

# THE LTC JOURNAL

The Long Term Care Community Coalition

Spring 2022

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## A NOTE FROM LTCCC

LTCCC’s quarterly newsletters deliver information on research, news, and reports relevant to the long-term care community and highlight useful and interesting LTCCC resources and materials. Thank you for joining us in our mission to make a positive difference in the lives of long-term care residents!



## NEW AT NURSINGHOME411

LTCCC's resources are **free** to use and **easy** to share. This section highlights resources recently published on our website, [www.nursinghome411.org](http://www.nursinghome411.org). **To receive updates & alerts on LTCCC'S new resources, visit [www.nursinghome411.org/join/](http://www.nursinghome411.org/join/) or call 212-385-0355.**

### LTCCC APPLAUDS WHITE HOUSE'S PROPOSED NURSING HOME REFORMS

On February 28, 2022, the White House announced important initiatives that can improve the care, quality of life, and dignity for millions of vulnerable nursing home residents, now and in the future. The White House statement details key reforms that aim to protect vulnerable residents and hold nursing homes accountable when they fail to follow federal requirements for resident care.

#### White House Initiatives Include:

- Ensuring Taxpayer Dollars Support Nursing Homes that Provide Safe, Adequate, and Dignified Care;
- Enhancing Accountability and Oversight;
- Increasing Transparency;
- Creating Pathways to Good-paying Jobs with the Free and Fair Choice to Join a Union; and
- Ensuring Pandemic and Emergency Preparedness in Nursing Homes.

"This is the biggest and most positive news for nursing home residents in the 35 years since Ronald Reagan signed the Nursing Home Reform Act," said Richard Mollot, executive director of LTCCC. "For years, we have watched as an increasingly sophisticated and corporatized industry has, too often, cut back on staffing and essential services to maximize profits. We are profoundly grateful to the President for taking this bold stand for vulnerable residents, their families, and American taxpayers, who foot the bill for most nursing home care."

Richard Mollot and Toby Edelman (senior policy attorney, Center for Medicare Advocacy) joined [The NursingHome411 Podcast](#) to discuss the timeline of the reforms, what they mean for residents, and the historical context of the reforms.

*"It's our money. We want better care. We have a right to expect better care."*  
- Toby Edelman (CMA)

### LTCCC POLICY BRIEFS: DIRECT CARE MINIMUM SPENDING LAWS & CULTURE CHANGE

LTCCC released two new policy briefs this spring. The first focuses on [Direct Care Minimum Spending Laws](#). It details and discusses the ways in which states and the federal government can mandate that nursing homes spend a certain percentage of revenue on the direct care of their residents. In the absence of such laws, nursing homes are essentially free to spend as much – or as little – on resident care as they see fit. While some nursing homes provide adequate staffing and resident services, too many cut spending in order to maximize profits. This problem has become more pervasive in recent years, as nursing home operators have become increasingly sophisticated. The insights and recommendations provided in the brief can be used to support policy and advocacy to improve nursing home care and the integrity of the use of public funds (which pay for a majority of that care).

The second brief, [Consumer Perspectives on Nursing Home Culture Change](#), provides insights for policymakers on culture change to ensure that nursing homes are reformed in a way that benefits residents, care staff, and the public. A [bonus March webinar featured Nina Loewenstein](#) discussing the history, various models, and principles of nursing home culture change.

## RACISM AS A FUNDAMENTAL CAUSE OF LTC INEQUITIES AND MORE IN LTCCC'S MONTHLY WEBINARS

LTCCC conducts [free monthly Zoom webinars](#) on a variety of timely nursing home topics led by advocates and experts in long-term care. Our March webinar, "[A Matter of Justice: Racism as a Fundamental Cause of Long-Term Care Inequities](#)," featured Shekinah Fashaw-Walters, Ph.D., an Assistant Professor at the University of Minnesota's School of Public Health, as she discussed the difference between equality, equity, and justice. All webinars are available on [LTCCC's YouTube channel](#) and on the [NursingHome411 webinar and events page](#). Visit [nursinghome411.org/join/](https://nursinghome411.org/join/) to sign up for LTCCC alerts and invites to future programs.

## STAFFING LEVELS FALL 8% IN SIX MONTHS

Nursing homes with higher staffing levels are better equipped to meet their residents' care needs. Unfortunately, understaffing has been a widespread and persistent problem, even more so since the start of the COVID-19 pandemic.

