Where Does the Money Go?:

Insights and Consumer Perspectives on Nursing Home Profits & Losses

Richard Mollot & Dara Valanejad

The Long Term Care Community Coalition

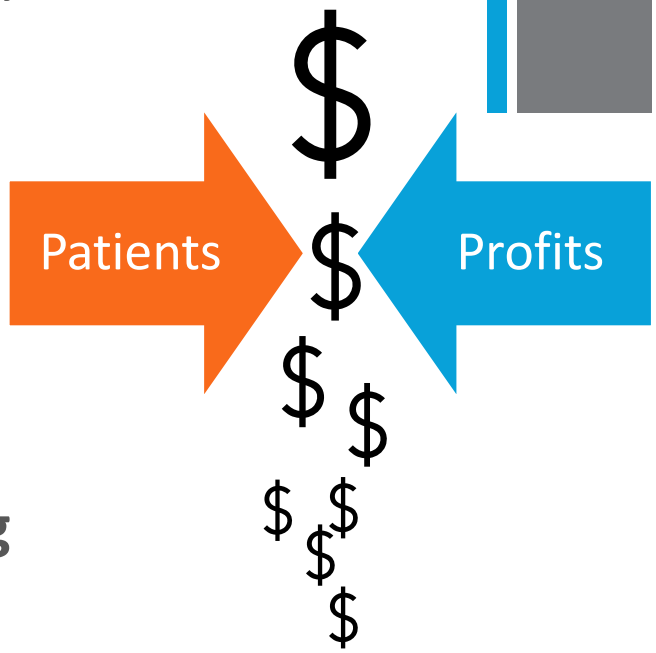
www.nursinghome411.org

What is the Long Term Care Community Coalition?

- **LTCCC**: Nonprofit organization dedicated to improving care & quality of life for the elderly & adult disabled in long-term care (LTC).
- **Our focus**: People who live in nursing homes & assisted living.
- **What we do**:
  - Policy analysis and systems advocacy in NYS & nationally;
  - Education of consumers and families, LTC Ombudsmen and other stakeholders.
- **Partners & Members**: LTC Ombudsman Programs, LTC consumer advocacy organizations, several Alzheimer's Association chapters, other senior and disabled organizations. Also individuals, including ombudsmen, who join in our mission to protect residents.
- **Dara Valanejad**: Joined LTCCC and the Center for Medicare Advocacy in 2017.
- **Richard Mollot**: Joined LTCCC in 2002. Executive director since 2005.
- **Website**: www.nursinghome411.org.

Today's Program

- **Brief Background:** Nursing Home Quality Standards and Industry-Government Relationship
- **Brief Overview:** How Nursing Homes Are Paid
- **Consumer Concerns**
- **MedPAC Report to Congress on Nursing Home Profitability**
- **Low Occupancy and Poor Care**
- **Consumer Recommendations: Medical Loss Ratio**



The Nursing Home System in a Nutshell

- The vast majority of nursing homes participate in Medicaid and/or Medicare. This means that agree to meet or exceed federal minimum standards in order to receive payment for services to Medicare and Medicaid beneficiaries.
- The federal agency, CMS, both oversees nursing home care and pays for it. CMS subcontracts to the states for both payment and oversight.

How Do We Pay for Nursing Home Care?

NOTE: Nursing home payment is complex. Within federal guidelines, state have significant discretion for setting rates. In addition, rates, and rate computation methodologies, differ substantially between Medicare & Medicaid & private pay, among other factors.

What follows is a very brief overview of some essential points.

Models of Payment

- Set fee per day
- Based on the needs of the residents in the facility (case-mix)
- ”Value-based purchasing”/Pay for performance

Models of Payment

Medicaid

- Pays for long-term care
- Covers 60% of nursing home residents
- For further information on Medicaid's role in nursing home care by state, visit www.kff.org. [https://www.kff.org/infographic/medicaids-role-in-nursing-home-care/]
- Average payment: $206 per day (2017)

