

THE LTC JOURNAL

The Long Term Care Community Coalition

Summer 2022

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ABOUT THE LTC JOURNAL

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. **To receive updates & alerts on LTCCC'S new resources, visit www.nursinghome411.org/join/ or call 212-385-0355.**

SAVE THE DATE!

The Long Term Care Community Coalition is excited to host its 13th annual reception on Wednesday, November 9 from 6-8pm (ET). We hope you can join us for an evening of celebration. For more details (including ticket information), please visit ltccc13.eventbrite.com.

LTCCC TO CMS: MINIMUM STAFFING STANDARDS NEEDED NOW

In April, the Centers for Medicare & Medicaid Services (CMS) issued a request for information on revising the Requirements of Participation for nursing homes to establish numerical minimum staffing standards. LTCCC's response – developed in collaboration with long-term care policy experts and resident advocacy organizations – details why appropriate minimum standards are needed now to finally realize the promise of the Nursing Home Reform Law.

Read LTCCC's comments at <https://nursinghome411.org/cms-min-staffing/>.



“Concrete, clear, and appropriate minimum staffing standards are needed now to finally realize the promise of the Nursing Home Reform Law in the lives of residents and the vast majority of American families who will depend on nursing home services at some time or another.”

NURSING HOME TRANSPARENCY: A CRITICAL TOOL TO IMPROVE NURSING HOME CARE

Why is it so difficult to hold nursing homes accountable? How can it be that at the height of the COVID-19 pandemic, an investment firm with a record of providing substandard nursing home care could buy more than 20 facilities across multiple states with little to no scrutiny? How can regulators better pinpoint “bad actors” and prevent them from causing harm to nursing home residents? How can we be assured that public funds are being spent as intended, on resident care?

[A new LTCCC policy brief](#) details how reforms in nursing home transparency – high-quality, complete, interoperable, and accessible data on ownership, management, and financing – can improve resident care and program integrity in US nursing homes.

In this policy brief, you will learn about:

- Past efforts to improve transparency
- Biden Administration reform proposals
- State legislative efforts
- Recommendations for critically needed reforms

Greater transparency of ownership, management, and financial data, combined with sufficient oversight and enforcement authority, are critically needed.

NURSING HOMES FAIL US VETERANS: MEMORIAL DAY ISSUE OF THE ELDER JUSTICE “NO HARM” NEWSLETTER

In honor of Memorial Day, LTCCC’s [Elder Justice “No Harm” Newsletter](#) focused on those living in veterans’ homes across the US. The newsletter highlighted citations occurring in veterans’ homes that have been identified as not causing any resident harm. These “no harm” violations include:

- Pronounced dead: Staff fail to verify residents’ CPR status.
- Unquenched thirst: Dehydration lands resident in hospital.
- Sexual harassment: Residents at risk for unwanted and inappropriate touching.
- ‘I will make the rest of your time here miserable’: Nursing home administrator verbally abuses resident.
- Out of time: Staff fail to assist resident with basic hygiene services.
- In the dark: Facility fails to notify family members of significant change.

Do these deficiencies sound like “no harm” to you? Check out the full newsletter and previous issues at <https://nursinghome411.org/elder-justice>.

‘IT STARTS WITH STAFFING’ 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. In our May webinar, “[It Starts With Staffing](#),” LTCCC’s Richard Molloy was joined by Lori Smetanka and Sam Brooks from the National Consumer Voice to discuss existing staffing requirements, policy recommendations, and the proposed federal rules for nursing home staffing. All webinars are available on [our YouTube channel](#) and on the [NursingHome411 webinar and events page](#).

RN STAFFING LEVELS DROPPED 12% IN 2021

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 fourth quarter of 2021 show that too many nursing homes are failing to provide sufficient staffing levels to provide basic care needs for far too many residents. [Check out LTCCC's Q4 2021 staffing report](#) and download user-friendly files for every state.

