→ While you're waiting for LTCCC's 1pm program...

Ask an Ombudsman!



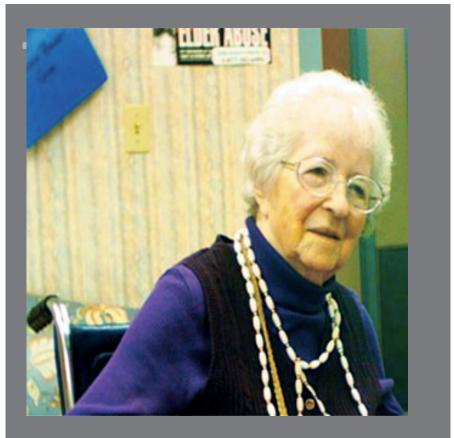
■ Point phone camera at the QR code to submit a question for LTCCC's "Best (om)Buds of Hudson Valley and Tri County" program on June 17 at 1pm.

Prizes awarded at random!

Register for the program at https://nursinghome411.zoo m.us/webinar/register/WN4-3xdBb4SLWKFyKmXKA0rQ

See Zoom chat for links.

QR code instructions: 1. Open camera app, 2. Focus camera on QR code (above), 3. Select popup link.





Nursing Home Advocacy Priorities for 2021 & Beyond

Richard Mollot

The Long Term Care Community Coalition

www.nursinghome411.org

- + The Long Term Care Community Coalition
 - ■LTCCC is a nonprofit, nonpartisan organization dedicated to improving care & quality of life for the elderly & adult disabled in long-term care (LTC).

■ What we do:

- Policy research & analysis;
- Systems advocacy;
- Public education;
- Home to two local LTC Ombudsman Programs.

www.nursinghome411.org

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Today's Agenda

- Brief Background on the foundations of nursing home care & quality
- Policy & Advocacy Priorities to ensure better care, safety, and dignity now and in the future
- Latest Resources on www.nursinghome411.org to support residentcentered advocacy on individual and policy levels

+

Background

The Federal Nursing Home Reform Law

- + The Nursing Home Reform Law
 - ■The law passed in 1987.
 - Every nursing home that participates in Medicaid/Medicare agrees to meet or exceed the standards laid out in the Reform Law and its implementing regulations.
 - ■Participation in Medicaid/Medicare is voluntary. Nursing homes that do not wish to meet these standards are free to run private facilities.

- + The Nursing Home Reform Law
 - The federal law requires that every nursing home resident is provided the care and quality of life services sufficient to attain and maintain their highest practicable physical, emotional, & psychosocial well-being.
 - The law emphasizes individualized, patient-centered care.
 - Importantly, the law lays out specific resident rights, from good care and monitoring to a quality of life that maximizes choice, dignity, & autonomy.



■ "Effective" infection control and sufficient staffing have been required since the beginning.

+ The Nursing Home Reform Law

Question: If the law and standards are so strong, why aren't nursing homes decent and safe places to live and work?

Answer: Laws and standards can only make a difference if they are enforced.



Federal data, our studies, and countless OIG and GAO reports indicate that these baseline tenets are largely unrealized.



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Advocacy Step 1

Overcoming Provider Industry Myths that Perpetuate Low Staffing & Poor Care

Long-term care continues to be understaffed, poorly regulated and vulnerable to predation by for-profit conglomerates and privateequity firms.

E. Tammy Kim, "This Is Why Nursing Homes Failed So Badly," The New York Times (Dec. 31, 2020)

+

Myth #1
Nursing homes are underpaid

Reality: Most nursing homes are run for-profit and are seen as attractive investments.

- The industry's longstanding argument that it does not get paid enough to provide sufficient staffing, baseline infection control protocols, etc... is unsubstantiated.
- In fact, nursing homes are increasingly operated by forprofit entities.
- Private equity and REITs have increasing, substantial investment in the sector.
- There are virtually no limitations on the use of public funds to pay for administrative staff or siphon off into profits.
- In addition, operators commonly use related party transactions to hide profits (and perpetuate the myth of "razor-thin margins").

