

LTCCC MONITOR

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

www.ltccc.org • SPRING 2010



Annual Report Card on Gov't Protection in LTC

NYS Department of Health (DOH): B

Given this year's extraordinary national and state fiscal problems, we recognize that DOH faced considerable challenges and constraints in fulfilling its

LONG TERM CARE COMMUNITY COALITION	REPORT CARD
NYS Department of Health	B
NYS Governor Paterson	B+
NYS Attorney General Cuomo/MFCU	A
NYS Senate	D+
NYS Assembly	C
NYS Office for the Aging	A-
CMS	B
NYS Medicaid Inspector General	A

mission to protect long term care consumers. Though serious nursing home problems persist, in the face of these challenges, we believe that senior DOH long term care staff put in considerable and valuable effort over the year to improve oversight and protect consumers overall. Since DOH works in a number of areas crucial to long term care consumers, we decided this year to address DOH activities in specific areas:

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LTCCC Examining Federal Oversight of States' Nursing Home Quality Assurance

Under federal law, one of the main responsibilities of the Centers for Medicare & Medicaid Services (CMS) is to ensure that long term care facilities that participate in the Medicare and Medicaid programs are in compliance with federal health and safety standards. To do this, CMS contracts with individual state agencies (e.g., the Department of Health in New York State) and pays them to monitor these facilities by conducting surveys (inspections) of facilities on a regular basis. Federal law requires CMS to monitor a state's performance under this contract in a number of different ways and impose sanctions if necessary.

LTCCC will be releasing a report in the Spring on the ways in which CMS is responsible for overseeing the state agencies that monitor nursing homes. The report will include an assessment of how well it has been doing this in New York State. Our interest in

“Our interest in studying these issues stems from our advocacy work to improve nursing home care...”

studying these issues stems from our advocacy work to improve nursing home care through meaningful enforcement of government standards. By identifying and working to address oversight issues with the various state and federal agencies responsible for enforcement, we believe that we can improve the effectiveness of these agencies and, as a result, the performance of the nursing homes that they oversee.

CMS monitors state performance by utilizing two types of federal surveys and by conducting state program integrity reviews. During “observational” surveys, federal surveyors accompany state surveyors on

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LTCCC Examining Federal Oversight *continued from page 1*

state-run inspections in order to assess state surveyors' performance in conducting surveys adequately and to assess surveyors' adherence to federal regulations. CMS is also required to conduct "comparative" surveys at a small percentage of nursing homes which have previously been inspected by state inspectors. CMS is then required to analyze disparities between the deficiencies cited by federal surveyors and those cited by state surveyors in order to identify the training needs of state agency employees and to see if any sanctions need to be imposed.

In addition to conducting observational and comparative surveys, CMS also conducts state program integrity reviews. During these reviews, CMS examines the overall reliability of the state-run administration of CMS programs; particularly the state's scheduling and surveying procedures and practices, as well as the state's use of managed care principles to maximize efficiency and effectiveness in administering the Medicare and Medicaid programs.

CMS is required to measure state performance against specific standards according to a minimum level of competence criteria. If a state does not meet the minimum level ("threshold criteria"), CMS must impose a "remedy/alternative sanction" or "sanction" against the state for failure to perform its survey and certification functions properly.

Some of the available remedies and sanctions which CMS may impose for inadequate state survey performance range from providing training to state survey teams to reducing federal financial participation to the state agency or terminating the contract agreement between CMS and the state agency. Other, intermediate,

sanctions imposed by CMS include providing technical assistance on scheduling and procedural policies and requiring the State to implement a plan of correction.

LTCCC's final report will present an evaluation of how well CMS has been following the law in terms of its monitoring of New York State's Department of Health nursing home inspection system. It is expected that the report will also address issues and questions regarding the methods CMS uses to oversee states and whether the standards of state performance promulgated by the CMS State Operations Manual are adequate to ensure state compliance. Our next issues of *The Monitor* will present findings from the report, which will be available on our website, www.nursinghome411.org. □

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LTCCC

LONG TERM CARE COMMUNITY COALITION

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

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Nursing Home Quality Pools: Money for Quality

The state fiscal budget for 2009-2010 included and the Governor's proposed executive budget for 2010 - 2011 includes an important change in the way nursing homes are reimbursed for the care they give to Medicaid residents. The new way will focus more on quality outcomes.