Staffing Facts for Q4 2021:

- RN Staff HPRD (Hours Per Resident Day) **dropped 11.9%** since Q1 2021 while total staffing levels dropped **7.9% in that period.**
- **Nearly three in four (73.2%) nursing homes failed to meet the minimum safe care staffing threshold (4.10 HPRD, as determined by a landmark 2001 federal study).**
- **Seven in 10 (69.6%) of nursing homes failed to meet the minimum RN staff threshold (0.75 HPRD) indicated by the 2001 study.**
- Contract employees accounted for **8.3% of all nurse staff hours in Q4 2021**, up from 5.0% in Q1 2021.
- **Resident census has climbed 4.75% since Q1 2021**

THE NURSINGHOME411 PODCAST: 'I DO NOT WANT TO COME BACK HERE'

LTCCC's "NursingHome411 Podcast" features topical interviews, issue-oriented programming, and audio versions of our webinars. On a recent episode, "[I Do Not Want to Come Back Here': Behind the Scenes of a Must-Watch VICE Documentary on the Nursing Home Industry](#)," Tomas Navia (producer) and Joshua Hersh (correspondent) talk about how the documentary came together, what it was like investigating a nursing home chain that doesn't want to be investigated, and the complex financial arrangements surrounding the industry. 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. Reserve a room—no time limits!—by visiting bit.ly/fam-council. Learn more about family councils at <https://nursinghome411.org/families/>.

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



LOUISIANA NURSING HOME OWNER FACING FELONY CHARGES

[Bob Glynn Dean Jr., owner of several Louisiana nursing homes serving over 800 residents, has been arrested for state fraud and cruelty charges.](#) Just before Hurricane Ida hit land in August 2021, Dean instructed the evacuation of his seven nursing homes to a bare, resource-ridden warehouse. The facility was overcrowded and lacked restrooms. Nursing home residents were neglected with small food portions, soiled bedding, piles of trash and dirty linen, flooding in the portable toilets, and unsanitary conditions. According to *The New York Times*, the conditions impeded the staff's ability to provide basic care, leading to the death of seven evacuated residents.

Further, Dean refused to speak with the Louisiana Department of Health about the unacceptable shelter conditions.

Bob Dean blocked staff from moving residents out of the warehouse so residents could not switch to new facilities, and billed Medicaid for residents who were receiving inadequate care. The Louisiana Department of Health revoked the licenses of all seven of Dean's facilities, and the office of Attorney General Jeff Landry of Louisiana charged Dean with eight counts of cruelty to persons with infirmities, five counts of Medicaid fraud, and two counts of obstruction of justice. Cruelty to persons with infirmities has a penalty of up to 10 years in prison and \$10,000 in fines. Bob Dean paid a \$350,000 bail for release.

"They [nursing home inspectors] saw people overcrowded on mattresses that were placed too close together, residents in "various stages of undress," including some in T-shirts and soiled diapers or completely naked, and a kitchen area that was next to the portable toilets in the building, which had one inch of water in it, the affidavit states."

- Eduardo Medina, *The New York Times*

ASSISTED LIVING FACILITY SETTLES LANDMARK TRANSGENDER DISCRIMINATION COMPLAINT

An [assisted living facility in Maine has agreed to establish new policies](#) to ensure fair admission for LGBTQ+ seniors. A settlement was reached after a 79-year-old transgender woman filed a discrimination complaint with the Maine Human Rights Commission, alleging that the Sunrise Assisted Living refused her admission because she is transgender. This was believed to be the first complaint of this kind in U.S. history.

The outcome, while not legally binding, may provide a roadmap as [more transgender adults enter their senior years](#). The assisted living facility in Maine did not admit guilt as a part of the settlement. It has pledged to adopt policies barring discrimination against transgender residents.

UNCERTAIN FUTURE FOR THE PRIVATE RIGHT OF ACTION IN PUBLIC NURSING HOMES

In a [case before the U.S. Supreme Court](#), nursing home operators are challenging the right of residents to sue a publicly-owned nursing home when it violates the minimum standards of care set forth under the federal Nursing Home Reform Law. [Previous case law](#) has found that residents **do not** have the right to sue a **privately-owned** nursing home for violations of the Reform Law or its regulatory requirements. This case is distinct because it relates to a nursing home that is owned by a public entity (a county hospital system) rather than a private company.

LTCCC joined AARP and other advocacy organizations in an [amicus brief](#) submitted in support of the Talevskis in their case before the Seventh Circuit.

The nursing home in this case is alleged to have given the resident inappropriate psychotropic drugs, chemically restrained the resident, and improperly discharged him without consent. These are all violations of resident's rights under the Reform Law.

Originally, a federal district court dismissed the complaint. The plaintiffs appealed to the U.S. Court of Appeals, which [ruled unanimously](#) that they have a right to sue a government-owned nursing home. The fact that the Supreme Court has now taken up this case is of concern to LTCCC and other resident advocates because it signals that the Supreme Court may be inclined to overturn the Court of Appeals decision (and, thus, abrogate the right to sue a publicly owned facility for violations of regulatory requirements).