+ Medicaid Funding

LTCCC POLICY BRIEF

NURSING HOME MEDICAID FUNDING: SEPARATING FACT FROM FICTION

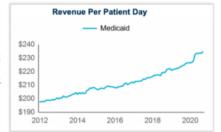
Background. Medicaid is the primary funding source for the majority of nursing home services in the US. Managed by states using a mix of state and federal funding, Medicaid covers more than 60% of residents nationwide. Each state has broad flexibility to determine eligibility standards and payment methods and design reimbursement rates.

Industry Claims vs. Facts. Nursing home providers and trade associations claim that Medicaid rates are inadequate and less than the cost of actual care, which then leads providers to leverage other payor sources, such as Medicare and private pay. The industry also blames low Medicaid rates for substandard care. However, recent studies suggest that fortpofit facilities have maximized profits for

owners and investors while skimping on resident care.

 Medicaid rates have steadily increased in the past decade, rising 12.6% since 2012, according to the National Investment Center for Seniors Housing & Care (NIC)

 Nursing homes received an average of \$214 per resident per day in Medicaid funding in 2019, a 2.2% increase from 2018



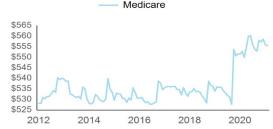
- Source: NIC MAP Data Service
- An NIC report with data through September 2020 shows a <u>national average reimbursement</u> rate of \$235, though this \$21 increase from 2019 is likely a <u>COVID-related boost</u>
- Although industry leaders claim that nursing homes are <u>losing money</u> on Medicaid residents and blame <u>closures</u> and <u>financial struggles</u> on <u>low reimbursement rates</u>, typical <u>nursing home</u> <u>profits are in the 3 to 4 percent range</u>, according to Bill Ulrich, a nursing home financial consultant
- In fact, most nursing homes "outsource a wide variety of goods and services to companies in
 which they have a financial interest or that they control." This practice, called related-party
 transactions, can be used to "siphon off higher profits, which are not recorded on the nursing
 home's accounts," giving the false impression that a nursing home has low profits or is losing

One Penn Plaza, Suite 6252, New York, NY 10119 | P: 212-385-0355 | E: info@ltccc.org www.NursingHome411.org Medicaid rates have steadily increased in the past decade...

More financial accountability for facilities would decrease the likelihood of facilities funneling cash to owners and investors at the expense of better resident care.

National Trends

Revenue Per Patient Day



Medicare Funding

According to the Medicare Payment Advisory Commission...

- The marginal profit from Medicare nursing home patients in 2018 was about 10.3%.
- The average Medicare profit margin has been above 10% for over 19 years.
- For-profit facility profits averaged 13% profit margins, with one-quarter having margins of 19.7%.*

Unfortunately, the focus of Medicare rate setting has been almost entirely on controlling costs rather than ensuring quality. Medicare prospective payments are based on estimated costs and not on actual expenditures. This system allows nursing homes to keep staffing and operating expenses low in order to maximize profits.

NOTE: These profit margins do not take into account profits hidden in administrative costs or relatedparty transactions.

^{*} Medicare Payment Advisory Commission. *Report to the Congress: Medicare Payment Policy.* Chapter 8. Washington, D.C. March 2020, p.219-244.

+ Funding is NOT the Problem

OIG: Adverse Events in Skilled Nursing Facilities: National Incidence Among Medicare Beneficiaries

- OIG found that one-third of residents who were in a nursing home for short-term care were harmed w/in an average of 15.5 days.
- Almost 60 percent of the injuries were preventable and attributable to poor care.
- Much of the preventable harm was due to substandard care, inadequate resident monitoring, and failure or delay of necessary care.
- As a result, six percent of those who were harmed died, and more than half were rehospitalized.
- "Because many of the events that we identified were preventable, our study confirms the need and opportunity for SNFs to significantly reduce the incidence of resident harm events."

Even when profits are high, nursing homes fail to provide adequate care, safety, or treat residents humanely.