This is something for which LTCCC has been advocating for years and its report ("Modifying the Case-Mix Medicaid Nursing Home Reimbursement System to Encourage Quality, Access and Efficiency," supported by a grant from the New York Community Trust, see www.nursinghome411.org) recommends this. The budget, which ends on April 1, included a provision for \$50 million dollars to be separated from the reimbursement funds allocated for nursing homes for the year starting April 1, 2010 to constitute a quality pool to be distributed to nursing homes based upon their ability to give quality care. In addition, a \$125 million quality pool was provided for fiscal year 2011-2012 to go toward both higher quality homes and those that demonstrate improved quality.

LTCCC believes that, from the public's perspective, these are important first steps toward moving the nursing home reimbursement system from one based on facilities' charges for taking in residents to one based upon quality outcomes. We are excited that the Governor, in the face of the current, historic fiscal crisis, has included a pool of \$50 million for this year and \$125 million for next year. The concept of quality pools was a suggestion made to the state by LTCCC.

LTCCC, as the only consumer representative of the state Advisory Committee on Nursing Home Reimbursement, has, during this year, encouraged the providers on the committee to support this idea as well as to support additional criteria for use in selecting the higher quality homes.

If this initiative is passed by the Legislature, discussions will be ongoing with the state, providers and consumer on the Committee on how to structure the pools. The state proposal for the quality pools, as

passed in last year's budget and stated in the Governor's executive budget, is to select nursing homes for the distribution of these quality pools based upon: their numbers of staff (weighing RN numbers heavier than LPNs or CNAs, including contract/agency staff and using self-reported data); their numbers of residents with negative outcomes on four quality indicators (i.e., numbers of residents who lose too much weight) and survey findings. Using our national study findings, LTCCC has suggested adding high staff retention and resident/family satisfaction results; removing contract/agency staff; and using payroll data for staffing information rather than self-reported data.

We are also pleased that the major provider associations in the state are now in support of the concept of quality pools and have agreed with most of our suggestions except for removing contract/agency staff from the numbers of staff. Providers have also suggested using different quality indicators than those suggested by the state and have urged more risk adjustment to these indicators so that providers that have higher levels of negative outcomes on the quality indicators through no fault of their own are not penalized. Risk adjustment is a statistical process used to identify and adjust for variation in resident outcomes that stem from differences in resident characteristics (or risk factors) and not from the quality of care provided by the nursing home. Unfortunately, it is not always easy to make this distinction. LTCCC and the state are considering this additional risk adjustment proposal and how it can be done in a way that is fair to providers while ensuring that residents get appropriate care. We want to make sure that providers that provide poor care – and have bad outcomes – are not rewarded.

The state has also agreed to include a number of the criteria suggested by LTCCC that go beyond what the state had originally proposed. While the first year of the project, if included in the budget, may include

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Quarterly Enforcement Actions Against Nursing Homes

Federal Civil Money Penalties¹ Against 20 Nursing Homes: 9/1/09 – 11/30/09²

Name Of Home	Location	Survey Date	Amount
Adirondack Medical Center-Mercy	Tupperlake	10/1/09	\$2,600 ³
Central Park Rehabilitation and Nursing Center	Syracuse	5/26/09	\$3,750 ⁴
Chase Memorial Nursing Home	New Berlin	7/29/09	\$7,450
Countryside Care Center	Delhi	8/20/09	\$28,695 ³
Dumont Masonic Home	New Rochelle	7/16/09	\$6,500 ³
Elant at Brandywine, Inc.	Briarcliff Manor	9/2/09	\$38,150
Franklin County Nursing Home	Malone	6/26/09	\$3,250 ³
The Hamptons Center for Rehabilitation and Nursing	Southampton	9/16/09	\$6,500 ³
Jewish Home and Hospital Bronx Division	Bronx	6/23/09	\$39,260 ³
John J. Foley Skilled Nursing Facility	Yaphank	5/6/09	\$29,997.50 ³
Loretto-Oswego Health and Rehabilitation Center	Oswego	5/11/09	\$19,110 ³
Loretto Utica Residential Health Care Facility	Utica	4/6/09	\$3,575 ³
NYS Veterans Home at St. Albans	Queens	6/29/09	\$50,175 ⁴
Northwoods Rehabilitation and ECF-Hilltop	Niskayuna	7/1/09	\$46,800 ³
Ontario County Health Facility	Canandaigua	6/1/09	\$4,550 ³
Rosewood Heights Health Center	Syracuse	5/6/09	\$5,500
Sutton Park Center for Nursing and Rehabilitation	New Rochelle	6/18/09	\$32,630 ³
TLC Health Network Lake Shore Hospital Nursing Facility	Irving	7/22/09	\$1,625 ³
Wellsville Manor Care Center	Wellsville	8/6/09	\$4,550 ³
Westmount Health Facility	Queensbury	5/14/09	\$31,297.50 ³

