrition. In addition, documents were found to be continuously falsified to claim that care had been given when the camera showed that it had not.

The former Medical Director of Hollis Park, Dr. Howard Cohn of Merrick, NY, is charged with endangering the welfare of an incompetent or physically disabled person, willful violation of health laws concerning patient neglect, and felony falsification of business records.

In his statement, Spitzer also said, "Our nursing home patients deserve better. New York's nursing homes, health oversight agencies and health professions must undertake measures to ensure that proper care is delivered by staff and that professional, and certified employees, truthfully document the care actually rendered."

We hope that newly-elected Attorney General Andrew Cuomo will carry on these important efforts to curb abuse and prosecute offenders. □

Do we have your correct contact information?

Please take a moment to check your information on the back cover and email (info@ltccc.org) or call us (212-385-0355) with any changes.

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White Paper on Long Term Care Released

In the last edition of *The Monitor*, a front page article discussed a project we undertook to advise the new governor on long term care. In November, we released and widely distributed our white paper: “Developing a New and Better Long Term Care System In New York State” (go to www.ltccc.org to download). Development of the paper was supported by a grant from the Robert Sterling Clark Foundation.

The current long term care system in New York State is in trouble and in need of reform. It is fragmented in terms of regulations and services; there is a serious lack of housing for those who want to remain in the community as they receive care; and New York lacks an effective workforce policy.

The white paper sets forth a vision that empowers the three central participants in long term care who frequently are the least empowered: consumers, their formal caregivers and informal caregivers. Central to achievement of this goal is the state taking action to facilitate the development of individualized care or service plans that give power to these participants by integrating them into the care planning and delivery processes.

By changing to this focus, the new long term care system should enable consumers to receive care in the settings they need and want and help make sure that there are adequate options in terms of both settings and services.

The white paper lists ten guiding principles focusing on the need to: understand the needs and preferences of the consumer and his informal and formal caregivers; facilitate the ability to remain in the community; make more housing options available; provide adequate and appropriate culturally competent services; recognize informal and formal caregivers as an important part of the long term care system; and

improve the present system to protect current consumers at the same time we move to a new system.

Recommendations, based upon these principles, are broken up into ideas related to the three central participants in the system. Suggestions in the white paper are followed by detailed steps the state should take to make each a reality. Among the suggestions for consumers, the state is urged to: help educate consumers and their caregivers, require a care management process that includes regular meetings with consumers and their caregivers as service plans are developed and evaluated; develop plans to help consumers, who are able to and want to, remain in their own community; assess housing and service needs; develop ways to preserve existing housing; provide more appropriate housing; require culturally competent care; encourage “aging in place;” separate housing and services budgets so that if a consumer wants to change providers, she will not be

evicted; and subsidize rent.

In order to empower and augment a well-trained workforce, the state was urged to: develop and maintain capacity and improve training. Some of the specific steps the state is urged to take are: collect data on reasons why workers want to work in long term care and barriers to working in long term care; redirect HCRA funds to go to providers who can demonstrate they can retain workers and for activities such as supervision training, empowering staff, and helping staff access other benefits such as child care, etc.... Many other suggestions are in the paper itself.

In order to empower informal caregivers, who provide seventy-five percent of all long term care in the state, the state is urged to: assess their needs and preferences; develop support groups; develop ways to give

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DEVELOPING A NEW AND BETTER LONG TERM CARE SYSTEM IN NY STATE

A white paper for the new
administration & state leadership
to facilitate implementation of
policies that better meet the future
needs and preferences of all our
citizens

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Supported by a grant from the Robert Sterling Clark Foundation

White Paper...

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them information; provide crisis intervention counseling; and give them access to respite care.

The paper also describes ways to protect consumers in the present system as the state develops the new system. The state is urged to: increase funds to long term care regulatory agencies so they can hire more trained and experienced inspectors and supervisors; improve the nursing home surveillance system; increase consumer participation in state inspection and monitoring programs; make sure the Office of Mental Health takes responsibility for the mental health needs of people who need long term care; and improve the delivery of long term care.

The paper ends with a discussion of current state initiatives, analyzing whether they will move us towards or away from our vision: the New York Commission on Health Care Facilities in the 21st Century; New York's New Medicaid Waiver Implementing the Federal-State Health Reform Partnership (F-SHRP); Single Point of Entry for Long Term Care; Long Term Care Compact; Olmstead

Activities; Managed Long Term Care; and New York State's Interagency Geriatric Mental Health Planning Council.

