



Promising Practices for Evaluating Nursing Home Owners

Long Term Care Community Coalition

www.NursingHome411.org

Presented by Richard Mollot, Dara Valanejad, and Eric Goldwein



Long Term Care Community Coalition

LTCCC is a nonprofit organization dedicated to improving care and quality of life for the elderly & adult disabled in long term care (LTC). We are focused on people who live in nursing homes and assisted living.

What we do:

- ❑ Policy analysis and systems advocacy in NYS & nationally
- ❑ Education of consumers and families, LTC Ombudsmen and other stakeholders
- ❑ Home of the local LTC Ombudsman Program for the Hudson Valley, New York

+ Today's Speakers

SPEAKERS

- Richard Mollot, Executive Director
- Dara Valanejad, Policy Counsel
- Eric Goldwein, Policy Fellow

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**We will leave time
at the end for
Q & A.**

+ Webinar Roadmap

■ Coronavirus Update

- Resources

■ LTCCC Report

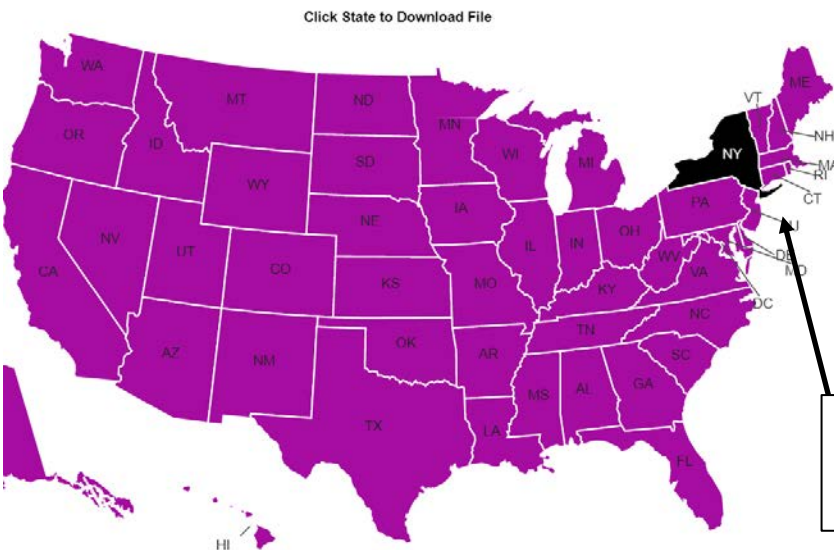
- Background (Skyline & HCR ManorCare)
- Federal certification
- State oversight
- Promising state practices
- Summary of the promising practices
- LTCCC's essential principles for improving oversight

Note: Our report does not examine whether states are adequately enforcing their licensing requirements. The report only identifies promising practices that, if properly implemented and enforced, should protect nursing home residents from unfit owners.

+ Coronavirus Update

- **New Provider Info Data & Infection Control Deficiencies**
 - Five-Star Ratings & Special Focus Facility Status
 - Deficiency Tag Number
 - Scope Severity Code
 - Survey Date

- **Download national OR individual state date files**



Download state files using clickable map.