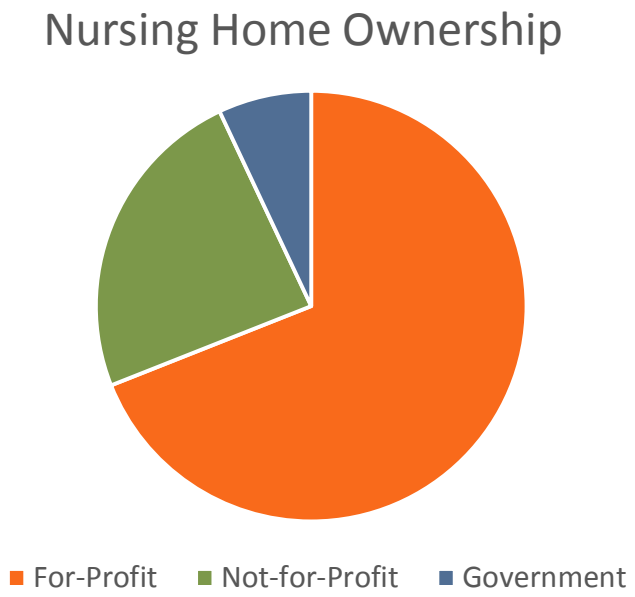
Medicare

- Pays for short-term rehab (does *not* pay for LTC)
- Historically, payment for each individual has been based on the services provided.
- Starting 10/1/19, the country is moving to a new system, called PDPM, in which payment is based on the residents needs, rather than the services provided.
- Average payment: $503 per day (2017)

Consumer Concerns

Do Provider Claims That They Need More $$$ Hold Up…

Nursing home ownership is **increasingly** for-profit and **decreasingly** not-for-profit or government-owned.



Would you invest in an industry in which you would lose money?

… or is the Nursing Home Industry Holding ***Us*** Up?

For decades, nursing home industry lobbyists have responded to concerns about abuse, neglect, and substandard care by claiming that they suffer “Medicaid losses” and “razor-thin margins.”

We believe that the lack of transparency and lack of accountability renders these claims meaningless.

Example of reported nursing home profits, revealed in recent public filings: The Bronx Center for Rehab & Health Care

Note: States can review various aspects of nursing home reported finances when there is a proposed purchase, expansion, or new building.

The following information is from the agenda for the May 16, 2019 meeting of the NYS Public Health & Health Planning Council in regard to an owner's proposal to close two of its facilities and expand a 3rd facility.

Example of reported nursing home profits, revealed in the public filings for The Bronx Center for Rehab & Health Care

