

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

NEW YORK STATE NURSING HOMES

STATEMENT ON PROFITS, ACCOUNTABILITY, AND ACCESS FOR NY SENIORS & FAMILIES

On January 21, 2020, Governor Andrew Cuomo [released](#) his Executive Budget for the 2021 fiscal year. It includes identifying \$2.5B in savings from the Medicaid Program. Since most nursing home care is paid for under Medicaid, potential cuts to the Program will undoubtedly raise concerns for New York's seniors, disabled, and their families about quality of and access to nursing home care.

The [Long Term Care Community Coalition](#) (LTCCC), a non-partisan, non-profit organization, is dedicated to improving quality of care and ensuring that seniors and disabled individuals can live with dignity in nursing homes and other residential care settings. Following are several key facts and figures which we believe are important for New Yorkers and our leaders in the Assembly and Senate to be aware of as various proposals from nursing home industry lobbyists are considered in Albany.

QUICK FACTS ABOUT NURSING HOME FINANCES:

The nursing home industry has claimed for many decades that it operates at a loss or has "razor-thin" margins. In fact, the for-profit sector of the industry has been growing rapidly in NY, belying the notion that it is not a profit-generating industry.

- **Medicare profit margins are high.** In its [March 2019 Report to Congress](#), the Medicare Payment Advisory Commission (MedPAC) indicated that the average Medicare margin has been in the double digits for approximately the last 20 years.
- **Profits are increasing under the new federal payment methodology.** In October 2019, the federal Centers for Medicare & Medicaid Services (CMS) started paying nursing homes under a new system, the Medicare Patient Driven Payment Model (PDPM), which reduces accountability for the level of therapy services provided to residents. According to one [analysis](#), more than 67 percent of nursing homes experienced a per day payment increase in November 2019 after the new payment model went into effect the previous month.
- **Medicaid payments are increasing.** Medicaid rates have steadily increased since 2011, according to [The National Investment Center for Seniors Housing & Care](#).
- **NY nursing homes will experience a windfall under the new MLTC carve-out.** Since 2015, nursing home long-term care has been integrated into managed care (MLTC). In December 2019, CMS approved the NY Department of Health's request to carve out nursing home care from MLTC. This essentially cuts out the middleman for payment of nursing home care, substantially increasing the money flowing to nursing homes for their Medicaid residents (it also raises serious concerns about accountability and future access to non-institutional care for seniors and disabled New Yorkers).
- **Nursing homes are not held accountable for how taxpayer funds are spent.** Every year, the nursing home industry claims that it operates at a loss or does not make enough money to hire more needed care staff. However, there are no limits to the amount of funds spent on

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administration and *no limits* on self-dealing for good or services *before* funds are allocated to resident care. As a result, as *The New York Times* found, "[Care Suffers as More Nursing Homes Feed Money Into Corporate Webs.](#)" It is simply not possible to have an honest discussion on the sufficiency of nursing home funding in the absence of transparency and accountability.

QUICK FACTS ABOUT NURSING HOME CARE IN NEW YORK:

While New York's for-profit nursing home industry has grown, gobbling up county-owned and mission driven non-profits, quality of care and safety have languished. As a result, New York families have increasingly limited access to decent care and life with basic safety and dignity in our nursing homes.

- **Low staffing.** According to a January 2020 [report by News 4 Buffalo](#), New York State "ranks in the lower 20 percent nationwide when it comes to measuring staffing hours per resident per day, according to the federal data."
- **High rates of pressure ulcer injuries.** Pressure ulcers are a serious problem and one of the strongest indicators of a nursing home's quality and safety. Sadly, NY's nursing homes have a pressure ulcer rate that is 22 percent higher than the national average, with worse outcomes than Missouri, Alabama, and 44 other states.
- **High rates of dangerous antipsychotic drugging.** Despite a [US Food & Drug Administration black box warning](#) against administering antipsychotic drugs to elderly people with dementia, over 17 percent of NY nursing home residents are administered these drugs. Less than two percent of the population will ever have a diagnosis for a condition (such as schizophrenia) that CMS recognizes when it risk-adjusts for possible appropriate use of these drugs. When antipsychotic drugs are administered for the convenience of nursing home staff, it can be deadly for residents, devastating for families, and costly for taxpayers.

RECOMMENDATIONS:

- **Common-sense limits on profits & administrative expenses.** As noted above, despite the billions of dollars directed to nursing homes in the state, there is still no requirement limiting the amount of money directed to administrative costs and profit. Thus, there is no guarantee that nursing home owners are held accountable for ensuring that public funding is used to improve nursing home quality. We strongly support the implementation of a medical loss ratio for nursing homes. See our [joint statement](#) for more information.
- **The promise of safe staffing must be realized.** New York is now in the minority of states without a baseline safe staffing standard for nursing homes. Now is the time to fulfill the promise that every nursing home makes to residents and families when they enter a facility by passing the "[Safe Staffing for Quality Care Act.](#)"
- **Residents first, profits second.** Our system of nursing home care allows for nursing homes to make profits. However, those profits should not come at the cost of resident dignity or safety. New York must improve accountability when nursing homes provide substandard care or abuse or neglect residents by vigorously enforcing minimum care standards and cracking down on providers that commit fraud by failing to deliver the care they are paid to provide.

For more information on nursing home care, including resources for residents, families, and policymakers, please visit our homepage:

www.nursinghome411.org.