Provider State	Provider Name	Provider Address	Provider City	Provider Zip Code	Survey Date	Deficiency Tag Num	Scope Severity Code
AK	KETCHIKAN MED CTR NEW	3100 TONGASS AVEN	KETCHIKAN	99901	8/23/2019 0:00	880	F
AK	PROVIDENCE EXTENDED CA 920 COMPASSION CI	ANCHORAGE		99504	6/24/2019 0:00	880	F
AK	WILDFLOWER COURT	2000 SALMON CREEK	JUNEAU	99801	5/29/2019 0:00	880	D
AK	WRANGELL MEDICAL CENT P.O. BOX 1081		WRANGELL	99929	4/24/2019 0:00	880	F
AK	UTUQANAAT INAAT	436 MISSION STREET	KOTZEBUE	99752	2/15/2019 0:00	880	F
AK	YUKON KUSKOKWIM ELDER 1100 CHIEF EDDIE H	BETHEL		99559	11/9/2018 0:00	880	D
AK	SOUTH PENINSULA HOSPIT	4300 BARTLETT STR	HOMER	99603	10/26/2018 0:00	880	E
AK	KETCHIKAN MED CTR NEW	3100 TONGASS AVEN	KETCHIKAN	99901	8/3/2018 0:00	880	D
AK	PRESTIGE CARE & REHAB CI 9100 CENTENNIAL D	ANCHORAGE		99504	6/8/2018 0:00	880	D
AK	WRANGELL MEDICAL CENT P.O. BOX 1081		WRANGELL	99929	4/30/2018 0:00	880	F
AK	PETERSBURG MEDICAL CEN P.O. BOX 589		PETERSBURG	99833	4/27/2018 0:00	880	F
AK	PROVIDENCE EXTENDED CA 920 COMPASSION CI	ANCHORAGE		99504	3/6/2018 0:00	880	F
AK	WILDFLOWER COURT	2000 SALMON CREEK	JUNEAU	99801	2/9/2018 0:00	880	F
AK	YUKON KUSKOKWIM ELDER 1100 CHIEF EDDIE H	BETHEL		99559	2/2/2018 0:00	880	F
AK	DENALI CENTER	1510 19TH AVENUE	FAIRBANKS	99701	1/12/2018 0:00	880	D
AK	SITKA COMMUNITY HOSPIT	209 MOLLER AVENUE	SITKA	99835	10/27/2017 0:00	441	E
AK	SOUTH PENINSULA HOSPIT	4300 BARTLETT STR	HOMER	99603	8/24/2017 0:00	441	F
AK	PROVIDENCE KODIAK ISLAND 1915 E REZANOF DR	KODIAK		99615	3/20/2017 0:00	441	D
AK	PETERSBURG MEDICAL CEN P.O. BOX 589		PETERSBURG	99833	3/17/2017 0:00	441	F
AK	YUKON KUSKOKWIM ELDER 1100 CHIEF EDDIE H	BETHEL		99559	2/14/2017 0:00	441	F
AL	LUVERNE HEALTH AND REF	142 WEST THIRD ST	LUVERNE	36049	12/19/2019 0:00	880	D
AL	SHELBY RIDGE NURSING HC	881 3RD STREET	NOALABASTER	35007	12/12/2019 0:00	880	D
AL	DIVERSICARE OF ONEONTA	215 VALLEY ROAD	ONEONTA	35121	12/10/2019 0:00	880	D
AL	GEORGIANA HEALTH AND F 206 PALMER AVENUE	GEORGIANA		36033	12/5/2019 0:00	880	D
AL	MONROE MANOR HEALTH	236 WEST CLAIBORN	MONROEVILLE	36460	12/5/2019 0:00	880	D
AL	MAGNOLIA RIDGE	420 DEAN DRIVE	GARDENDALE	35071	12/5/2019 0:00	880	D
AL	COLLINSVILLE HEALTHCARE	685 NORTH VALLEY	COLLINSVILLE	35961	11/21/2019 0:00	880	D
AL	MOUNT ROYAL TOWERS	300 ROYAL TOWER C	BIRMINGHAM	35209	11/20/2019 0:00	880	D
AL	NHC HEALTHCARE, ANNIST	2300 COLEMAN RD	ANNISTON	36207	11/14/2019 0:00	880	D
AL	CROSSVILLE HEALTH AND R	8922 HIGHWAY 227	CROSSVILLE	35962	11/14/2019 0:00	880	D

Provider State	Provider Name	Provider Address	Provider City	Provider Zip Code	Ownership	Certified	Average Number of Residents	Average Number of Staff	Overall Rating	Health Inspection Rating	Staffing Rating		
FL	ABBEY DELRAY SOUTH	1717 HOMER DELRAY BEACH	Delray Beach	33445	Non-profit	1	90	72.3 N/A	4	3	4		
FL	ADVENTHEALTH CARE CENTER APOPKA NORTH	305 EAST OLA APOPKA	Orange	32703	Non-profit	1	120	115.1 N/A	4	4	3		
FL	ADVENTHEALTH CARE CENTER APOPKA SOUTH	3355 S SEMA APOPKA	Seminole	32703	Non-profit	1	222	167.2 N/A	2	1	3		
FL	ADVENTHEALTH CARE CENTER CELEBRATION	1290 CELEBRATION	Osceola	34742	Non-profit	1	120	N/A					
FL	ADVENTHEALTH CARE CENTER ORLANDO EAST	250 SOUTH O	Orange	32825	Non-profit	1	120	115.1 N/A	4	4	3		
FL	ADVENTHEALTH CARE CENTER ORLANDO NORTH	730 COURT	ORLANDO	Orange	32804	Non-profit	1	114.6 N/A	3	2	4		
FL	ADVENTHEALTH CARE CENTER WATERMAN	4501 WATER TAVARES	Lake	32778	Non-profit	1	120	69.1 N/A	3	2	4		
FL	ADVENTHEALTH CARE CENTER ZEPHYRHILLS NORTH	7350 DABRY	ZEPHYRHILLS	Pasco	33549	For-profit	1	109	106.6 N/A	2	1	3	
FL	ADVENTHEALTH CARE CENTER ZEPHYRHILLS SOUTH	38750 AVE	ZEPHYRHILLS	Pasco	33542	Non-profit	1	120	112.2 N/A	4	3	4	
FL	ADVENTHEALTH DANTE CITY	13100 FORT GLOUCE	CITY	Pasco	33525	Non-profit	1	45	114 N/A				
FL	ALEXANDER "SANDY" NININGER STATE VETERANS NURSING	8401 W CYPRESS BROOK	Broward	33025	Government	1	120	113.9 N/A	5	3	5	5	
FL	ALHAMBRA HEALTH AND REHABILITATION CENTER	7501 36TH A	SAINT PETERS	Pasadena	33710	For-profit	1	60	54.2 N/A	4	3	4	4
FL	ALLIANCE HEALTH AND REHABILITATION CENTER	130 W ARMS	DIKLEND	Volusia	32720	Non-profit	1	180	99.9 N/A	1	1	4	3
FL	ALPINE HEALTH AND REHABILITATION CENTER	3456 21ST A	SAINT PETERS	Pasadena	33711	Non-profit	1	57	54.8 N/A	5	5	4	3
FL	ANCHOR CARE AND REHABILITATION CENTER	1515 PORT N	PALM BAY	Brevard	32905	For-profit	1	120	99.6 N/A	2	1	2	4
FL	APOLLO HEALTH AND REHABILITATION CENTER	1000 24TH S	SAINT PETERS	Pasadena	33713	For-profit	1	99	92.3 N/A	2	2	3	3