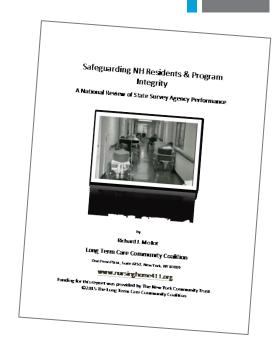
+

Myth #2

Nursing homes are overregulated

+ LTCCC: Safeguarding Residents & Program Integrity in US Nursing Homes

- Failure to identify resident harm. States rarely classify violations of minimum health standards as causing harm or putting residents in immediate jeopardy. Because, generally speaking, only findings of harm result in a penalty against the nursing home, this means that penalties for substandard care are exceedingly rare.
- Widespread use of antipsychotics to chemically restrain residents persists, despite CMS's "Partnership to Improve Dementia Care in Nursing Homes."
- Persistently high rates of pressure ulcers. Though pressure ulcers are largely preventable, States cite nursing homes the equivalent of less than 3% of the time that a resident has a pressure ulcer. Even when States do cite a facility for inadequate pressure ulcer care or prevention, they only identify this as harmful to residents about 25% of the time.



+ GAO: Better Oversight Needed to Protect Residents from Abuse

- Nursing home residents often have physical or cognitive limitations that can leave them particularly vulnerable to abuse.
- Abuse of nursing home residents can occur in many forms including physical, mental, verbal, and sexual—and can be committed by staff, residents, or others in the nursing home.
- Any incident of abuse is a serious occurrence and can result in potentially devastating consequences for residents, including lasting mental anguish, serious injury, or death.

GAO Identified "Oversight Gaps":

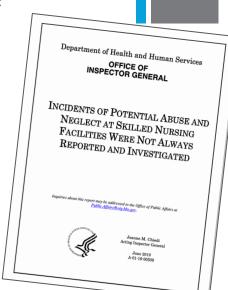
- Information on abuse and perpetrator types is not readily available.
- Facility-reported incidents lack key information.
- Gaps exist in the CMS process for state survey agency referrals to law enforcement.



- + OIG: Incidents of Potential Abuse and Neglect at Skilled Nursing Facilities Were Not Always Reported and Investigated
 - [A]n estimated one in five high-risk hospital ER Medicare claims for treatment provided in calendar year 2016 were the result of potential abuse or neglect, including injury of unknown source, of beneficiaries residing in a SNF [skilled nursing facility].
 - SNFs failed to report many of these incidents to the Survey Agencies in accordance with applicable Federal requirements.
 - [S]everal Survey Agencies failed to report some findings of substantiated abuse to local law enforcement.

OIG Recommendations:

- Action is needed "to ensure that incidents of potential abuse or neglect... are identified and reported."
- Recommended actions include: (1) training of nursing home staff to i.d. abuse and neglect and (2) "requiring the Survey Agencies to record and track all incidents of potential abuse or neglect in SNFs and referrals made to local law enforcement and other agencies."



+ OIG: Trends in Deficiencies at Nursing Homes Show That Improvements Are Needed To Ensure the Health & Safety of Residents

■ OIG analyzed nursing home deficiencies that were identified by State survey agencies (State agencies) across the Nation for calendar years 2013 through 2017.

OIG Findings:

- The number of nursing home surveys and deficiencies slightly increased each year from 2013 through 2016, then slightly decreased in 2017.
- Ninety-four percent of deficiencies had less serious ratings, and six percent of deficiencies had more serious ratings.
- About 31 percent of nursing homes had a repeat deficiency (i.e., a deficiency type that was cited at least 5 times in separate surveys).
 Most of these (71%) were for:
 - ensuring that nursing homes are free of accident hazards, provide adequate supervision of residents, and provide adequate assistance devices for residents and
 - 2) providing care & services for the highest well-being of residents.



