

THE LTC JOURNAL

The Long Term Care Community Coalition

Fall 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.**

LTCCC'S 13TH ANNUAL RECEPTION!

The Long Term Care Community Coalition hosted its 13th annual reception on November 9 at the New York City Bar Association – our first in-person event since 2019!

It was a wonderful evening where we recognized the Honorable Richard Gottfried for his advocacy for residents in long-term care and were joined by Toby Edelman, renowned advocate from the Center for Medicare Advocacy, who spoke about nursing home reform. The event also featured a live concert with the talented Bridget St. John (also a resident advocate!) and Steve Gunn.

Video of Honorable Richard Gottfried's remarks and other materials from the event will be available at <https://nursinghome411.org/lccc13>.

Thank you to our sponsors for making this event possible.



NEW FEDERAL GUIDANCE TO STRENGTHEN NURSING HOME SAFETY, QUALITY, AND ACCOUNTABILITY

Surveys (inspections) are the principal mechanism by which the government assesses nursing home quality and determines compliance with standards of care. Unfortunately, as previous [LTCCC studies](#) have shown, State Survey Agencies (SAs) – which are charged with monitoring care, responding to complaints, and ensuring compliance with minimum standards – too often fail to ensure that residents are protected from poor care, abuse, and neglect.

To help address these issues, the [Centers for Medicare & Medicaid Services \(CMS\)](#) released [important updates to its surveyor guidance](#) on key areas including infection prevention, staffing, and abuse and

“Today’s updates to guidance are just one piece of CMS’s ongoing effort to implement President Joe Biden’s vision to protect seniors by improving the safety and quality of our nation’s nursing homes, as outlined in a [fact sheet](#) released prior to his first State of the Union Address in March 2022.”

- [CMS, Updated Guidance for Nursing Home Resident Health and Safety](#)

neglect. Read LTCCC's alert at <https://nursinghome411.org/cms-revised-guidance-2022/>.

Note: LTCCC's [Guide to Nursing Home Oversight & Enforcement](#) identifies key requirements for state agencies in the federal regulatory requirements and the State Operations Manual which lays out detailed expectations and guidance for state surveyors. It is a useful resource for anyone interested in understanding what to expect from the government agencies charged with ensuring nursing home resident safety and dignity. This document will be revised to reflect the recent announced changes.

'I AM AFRAID': ELDER JUSTICE "NO HARM" NEWSLETTER (VOLUME 4, ISSUE 4)

In the Elder Justice Newsletter, we highlight citations, including deficiencies related to abuse, neglect, and substandard care, that have been identified as not causing any resident harm. The newsletter, published jointly with the [Center for Medicare Advocacy](#), sheds light on the issue of so-called "no harm" deficiencies, which typically result in no fine or penalty to the nursing home. [These "no harm" violations include:](#)

- Overmedicated: Resident given inappropriate psychoactive drugs for nearly two years.
- Check the use-by date: Expired insulin administered to resident.
- 'I am afraid': Understaffing at two-star nursing home leaves residents helpless.
- Skin breakdown: Two-star nursing home fails to provide daily wound care.
- A sticky situation: Brown and red substances cover floors of four-star nursing home.
- 42 days, no bath: Resident unbathed at five-star nursing home.

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

'SHOW ME THE NUMBERS' 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 July webinar, "[Show Me the Numbers](#)," Ilene Henshaw discusses how transparency can improve the quality of care in nursing homes. The discussion is based [a new LTCCC report on nursing home transparency](#) which highlights the efforts over the years to increase transparency and provides thoughtful recommendations for critically needed reforms. All webinars are available on [our YouTube channel](#) and on the [NursingHome411 webinar and events page](#).

TURNOVER TROUBLES

Sufficient numbers of nursing staff, adequate training, and consistent assignment of staff to residents are important for both resident and staff well-being. Unfortunately, most nursing homes have too little staff to meet the needs of their residents. The nursing home industry has claimed for years that this is because it is impossible for them to find sufficient staff. In fact, high rates of staff turnover are largely responsible for this serious, but preventable, problem. The average nursing home turns over more than half (53.3%) of its nursing staff within a year, according to the latest federal data. How can one run any successful business, no matter care for vulnerable nursing home residents, with such a high rate of staff turnover?

To help the public gain insights into the nursing home staffing – including turnover rates and weekend staffing levels – LTCCC publishes quarterly staffing data for every U.S. nursing home (in compliance with federal staff reporting requirements). The latest federal data from the first quarter of 2022 show that too many nursing homes are failing to provide sufficient staffing levels to provide basic care needs for far too many residents.

Staffing Facts for Q1 2022:

- Nationwide, the average nursing home reported a nursing staff turnover of 53.3%.
- Contract employees accounted for 9.7% of all nurse staff hours, nearly double the rate from Q1 2021 (5.0%).
- Total RN staff HPRD (0.61) is down more than 10% in the past year.
- Staffing levels are significantly lower on the weekends.
- Roughly one in four (26.8%) nursing homes met the essential total care staff threshold (4.10 HPRD), and 30.5% of nursing homes met the RN staff threshold (0.75 HPRD).