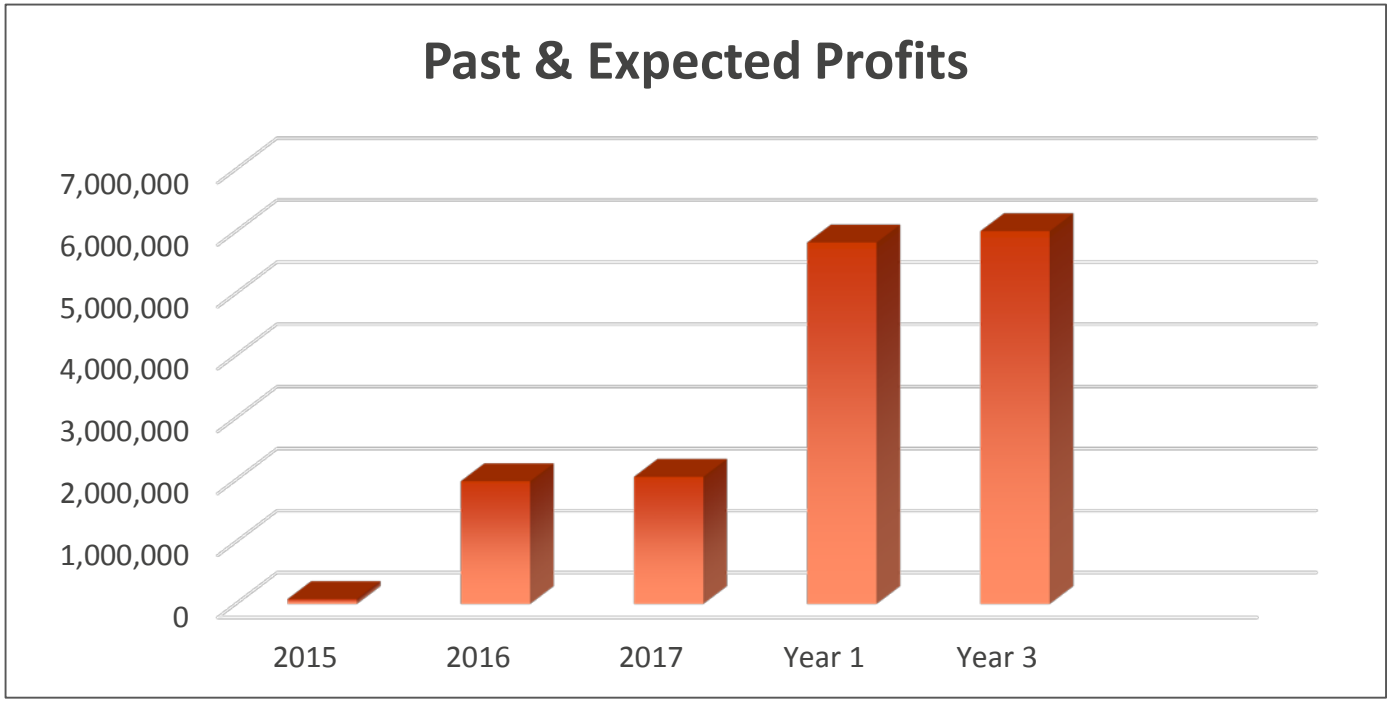
Past Reported Profits

- 2015: 79,201
- 2016: 1,980,603
- 2017: 2,051,506

Expected Future Profits

- Year One: 5, 820,436
- Year Three: 6,004,472

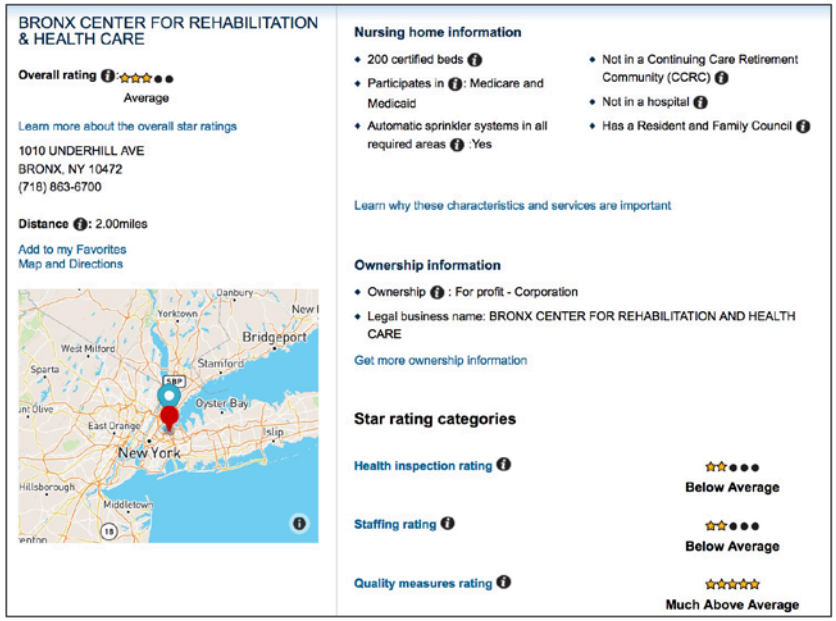
Note: Expected future profits reflect net projected income reported to the state by the nursing home owner.



The Bronx Center for Rehab & Health Care

Federal ratings

Three stars overall rating on NH Compare, based on two stars for staffing, two stars for health inspections, and five stars for quality measures.



BRONX CENTER FOR REHABILITATION & HEALTH CARE

Overall rating: ★★★●●
Average

Learn more about the overall star ratings

1010 UNDERHILL AVE
BRONX, NY 10472
(718) 863-6700

Distance: 2.00miles

Add to my Favorites
Map and Directions

Nursing home information

- 200 certified beds
- Participates in: Medicare and Medicaid
- Automatic sprinkler systems in all required areas: Yes
- Not in a Continuing Care Retirement Community (CCRC)
- Not in a hospital
- Has a Resident and Family Council

Learn why these characteristics and services are important

Ownership information

- Ownership: For profit - Corporation
- Legal business name: BRONX CENTER FOR REHABILITATION AND HEALTH CARE

Get more ownership information

Star rating categories

Health inspection rating	★★●●● Below Average
Staffing rating	★★●●● Below Average
Quality measures rating	★★★★★ Much Above Average

PBJ care staff reported for 2018 Q4

Total care staff hours per resident per day: 3.3
Total RN care staff hours per resident per day: 0.3.

+ Millions of $$$$ Spent on Lobbying

LeadingAge	AHCA/NCAL
■ Federal office assets: $38,187,272.	■ Federal office assets: $31,421,643.
■ NYS office assets: $5,202,105.	■ NYS office assets: $ 5,925,061.
■ Federal leader income: $421,476 + $21,741 add'l compensation.	■ Federal leader income: $1,131,100 + $826,666 add'l compensation.
■ NYS leader income: $156,091 + $176,018 from related organization + $ 44,174 add'l compensation.	■ NYS leader income: $629.520 + $25,992 add'l compensation.

Notes: This information was obtained from IRS 990 forms for 2017 or 2016, as available. LeadingAge represents non-profit and government-owned providers while AHCA is the primary association for for-profit providers. The NYS office (affiliate) of AHCA is NYSHFA.