- + OIG: CMS Guidance to State Survey Agencies on Verifying Correction of Deficiencies Needs To Be Improved To Help Ensure the Health and Safety of Nursing Home Residents
 - OIG reviewed nine states' practices and found that seven of them (78%) "did not always verify nursing homes' correction of deficiencies as required."
 - Specifically, for 326 of the 700 sampled deficiencies, State agencies did not obtain evidence of nursing homes' correction of deficiencies or maintain sufficient evidence that they had verified correction of deficiencies.
 - For less serious deficiencies, the practice of six of the seven State agencies was to accept a nursing home's correction plan as confirmation of substantial compliance with Federal... requirements without obtaining from the nursing home the evidence of correction of deficiencies.



- + GAO: Infection Control Deficiencies Were Widespread and Persistent in Nursing Homes Prior to COVID-19 Pandemic
 - Infection prevention and control deficiencies were the most common type of deficiency cited in nursing homes.
 - Most nursing homes had an infection prevention and control deficiency cited in one or more years from 2013 2017.
 - Nearly all infection prevention and control deficiencies (about 99 percent in each year) were classified by surveyors as not severe. As a result, only about 1% resulted in any penalty whatsoever to the nursing homes.

When there is no penalty, there is no reason for the nursing home to improve its practices.

+ In sum...

- 1. We do *not* get value for the money spent on nursing home care.
- 2. Over credulity of the nursing home industry's arguments have served neither residents nor taxpayers well.
- 3. Perpetuation of the industry's myths has been particularly costly for residents and their families.

+

Advocacy Step 2
Policy Priorities & Recommendations

1. Institute meaningful accountability when facilities fail to provide adequate and humane care:

- ✓ CMS must improve enforcement of regulatory violations by adopting more specific guidelines for identifying harm and imposing penalties;
- ✓ Congress must increase the budget for federal and state regulatory oversight;
- ✓ Survey frequency should be increased to a 6–12-month period to improve resident safety and quality assurance;
- ✓ Independence and professionalism among state and federal survey staff must be safeguarded/improved. This includes continuing prohibitions on providing consultation and training for the nursing home industry and increasing expertise in geriatrics, pharmacy, chronic care management, dementia, mental health, and disability management.

+ 2. Improve accountability for the funds allocated for resident care:

- ✓ A direct care ratio is necessary to limit funds diverted from resident care to administrative costs and profits;
- ✓ A combined financial and oversight system should be established by CMS to conduct annual joint Medicare and Medicaid audits, including related party payer audits;
- ✓ Congress must amend federal law to remove the provision that allows facilities to establish a distinct part of an institution for Medicaid;
- ✓ Efforts to implement so-called value-based payment programs should be discontinued;
- ✓ Congress should require a redesign of the Medicare and Medicaid rate setting system into a blended rate established at the federal level in order to eliminate the cost shifting from Medicare to Medicaid.

"Care
Suffers as
More
Nursing
Homes Feed
Money Into
Corporate
Webs"
- The NY Times

+ 3. Improve transparency and accountability for nursing home ownership and management:

- ✓ CMS and states should redesign regulatory and enforcement approach to focus more on nursing home chains;
- ✓ CMS must establish an effective national prior approval process and strong qualification criteria for changes in ownership or management;
- ✓ CMS should establish a national system to audit ownership reports;
- ✓ CMS must establish federal regulations to specify the minimum criteria for the purchase (or change of ownership) or management of any nursing home in order to receive approval to participate in Medicare and/or Medicaid.

The criteria should prevent individual or corporate owners from the purchase, operation or management of another facility if they have a history of owning or operating facilities with low staffing, poor quality care in any state.

+ 4. Ensure safe, sufficient, & humane staffing levels:

- ✓ CMS and states must enforce existing staffing standards, which require that facilities have sufficient staff to meet the care and dignity needs of the residents they admit to and retain in their facility;

 Nursing
- ✓ CMS must immediately adopt numerical minimum staffing standards to truly meet the requirement for "sufficient" staffing in the 1987 Reform Law (The minimum standard should be 0.75 RN hours per resident day (hprd), 0.55 LVN/LPN hprd, and 2.8 CNA hprd, for a total of at least 4.1 nursing hprd);
- ✓ Every nursing home should be required to provide RN staffing on a 24-hour a day basis;
- ✓ Nursing homes must be required to provide adequate wages and benefits to recruit and retain nursing staff.