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 212-616-2220. This list will be posted on LTCs website every three months.

³ Amount reflects a 35% reduction as the facility waived its right to a hearing as permitted under law. Original fine was 35% higher.

⁴ Amount reduced 25% due to financial hardship. Original fine was 25% higher.

Selected Enforcement Actions of NYS Attorney General

Medicaid Fraud Control Unit¹ Took Action Against 3 Nursing Home Personnel 9/16/09 - 12/15/09

Nursing Home	County	Defendant	Sentence	Narrative
Clinton County Nursing Home	Clinton	Spoooner, Shane, Certified Nurse Aide	10/23/09: Forty-five days' incarceration, three years' probation, 150 hours of community service, and \$500 fine.	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.
Medford Multicare Center for Living	Suffolk	Miller, Toni, Licensed Practical Nurse	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.	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.
The Pines at Utica Center for Nursing and Rehabilitation	Oneida	Woodson, Rhonda, Certified Nurse Aide	9/16/09: Three years' probation, a condition of which requires defendant to surrender her CNA certificate.	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.

¹The unit prosecutes cases of patient abuse in nursing homes.



Quarterly Enforcement Actions Against Nursing Homes

NY State Fined 15 Nursing Homes: 9/15/09 – 12/15/09¹

Name Of Home	Location	Date Of Survey	Amount ²
Blossom Health Care Center	Rochester	9/4/08	\$2,000
Glendale Home (Schenectady County)	Scotia	5/2/08	\$4,000
Gold Crest Care Center	Bronx	8/26/08	\$4,000
Loretto-Utica Nursing Home	Utica	7/1/08	\$6,000
Medford Multicare Center for Living	Medford	6/12/08	\$2,000
Nathan Miller Center for Nursing Care	White Plains	11/14/08	\$2,000
Northwoods Rehab and Extended Care Facility	Troy	8/20/08	\$6,000
Norwegian Christian Home	Brooklyn	8/6/08	\$4,000
Oceanview Nursing & Rehabilitation Center	Queens	11/26/08	\$2,000
Rosewood Heights Health Center	Syracuse	8/20/08 combined with 10/16/08	\$12,000
Shoreview Nursing Home	Brooklyn	9/17/08	\$2,000
St. Ann's Community (St. Ann's Home of the Aged)	Rochester	9/19/08	\$2,000
St. Camillus Residential Health Center	Syracuse	7/31/08	\$10,000
St. James Plaza Nursing Facility	St. James	10/2/08	\$2,000
Sutton Park Center for Nursing	New Rochelle	9/26/08	\$2,000

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 – foil@health.state.ny.us.

² Under state law nursing homes can be fined up to \$2,000 per deficiency. These fines may be increased to \$5,000 if the same violation is repeated within twelve months and the violations were a serious threat to health and safety. These fines may also be increased up to \$10,000 if the violation directly results in serious physical harm.