Lack of Financial Accountability

- Sale/separation of real estate assets
- No limits on related party agreements;
- No accountability for efficient contracting for 3rd party services

MedPAC Report to Congress

MedPAC's March 2019 Report to Congress

- The **Medicare Payment Advisory Commission** (MedPAC) is an independent congressional agency tasked with advising Congress about Medicare issues. The Commission submits two reports to Congress every year. The most recent report from March 2019 shows that the overall state of the nursing home industry remains positive:
  - There were roughly 15,000 nursing homes in 2017, providing services at a cost of $28.4 billion to the Medicare program for beneficiaries in traditional Medicare alone.
  - The number of nursing homes has remained steady, with more nursing homes opening than closing.
  - Access to capital remains adequate and there is "tremendous" investor demand.
  - Although some large national chains are closing facilities, smaller operators with better competitive advantage are entering the market.

MedPAC Report Continued…

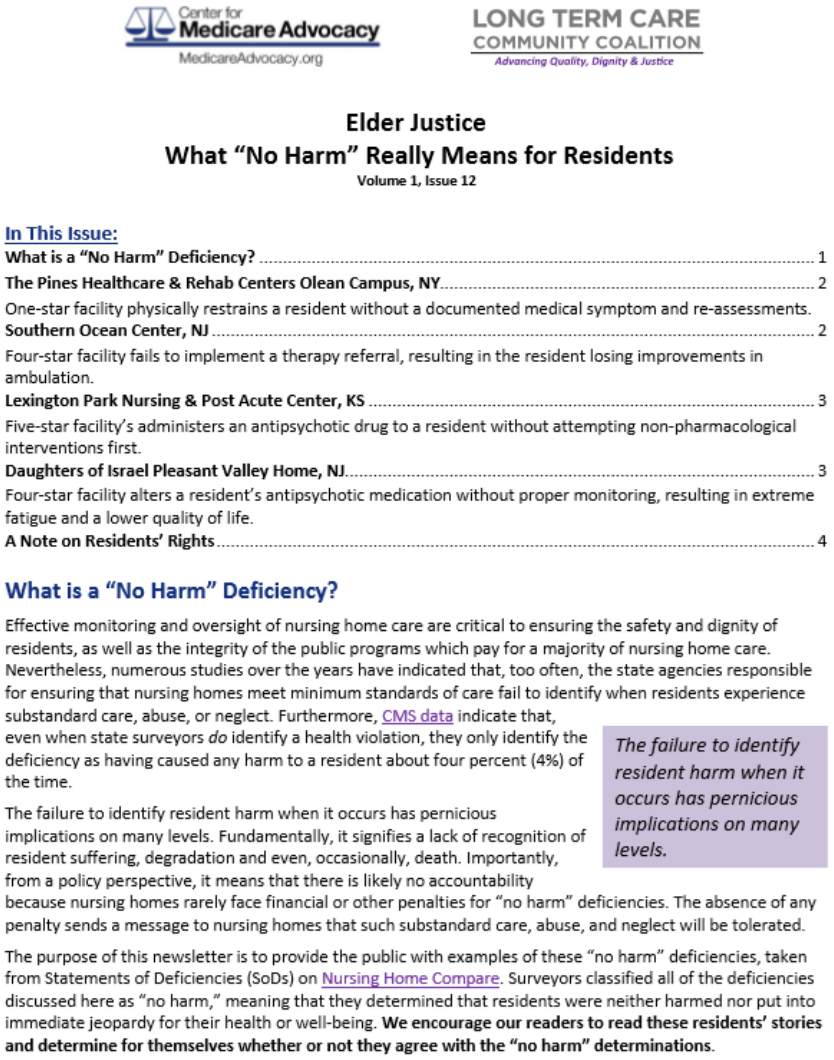
- The aggregate Medicare margin for freestanding facilities in 2017 was 11.2 percent, which is the 18th consecutive year that the margin has been above 10 percent.
- Medicaid rates are actually increasing. The majority of states (34 and the District of Columbia) increased their rates in 2018. 40 states and DC are expected to increase their rates in 2019.
- The total margin in 2017 was .5 percent but this accounts for all payers and all lines of business (nursing homes, home health, hospice, investment, etc.).
- **Low occupancy rates is one reason why total margins have decreased.**

The full report is available at http://medpac.gov/docs/default-source/reports/mar19_medpac_entirereport_sec.pdf?sfvrsn=0.

Low Occupancy & Poor Care

Low Occupancy and Poor Care

- One reason why nursing home occupancy rates have declined may be due to the poor quality of care driving individuals to seek alternative care options.
- Our newsletter, ***Elder Justice: What "No Harm" Really Means for Residents***, highlights some of the most recent nursing home violations.
  - Ex. A facility's inadequate housekeeping and maintenance resulted in a maggot infestation on the resident's scrotum.
  - For more examples, please see https://nursinghome411.org/news-reports/elder-justice/.
- Additionally, the Trump Administration has undertaken a campaign to deregulate nursing homes, further threatening quality of care.