NursingHome411.org Resources

Support individual, community, and systemic advocacy with FREE data and educational materials

Keep up with LTCCC (Get an A+)

Nursing Home 411 state pages

Identify staffing levels & 5-star ratings

The Nursing Home 411 Podcast

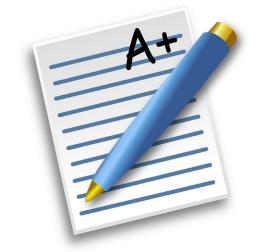
Take action

Upcoming (can't miss!) programs

+ Keep up with LTCCC (get an A+!)

- Email alerts and updates
- YouTube (webinars and other programs)
- The Nursing Home 411 Podcast
- Facebook
- **■** Twitter





Go to nursinghome411.org/social for links!

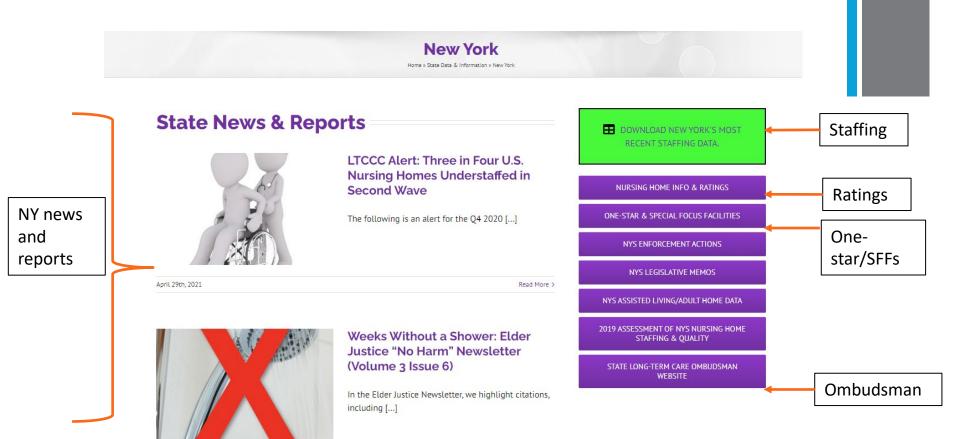
+ LTCCC's state pages

- Use clickable map to find your state
- State pages contain state-specific
 - Staffing
 - Ratings
 - Ombudsman resources
 - And more...