The paper has been widely distributed and LTCCC staff has been meeting with state policy makers to discuss implementing the paper's recommendations.

WHAT YOU CAN DO!



Integrate the ideas from the white paper when you write to or meet with your state representatives, so that they know that their constituents believe it is important that consumers and caregivers are treated as important parts of long term care planning and delivery.

See the Action Alert Mailing List in this newsletter for contact information or visit our Long Term Care Citizen Action Center at www.ltccc.org to find the names and contacts for your elected officials. □

The Long Term Care Community Coalition is pleased to acknowledge the following donations made in honor or memoriam:

Blu Greenberg, in honor of Judy Brickman.

Gil Lui, dedicated to Yu-Yin Ruth Liu.

Kevin Fagan, in honor of LTCCC's Executive Director, Richard Mollot.

Honoring or remembering a special individual with a donation to LTCCC is a wonderful way of showing your appreciation in a way that helps thousands of elderly and disabled people who rely on long term care.

LTCCC Study Published in *The Gerontologist*



The December 2006 edition of *The Gerontologist*, a prestigious journal published by The Gerontological Society of America, features an article based on LTCCC's 2006 national report on the use of Civil Money Penalties (see www.ltccc.org for a full copy of the report).

LTCCC directors are listed as co-authors of the article, "The Collection and Use of Funds From Civil Money Penalties and Fines From Nursing Homes," along with Charlene Harrington of the University of California San Francisco and members of her staff, and LTCCC's former public policy intern Meghan Shineman. Dr. Harrington, one of the country's foremost researchers on gerontological issues, collaborated with LTCCC on the original study. □

— NYS Department of Health Expands Nursing Home Website —

The New York State Department of Health has expanded its nursing home profile Website (<http://nursinghomes.nyhealth.gov/>). Consumers can search for information about nursing homes by name, region, county or selected distance within a chosen zip code; identify nursing homes providing special services such as adult day care, respite care or services to children in need of long term care; compare nursing homes on the basis of up to 19 quality measures; and obtain information regarding nursing home inspection reports and complaint investigation history, as well as recent enforcement actions taken



by the Department.

The inclusion of quality measures is an important addition. In order to help the public evaluate the quality of the home, consumers can compare the percent of residents in a specific nursing home who have quality issues to the average percent in the state and in the country. The quality measures available for review include the percent of residents who have pressure sores, lose control of bowels or bladder; have been physically restrained; have increased need for help with daily activity; lose too much weight; and are more depressed or anxious.

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— Anticipating Change Under Governor Spitzer —

Recently elected New York Governor Eliot Spitzer has often made the notable claim that during his first day in office “everything changes.” Change doesn’t come easy, and we are hoping that strong leadership and informed vision will allow for much needed long term care reform as well as continued and strengthened oversight of the current system.

During the campaign, considerable attention was paid to the health care needs of our citizens. In a speech at Senior Action Network Citizen’s Day in Albany he addressed the needs for care reform. He also presented his vision for the ‘Future of Health Care’ in a speech in January (this speech is available online at www.spitzerpaterson.com). During these speeches, he discussed the complexity of reform and the dire



Courtesy of <http://www.ny.gov/governor/photos/index.html>

need for change.

In his “Future of Health Care” speech, Spitzer said, “Without fundamental reforms in our approach to providing health care, the system will collapse under its own weight.” He also spoke specifically to the needs of the elderly during his campaign, discussing many of his ideals during these speeches. He said that, “New York needs to help seniors stay in their homes and, if they can’t stay in their homes, then in affordable housing in their communities.” Taken together, one can see a number of health care priorities emerging under the new governor: an appreciation of the need to improve care

and protections for New Yorkers who need care, an understanding of the importance of facilitating home

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Enforcement Actions Against Nursing Homes