Check out [LTCCC's Q1 2022 staffing report](#) and download user-friendly files for every state.

THE NURSINGHOME411 PODCAST: HOW COLORBLIND POLICIES FAIL RESIDENTS

LTCCC's "NursingHome411 Podcast" features topical interviews, issue-oriented programming, and audio versions of our webinars. On a recent episode, "[How Colorblind Policies Fail Nursing Home Residents](#)," Dr. Shekinah Fashaw-Walters (Assistant Professor at the University of Minnesota and Fesler-Lampert Chair in Aging Studies) talks about the policies, practices, and structures that disadvantage marginalized communities. Listen to the NursingHome411 Podcast on our website at <https://nursinghome411.org/podcast/>, and on [Spotify](#), [Apple Podcasts](#), and [Google Podcasts](#).

Note: Check out LTCCC's webinar, [A Matter of Justice: Racism as a Fundamental Cause of Long-Term Care Inequities](#), where Dr. Fashaw-Walters discusses the difference between equality, equity, and justice.

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



INVESTORS PROFIT AT THE RESIDENTS' EXPENSE

Real Estate Investment Trusts (REITs) are companies that own and usually operate income-producing real estate – they have remarkable profits and compensation and “little or no” transparency on their financial transactions. REITs, which have a significant presence in the nursing home market, are often considered “passive investors.” They retain a tax-exempt status if 75 percent of their assets are invested in real estate, 75 percent of their gross income is taken from real property, and 90 percent of taxable income is paid out yearly.

But are these REITs truly *passive* investors? [A recent report, “The Role of Public REITs in Financialization and Industry Restructuring,”](#) details how REITs “aggressively buy up property assets and manage them to extract wealth at taxpayers’ expense.” The report by Rosemary Blatt and Eileen Appelbaum shows that REIT growth is parallel to for-profit nursing home chain growth. From 1998 to 2008, two-thirds of all nursing homes were acquired by private equity. Case studies on major U.S. nursing home operators, ManorCare and Genesis, demonstrate the “serious risks and dangers for patient care” resulting from the REIT model. As real estate companies raise rent, nursing homes shift resources away from staff to patient care and toward the property.

“The evidence in this report shows that they [REITs] are actually financial actors that aggressively buy up property assets and manage them to extract wealthy at taxpayers’ expense.”

- Rosemary Batt & Eileen Appelbaum

Too often, the REITs profit at the residents’ expense. Residents in nursing homes owned by REITs are at greater risk of inadequate treatment and poor health outcomes, according to the report. They also have a 10 percent higher mortality rate and 50 percent increased antipsychotic drug, according to the report. Though these nursing home owners act as “passive investors,” they may be making significant financial decisions that affect patient resources and patient staffing ratios.

UNCERTIFIED STAFF

Nurse aides provide the bulk of direct care to nursing home residents – but when nurse aides are not properly trained, residents are at greater risk of harm. Under the Nursing Home Reform Law, nurse aides must have at least 75 hours of training and pass a competency exam by no later than four months (120 days) after they begin work. At the start of the COVID-19 pandemic, the Centers for Medicare & Medicaid Services (CMS) waived a variety of federal regulations to address the public health emergency. This included the 120 day rule, which has allowed nurse aides to continue to care for a vulnerable population, undertrained and underprepared, for longer than four months without meeting the training and certification requirements.

In April 2022, CMS issued a [memo](#) stating, “[w]hile the waivers of regulatory requirements have provided flexibility in how nursing homes may operate, they have also removed the minimum standards for quality that help ensure residents’ health and safety are protected. Findings from onsite surveys have revealed significant concerns with resident care that are unrelated to infection control (e.g., abuse, weight-loss, depression, pressure ulcers, etc.)” Because of this, CMS set the waiver of the 120 day rule to terminate on June 7. Now, [CMS is giving temporary nurse aides until the end of the public health emergency to complete their required 75 hours of training and to pass a certification test.](#) However, while the public health emergency was scheduled to end on October 15, it was renewed for an additional 90 days by the Department of Health and Human Services. Until January 11, 2023, facilities and states may request waivers by submitting to CMS documentation specifying barriers to meeting requirements.

Continuing to allow minimally trained aides to care for residents puts residents at serious risk of harm. “Nursing homes aren’t hospitals – there should not be emergencies for months on end. If you can’t handle the people, and if you don’t have staffing, stop taking in residents,” [LTCCC executive director said early on in the pandemic.](#) LTCCC encourages CMS to fully end the waiver on nurse aide training requirements.

Note: As of the date of this publication, [CMS identified 15 states now under waivers.](#)

DEBT COLLECTORS, BEWARE

The Consumer Financial Protection Bureau (CFPB) is cracking down on nursing home debt collection practices to better protect caregivers and families. In September, [CFPB and CMS published a joint letter](#) confirming that nursing homes may not require third-party caregivers to personally guarantee payment of a resident’s bills as condition of the resident’s admission to a nursing home. The letter emphasizes that requiring a third-party to guarantee payment is a violation of the Nursing Home Reform Law. Moreover, it states that subsequent attempts to collect debts from family members and/or caregivers may violate the Fair Debt Collection Practices Act and the Fair Credit Reporting Act. (For more information on these Acts, see page 3 of the joint letter.)