Center for Medicare Advocacy
MedicareAdvocacy.org

LONG TERM CARE COMMUNITY COALITION
Advancing Quality, Dignity & Justice

Elder Justice
What "No Harm" Really Means for Residents
Volume 1, Issue 12

In This Issue:

What is a "No Harm" Deficiency?

Effective monitoring and oversight of nursing home care are critical to ensuring the safety and dignity of residents, as well as the integrity of the public programs which pay for a majority of nursing home care. Nevertheless, numerous studies over the years have indicated that, too often, the state agencies responsible for ensuring that nursing homes meet minimum standards of care fail to identify when residents experience substandard care, abuse, or neglect. Furthermore, CMS data indicate that, even when state surveyors *do* identify a health violation, they only identify the deficiency as having caused any harm to a resident about four percent (4%) of the time.

The failure to identify resident harm when it occurs has pernicious implications on many levels.

The failure to identify resident harm when it occurs has pernicious implications on many levels. Fundamentally, it signifies a lack of recognition of resident suffering, degradation and even, occasionally, death. Importantly, from a policy perspective, it means that there is likely no accountability because nursing homes rarely face financial or other penalties for "no harm" deficiencies. The absence of any penalty sends a message to nursing homes that such substandard care, abuse, and neglect will be tolerated.

The purpose of this newsletter is to provide the public with examples of these "no harm" deficiencies, taken from Statements of Deficiencies (SoDs) on Nursing Home Compare. Surveyors classified all of the deficiencies discussed here as "no harm," meaning that they determined that residents were neither harmed nor put into immediate jeopardy for their health or well-being. **We encourage our readers to read these residents' stories and determine for themselves whether or not they agree with the "no harm" determinations.**

Low Occupancy and Poor Care Continued…

- CMS's most recent proposed rulemaking would revise the definition of **group therapy** to allow six residents, instead of four, to participate in a group therapy session. If finalized, the rule would place even more residents at risk of not receiving individualized care.

- While CMS limits group therapy to 25 percent of a resident's therapy regimen, by discipline, CMS has made clear that there will be no punishment for exceeding the limit. As a result, nursing homes will have a financial incentive to place even more residents in cheaper group therapy sessions, rather than individual therapy, to pocket more of the reimbursement.

- LTCCC has written comments opposing the proposed rule. To read our comments, please visit: https://nursinghome411.org/comments-proposed-nursing-home-payments-for-2020-use-of-group-therapy/.

Recommendations

LTCCC's Recommendation: Medical Loss Ratio

- **What is a Medical Loss Ratio?** It simply means that nursing homes would be required to designate a certain percentage of public reimbursement for direct care services.
- By placing an appropriate cap on the amount of money that a nursing home may use to pay for non-health expenses, such as administrative costs, more money would be available for hiring additional staff and improving resident care.
- For more information, please see https://nursinghome411.org/consumer-statement-nursing-home-payment-accountability/.

LONG TERM CARE COMMUNITY COALITION | Center for Medicare Advocacy | CANHR | JUSTICE IN AGING | CONSUMER VOICE

BEFORE INCREASING NURSING HOME REIMBURSEMENT
LET'S FOCUS ON SAFETY & ACCOUNTABILITY

Background. Nursing home industry representatives claim that low Medicaid reimbursement is the reason for the substandard care experienced by too many residents. Their solution is to give more taxpayer dollars to nursing homes. However, since there is little accountability for how public funds are used, how can we be sure that facilities will actually use additional public funds to improve resident care?

In fact, despite the billions of public dollars currently spent on nursing home care, far too many residents face preventable and treatable problems, including inappropriate antipsychotic drugging, unnecessary infections, and avoidable pressure ulcers. Without meaningful oversight of how public money is spent and proper enforcement of the federal requirements, simply increasing Medicaid reimbursements will not improve resident care.

Lack of Oversight of Public Payments for Care. Nursing homes face little oversight over how Medicare and Medicaid funds are used. Nursing homes too often routinely hide profit and depress their balance sheets through related party transactions, self-dealing, and complex corporate ownership. For example, *The New York Times* recently reported that nearly three-quarters of nursing homes outsource goods and services to companies they control or in which they have a financial interest. These nursing homes tend to "have fewer nurses and aides per patient, they have higher rates of patient injuries and unsafe practices, and they are the subject of complaints almost twice as often as independent homes."

Lack of Enforcement of Standards of Care. In addition to the lack of oversight, the majority of health care violations in nursing homes are inaccurately described as having caused "no harm" to residents' health, safety, or well-being. Too often, no-harm violations do not reflect the real pain, suffering, and humiliation that residents experience: maggot infestations, bruises, pressure sores, and sexual assaults, to name just a few. The failure to identify resident harm means that there is likely no accountability for these violations of residents' rights because nursing homes rarely face financial penalties unless harm is identified. Sadly, this longstanding problem with enforcement is being compounded by the Trump Administration's efforts to roll back nursing home requirements and weaken the imposition of civil money penalties, even when egregious conduct is uncovered.