+ Coronavirus Update

RESOURCES

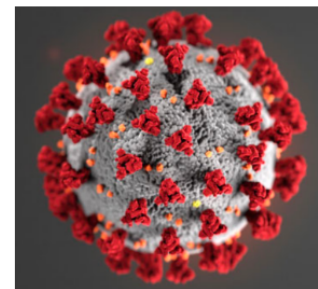
- **Coronavirus Resources Webpage:**
<https://nursinghome411.org/coronavirus/>
 - Information on federal guidance and other developments related to protecting people in residential care settings
- **LTCCC Podcasts**
 - [Infection Control](#) (Richard Mollot and Dara Valanejad)
 - [Food Safety](#) (Journalist Marjie Lundstrom)
 - [Documentation](#) (RN and legal nurse consultant Jeanette Sandor)
 - [Abuse & Neglect](#) (Attorney Deborah Truhowsky)
- **LTCCC in the Media**
 - [WNYC's The Brian Lehrer Show: Nursing Homes in Crisis](#)
 - [New York Times: At Least 14 N.Y. Nursing Homes Have Had More Than 25 Virus Deaths](#)
 - [Law360: NY Immunity Law Shields Nursing Homes As Virus Toll Soars](#)

Coronavirus Resources

Coronavirus (COVID-19) poses an unprecedented threat to residents in nursing homes and other adult care facilities in the United States. Hundreds of facilities have reported at least one resident with COVID-19, while across the nation residents and families are being affected by the pandemic. As numerous reports and studies have highlighted, this population is particularly vulnerable to COVID-19 due to age, pre-existing medical conditions, and frequent exposure to facility staff, other residents, and visitors to the facility.

This page provides information and resources to help residents and those who work with them. We will endeavor to keep it up to date with the latest information about federal guidance for nursing homes and other developments related to protecting people in residential care settings. However, for the latest information on the status of the virus and government policy for nursing homes and other healthcare facilities visit [CMS's dedicated webpage](#). For the latest general information on the virus visit the [CDC's dedicated webpage](#).

Check out our podcast, [How COVID-19 is Exposing the Infection Control Problem](#).




LTCCC Resources

ISSUE ALERT: INFECTION CONTROL & PREVENTION
US NURSING HOME PROVIDER INFO: APRIL 2020
MARCH 2020 STATEMENT: CORONAVIRUS & NURSING HOME VISITATION
MARCH 2020 ALERT: PROTECTING VULNERABLE RESIDENTS FROM CORONAVIRUS
FACT SHEET: INFECTION PREVENTION AND CONTROL
US NURSING HOME INFECTION CONTROL & PREVENTION CITATIONS: MARCH 2020
MARCH 2020: NEW GUIDANCE ON NURSING HOME HEALTH INSPECTIONS SEVERELY LIMITS OVERSIGHT AND ENFORCEMENT

Other Resources

THE CONSUMER VOICE: SUPPORTING CORONAVIRUS PREVENTION IN LTC FACILITIES
CDC FACT SHEET ON INFECTION CONTROL
CDC INFO ON PREVENTING SPREAD OF CORONAVIRUS IN LTC FACILITIES
CMS GUIDANCE FOR INFECTION CONTROL & PREVENTION OF CORONAVIRUS DISEASE IN NURSING HOMES
CMS MEMO: PRIORITIZATION OF SURVEY ACTIVITIES (MARCH 23, 2020)
CMS MEMO: TRANSFER OF RESIDENTS (APRIL 13, 2020)



**+ LTCCC REPORT - *MEANINGFUL
SAFEGUARDS: PROMISING PRACTICES
& RECOMMENDATIONS FOR
EVALUATING NURSING HOME
OWNERS***



BACKGROUND

IT'S ABOUT OWNERS

- Nursing home residents are increasingly at risk of experiencing poor care because of problems in management, ownership, or financial arrangements.
- Some nursing home owners are even increasingly leveraging and directing assets to maximize profits without meaningful accountability of nursing home quality.
- **Examples:**
 - Skyline Healthcare
 - HCR ManorCare



Background – Skyline Healthcare

THE DRAMATIC COLLAPSE OF SKYLINE HEALTHCARE

- **2015** – Skyline began purchasing facilities across the country.
- **2017** – Skyline was operating more than 100 facilities nationwide.
- **2018** – Skyline started to collapse as many facilities ran out of money and others were shut down over neglect, as documented in government records.