It is also concerning because, as [LTCCC's most recent national study](#) found, state enforcement of minimum standards is very weak overall. If the Supreme Court overturns the Court of Appeals, it is one more way in which nursing home operators will not be held accountable for substandard care and violations of residents' rights.

Important note: Some states, such as [New York](#), guarantee a private right of action for harm caused by violations of either state or federal requirements under state law.

MORE LTC NEWS HIGHLIGHTS

- **On NY nursing home oversight...** "State lawmakers last week [June 3, 2022] put the finishing touches on a bill that is meant to strengthen the state's long-term care ombudsman program for nursing homes and long-term care facilities." -[Spectrum News 1](#).
- **On staffing shortages...** "It's also a bad day when he cannot call his 94-year-old mother, because his computer has been pushed out of reach. Or when his roommate is having a crisis of some sort and help does not come immediately. Or when he misses his wheelchair time because there aren't enough staff to lift him out of bed." -[KNKX](#).
- **On Illinois legislation aimed at increasing staffing and improving LTC care...** "The law is intended to keep nursing home operators from "playing both sides" by billing Medicaid extra for high-need residents without funding adequate staffing to provide the necessary level of care for those residents, [Illinois Governor] Pritzker said. And for the first time, long-term care facilities will have to publicly identify their owners, who are often hidden by complex corporate structures." -[Chicago Tribune](#).

- **On direct care spending mandates...** “The Biden administration is considering a requirement that the nation’s 15,500 nursing homes spend most of their payments from Medicaid on direct care for residents and limit the amount that is used for operations, maintenance, and capital improvements or diverted to profits. If adopted, it would be the first time the federal government insists that nursing homes devote the majority of Medicaid dollars to caring for residents.” -[Kaiser Health News](#).
- **On suing nursing homes for substandard care...** “The United States also alleged that Cheltenham [Nursing & Rehabilitation Center] housed its residents in a dirty, pest-infested building; gave its residents unnecessary medications, including antibiotic, antipsychotic, anti-anxiety and hypnotic drugs; failed to safeguard residents’ personal possessions; subjected residents to verbal abuse; neglected to provide residents with activities or stimulation; and failed to provide needed psychiatric care.” -[DOJ Office of Public Affairs](#).

LTC RESEARCH



UNSAFE ANTIPSYCHOTIC ALTERNATIVES ON THE RISE

[According to researchers at the University of Michigan](#), antipsychotic and anxiolytic prescriptions among Veteran nursing home residents declined by over 7% from 2009 to 2018. The research team also found that anti-epileptic, antidepressant, and opioid prescriptions were rising. Overall, prescribing non-antipsychotic psychotropic medications increased by 6.1% during this time period. As reported by Lauren Gerlach, Geriatric Psychiatrist and lecturer at Michigan Medicine, nursing home policies that are centered on decreasing antipsychotic use without considering consequences could lead to an increase in alternative medications “that are less likely to help patients and are potentially just as dangerous.”

“Antipsychotic and anxiolytic prescribing for VHA [Veterans Health Administration] nursing home residents with dementia declined, although overall prescribing of other psychotropic and opioid medications increased.”

- Lauren B. Gerlach, D.O., M.S., Donovan T. Maust, M.D., M.S., Helen C. Kales, M.D., *et al.*

HOW INFECTION CONTROL WAS COMPROMISED FOR DEMENTIA RESIDENTS DURING THE PANDEMIC

Individuals with dementia, especially those in facilities with less privacy, have a greater risk of developing severe illness from COVID-19, according to a [new study in the Journal of the American Geriatrics Society](#). The study analyzed data on infection control and resident behavior from

multiple assisted living facilities across seven states. Data collected from July 2020 to September 2021 showed that meeting infection prevention and control (IP &C) practices were especially challenging to maintain for residents with dementia. According to the study, by Sheryl Zimmerman and colleagues, social distancing during group activities for all community types was difficult, over half of the residents with dementia were unable to comply with mask use, and in less than half of the assisted living facilities, indoor common areas could not be easily closed. Infection control issues were apparent in all communities but were more prominent for those who serve individuals with dementia. This study underscores the urgent need to improve the scope of IP & C practices in dementia-specific communities during the ongoing pandemic.