To help the public gain insights into the staffing levels for their nursing homes and those in their community and state, LTCCC publishes quarterly staffing data for every U.S. nursing home (in compliance with federal staff reporting requirements). The latest federal data from the third quarter of 2021 show that staffing levels are declining as too many facilities are accepting new residents without ensuring that they have adequate staff to provide promised care, safety, and dignity. [Check out LTCCC's Q3 2021 staffing report](#) and download user-friendly files for every state.

### Staffing Facts for Q3 2021:

- Nursing homes averaged **3.62 Total Nurse Staff hours per resident day (HPRD)**, including 0.63 Total RN HPRD, falling well below the minimum staffing threshold (4.10 total care staff HPRD, 0.75 RN HPRD) as determined by a landmark federal study.
- **Staffing HPRD has dropped 7.8% since Q1 2021** while resident census has climbed 5.1%.
- Total RN Staff HPRD (0.63) has dropped 9.3% since Q1 2021.
- Over 70% of nursing homes failed to meet the safe staffing threshold of 4.1 HPRD.
- Average total resident census rebounded to 1.13 million, up 2.5% from the previous quarter and 5.5% since Q1 2021.

## THE NURSINGHOME411 PODCAST: 'TELL THEM WHAT THEY DON'T KNOW'

LTCCC's "NursingHome411 Podcast" features topical interviews, issue-oriented programming, and audio versions of our webinars. On a recent episode, "[Tell Them What They Don't Know': Persuading Policymakers with Powerful Stories](#)," advocate and family member Mary Nichols discusses the making

of “[Protecting Them to Death: The Impact of Isolation in Long-Term Care.](#)” Listen to The NursingHome411 Podcast on our website at <https://nursinghome411.org/podcast/>, and on [Spotify](#), [Apple Podcasts](#), and [Google Podcasts](#).

## FAMILY COUNCIL MEETINGS IN THE NURSINGHOME411 ZOOM ROOM

LTCCC is pleased to support nursing home family councils and family member settings with our **free** NursingHome411 Zoom Room. In the Zoom Room, we host councils from across the country. Reserve a room—no time limits!—by visiting [bit.ly/fam-council](http://bit.ly/fam-council).

We thank the [Fan Fox & Leslie R. Samuels Foundation](#) and [The New York State Health Foundation](#) for supporting the development of these resources.

## NEWS & BRIEFS



### NY OSC: NYS DOH ILL-PREPARED FOR COVID-19 PANDEMIC

[The New York State Comptroller released an audit](#) stating that the New York “Department of Health (DOH) was unprepared to respond to infection disease outbreaks at nursing homes, even before the COVID-19 pandemic hit New York.” The Comptroller’s audit covered a period of nearly five years and found that the DOH often presented data in a manner that misled the public. Throughout the COVID-19 pandemic, the Comptroller found that the DOH was not transparent in its reporting of COVID deaths at nursing homes, and that it routinely underreported deaths. In addition, the report detailed the lack of coordination between the DOH and local health officials during the pandemic. Some of the audit’s key findings include:

- DOH understated the number of nursing home deaths due to COVID-19 by at least 4,100, and at times during the pandemic by more than 50%.
- DOH was slow to respond to a federal directive to conduct surveys of nursing homes for infection control problems, surveying just 20% of facilities between March 23 and May 30, 2020, compared with 90% for some other states.
- While DOH collects data on a range of issues including infections, DOH does not use those data broadly to detect breakouts, geographic trends, and emerging infection diseases or to shape its infection control policies.
- DOH imposed impediments on the audit, including delaying requested data, limiting auditors’ contact with program staff, not addressing auditors’ questions during meetings, and not providing supporting documentation.

*“We applaud Comptroller DiNapoli and his team for conducting this important audit and providing essential insights not only into what could have been done better but, most importantly, what can be done now to ensure decent care and safety for current and future nursing home residents.”*

- [Richard Mollot, LTCCC Executive Director](#)

## OIG: CMS NEEDS TO TAKE ACTION WITH POOR PERFORMING STATES

[The Office of Inspector General \(OIG\) found](#) that just over half of states repeatedly failed to meet one or more performance measures for conducting nursing home surveys over a three-year period. The Centers for Medicare & Medicaid Services (CMS) is responsible for overseeing state survey agencies that conduct nursing home surveys that assess compliance with federal regulations. OIG focused on CMS oversight during fiscal years 2015 through 2018 by conducting interviews and collecting and analyzing documents from CMS about state performance. Some of OIG's findings include:

*“State surveys are critical to ensuring the safety and quality of nursing home care, yet some states repeatedly failed to meet requirements for conducting the surveys.”*

- Office of Inspector General

- CMS required states to develop corrective action plans to address performance failures, but 10 percent of plans were missing from CMS files, and many lacked substantive detail.
- CMS sometimes imposed financial penalties when states failed to meet the timeliness requirement for standard surveys; however, CMS frequently offset these penalties with one-time funding adjustments.
- CMS escalated concerns about persistent poor performance to senior state officials in three states, but it rarely imposed formal sanctions and has never initiated action to terminate a state survey agency agreement.

**Note:** LTCCC released a report at the end of 2021, [Broken Promises: An Assessment of Federal Data on Nursing Home Oversight](#), which provided the results of our study on the effectiveness of state and federal efforts to ensure that nursing home residents are safe and treated with dignity. Though our study was distinct from the OIG's assessment, our findings likewise indicated a woeful unwillingness (or inability) of state oversight agencies to adequately monitor nursing homes and ensure that federal protections are realized in the lives of vulnerable residents. We also found that CMS essentially permits the state oversight agency to underperform with impunity.

To help the public address these shortcomings in nursing home oversight, we also published [A Guide to Nursing Home Oversight & Enforcement](#), which highlights and synthesizes key oversight responsibilities of the state and federal oversight agencies. This guide can be used by families, ombudsmen, and policymakers to understand precisely what they can expect from the state and federal agencies charged with protecting residents.

## MORE LTC NEWS HIGHLIGHTS

- **On nursing homes and formal appeals...** “CMS wins most administrative appeals – 96% – that are officially released. However... it appears that many other harm and jeopardy deficiencies and their penalties are being resolved outside the formal appeals process, without any public information about the resolution of these deficiencies and penalties.” -[Center for Medicare Advocacy](#).
- **On Cuomo and nursing home deaths...** “For much of the pandemic, the Cuomo administration's nursing home death toll counted only residents who had died in such facilities,

excluding residents who died in hospitals. That led to an artificially lower tally of nursing home deaths that Mr. Cuomo used to argue New York had fared better than other states.” -[The New York Times](#).

- **On nurse aide training hours...** “It is in the interests of both nurse aides and nursing facility residents that aides receive all required training. But the nursing facility lobby has argued for “grandfathering” of temporary nurse aides into permanent certification, and the federal government unfortunately has moved in that direction.” -[Justice in Aging and Center for Medicare Advocacy](#).
- **On private equity and skilled nursing...** “Of the \$3.7 billion spent in total skilled nursing transactions in 2021, \$3.3 billion, or roughly 89%, were considered private buyers.” -[Skilled Nursing News](#).

## LTC RESEARCH



### IS DAILY VARIATION IN STAFFING ASSOCIATED WITH QUALITY? RESEARCHERS SAY YES

[Researchers found that daily variation of staffing was significantly associated](#) with the 5-Star Survey and Quality Measures rankings. The study looked at three variation measures for registered nurses and certified nurse aides at over 13,000 nursing homes throughout the United States for two years. Findings from this study “highlight the importance of reporting daily variation in staffing to improve understanding of the relationship between staffing and quality.”

**Note:** [CMS recently began posting additional staffing data](#) that includes turnover rates and staffing levels. This information offers consumers more transparency on staffing levels at nursing homes moving forward.

*“It is well established that direct-care staffing is fundamental to quality of nursing home care. A large evidence base suggests that the average level of staffing... is associated with better performance on process quality measures, on-site survey scores, and resident outcome measures.”*

- Dana B. Mukamel, PhD; Debra Saliba, MD, MPH; Heather Ladd, MS; et al.

### ANTIPSYCHOTICS LEAD TO HIGHER RISK OF DEATH IN OLDER ADULTS WITH DEMENTIA

[A new study out of Denmark](#) found that antipsychotics are associated with a higher risk of death in older adults living with dementia, regardless of comorbidities. Researchers used a nationwide registry database to study patients aged 65 to 95 years old who were diagnosed with dementia. They then compared death rates in the 180 days that followed the initial antipsychotic treatment and determined that patients exposed to antipsychotics had a significantly higher adjusted risk of death. The authors concluded that “this nationwide study adds to the evidence that antipsychotic treatment is associated

Antipsychotic drugs are often used to subdue and sedate residents in place of hiring more staff to provide appropriate care.

with increased mortality and suggests that attention should be paid to all initiators of antipsychotics irrespective of cardiovascular disease and diabetes.”