STATE FINES AGAINST 15 NURSING HOMES: 9/16/06 – 12/15/06¹

NAME OF HOME	LOCATION	DATE OF SURVEY	AMOUNT ²
Clinton County Nursing Home	Plattsburgh	4/28/00	\$1,000
Cortland Memorial Nursing Facility	Cortland	7/13/05	\$500
Eden Park Health Care, Inc.	Albany	8/24/00	\$1,000
Eden Park Health Care Center, Inc.	Poughkeepsie	5/17/02	\$2,000
Eden Park Health Care Center, Inc.	Utica	10/27/04	\$1,000
Eden Park Health Care Center, Inc.	Utica	11/3/05	\$1,000
Field Home Holy Comforter	Cortlandt Manor	11/17/00	\$2,000
Field Home Holy Comforter	Cortlandt Manor	6/4/01	\$4,000
Field Home Holy Comforter	Cortlandt Manor	2/21/03	\$1,000
Fishkill Health Related Center	Beacon	6/3/02	\$2,000
Hornell Gardens	Hornell	1/11/06	\$2,000
Kinney Nursing Home	Gouverneur	5/3/01	\$1,000
Kinney Nursing Home	Gouverneur	4/12/02	\$2,000
Kinney Nursing Home	Gouverneur	6/29/05	\$1,000
Maplewood Nursing Home, Inc.	Webster	10/3/02	\$1,000
Rutland Nursing Home Co., Inc.	Brooklyn	4/6/04	\$4,000
The Shore Winds	Rochester	6/14/05	\$2,000
The Shore Winds	Rochester	4/7/06	\$2,000
Tioga Nursing Facility, Inc.	Waverly	8/18/05	\$2,000
Union Plaza Care Center	Queens	12/8/00	\$2,000
Valley View Manor Nursing Home	Norwich	8/26/05	\$5,000

In addition to the actions listed below, the following nursing homes are also subject to a fine. If the nursing home was found, at the time of the survey, to have given substandard quality of care (SQC) and/or to have put residents in immediate jeopardy (IJ), the most serious level of deficiencies, or to have repeated deficiencies that have caused isolated resident harm (G) it is noted in the third column. Double G means the home has received Gs in two consecutive surveys. IJ Removed means the facility was identified to have immediate jeopardy during the survey but removed the situation that caused Immediate Jeopardy prior to the end of the survey.

The State Took Other Action Against 12 Nursing Homes 9/16/06 - 12/15/06¹

NAME OF HOME	LOCATION	IJ, SQC or G	SURVEY DATE	CMP	ACTIONS ³
Albany County Nursing Home	Albany	IJ/SQC	10/28/06	X	State Monitor, DPOC, Inservice, DOPNA
Brookhaven Rehab & HCC	Queens	IJ/SQC	11/13/06	X	State Monitor, DPOC, Inservice, DOPNA
Daughters of Jacob Geriatric Center ⁴	Bronx	GG	7/10/06		DPOC, DOPNA
Daughters of Jacob Geriatric Center	Bronx	IJ/SQC	10/10/06	X	State Monitor, DPOC, Inservice, DOPNA
Eden Park Nursing Home	Cobleskill	SQC	11/7/06		DPOC, Inservice, DOPNA
Evergreen Valley	Plattsburgh	IJ/SQC	9/18/06	X	State Monitor, DOPNA
Harbour Health Multicare Center for Living	Buffalo	IJ/SQC removed	11/8/06	X	DPOC, Inservice, DOPNA
LeRoy Village Green RHCF	LeRoy	SQC	10/27/06	X	DOPNA
Nassau Extended Care	Hempstead	GG	11/7/06		DPOC, DOPNA
Northwoods Rehab and ECF – Hilltop	Niskayuna	IJ/SQC removed	10/3/06	X	State Monitor
Orchard Manor, Inc.	Medina	IJ/SQC	11/14/06	X	State Monitor, DPOC, Inservice, DOPNA
Uihein Mercy Center	Lake Placid	IJ removed	11/14/06	X	
Whittier Rehab and Skilled Nursing Center	Ghent	IJ/SQC	9/20/06	X	State Monitor, DPOC, Inservice, DOPNA

¹ As reported by the Department of Health (DOH). For more detailed information call the DOH FOIL Officer at 518-474-8734 or e-mail – nhinfo@health.state.ny.us.

² Under state law nursing homes can be fined up to \$2,000 per deficiency.