“In the interest of infection control for AL residents who are least able to care for themselves, it is worth reconsidering the physical structure of these communities. Structural modifications could include more private rooms and enlarged shared spaces...”

- Sheryl Zimmerman, PhD, Philip D. Sloane, MD, MPH, Johanna Silbersack Hickey, MSW, *et al.*

MORE LTC RESEARCH HIGHLIGHTS

- **On dementia and loneliness...** “Experiencing feelings of loneliness three or more times a week may increase the risk of developing dementia later in life, according to a recent study in the journal *Neurology*.” -[Medical News Today](#).
- **On disease-causing bacteria in long-term care settings...** “More than 90% of “high-touch” surfaces in long-term care facilities are contaminated with fecal matter and other potential sources of infectious disease spread, a study published Thursday by the *American Journal of Infection Control* found.” -[United Press International](#).
- **On heart conditions and dementia...** “The study compared the rate of dementia diagnoses in individuals with diabetes, stroke or a heart attack with that of people who have a high genetic risk for dementia. The more of these heart and metabolic conditions an individual had, the higher the risk of dementia, they found. In fact, people who had all three conditions had triple the odds of developing dementia, David J Llewellyn, Ph.D., and colleagues reported.” -[McKnight's Long-Term Care News](#).
- **On transitional care interventions...** “This systematic review of 15 controlled interventions found that residents of LTCFs [long-term care facilities] 65 years and older allocated to transitional care interventions were 1.7 times **less likely to be readmitted to hospitals** or Eds, experienced **significantly fewer hospital readmissions**, and had shorter ED length of stay compared with residents allocated to usual care.” -[JAMA Network](#). [Emphases added]
- **On barriers to telemedicine for LTC residents...** “The largest reported barriers to telemedicine visits for the 249 participants were hearing difficulties (35.7%), unfamiliarity with how to use technology or the internet (30.1%), not knowing how to connect to the telemedicine platform (29.7%) and language issues (26.5%).” -[McKnight's Long-Term Care News](#).
- **On hospital discharge patterns...** “In a study published in *Health Affairs* this month, [Vanderbilt University assistant professor Kevin] Griffith found that from 2013 to 2019 postdischarge care

options varied widely across the country but that 30-day readmission rates were lower at hospitals that operated a palliative care service or had a greater local supply of primary care physicians and licensed nursing home beds.” -[Skilled Nursing 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 [WFBO](#) on the New York nursing home staffing crisis. “So, yes, money is critically important, especially for people who are being remunerated on the edge of poverty. But working conditions are really the biggest complaint that we hear,” Mollot said.
- [The Law Offices of Thomas L. Gallivan, PLLC](#) cited LTCCC’s Elder Justice Newsletter in a blog post, stating, “As the LTCCC argues in its Elder Justice newsletter, “no harm” citations often appear on their face to indeed be harmful, and that because they rarely result in financial penalties, this potentially erroneous classification leaves nursing homes without any incentive to correct systemic deficiencies.”
- In a discussion on nursing home inspections, Mollot told [Bloomberg Law](#), “Yes, survey agencies need more money. And yes, that would help in a number of ways. They tend to be understaffed and the staff tend to not have great salaries. But, fundamentally, if you’re not changing the approach and if you’re not ensuring that the state agency is acting as an advocate for residents,” problems with unreported and underreported deficiencies are likely to continue.”
- After N.J. imposed a new law requiring a minimum staffing number in nursing homes, analysis of state data shows understaffing remains prevalent. “We’ve been reviewing the federal data for years and this fits in with historical figures. But state surveyors typically look the other way when staffing is too low to provide even basic care or life with dignity,” Mollot told [NJ.com](#).
- The [St. Louis Business Journal](#) cited LTCCC’s Q3 2021 staffing data and analysis which found that “70% of all nursing homes failed to meet the 4.1 nursing hours-per-resident threshold.”
- [Harlem World Magazine](#) reported on NY State legislation that will strengthen NY’s nursing home oversight program. “Ombudsmen serve on the front line of protecting vulnerable residents in nursing homes and assisted living. We thank Senator May and Assembly Member Clark for their leadership on this bill, which would help ensure that the Ombudsman Program’s important work on behalf of residents and families has the greatest possible impact,” said Mollot.

“We’ve been reviewing the federal data for years and this fits in with historical figures. But state surveyors typically look the other way when staffing is too low to provide even basic care or life with dignity.”

- Richard Mollot, LTCCC

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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.