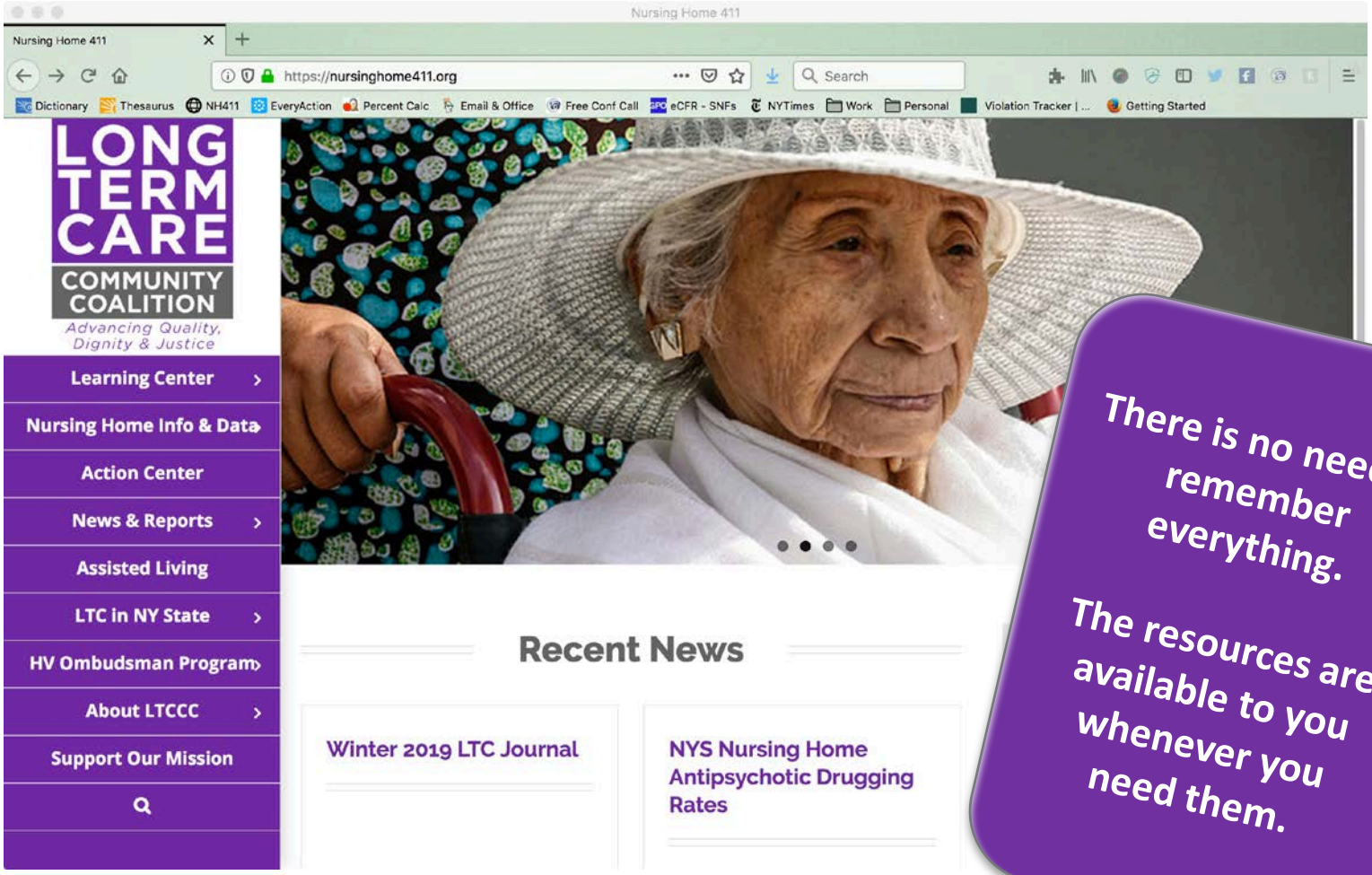
Our Solution. Before considering giving nursing homes more taxpayer dollars, let's first improve oversight of how nursing homes use funds currently allocated for resident care and increase enforcement of the nursing home standards of care. Residents and taxpayers deserve to know where their money is going and that public funds are appropriately directed. Nursing homes must not be given additional funds until their corporate consolidated financial statements are made public and audited. If results show money is being directed away from resident care, one solution is placing a non-care cap on how much money nursing homes can direct to administrative costs and profit. Placing a cap on administrative costs and profit means that more public money will be freed to go where it should: direct resident care. Then, and only then, can we determine whether Medicaid reimbursements should be increased.