Inappropriate antipsychotic (AP) drugging is a longstanding, pervasive problem in nursing homes across the country. Too often, these highly potent drugs are used to sedate residents, even though they are not clinically indicated for treatment of behavioral and psychological symptoms of dementia. Head to [NursingHome411](#) to see nursing home antipsychotic drugging rates for each quarter and for the [Dementia Care Advocacy Toolkit](#).

## MORE LTC RESEARCH HIGHLIGHTS

- **On loneliness and older women...** “Overall rates of loneliness in older women have increased during the pandemic and are tied in part to the disruption of social connections...” -[McKnights Long-Term Care News](#).
- **On exercise and memory...** “Exercise that gets the heart pumping has shown promise in increasing brain health, and experiments in mice show that it improves memory... We found that there were greater improvements in memory among those who are age 55 to 68 years compared to those who are 69 and 85 years old – so intervening earlier is better.” -[EurekAlert!](#).
- **On COVID-19 and cardiovascular health...** “COVID-19 patients are at high risk of developing new heart and blood vessel problems up to at least one year after becoming infected... -[McKnights Clinical News](#).
- **On depression and Alzheimer’s...** “Depression was most frequently associated with the later development of Alzheimer’s symptoms, appearing at least nine years before the first clinical diagnosis. This was followed by anxiety, constipation and abnormal weight loss.” -[McKnight’s Clinical News](#).

## LTCCC IN THE MEDIA



LTCCC is a leading voice in media advocating for residents in nursing homes and other long-term care facilities. Following are some of the recent news reports in which LTCCC has appeared:

- LTCCC executive director Richard Mollot spoke with [Skilled Nursing News](#) about the dangers of low staffing in nursing homes. “I think we recognize that having three hours of nursing staff time per resident per day is extremely dangerous. I think what we’re seeing is that the resident census has gone up, and I know the industry is happy about that but staffing isn’t keeping the same pace and that’s really problematic from a safety perspective,” Mollot said.
- [UConn Today](#) published an article by Eilon Caspi, a member of LTCCC’s Board of Directors. In the article on conflicts between nursing home residents, Caspi says that these types of resident-to-resident incidents are prevalent in nursing homes but are largely overlooked by CMS. “Consequently, such incidents remain untracked, understudied and largely unaddressed. These interactions don’t just result in injuries and deaths among residents. They also leave behind

devastated families who then must fight for answers and accountability from nursing homes,” Caspi wrote.

- In an article on admissions discrimination, [McKnights wrote](#) about [LTCCC’s webinar](#) featuring Ashvin Gandhi, a health economist at the UCLA Anderson School of Management. “They’ll simply look at the resident, ask for their financial status and then deny admission based on the fact that they’re on Medicaid or going to be on Medicaid. It’s a clear violation of the intention of the law but some facilities would argue that it possibly satisfies the letter of the law,” Gandhi said.
- [Skilled Nursing News](#) referenced LTCCC’s Q3 2021 staffing report in an article about the White House’s nursing home reform package. “For consumer groups such as ours, we’d be much more willing to support and work with providers to increase funding if we knew where that money was really going,” Mollot said.
- In response to the White House’s nursing home reforms regarding financial transparency, [The Huffington Post](#) reached out to Richard Mollot. “You have a much more sophisticated corporate environment than you did 35 years ago. There are forensic accountants and attorneys who have spent a lot of time connecting the dots here and there, but we don’t have a national system in place to really know what’s going on.”
- [Becker’s Hospital Review](#) cited LTCCC’s staffing data in a state staffing ranking based on hours of daily care provided to nursing home residents.

*“They’ll simply look at the resident, ask for their financial status and then deny admission based on the fact that they’re on Medicaid or going to be on Medicaid. It’s a clear violation of the intention of the law but some facilities would argue that it possibly satisfies the letter of the law.”*

- Ashvin Gandhi, [LTCCC Webinar, “Picking Patients for Profit”](#)

## **The LTC Journal**

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**Note:** This document is the work of LTCCC. It does not necessarily reflect the views of the Department of Health, nor has the Department verified the accuracy of its content.