“Staff were told that disposable briefs would be rationed to two per patient per shift, instead of as needed, meaning patients were left to languish in their own body waste.”

-NBC News (2019)

+ Background – HCR ManorCare

THE SHOCKING BANKRUPTCY OF HCR MANORCARE

- **2007** – ManorCare was acquired by a private equity firm for \$6.1 billion.
- **2011** – ManorCare’s underlying real estate alone was sold for approximately \$6.1 billion. The chain was forced to pay \$472 million in rent every year + yearly increases and other charges.
- **2018** – ManorCare, the second largest chain in the country, filed for bankruptcy.


“One man had been dosed with so many opioids that he had to be rushed to a hospital, according to the inspection reports.”

-The Washington Post (2018)

+ LTCCC Report

PURPOSE OF THE REPORT

- The failure of federal and state governments to protect nursing home residents from bad actors has raised serious questions about how governments evaluate potential and existing nursing home owners.
- Because of these concerns, LTCCC examined nursing home licensing requirements to identify promising state practices for evaluating a nursing home owner's ability to operate a facility that meets or exceeds federal safety standards.
- Based on our assessment of these state requirements, we developed essential principles for state or federal licensing requirements.
- The report, *Meaningful Safeguards: Promising Practices & Recommendations for Evaluating Nursing Home Owners*, is available now for free on our website www.NursingHome411.org.



+ WHAT ROLE DOES THE FEDERAL GOVERNMENT PLAY IN OVERSEEING NURSING HOME OWNERS? WHAT ABOUT STATES?

+ Federal Certification

MEDICARE & MEDICAID

- The majority of nursing homes voluntarily participate in the Medicare and Medicaid programs to receive public funds in exchange for care. Medicare has high reimbursement rates which substantially factor into a nursing home's finances.
- While any nursing home is qualified to participate, the Secretary of the U.S. Department of Health and Human Services may refuse to enter into (renew or terminate) provider agreements if a nursing home fails to substantially comply with the federal Nursing Home Reform Law.
- States carry out the Medicare certification process. However, the federal government makes the final determination about a nursing home's participation.



Federal Certification

Continued

MEDICARE & MEDICAID

- Under the federal Nursing Home Reform Law, which sets out the standards for resident care, the HHS Secretary also has the duty to protect both resident wellbeing and taxpayer dollars from bad actors in the nursing home industry.
- Despite the federal government's authority to deny owners Medicare certification, thereby essentially affecting a nursing home's financial viability, the government shows little willingness for industry intervention.
 - **Ex.** In the wake of Skyline's collapse, a spokesperson told NBC News that CMS is not responsible for assessing an owner's finances, stating that "CMS authority over nursing homes relates to compliance with health and safety requirements, not their well-being."



State Oversight


IMPORTANCE OF STATE LICENSURE

- Given that the Nursing Home Reform Law requires nursing homes participating in Medicare & Medicaid to be licensed under applicable state and local laws, states have significant power to protect residents from bad actors by imposing meaningful requirements for obtaining a license and, thus, Medicare certification.
- In the absence of meaningful federal oversight of nursing home ownership, it is essential for states to implement and enforce strong requirements for nursing home licensure in order to protect nursing home residents from bad actors within the industry.

+ State Oversight

Continued

- **Note:** Improving licensing and certification requirements is only one approach to holding nursing home owners and operators accountable. **Additional measures must be taken to ensure that public funds are being used effectively and residents are receiving quality care.** For example, LTCCC also supports the implementation of a medical loss ratio in nursing homes.
- To learn more this measure, please read our Issue Alert, [“Medical Loss Ratios for Nursing Homes: Protecting Residents and Public Funds.”](#)



**+ ARE THERE ANY PROMISING STATE
PRACTICES FOR OVERSEEING
NURSING HOME OWNERS?**

+ Promising State Practices

INTRODUCTION

- Following are key highlights of the promising practices we have identified from states' licensing requirements related to determining the character and financial capacity of prospective or existing nursing home owners.
- In our view, these requirements have the potential to make it more difficult for bad actors to obtain and maintain state licensure and, thereby, federal certification.
- **Nevertheless, without meaningful enforcement, bad actors may still find a way to enter and operate within the nursing home industry (as the case may be in the states identified below).**

+ Promising State Practices

Key Highlights

ALABAMA

- Applicants may be denied a license if they do not have adequate resources, ability, or intent to comply with the state's health care requirements.
- Applicants may be denied if they have been convicted of fraud or a felony relating to abuse, misappropriation of property, or financial abuse.
- A license may be revoked if the owner engages in activities that the state determines to be detrimental to the welfare of residents.
- A new license is required when there has been a change of ownership, including the sale of the facility's title or the lease of the facility's real estate.