The State Took Other Action Against 18 Nursing Homes 9/15/09 - 12/16/09¹

Name of Home	Location	Resident Impact ²	Survey Date	Actions ³
Adirondack Medical Center-Mercy	Tupper Lake	IJ/SQC ⁴	10/1/09	CMP, DPOC, Inservice, DOPNA
Atlantis Rehabilitation and RCF	Brooklyn	IJ/SQC ⁴	10/22/09	CMP, DPOC, Inservice, DOPNA
Blossom North Nursing and Rehabilitation Center	Rochester	IJ/SQC	10/28/09	CMP, Monitor, DPOC, DOPNA
Evergreen Commons	East Greenbush	IJ/SQC ⁴	10/22/09	CMP, DPOC, Inservice, DOPNA
The Hamptons Center for Rehab and Nursing	Southampton	IJ/SQC ⁴	9/16/09	CMP, DPOC, Inservice, DOPNA
Livingston Hills Nursing & Rehabilitation Ctr.LLC	Livingston	GG	11/5/09	DPOC, Inservice, DOPNA
Loretto-Utica Nursing Home	Utica	IJ/SQC	12/16/09	CMP, Monitor, DPOC, Inservice, DOPNA
Morningside House Nursing Home Company Inc.	Bronx	IJ	10/26/09	CMP, Monitor, DPOC, Inservice, DOPNA
Northwoods Rehab and Extended Care Facility	Troy	GG	10/29/09	DPOC, Inservice, DOPNA
Palm Gardens Center for Nursing and Rehabilitation	Brooklyn	IJ/SQC	9/22/09	CMP, Monitor, DPOC, Inservice, DOPNA
Parker Jewish Institute for Health Care & Rehab	Queens	GG	10/16/09	DPOC, Inservice, DOPNA
Putnam Nursing and Rehabilitation Center	Holmes	IJ/SQC	11/9/09	CMP, Monitor, DPOC, Inservice, DOPNA
Rosewood Heights Health Center	Syracuse	GG	12/8/09	DPOC, Inservice, DOPNA
Samaritan Keep Nursing Home, Inc.	Watertown	GG	10/29/09	DPOC, Inservice, DOPNA
St. Josephs Nursing Home Co. of Utica	Utica	IJ/SQC ⁴	12/14/09	CMP, DPOC, Inservice, DOPNA
Stonehedge Health & Rehab Center	Chittenango	IJ/SQC ⁴	10/22/09	CMP, DPOC, Inservice, DOPNA
Sutton Park Center for Nursing & Rehabilitation	New Rochelle	GG	10/7/09	DPOC, Inservice, DOPNA
Union Plaza Care Center	Queens	IJ/SQC	9/25/09	CMP, 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 – foil@health.state.ny.us.

² Immediate jeopardy (IJ), and substandard quality of care (SQC): The most serious level of deficiency causing harm; GG: Deficiencies that have caused isolated resident harm on two consecutive surveys.

³ Civil Money Penalty (CMP): State recommends to CMS; State Monitoring: State sends in a monitor to oversee 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; Denial of Payments for New Admissions (DoPNA): Facility will not be paid for any new Medicaid or Medicare residents until correction.

⁴ Immediate Jeopardy was corrected prior to the end of the survey. State will pursue enforcement.

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Nursing Homes

Inspection and Enforcement: Surveyor identification of problems remains a major problem. Federal surveyors, conducting “look-behind” surveys in 2009, two to three weeks after state surveyors, found 300 percent more deficiencies than state surveyors and rated these deficiencies as more severe. However, we are pleased that DOH is continuing to identify serious problems in nursing homes; the number of homes identified as putting their residents in immediate jeopardy went up from 41 in 2008 to 43 homes in 2009.

LTCCC met with DOH a number of times over the last year raising concerns on the need to better train surveyors to identify problems. On the plus side, DOH staff is aware of the problems and seems to want to work on them. The response to data presented by LTCCC was very positive. DOH asked LTCCC to present a training for surveyors that addressed resident perceptions of the survey process and how surveyors can effectively incorporate resident and family input when they are inspecting a facility. We hope to see major progress next year.

Enforcement of rules and regulations governing nursing homes was up slightly in 2009. The number of state and federal fines increased from 101 to 103 with the amounts collected rising from \$1,072,443 to \$1,413,183. However, the number of homes receiving other actions such as state monitoring, directed plans of correction, etc... was down from a high of 78 to 58.

Consumers in the New York City area report that DOH complaint investigators are very unresponsive to consumers and many complaints are unsubstantiated. According to the DOH’s own website, during the last three years, 27,337 statewide complaints were made to the DOH. Of these, 11,645 were investigated on site. Only 1510 of these resulted in facility deficiencies. This is a substantiation rate of only 13 percent of all complaints investigated on site. If we include all complaints made, the substantiation rate drops to 6 percent. This is very poor.