³ Denial of Payments for New Admissions (DoPNA): Facility will not be paid for any new Medicaid or Medicare residents until correction; Directed Plan of Correction (DPOC): A plan that is developed by the State or the Federal regional office to require a facility to take action within specified timeframes. In New York State the facility is directed to analyze the reasons for the deficiencies and identify steps to correct the problems and ways to measure whether its efforts are successful; In-Service Training: State directs in-service training for staff; the facility needs to go outside for help; State Monitoring: state sends in a monitor to oversee correction; Termination means the facility can no longer receive reimbursement for Medicaid and Medicare residents.

⁴ This is an earlier action which was reported to us too late to be included in the last *Monitor*.



Enforcement Actions Against Nursing Homes

CIVIL MONEY PENALTIES¹ AGAINST 3 NURSING HOMES: 9/1/06 – 11/30/06²

NAME OF HOME	LOCATION	SURVEY DATE	AMOUNT
Albany County Nursing Home	Albany	5/8/06	\$7,500.00
Dr. William O. Benenson Rehabilitation Pavilion	Queens	6/22/06 & 7/26/06	\$68,835.00
Livingston County Center for Nursing and Rehabilitation	Mount Morris	7/18/06 & 8/3/06	\$6,565.00

¹ Civil Money Penalties (CMPs) – a federal sanction against nursing homes that fail to comply with quality care requirements.

² As reported by CMS. For more detailed information contact the FOIA Officer at CMS 212-616-2345. This list will be posted on LTCCC's website every three months.

CMS Reduces Fine to a Facility with Repeat Problems

In our summer 2006 edition, we reported that Riverview nursing home in Owego, New York received a civil monetary penalty (CMP) of \$104,500 for giving poor care. What we did not know until after our newsletter was printed was that the federal Centers for Medicare and Medicaid Services (CMS) reduced the \$104,500 fine to \$1000 for “financial hardship” and reduced it further to \$650 because the home waived its right to a hearing. Waiving 35 percent of the fine when the right to a hearing is waived by a facility, is routine and required under federal law. However, reduction due to financial hardship is not. CMS can decide, based upon information supplied by the facility, whether to grant such a reduction or not.

According to NY Department of Health staff, who conducted the survey on which the fine was based and initially proposed the fine, state staff was not involved in the decision to reduce the fine. CMS staff stated that the fine was reduced because of the small size of the facility, the fiscal problems the facility has had due to flooding and the fact that the facility has a new owner.

LTCCC is very concerned about the message sent to facilities when fines are reduced – especially when they are reduced to practically nothing. Riverview has had a number of repeat violations in the years leading up to the \$104,500 fine. We were pleased to

finally see a penalty that might force them to improve. It is interesting to note that after that reduction, another survey found even more problems and the facility was fined an additional \$5000 (reduced to \$3250 when the facility waived the right to a hearing). CMS staff indicated that it did not reduce the \$5000 fine further due to financial hardship to send a message to the facility that there would be no further reductions based on current fiscal issues.

A different decision was made in the case of the Dr. William O. Benenson Rehabilitation Pavilion. In November, the home was fined \$105,900 (reduced to \$68,835 when the home waived the hearing) for putting residents in jeopardy. Although the home requested that the fine be reduced due to economic loss sustained as a result of the two surveys where problems were found, CMS decided not to further reduce the fine “due to the seriousness of the deficiencies cited.”

It is important to understand why and how CMS decides to reduce fines based upon financial hardship. What factors does it take into consideration? Should it not get advice from the state agency overseeing the home?

LTCCC is currently investigating this issue and will keep *Monitor* readers abreast of developments. □

Change Under Spitzer...

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Courtesy of <http://www.ny.gov/governor/photos/index.html>

and community based care whenever possible, and a strong desire to reduce spending. As the administration moves forward, it will be interesting to see how these different challenges are reconciled.

At this time, the exact nature of the new governor's reform plans are unknown. A transition team for health care, chaired by James Tallon, President of the United Hospital Fund, was formed

shortly after the election. Numerous stakeholders are represented on the transition team, many from business and provider interests. A few of the representatives, like Michael Friedman (who contributed to

LTCCC's white paper on the future of long term care), represent the priorities of care recipients. Reports from the transition team are available online at www.transitionny.org.

As of this writing, one of the more important health care appointments has been made: Dennis P. Whalen will serve as Deputy Secretary for Health in the Governor's Office. LTCCC has worked with Mr. Whalen during his tenure as Executive Deputy Commissioner for the State Department of Health during the Pataki administration and we look forward to continuing to work with him in the new administration.