+ Promising State Practices

Key Highlights

CALIFORNIA

- Applicants must submit satisfactory evidence of their reputable and responsible character. Entities must likewise submit evidence as it relates to the members and shareholders, as well as the person in charge of the nursing home. The state must consider past patterns or practices of violating state and federal laws and regulations.
- Applicants may be denied licensure if they have been convicted of a crime or knowingly made a false statement of fact.

+ Promising State Practices

Key Highlights

CALIFORNIA

- **Note:** According to the California Advocates for Nursing Home Reform (CANHR), the state is allowing nursing home owners and management companies to operate facilities without first obtaining a license. As CANHR and other organizations previously noted in comments to the state's health department, "[o]nce an unvetted operator takes over a nursing home, it is nearly impossible to remove the operator without exposing residents to turmoil, harm or the possibility the nursing home will close or be sold to another unfit operator."
- **Recommendations:** CANHR is advocating for the state to promulgate regulations that establish an effective prior approval process for vetting applicants *before* they are allowed to purchase a facility. CANHR is also advocating for the state to establish a system for public input on licensure decisions and changes of ownership.

+ Promising State Practices

Key Highlights

DELAWARE

- Applicants must disclose any substandard surveys or the imposition of any temporary management, immediate jeopardy violations, civil money penalties, or ban on admissions in the preceding five years.
- Applicants must disclose a list of all facilities they previously or currently manage, own, or control in the preceding five years.
- Applicants must disclose any information regarding bankruptcy proceedings, civil action relating to a facility's debt, and names of facilities under state review for potential financial incapacity.

+ Promising State Practices

Key Highlights

ILLINOIS

- The inclusion of false or misleading information in the license application is considered a crime.
- Applicants must submit financial statements to provide evidence of their financial condition.
- Applicants/licensees must include lease and management agreements between the nursing home owner and the real estate owner in the application. Applicants must notify the state of any change within 30 days.
- The license cannot be transferred and automatically becomes void if the facility is sold or leased.

+ Promising State Practices

Key Highlights

KANSAS

- Applicants must submit information detailing the projected budget for the first 12 months of operations, including evidence of access to sufficient working capital (cash on deposit, line of credit, equity, or a combination thereof) required to operate the nursing home in accordance with the budget.
- Applicants must list each current or previously owned facility in which the applicant has or had any percentage of ownership in the operations or real estate.

+ Promising State Practices

Key Highlights

KANSAS

- **Note:** David E. Kingsley, PhD, a former board member of the Kansas Advocates for Better Care (KABC), has expressed concerns about requiring applicants to submit a detailed budget for the first 12 months of operations. According Dr. Kingsley, private equity firms' access to vast amounts of capital means that these types of applicants will likely have no trouble meeting the requirement on their way to extracting value from nursing homes. He believes making minor changes and non-fixes create the illusion that action is being taken against social injustice.

+ Promising State Practices

Key Highlights

Massachusetts

- Applicants must publish notice of their intent to establish or transfer the ownership of a nursing home, which, among other information, must contain information about requesting a public hearing upon petition by any group of ten adults and submitting written comments. The notice must be provided to ombudsmen and certain government officials. For transfers of ownership, the notice of public hearings must be given to those same individuals, plus nursing home residents, representatives and others.
- Applicants' responsibility and suitability is based on their criminal history, financial capacity, and history of compliance with the nursing home requirements.
- Applicants must submit documentation regarding three years of projected profit and losses (with assumptions of payer mix, patient days, and daily rates), and projected three years' capital budget.
- The Commissioner may order a limit or complete prohibition on new resident admissions for failure to comply with the requirements.
- Operating a nursing home without a license is a violation of law and punishable by a fine for the first offense and a fine or up to two years imprisonment for the second offense.

+ Promising State Practices

Key Highlights

MASSACHUSETTS

- **Note:** The health department has 90 days to complete its suitability review for transfer of ownership licensure. The department may extend this period by a maximum of 30 days with the consent of the applicant. However, if the department fails to notify the applicant in writing of its decision within the allotted time period, the applicant is automatically deemed “responsible and suitable.” The Massachusetts Advocates for Nursing Home Reform (MANHR) objects to this automatic approval which unnecessarily and dangerously expedites the application process, noting that time constraints should not be the determining factor of an applicant’s suitability for operating a nursing home.
- **Recommendations:** MANHR is advocating for the health department to have ample time to review an applicant’s or licensee’s suitability, especially given the importance of financial review and verification from other states. MANHR is calling for the state to develop a mechanism for giving the department additional review time, if needed, without the possibility of automatically deeming an applicant responsible and suitable.

+ Promising State Practices

Key Highlights

MISSOURI

- Applicants must disclose all long-term facilities they own or operate.
- Applicants must provide a copy of management contracts.
- Applicants must provide a copy of any lease, sublease, rental agreements, or deeds.
- Applicants must disclose the name and nature of any other businesses operating on the facility's premises.
- Applicants must submit documentation demonstrating financial capacity to operate the facility.
- Applicants and licensees that appear insolvent may be required to submit additional financial information.
- Financial information is open to inspection and can be released in any judicial or administrative proceeding brought under the federal Nursing Home Reform Law, and as ordered by court.