To learn more about the current state of nursing home care, please see
Nursing Home Residents at Risk: A Briefing for Members of Congress

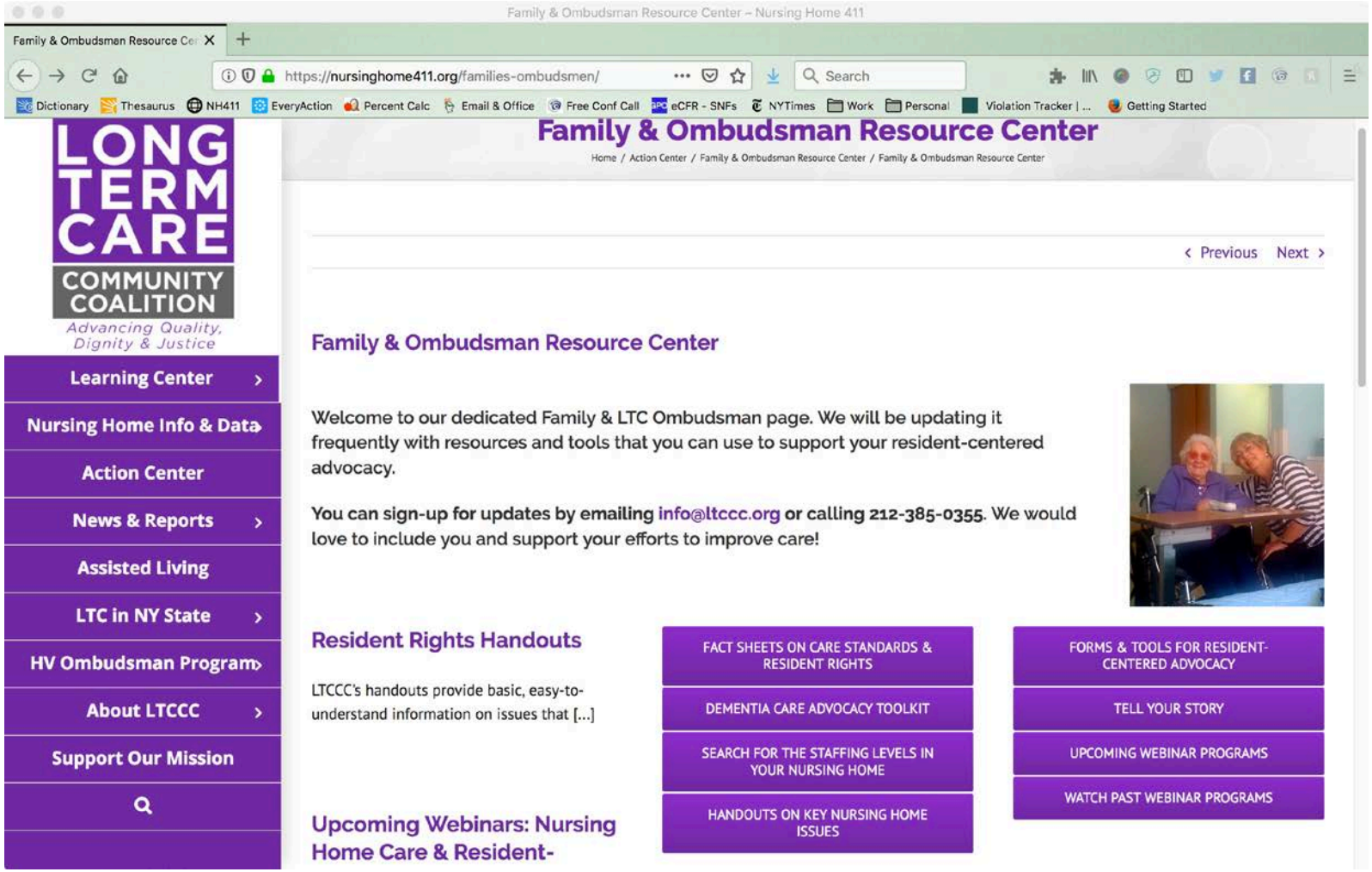
NursingHome411.org | MedicareAdvocacy.org | CANHR.org | JusticeInAging.org | TheConsumerVoice.org