nursinghome411.org/states

+ State page example: New York

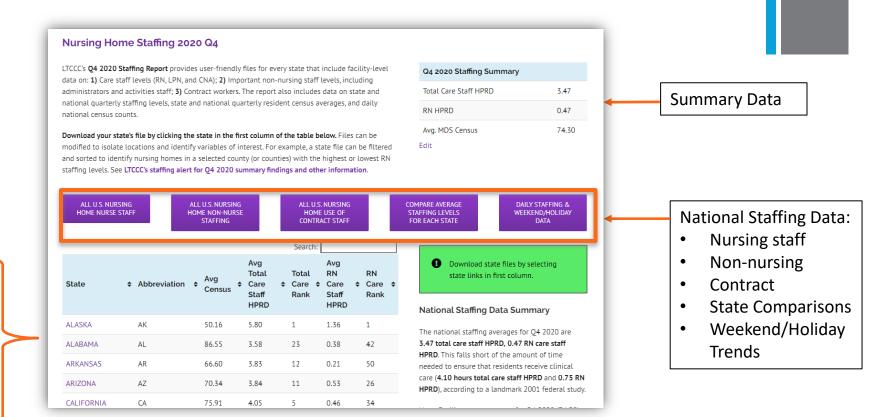


nursinghome411.org/ny

+ LTCCC Staffing Report: Q4 2020

State

files

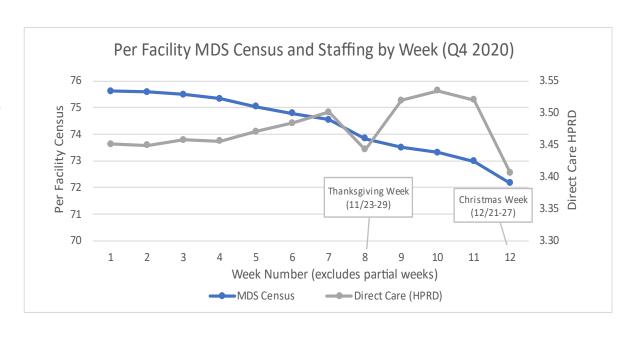


nursinghome411.org/staffing-q4-2020/



Highlights (or... lowlights) for Q4 2020 Staffing Report

- Less than a quarter (22%) of U.S. nursing homes met the total care staff threshold (4.10 HPRD).
- Moderate increase in staff HPRD (3.47 HPRD) from 3Q 2020 due to steep population decline, NOT increase in staff hours.
- Staff HPRD declined sharply on weekends and holidays, dipping as low as 3.17 on Christmas.
- Daily average facility resident census fell 4.8% from Oct. 1 (75.8) to Dec. 31 (72.2). Q4 2020 average facility census (74.3) is 14.2% below pre-pandemic Q4 2019 average (86.6).

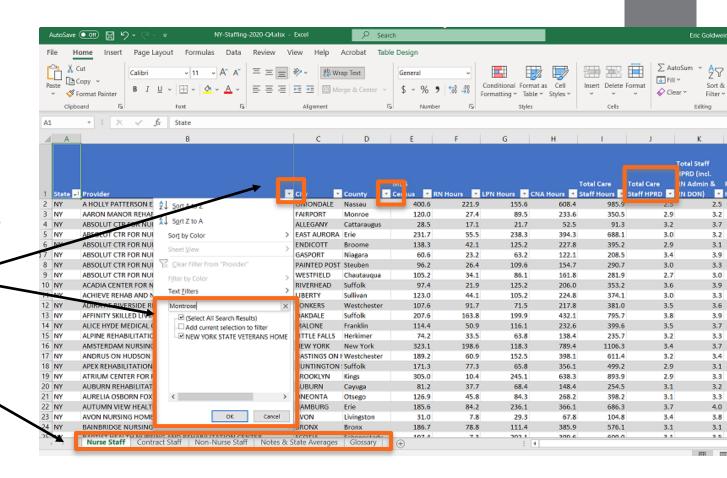




Find your facility's or region's staffing data

Finding Your Facility

- 1. Go to state page or staffing reports and identify your state.
- 2. Download spreadsheet.
- 3. Filter, sort, or search to identify your facility or region of interest.
- 4. See tabs on bottom of spreadsheet to identify nurse, contract, or non-nurse staff (i.e. dietician, admin, physical therapist, etc.)



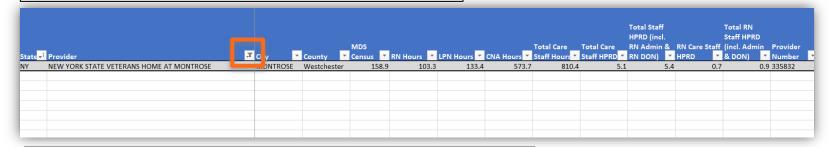
nursinghome411.org/staffing-q4-2020/



Examples: Find your facility's or region's staffing data

Note: These instructions can also be used to identify 5-star ratings and other data.