Reimbursement: DOH staff has been very supportive of the quality pools concept for nursing homes and very responsive to LTCCC’s suggestions about the nursing home reimbursement modifications, agreeing on the need to include staff retention and resident/family satisfaction in the criteria for distributing funds in the quali-

ty pools. We hope to see major changes for the better in the nursing home reimbursement system next year.

Assisted Living/Adult Homes

We were very disappointed to learn that DOH decided not to appeal the assisted living provider lawsuit that overturned many of the state’s protective assisted living regulations, specifically the requirement to have an RN on duty five days a week for monitoring of residents in enhanced and special needs assisted living. [See the article on page 9 of this newsletter for more information on the lawsuit.]

NY Governor Paterson: B+

The governor listened to the voice of the consumers and signed the Nursing Care Quality Protection Act and in so doing has protected the rights of patients in hospitals, nursing homes and diagnostic and treatment centers. In addition, we were very pleased that the governor sustained the quality pools that are a critical component of the planned nursing home reimbursement changes scheduled to begin implementation in 2010. However, we were disappointed that the governor agreed with DOH to not appeal the assisted living provider lawsuit. [See the article on page 9 of this newsletter for more information on the lawsuit.]



NY Governor Paterson (with Lieutenant Governor Richard Ravitch) signed the Nursing Care Quality Protection Act

NYS Attorney General Cuomo/MFCU: A

The Medicaid Fraud Control Unit (MFCU) of the NY Attorney General’s office continued to work diligently and aggressively to investigate nursing home abuse and neglect. One of the highlights of its work in 2009 was the settlement of a major case against the owners, managers and governing body of Jennifer Matthews Nursing Home in Rochester. In the settle-

Report Card 2009 *continued from previous page*

ment signed on July 30, 2009, the governing body accepted full responsibility for the breakdown in systems. It has also committed itself to reviewing and revising all systems and policies at the other nursing homes they operate. The settlement also requires that an independent executive be hired to oversee the implementation of the compliance program and to submit periodic reports to MFCU and DOH. This is a major achievement. We are especially pleased to see a major case in which owners and management were held responsible, not just direct care workers.

NYS Senate: D+

The Senate, overall, has once again been mostly moribund. Our hope that new leadership would lead to much needed progressive action were not fulfilled. Few of the bills important to consumers were passed by the Senate. We were pleased, however, that the new Health Chair, Tom Duane, introduced the Nursing Home Diversion Act and are hopeful that under his leadership (and with the



Torchbearer for Consumer Rights in NY Senate: NY State Senator Tom Duane introduced the Nursing Home Diversion Act.

strength of the aides and senior staff now working on healthcare in the Senate) health care issues consumers will see more progress in the future.

NYS Assembly: C

With a few more exceptions, the Assembly has also been moribund this past year when it has come to protecting New York State's long term care consumers and their families. The Assembly passed the Quality Improvement Act, the Air Conditioning bill for adult

homes and Assemblyman Richard Gottfried introduced a bill to extend protections in the new assisted living law



Longtime Champion of Consumer Rights in NY Assembly: NY Assemblymember Dick Gottfried introduced bills to protect nursing home residents and people in the Assisted Living Program.

UPDATE:
**The Family Health
Care Decisions Act
passed NY Legislature
on February 24th,
awaiting Governor's
signature as *The
Monitor* goes to press.**

to people in "Assisted Living Program" slots. However, the Assembly failed to act on the Family Decision-Making Act in 2009.

NYS Office for the Aging: A-

We were very pleased with the action taken by the LTC Ombudsman, acting as a Patient Advocate, when Northwoods nursing home in Troy filed for bankruptcy. That office carefully monitored the quality of care and reported directly to the federal Bankruptcy Court to provide assurance that the care of the residents did not suffer. Northwoods experienced a swift and significant decline in many areas of resident care. The Patient Advocate and local ombudsman volunteer identified numerous and serious concerns on a daily basis. The Patient Advocate filed an interim report with the Court and the judge called a special meeting of all parties. Based on the Patient Advocate's recommendations in this forum the facility agreed to suspend new admissions until they were back in substantial compliance with all state and federal regulations and the Patient Advocate reported that resident care was improving. Due in large part to the oversight and intervention of Patient Advocate substantial improvements in resident quality of care and quality of life resulted.