Resources

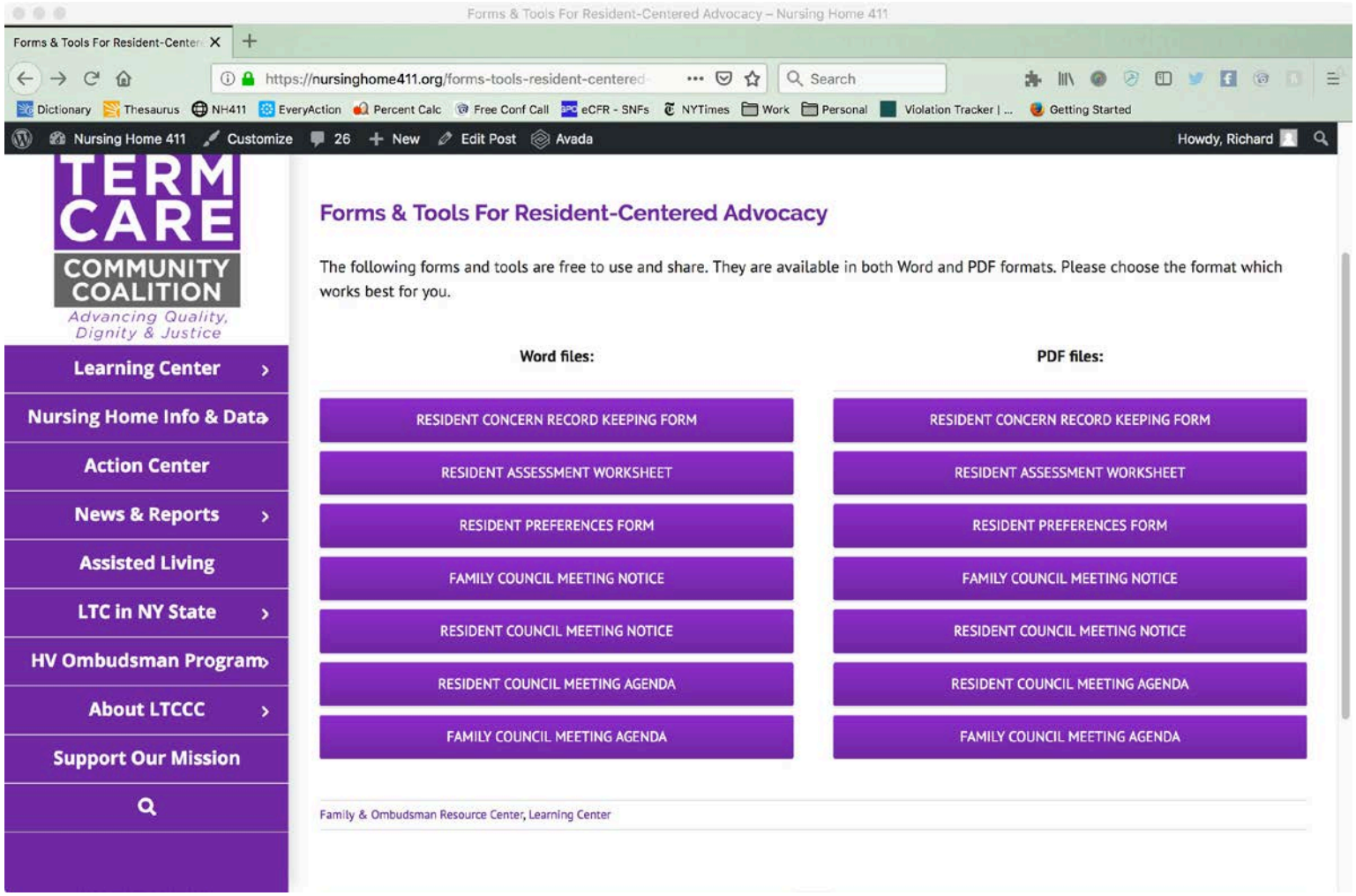
WWW.NURSINGHOME411.ORG



Family & Ombudsman Resource Center



Forms & Tools for Resident-Centered Advocacy



Coming Up

Recap of LTCCC Symposium: Coming Together To Create Change: A Symposium For The Nursing Home Community

June 18 at 1pm

Attend Any LTCCC Program in Two Easy Ways:

1) To join the online meeting, about five minutes before the scheduled time of the meeting, go to the link below and follow the prompts to join the meeting.

Online Meeting Link: **https://join.freeconferencecall.com/richardmollot**.

2) To participate by phone, at the scheduled time of the meeting call (712) 770-4010. When prompted, enter the Access Code, 878277, followed by the pound (#) key. Press *6 to mute or unmute your phone line.

If you would like to receive a copy of the webinar handouts, please email sara@ltccc.org (noting the date of the program).

Thank You For Joining Us Today!

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- Sign up for our newsletter and alerts.

You can also…

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- Follow us on **Twitter** at www.twitter.com/LTCconsumer
- Visit us on the **Web** at www.nursinghome411.org.

For LTC Ombudsmen in NY State

If you would like us to let your supervisor know that you attended this training program, please take the quick survey at:
https://www.surveymonkey.com/r/ltccc-ltcop1

For Family Members in NY State

connect with the Alliance of NY Family Councils at **www.anyfc.org** (or email info@anyfc.org).


Questions?
Comments?