Send a message to Governor Spitzer and let him know that improving quality of life for elderly and disabled long term care consumers should be an important priority for the state, and that the budget should not be balanced on the backs of our most vulnerable citizens. Visit our Long Term Care Citizen Action Center for talking points and to send a free message or see the action alert contact list in this issue for contact information. □

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Action Alert Mailing List

New York State Assembly:

To write to your representative in the Assembly, address your letters to him or her at NYS Assembly, Albany, NY 12248. The general switchboard for the Assembly is 518-455-4100.

In addition to your personal representative, it is important that the following leaders hear from you:

Assemblymember Sheldon Silver, Speaker
speaker@assembly.state.ny.us

Assemblymember Richard N. Gottfried, Chair, Committee on Health
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Assemblymember Steve Englebright, Chair, Committee on Aging
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New York State Senate:

To write to your Senator, address your letters to him or her at NYS Senate, Albany, NY 12247. The general switchboard for the Senate is 518-455-2800.

In addition to your personal senator, it is important that the following leaders hear from you:

Senator Joseph Bruno
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Senator Martin Golden
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Senator Kemp Hannon
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To obtain the names of your personal state government representatives, go to The Citizen Action Center on our website: www.ltccc.org.

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*As of the *Monitor's* printing, agency officials have not been named. Visit our Long Term Care Citizen Action Center at www.ltccc.org for the most current contact information.



NY Long-Term Care “Compact” – Will it Help or Harm Consumers?

The Long-Term Care Compact legislation (Compact) is a proposal aimed at reducing Medicaid spending by creating an option for individuals faced with the need for long term care to protect a portion of their assets and income rather than having to spend down or divest them to qualify for Medicaid to pay for their care.

The methodology for computing the amount of payment can be complex, but generally speaking an individual would pay ½ of their assets, up to a maximum of the cost of three years of nursing home care in their region, plus, when those assets are spent on “qualified” long term care services, they pay 25% of their income into the program, keeping the rest to pay for their living expenses and medical expenses that are not deemed “long term care.” See http://www.scaany.org/resources/documents/holubinka_ltc_compact_000.pdf for an in-depth description of the program, written by one of its key proponents.

From a consumer perspective, there are many concerns regarding the Compact proposal. While the cost of paying for long term is admittedly an important issue, we are troubled by proposals that categorize populations based on their economic status. Also we don’t believe that laws should be passed in a rush for a quick solution to the Medicaid spending issue. The long-term consequences of the Compact could be significant and robust consideration must be given beforehand on how it could affect the lives of so many of our most vulnerable citizens for years to come.

Following are some of the specific concerns LTCCC has regarding the Compact proposal:

1. The Compact essentially privatizes long term care for those who can afford the required pledge and subsequent payments. This signifies a major change in how we as a society, especially in NY State, have approached health care. More and more, states are seeking to provide universal care for their citizens. New York has made policy decisions over the years to use Medicaid as a means to provide healthcare for our most vulnerable people. The Compact proposal turns its back on these important principles.

2. What would happen to the consumers who are receiving care who may not be covered under the Compact: the many people who pay their family members, friends or neighbors for services or who get long term care services informally (e.g., “off the books”)?

3. As a cost-cutting measure, the Compact ignores the elephant in the room: Medicaid fraud. Many millions of dollars are lost every year due to provider fraud. Why are we once again trying to balance the budget on the backs of our most vulnerable citizens?

Does it not make sense – both economically and morally – to focus on combating fraud?

4. Policy should not be predicated on the myth of the millionaire Medicaid recipient. As a May 2005 report by the Georgetown University Long-Term Care Financing Project found, “only a small fraction of individuals who applied for Medicaid, and an even smaller share of those found eligible for Medicaid, transfer assets for the purpose of qualifying for free care under Medicaid.” A Kaiser Commission study released in June 2005 found that, of the elderly most likely to enter a nursing home, the majority don’t have assets sufficient to pay for a single year of nursing home care.

5. The structure of the Compact is complex and difficult to understand, which we believe would lead to confusion for many consumers. Coupled with the fact that the Compact would target people faced with the immediate need for long term care, this sets up a situation ripe for consumer fraud and abuse. Why not give people incentives to plan well in advance of being faced with an emergency? Why put people at the mercy of private interests at the time of their greatest vulnerability?