The Office for the Aging has increased its focus on the empowerment of seniors, holding a two-day conference titled, Empowering Communities for
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Invitation to Join NY Long Term Care Consumer Conference Call & Listserv

LTCCC now has a consumer listserv and monthly conference call for people concerned about nursing home and assisted living care to discuss issues, share concerns and provide input to LTCCC's advocacy in confidence. **PLEASE NOTE: The listserv and conference call are not open to providers.**



To join the listserv and receive notices of future conference calls, please send an email to richard@ltccc.org. To tell us about problems with a specific nursing home, please fill out a brief survey at <http://j.mp/50olqy> or fill out the questionnaire below and mail it to LTCCC, 242 West 30th St, Suite 306, NY, NY 10001. All input is kept strictly confidential (unless you wish to be contacted).

Your voice and input are important – please consider taking part!

Name & Location Of Facility You Are Concerned About: _____

Please Describe The Issue: _____

If You Wish To Be Contacted, Your Name, Phone Number & Email: _____

— NYS Won't Appeal to Uphold Assisted Living Protections —

LTCCC has learned that NY State will not be appealing the September 11, 2009 court decision by Justice Michael C. Lynch (Supreme Court, Albany County) which granted the request of two assisted living provider lobby associations to strike down several provisions of the state's new assisted living regulations.

Crucial Protections Lost

Most crucial of the nullified provisions, from the perspective of LTCCC and other (non-provider) stakeholders, was the requirement that a facility have at least one full time professional (RN) on staff, in some capacity, if it wants to go beyond basic assisted living licensure and be state-certified to provide special care for people with significant dementia or state-certified to provide "aging in place" (care for individuals with increasing frailty and care needs, approaching that of needing nursing home care) in order to monitor and assess resident stability and safety.

Studies have indicated that the presence of professional nurse staff in an assisted living facility has a major positive effect on resident health outcomes. Because provider representatives, who comprised the overwhelming majority on the state task force that developed New York's assisted living regulations, objected to the idea of having an RN on duty every day (because they felt it would affect their profits), the compromise reached (and promulgated in the state regulations, as described above) only requires providers to have an RN in the facility for a regular (full time) work week (not seven days a week) and permits them to employ the RN in a non-practicing capacity, such as in an administrative position. Despite these compromises, and the tenuous circum-

stance of residents in special needs and enhanced needs, providers sued the state to remove this requirement and Justice Lynch agreed that it put an unfair burden on providers caring for people with special and enhanced needs, went beyond the legislative mandate as written in the law and should thus be nullified.

Language of the Law

It is important to note that the language of the law states: "In approving an application for special needs certification, the department shall develop standards to ensure adequate staffing and training in order to safely meet the needs of the resident. The standards shall be based upon recommendations of the task force established by section five of the chapter of the laws of two thousand four which added this section." Unfortunately, it appears that the judge accepted the cynical argument of the providers that the law was meant to protect their business interests, not the well-being of vulnerable residents.

Though NY Department of Health officials have assured us that facility staffing will still have to be sufficient to meet the needs of each resident's service plan, LTCCC is deeply concerned that without specific requirements for professional staff assisted living residents will now be at risk. We have created places for New Yorkers to "age in place" (stay in the facility as they become more frail) but will they be safe? Residents who are told they can age in place or are promised safe and appropriate care when they have dementia have lost a critical safeguard for insuring that those promises will be kept.

For more information on assisted living quality and oversight visit LTCCC's dedicated website page: www.assistedliving411.org □

Nursing Home Quality Pools *continued from page 3*

only the original criteria proposed by the state, the state has agreed to add the additional suggested criteria such as staff retention and resident/family satisfaction surveys in the second or third year.

A sub-committee of the state Task Force has been meeting via conference call to begin to flesh out the possible changes to the staffing, quality indicators and deficiency findings criteria. LTCCC, as a member, will continue to work on these issues and we believe

that over the next few months, agreements will be reached.

LTCCC thanks the hundreds of people across the state who wrote to the Governor urging him to include nursing home quality pools in his executive budget. He listened to us and we are thankful for all the support! □

Report Card 2009 *continued from page 7*

Successful Aging, at the end of 2008. The conference brought together community leaders, government agencies, housing and senior services providers and other entities serving older adults. However, we are concerned that New York City still does not have a New York Connects program. The Office must decide how to deal with the problem that New York City does not want the contract to provide this service.