+ Promising State Practices

Key Highlights

NEW HAMPSHIRE

- The state must deny licenses to applicants who have been convicted of a felony, fraud, exploitation, sexual assault, abuse and neglect, or any other violent crime.
- The state must deny licenses to applicants if there has been a finding of assault, fraud, abuse, neglect, or exploitation.
- The state must deny licenses to applicants who pose a threat to the health, safety, or well-being of residents.
- The nursing home must submit a new application and obtain a new or revised license before operating a facility in cases where there has been a change of ownership.



Promising State Practices

Key Highlights

NEW MEXICO

- Applicants must provide information on the identities of all persons or businesses having either direct or indirect authority over the management or policies of the facility.
- Applicants must provide information regarding the identities of all persons or business with a direct or indirect five percent ownership interest in the facility, including profits, land, or building.
- Applicants must identify creditors who hold a security interest.
- When there is a change of ownership, applicants must disclose any direct or indirect relationship between an old licensee and the new licensee, as well as between any owner and operator of the new licensee.
- New applicants must submit evidence establishing that they have sufficient resources to operate the facility for a period of six months.

+ Promising State Practices

Key Highlights

NEW YORK

- Applicants must provide information and data with reference to their character, experience, competency, and standing in the community.
- Applicants must provide information regarding the financial resources and the sources of future revenue of the facility.
- Applicants must disclose whether any person has a direct or indirect interest in the land on which the facility sits or building in which the facility is located.
- Applicants must disclose whether any person has a direct or indirect interest in a mortgage, note, deed of trust, or other obligation secured by the facility's real estate.
- Applicants must disclose whether any person has a direct or indirect interest as a lessor or lessee in any lease or sublease of the facility's land or building.

+ Promising State Practices

Key Highlights

OHIO

- Applicants must submit a statement of financial solvency that demonstrates a financial ability to staff, equip, and operate the nursing, and demonstrate that there is sufficient capital or financial reserves to cover at least four months' operation.

Oklahoma

- The owner of the facility must be a co-applicant if he or she retains some rights in the operations of the facility.

+ Promising State Practices

Key Highlights

UTAH

- Applicants must not have had a previous interest in a facility that has been in receivership, closed as a result of a settlement agreement from a decertification action or license revocation, or involuntarily terminated from the Medicare and Medicaid programs within the past five years.
- Applicants must not have been convicted of patient abuse, neglect or exploitation.

WASHINGTON

- A licensee cannot give away responsibilities over a facility so extensively that he or she no longer has responsibilities over daily operations and services.

+ Promising State Practices

Key Highlights

WISCONSIN

- Applicants must disclose direct or indirect involvement in any financial failures that resulted in a debt consolidation, restructuring, mortgage foreclosure, bankruptcy, receivership, assignment, or closure.
- Applicants must provide information demonstrating that individuals directly managing a facility have the education, training, or experience to provide for the health, safety, and welfare of residents.
- Applicants must demonstrate that they have sufficient resources to operate a facility for at least six months.
- Applicants must be determined to be fit and qualified to be a licensee.

+ Summary of the Promising Practices

OWNERSHIP DISCLOSURE

- Applicants must disclose the identities of individuals or entities having any interests in the facility's operation or management. Applicants must also disclose current or previous interest in any other nursing home nationwide.

CHARACTER AND FITNESS

- Applicants must submit information regarding their character, experience, competency, and standing in the community. This information includes criminal convictions, terminations from the Medicare and Medicaid programs, and activities detrimental to nursing home residents.

MAJOR CONTRACTING

- Applicants must submit a copy of any executed leases or subleases. Applicants must disclose the identities of any individuals or entities having an interest in the lease or sublease. Applicants must also provide a copy of any executed management contracts. Applicants must demonstrate that the individuals or entities managing the facilities have the competency to provide for and protect residents.



Summary of the Promising Practices

Continued

FINANCIAL CAPACITY AND INTEGRITY

- Applicants must submit financial statements to demonstrate adequate resources for operating a nursing home. Applicants must disclose any ownership of a previous facility that was subject to an adverse financial proceeding. Applicants must also disclose if any individuals or entities have an interest in the land on which the nursing home sits or the building in which the facility is located. Any financial information, data, or records submitted in the course of the application process will be may be available in legal proceedings involving the Nursing Home Reform Law.

CHANGE OF OWNERSHIP

- Licenses cannot be transferred. Licenses become void upon a change of ownership, including when the facility's title has been sold or the facility's building or land has been leased. Nursing homes must provide notice when establishing or transferring ownership and the state health department may be required to conduct public hearings.



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**WHAT ARE LTCCC'S BASELINE
RECOMMENDATIONS?**



Essential Principles for Government Licensing Requirements

INTRODUCTION

Following are essential principles for government licensing requirements which, we believe, provide a baseline framework for improving accountability and integrity in the nursing home licensure process. The principles incorporate some of the promising practices identified in our report, as well as practical ideas to address known and longstanding shortcomings in the effectiveness of current government policies.