The NY State Senate passed the Compact proposal last session; leaving it up to the Assembly and governor to take a more careful look before making this radical change to our safety net. The state Assembly conducted a public hearing on the Compact legislation on December 4, 2006. LTCCC was among the speakers who gave oral testimony at the hearing. The Assembly members who conducted the hearing, Health Committee Chair Gottfried, Insurance Committee Chair Grannis and Aging Committee Chair Englebright provided hope that they would assess the Compact proposal stringently. Assemblymember Englebright cautioned that they would not move forward hastily regarding the Compact legislation, and encouraged the drafters and LTCCC to collaborate in creating a proposal that would balance the interests of vulnerable populations as well as the financial concerns regarding Medicaid spending. The Assemblymembers stated that another public hearing would take place in the future to further discuss the Compact legislation.

WHAT YOU CAN DO!

Subscribe to LTCCC’s action alert list by emailing the message “subscribe me to LTCCC’s action alerts” to info@ltccc.org. We will keep people informed about developments, including future hearings and action alerts on our Website. □

Report Card...

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upstate nursing home with repeated offenses because of financial hardship without involving the state in its decision (see full story on Riverview Nursing Home on page 10).

The sponsorship by CMS of a new provider-based nursing home initiative called “Achieving Excellence” was also very disappointing. Though it purports to focus on improving nursing home care, it, in effect, undermines the national minimum standards instituted two decades ago by establishing goals for nursing homes that are far below those standards. Fundamentally, we believe that government agencies should be making sure that consumer protections are enforced, not rewarding the worst nursing homes for being a little less terrible.

On a positive note, CMS’ central office staff was very responsive to LTCCC’s reports on nursing home surveillance (see our Website for copies of these reports) and has been meeting with LTCCC’s directors and staff from the National Citizens’ Coalition for Nursing Home Reform and the Center for Medicare Advocacy. The purpose of these meetings is to work to implement some of our recommendations for improving the effectiveness of nursing home surveillance nationwide.

NY State Government

Governor Pataki = F. In his last year leading the state, Governor Pataki paid little attention to consumer issues: turning his back on legislative efforts to improve nursing homes and failing even to ensure that the assisted living law he signed two years ago went into effect before he left office. In fact, he delayed the publication of proposed assisted living regulations for public comment by refusing to release them. As a result, he has left behind a legacy of ongoing suffering in nursing homes, confusion and lack of oversight in assisted living and an overall environment in which profits take precedence over people.

NY State Department of Health = B. The Department of Health (DOH) has continued to propose the levying of significant numbers and amounts of civil money penalties against nursing homes to CMS this year, a positive development in terms of holding providers accountable when they harm residents. However, issues remain regarding the effectiveness of DOH’s survey and complaint system’s

LONG TERM CARE COMMUNITY COALITION		REPORT CARD
FEDERAL GOVERNMENT		
President and Congress		D
Centers for Medicare and Medicaid Services (CMS)		C
NY STATE GOVERNMENT		
Governor Pataki		F
New York State Department of Health		B
New York State Senate		F
New York State Assembly		B-
Attorney General Eliot Spitzer		A

ability to protect consumers. LTCCC has begun to meet again with DOH to address survey and complaint issues. DOH reviewed the recommendations of LTCCC surveillance reports and has been responsive in a number of important areas. It has begun a new initiative to more frequently inspect nursing homes that have repeat deficiencies at a potential for harm level. We look forward to the outcome of this initiative. In addition, DOH has begun to work with LTCCC to implement some of the recommendations of its report on the use of CMPs which, we hope, will have the effect of improving nursing home care and quality of life. We are glad to see DOH becoming more responsive to consumer concerns and hope that we can work together to make a stronger survey & complaint system in the coming year.

NY State Senate = F. The Senate once again did nothing to protect nursing home residents. While Assembly leaders have been willing to work with consumers to try to find ways to deal with the serious problems that exist in too many New York nursing homes (meeting with LTCCC and others and working on legislation to improve both nursing homes and assisted living), the Senate has shown no interest in any initiative to prevent further harm to people in nursing homes. The Safe Staffing bill, which would require minimum staffing levels in nursing homes, was moribund. Most significantly, the Nursing Home Diversion Act, which would protect people from entering nursing homes with dangerously low staffing, failed to get a single sponsor in the NY Senate. This bill would not affect the state budget, and would merely put into place the same policy currently used by hospital emergency rooms, which divert incoming patients when they don’t have

Report Card...