Montrose Nursing Staff (Use Provider filter)

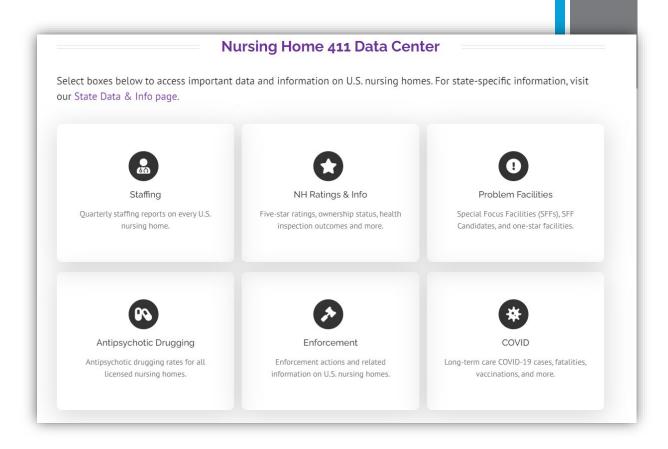


Westchester Non-Nursing Staff (Use County filter)

											Speech/Lang	
											uage	
				MDS						_	Pathologist	Total Social
_	Provider					Director Hot ▼ H						Work Hours
NY	ADIRA AT RIVERSIDE REHABILITATION AND NURSING	TUNKERS	er	107.6	5.0		0.0	0.0	0.0	0.0	0.0	
NY	ANDRUS ON HUDSON	HASTINGS ON F		189.2	4.8		0.0	8.0	0.0	0.0	4.6	
NY	BAYBERRY NURSING HOME	NEW ROCHELLI		46.9	3.5		0.0	4.2	0.1	0.0	0.2	
NY	BETHEL NURSING & REHABILITATION CENTER	CROTON ON H		113.9	4.2		0.8	0.0	0.0	0.0	3.5	
NY	BETHEL NURSING HOME COMPANY INC		Westchester	32.6	4.6		0.2	0.0	0.0	0.0	0.0	
NY	BRIARCLIFF MANOR CENTER FOR REHAB AND NURSING CARE	BRIARCLIFF MA		93.9	20.8	0.0	0.0	4.1	0.0	0.0	2.5	
NY	CEDAR MANOR NURSING & REHABILITATION CENTER		Westchester	120.3	5.6		0.8	5.6	0.0	0.0	5.3	
NY	CORTLANDT HEALTHCARE	CORTLANDT M	Westchester	90.5	5.2	0.0	0.0	8.0	0.0	0.0	5.2	2 12.3
NY	DUMONT CENTER FOR REHABILITATION AND NURSING CARE	NEW ROCHELLI	Westchester	161.7	5.9	1.1	1.0	7.1	0.0	0.0	4.8	3 10.4
NY	ELIZABETH SETON PEDIATRIC CENTER	YONKERS	Westchester	167.3	5.4	9.9	32.3	16.9	0.0	44.1	31.4	4 28.9
NY	EPIC REHABILITATION AND NURSING AT WHITE PLAINS	WHITE PLAINS	Westchester	45.2	5.3	0.5	0.8	4.2	0.0	0.0	4.8	7.3
NY	GLEN ISLAND CENTER FOR NURSING AND REHABILITATION	NEW ROCHELL	Westchester	151.6	5.0	0.4	0.0	5.3	0.0	0.1	7.5	5 4.8
NY	KENDAL ON HUDSON	SLEEPY HOLLON	Westchester	21.5	5.1	0.6	0.4	2.7	0.0	1.4	0.1	1 4.1
NY	KING STREET HOME INC	PORT CHESTER	Westchester	60.1	5.1	0.3	0.3	5.6	0.0	0.0	3.9	8.0
NY	MARTINE CENTER FOR REHABILITATION AND NURSING	WHITE PLAINS	Westchester	169.5	5.3	0.0	0.0	5.2	0.0	0.0	4.9	9 13.0
NY	NEW YORK STATE VETERANS HOME AT MONTROSE	MONTROSE	Westchester	158.9	4.4	4.8	6.8	17.8	0.0	8.6	0.0	14.9
NY	NORTH WESTCHESTER RESTORATIVE THERAPY & NRSG CRT	MOHEGAN LAK	Westchester	94.7	14.7	1.1	0.6	6.7	0.0	0.0	10.2	2 6.5
NY	NORTHERN WESTCHESTER HOSPITAL T C U	MOUNT KISCO	Westchester	7.3	0.8	0.0	83.2	23.1	0.0	0.0	0.0	9.1
NY	REGENCY EXTENDED CARE CENTER	YONKERS	Westchester	207.0	5.5	2.8	0.0	0.0	0.0	0.0	7.5	5 19.2
NY	SALEM HILLS REHABILITATION AND NURSING CENTER	PURDYS	Westchester	89.9	5.0	0.3	0.7	3.7	0.0	2.4	3.6	5.0
NY	SANS SOUCI REHABILITATION AND NURSING CENTER	YONKERS	Westchester	103.2	10.6	0.0	0.0	9.0	0.0	0.0	4.6	5 9.8
NY	SCHAFFER EXTENDED CARE CENTER	NEW ROCHELL		127.1	8.6		3.8	9.5	0.0	0.0	1.4	