+ Essential Principles

Continued

APPLICATION TO BUILD OR PURCHASE A NURSING HOME

- The application shall be under oath. The submission of false or misleading information shall be a felony. The application shall contain the following information:
 1. The identities of any individuals or entities having a direct or indirect ownership interest whatsoever in the facility, whether the interest is in the profits, land, or building.
 2. The identities of any individuals or entities having a direct or indirect interest in the management of the facility or the provision of services at the facility.
 3. The name and location of the facility. Every facility shall be designated by a permanent and distinctive name. The name shall not be changed without prior written notice to and approval from the Department. A separate license shall be required for each facility when more than one facility is operated under the same ownership.



Essential Principles

Continued

APPLICATIONS

4. A list of every licensed facility of any state (including the District of Columbia) or territory in which the applicant has or had any percentage of interest in the ownership, management, or real property of that facility. Entities must disclose any facility in which members (as individuals or in connection with a previous entity) have or previously had any percentage of interest in the ownership, management, or real property of that facility.
5. In the case of a change of ownership, the disclosure of any relationship or connection between the old licensee and the new licensee, and between the old operator and the new operator, whether direct or indirect.

+ Essential Principles

Continued

FINANCIAL CAPACITY

- The Department shall deny a license to any applicant who fails to demonstrate a financial capacity to operate a nursing home.
 - Applicants must submit a detailed budget for three years of operations, prepared in accordance with generally accepted accounting principles. Applicants must submit evidence of access to sufficient capital required to operate the facility in accordance with the budget.
 - Applicants must disclose any financial failures directly or indirectly involving any individuals or entities identified in the application that resulted in a bankruptcy, receivership, assignment, debt consolidation/restructuring, mortgage foreclosure, cooperate integrity agreement, sale, or closure of a nursing facility, the land it sits on, or the building in which it is located.

+ Essential Principles

Continued

FINANCIAL CAPACITY

- Applicants must disclose the identities of any individuals or entities having an interest in the mortgage, note, deed of trust, or other obligation secured in whole or in part by the equipment used in the facility, or by land on which or building in which the facility is located.
- Any financial information, data, or records submitted to the Department shall be open for inspection and may be released in any judicial or administrative proceeding brought under the federal Nursing Home Reform law.
- Applicants must disclose all vendors providing services at the nursing home. Identified vendors shall be requested to submit letters identifying whether the nursing home is paying bills on-time or not at all.
- Applicant must purchase and maintain a surety bond for each facility operated in the state. The bond value must be a minimum of \$1,000,000 per 100 certified beds.



Essential Principles

Continued

CHARACTER & FITNESS

- Applicants must submit information regarding their character, experience, competency, and standing in the community.
- The Department shall deny a license to any applicant who has:
 1. Falsified any information, data, or record required by the application.
 2. Been convicted of any crime involving physical, sexual, mental, or verbal abuse or neglect.
 3. Been convicted of any crime involving the misappropriation of property or financial abuse.



Essential Principles

Continued

CHARACTER & FITNESS

4. Permitted, aided, or abetted in the commission of any illegal act against a nursing home resident.
5. Demonstrated an inability or willingness to fully comply with state and federal requirements.
6. Had any direct or indirect ownership interest in a facility cited for five or more actual harm deficiencies or three or more immediate jeopardy deficiencies (or their state equivalents) in the past three survey cycles.
7. Been involuntarily terminated from the Medicare and/or Medicaid programs.
8. Engaged in activities that the state determines are detrimental to health, safety, and well-being of nursing home residents.

+ Essential Principles

Continued

CHANGE OF OWNERSHIP

- Licenses cannot be transferred.
- Applicants must notify the Department of their intent to acquire a nursing home at least 90 calendar days before the change of ownership.
- Applicants must publish notice of their intent to acquire a nursing home 90 days before the effective date of the change of ownership. The notice must include the names and address of any individual or entity with a prospective ownership interest in the facility. The notice must describe any planned changes to the facility's operations. The notice must indicate that any individual may request a public hearing or submit comments to the Department on the change of ownership within 21 calendar days of the licensee's notification.

+ Essential Principles

Continued

CHANGE OF OWNERSHIP

- Applicants must notify the Department of their intent to acquire a nursing home at least 90 calendar days before the change of ownership. Because nursing homes owners may not operate a facility without a license, the Department shall either approve or deny an application before the effective date of change of ownership.
- Applicants must publish notice of their intent to acquire a nursing home 90 days before the effective date of the change of ownership. The notice must include the names and address of any individual or entity with a prospective ownership interest in the facility. The notice must describe any planned changes to the facility's operations. The notice must indicate that any individual may request a public hearing or submit comments to the Department on the change of ownership within 21 calendar days of the licensee's notification.