CMS: B

The national headquarters has been very responsive to consumer issues around the use of nursing home civil money penalties, agreeing to distribute to all states a memo clarifying how such funds can be used to improve resident care and quality of life. The new memo, which incorporates suggestions by LTCCC and other consumers, was sent in June. In addition, despite pressure from providers, CMS has stood by its Nursing Home Compare system that provides ratings and quality information on every nursing home in the country that participates in Medicaid or Medicare. Though the rating system is not perfect, it is an important and valuable tool for the public to learn about the quality of care provided in nursing homes and make decisions about nursing home placement.

We were pleased that a senior staff member in the regional office presented at an LTCCC Coalition meeting, was responsive to consumer concerns and expressed strong support for enforcing new nursing home quality of life guidelines in the region. However, we are still concerned that the problems with nursing home quality and NY DOH weaknesses (discussed above, under NY DOH) persist in the state despite CMS's responsibility for ensuring that the state conducts effective and comprehensive oversight.

NYS Medicaid Inspector General (OMIG): A

In the few years since it was established, OMIG has come to have an important role in ensuring both quality of care for New York's Medicaid beneficiaries and appropriate use of taxpayer funds. Using cutting edge investigative techniques, including an impressive use of "data mining," OMIG's efforts have resulted in New York leading the country in the percentage of funds recovered from Medicaid expenditures. According to the OMIG website, they have conducted the most audits of any state Medicaid agency. □



Long Term Care Information Offered in English & Chinese

With funding from CAMS/CAIPA Community Service Committee, LTCCC has produced a brochure, written in both English and Chinese, to help the Chinese community of New York City

better understand the long term care system and options available to them. Entitled, "What You Need To Know About Long Term Care," the brochure guides individuals in planning for long term care by suggesting questions individuals should ask themselves such as what their care needs are, where they want to get care, how they want their care given and how they can pay for the care. It also includes a list of individuals' rights, a number of important resources and a detailed table explaining the differences in the types of long term care, costs, eligibility and payment options. Copies have been sent to senior citizen centers and churches serving a Chinese population, borough presidents, consumer organizations and the NYC Department for the Aging. Free copies of the brochure are available on our website: www.ltccc.org.

Thanks go to the advisory committee that helped develop the brochure as well the Asian/American Center of Queens College (with funds provided by Queens Borough President Helen Marshall) which translated the document from English to Chinese. Advisory committee members were: Hong Shing Lee, Chief Operating Officer, Asian American Federation; Isabel Ching, LMSW, Assistant Executive Director, Hamilton-Madison House; Kendra Lee, (formerly) Executive Director, Greater Chinatown Community Association; Fay Chew Matsuda, Program Director, Hamilton-Madison House City Hall Senior Center; Po-Ling Ng, Assistant Executive Director, Chinese-American Planning Council Open Door Senior Center; Kenneth Lam, Principal Community Liaison, Alzheimer's and Caregiver Resource Center, New York City Department for the Aging; Richard Kuo, Executive Director, Homecrest Community Services, Inc. Thanks also to Dr. George Liu for reading and helping to edit a last draft. □

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☐ Please also send a link/a pdf for *The Monitor* to the following e-mail addresses:

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You can make a tax-deductible donation right now with a credit card by going to our website, www.ltccc.org (click on the "Donate Now" button on the right hand side of the page), or you can send a check to LTCCC, 242 West 30th Street, Suite 306, New York, NY 10001.





LONG TERM CARE COMMUNITY COALITION
Working to improve long term care through research, education & advocacy

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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 518-455-4000.

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
gottfr@assembly.state.ny.us

Assemblymember Jeffrey
Dinowitz
Chair, Committee on Aging
dinowij@assembly.state.ny.us

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 Malcolm Smith
Temporary President
masmith@senate.state.ny.us

Senator Pedro Espada, Jr.
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Senator John Sampson
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Senator Ruben Diaz
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Senator Thomas Duane
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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.

FEDERAL OFFICIALS:

To contact your federal representatives visit our action alert center at www.ltccc.org or call the congressional switchboard 202-225-3121.