+ The Nursing Home 411 Data Center

- Staffing
- Ratings
- Problem Facilities
- AntipsychoticDrugging
- **■** Enforcement
- COVID



nursinghome411.org/data

+ The Nursing Home 411 Podcast



- Interviews on all things nursing homes
 - Film directors
 - Attorneys
 - Data experts
 - Academics
 - Nursing home residents
 - Staff
- Please subscribe/rate/review! (Links on Zoom chat)





Andres "Jay" Molina, NH resident and director of Fire Through Dry Grass

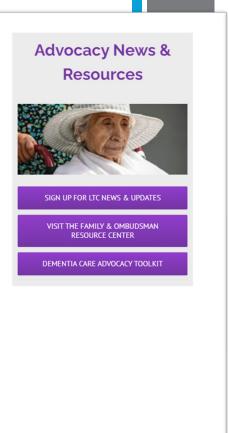
nursinghome411.org/podcast

+ Taking Action

- Tell Your Story
- Write your legislators on key issues
 - Strengthen enforcement
 - Safe Staffing
- New York and national



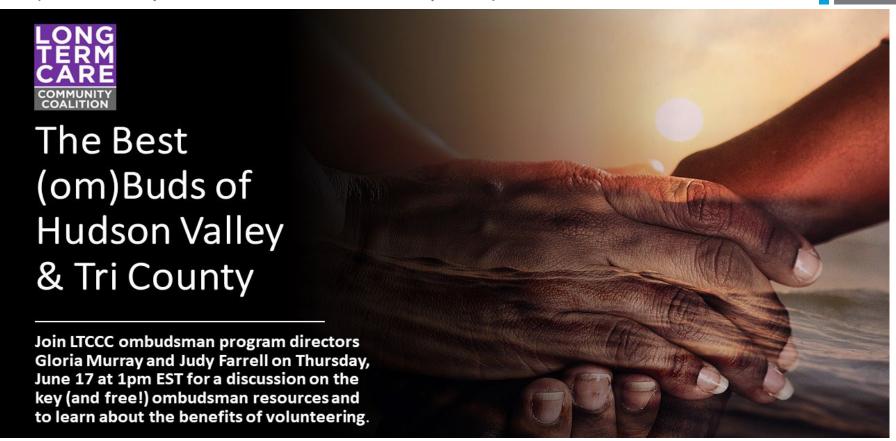




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SPECIAL LTCCC OMBUDSMAN PROGRAM Thursday, June 17 at 1pm EST

(Submit a question for a chance at a prize!)



nursinghome411.org/ask-ombudsman/

+ Upcoming Programs

- Why Comfort Matters: Reducing Reliance on Antipsychotics
 - June 15, 1pm EST
 - Tena Alonzo
 - https://nursinghome411.org/event/ drug-dementia/
- NYSBA: Moving Beyond Institutional Nursing Home Care
 - May 27, 1pm
 - Co-sponsored by LTCCC
 - Register: https://nysba.org/events/moving-beyond-institutional-nursing-home-care-part-2/



+ Thank You For Joining Us Today!

For updates & invites to future programs: www.nursinghome411.org/join/.

LTC Ombudsmen: If your program supervisor allows credit for attending this training program, please take the quick survey at:

https://www.surveymonkey.com/r/ltccc-ltcop1.

Questions?

Comments?