Essential Principles

Continued

CHANGE OF OWNERSHIP

- A copy of the notice must be provided to the following:
 - Each resident and, if applicable, the resident's representative;
 - The facility's resident council;
 - The facility's family council;
 - Each staff member of the facility;
 - The Office of the State Long-Term Care Ombudsman;
 - The Office of the Local Long-Term Care Ombudsman;
 - The members of the General Court who represent the city or town where the facility is located;
 - 501(c)(3) Citizen advocacy organizations that support nursing home residents in the city or town where the facility is located;
 - A representative of the local officials of the city or town where the facility is located.



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ADDITIONAL RESOURCES

+ Additional Resources

Chart: Promising Practices For Evaluating Nursing Home Owners

- This chart displays the promising practices identified in our report on nursing home ownership, *Meaningful Safeguards: Promising Practices & Recommendations for Evaluating Nursing Home Owners*.



CHART: PROMISING PRACTICES FOR EVALUATING NURSING HOME OWNERS

This chart displays the promising practices identified in our report on nursing home ownership, *Meaningful Safeguards: Promising Practices & Recommendations for Evaluating Nursing Home Owners*. LTCCC believes these state practices have the potential to make it more difficult for bad actors to operate nursing homes. However, as our report indicates, poor enforcement of these practices may have adverse consequences in the states identified below. For more information about these practices, potential concerns, and how federal and state policymakers can expand on these requirements, please access the report: <https://nursinghome411.org/evaluating-nursing-home-owners/>.

STATE	PROMISING PRACTICE(S)
Alabama (AL)	<ul style="list-style-type: none"> • Applicants may be denied a license if they do not have adequate resources, ability, or intent to comply with the state's health care requirements. • Applicants may be denied if they have been convicted of fraud or a felony relating to abuse, misappropriation of property, or financial abuse. • A license may be revoked if the owner engages in activities that the state determines to be detrimental to the welfare of residents. • A new license is required when there has been a change of ownership, including the sale of the facility's title or the lease of the facility's real estate.
California (CA)	<ul style="list-style-type: none"> • Applicants must submit satisfactory evidence of their reputable and responsible character. Entities must likewise submit evidence as it relates to the members and shareholders, as well as the person in charge of the nursing home. The state must consider past patterns or practices of violating state and federal laws and regulations. • Applicants must submit evidence showing that they possess financial resources sufficient to operate the nursing home for at least 45 days. • Applicants may be denied licensure if they have been convicted of a crime or knowingly made a false statement of fact.
Delaware (DE)	<ul style="list-style-type: none"> • Applicants must disclose any substandard surveys or the imposition of any temporary management, immediate jeopardy violations, civil money penalties, or ban on admissions in the preceding five years. • Applicants must disclose a list of all facilities they previously or currently manage, own, or control. • Applicants must disclose any information regarding bankruptcy proceedings, civil action relating to a facility's debt, and names of facilities under state review for potential financial incapacity.

<https://nursinghome411.org/evaluating-nursing-home-owners/>

+ Additional Resources

Continued

Essential Principles for Nursing Home Licensing Requirements

- This resource documents the essential principles documented in our report.

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

Essential Principles for Nursing Home Licensing Requirements

Following are essential principles for government licensing requirements which, we believe, provide a baseline framework for improving accountability and integrity in the nursing home licensure process. The principles incorporate some of the promising practices identified in our report, [Meaningful Safeguards: Promising Practices & Recommendations for Evaluating Nursing Home Owners](#), as well as practical ideas to address known and longstanding shortcomings in the effectiveness of current government policies. Please note that these principles are a starting point for developing or improving laws and regulations, not a comprehensive model for licensing requirements.

Policymakers are encouraged to use this language as a template for developing meaningful nursing home requirements on the state and federal levels. Consumers and the general public are encouraged to call on their state and federal leaders to adopt these principles to ensure both nursing home safety and the integrity of the public programs (Medicare and Medicaid), which pay for a majority of nursing home services.

In situations where changing laws or regulations is impractical, we encourage state and federal agencies to adopt these principles, to the greatest extent possible, to address growing concerns about inadequately vetted nursing home providers.

The Long Term Care Community Coalition (LTCCC) is a nonprofit, nonpartisan organization dedicated to improving quality of care, quality of life, and dignity for elderly and disabled people in nursing homes, assisted living, and other residential care settings. Please visit our website for more information on our work; the latest data on nursing home staffing and quality; and free resources for consumers and other stakeholders on residents' rights, dementia care, and more.

www.NursingHome411.org

Any person acting individually or jointly with other persons to build, own, establish, or operate a nursing home shall submit an application for licensure to the state's Department of Health. No individuals or entities may operate a nursing home without a license approved by the Department. Licenses must be renewed annually. Current licensees are subject to the same requirements as first-time applicants. The Department shall deny licenses to any applicant who has not timely submitted a complete application and provided the Department with additional information, as requested.

<https://nursinghome411.org/evaluating-nursing-home-owners/>



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- 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:

www.surveymonkey.com/r/ltccc-ltccop1.

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?

Next Program: May 19, 2020.

Topic: Understanding and Advocating for Residents with Dementia.



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QUESTIONS?