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sufficient staff or resources to care for them safely. Why don't any NY State Senators think that nursing home residents deserve the same protections as hospital patients? [Note To Readers: Unfortunately, this is the same assessment that the Senate received for 2005. Why Aren't We Demanding More From Our State Senators?!]

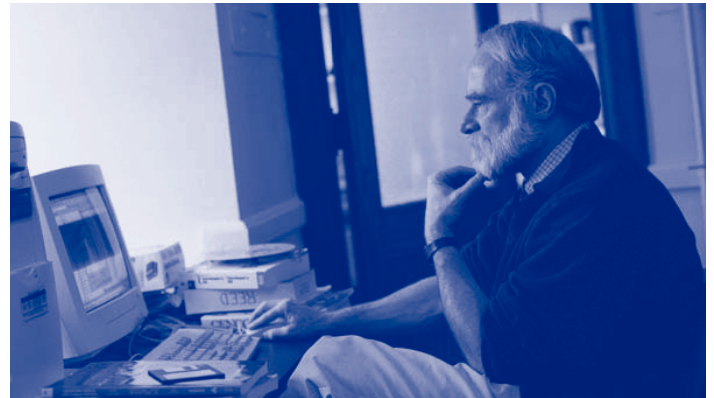
NY State Assembly = B-. There was little movement on the Nursing Home Diversion Act (sponsored by Health Committee Chair Richard Gottfried) this year, disappointing because without it nursing homes continue to be allowed to take in additional new residents no matter how low their staffing or how poorly equipped they are to care for the residents they already have. As in the state senate, the nursing home safe staffing bill continued to be moribund. Perhaps it is time for a new approach to address this important issue? Leaders of the Assembly have been willing to work with LTCCC and other consumers to try to deal with these issues in other ways. They are drafting legislation, with LTCCC, to improve both nursing home and assisted living care. We look forward to these new initiatives in 2007.

Attorney General Eliot Spitzer = A. The Office of Attorney General (OAG) continued to provide the strongest leadership in terms of protecting nursing home residents. The OAG's Medicaid Fraud Control Unit actively investigated nursing home resident care and abuse, and these investigations resulted in real accountability. In 2006, the Attorney General continued its nursing home initiative using hidden cameras at three different nursing homes to charge both direct care and administrative staff with poor care, falsification of medical records and resident abuse. Finding in a number of cases that major problems were caused by inadequate numbers of well-trained staff, the Attorney General released a report that spoke about the importance of staffing levels to resident safety. In addition, a number of cases have recovered significant amounts of state money from Medicaid fraud. We hope that incoming attorney general Andrew Cuomo will build on these accomplishments and that, as governor, Elliot Spitzer will continue his admirable record of protecting our most vulnerable citizens and will consider taking the next step in terms of nursing home staffing: supporting legislation to require decent staffing levels in nursing homes. □

Nursing Home Website...

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The site can be a little complex to navigate. Once you locate a nursing home the four choices you have are: Compare Quality, Map Results, Directory View and Start Over. By clicking on these tabs you get limited information. You can compare facilities in a region by the quality issues discussed above (Compare Quality), you can see where these facilities are on the map (Map Results) and you can get basic contact information (Directory View). You will not get all of the information about the home unless you click on



the name of the individual home. Once you click on the name of the home, you can get data on ownership, occupancy rates, services, inspections, complaints, enforcements and how well the facility performs on the quality measures on a scale of one to five stars.

This rating of nursing homes is a courageous step by the Department of Health and crucial for consumers. However, it is important for consumers to understand that the ratings show only how nursing homes rank in relation to other nursing homes in New York State. The fact that a nursing home is better or worse than other homes may not mean it gives good or poor quality. If all the homes in New York State are doing poorly on a specific measure, those who are better than others will show a higher rating; this will not mean that their quality is good, just better than others in the state.

All in all, we are pleased that the Department has initiated this new site. It gives consumers crucial information. However, we urge consumers to view this site as only one source of information about a home. Consumers need to visit facilities, speak to current residents and families, contact ombusmen programs and advocacy groups and ask questions. LTCCC's nursing home Website, www.nursinghome411.org, is also a good resource for information. □

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