This is a win for families and caregivers as it means that contract terms requiring third-party guarantee of payment are unenforceable. Nursing homes that violate this ban are subject to enforcement action by state agencies and CMS, and debt collectors may also be subject to enforcement action as well as private actions brought by the consumer. Placing a family member or loved one in a nursing home is often a difficult decision. Following the steps of the admissions process should not make it harder.

“The NHRA [Nursing Home Reform Act] prohibits nursing facilities from requesting or requiring that a third party personally guarantee payment to the facility as a condition of a resident’s admission or continued stay in the facility. Contract terms that conflict with the NHRA are unlawful, and alleged debts resulting from such unlawful contract terms are invalid and unenforceable.”

- CFPB & CMS Joint Letter

MORE LTC NEWS HIGHLIGHTS

- **On antipsychotics and assisted living ...** “A federal initiative to reduce unnecessary antipsychotic medication prescribing in long-term care facilities failed to reduce prescriptions in assisted living residents with dementia... The results are in sharp contrast to successes seen in long-stay nursing homes, investigators say.” -[McKnights Long-Term Care News](#).
- **On Medicare payments to related parties...** “The HHS Office of the Inspector General (OIG) last week announced an additional investigation as part of its 2022 Work Plan – specifically focusing its efforts on whether skilled nursing facilities are reporting related-party costs in accordance with federal regulations.” -[Skilled Nursing News](#).
- **On uninvestigated nursing home complaints...** “The department acknowledged the complaint within days, but it wasn’t until March 25, 2021 – 14 months later – that DIA investigated the matter. By that time, Roundy, who was a former schoolteacher, seamstress and farm wife, had been dead for six months.” -[Iowa Capital Dispatch](#).
- **On enforcement and termination of federal funding...**
 - “Residents of the Tampa Bay nursing home learned in June that it was closing. They said they were told that they had 30 days to find places to live... The nursing home on Wednesday became the latest in Florida formerly affiliated with Consulate Health Care to lose its federal benefits since May because of poor patient care.” -[Tampa Bay Times](#).
 - “The beginning of the end for Woodland came in May, after the New Jersey Department of Health suspended new admissions and then sought to revoke the facility’s license just days after the Centers for Medicare & Medicaid Services, or CMS, said it would terminate all federal funding to the nursing home over its concerns for the safety of residents there.” -[NJ.com](#).
 - “Accordius Health at Statesville recently had its funding pulled for health and safety violations, and former resident Joshua Darden [says] he did not receive the care he deserved during his stay there. He said because of that, he’s not surprised the facility got its Medicare funds pulled.” -[WSOC-TV](#).
 - “After losing its Medicare and Medicaid funding because of ongoing and unresolved issues, the Citadel Salisbury, run by Accordius Health, quietly closed its doors on Friday, June 17, apparently without ever telling employees it was happening.” -[Salisbury Post](#).
 - “Regulators have extended the closure date for Laguna Honda Hospital by another two months to give the nursing home more time to figure out where to transfer the 600-plus residents who still call the facility home.” -[The San Francisco Standard](#).

LTC RESEARCH



MENTAL HEALTH AND ISOLATION

Nursing home residents suffered immeasurable harm during the peak of the COVID-19 pandemic – and not just those who contracted the deadly virus. [A new study \(Barnett et al, 2022\)](#) found that residents experienced higher rates of weight loss and depressive symptoms during the first year of the pandemic whether or not their nursing homes had active COVID-19 cases. Further, by November 2020, residents required assistance with a greater number of activities of daily living (ADLs) compared to previous years. These findings suggest that residents suffered worse mental and physical health outcomes, even if their nursing homes did not suffer COVID outbreaks.

This study quantifies on a national scale what residents, families, and advocates have suspected since the spring of 2020: it's not just COVID that is harming residents. The authors note that the increased weight loss is particularly concerning because of its association with frailty and sarcopenia – risk factors for increased morbidity and mortality. The authors conclude that their analysis “provides evidence on the trade-offs that may be inherent in aggressive infection control policy when considering guidance for future pandemics.”

“[T]his analysis provides evidence on the trade-offs that may be inherent in aggressive infection control policy when considering guidance for future pandemics.”

- Michael L. Barnett, MD, MS; R.J. Waken, PhD; Jie Zheng, PhD; *et al.*

LIGHTS ON: HOW UPGRADED LIGHTING CAN HELP PREVENT FALLS

Long-term care residents who experience falls, affected by visibility issues, awareness, and sleep, are at risk of serious health and economic outcomes. [A recent study](#) evaluated whether a lighting upgrade could influence the rate of falls in long-term care residents – turns out, it does! The study observed two pairs of nursing homes, where one home was given a “solid-state lighting upgrade” and the other maintained standard lighting. The upgraded lighting increased blue light, the type of light given off by smart devices, during daytime hours and decreased blue light in the evening. When comparing the two nursing homes, the rate of falls decreased by 43 percent at the home with upgraded lighting. Investing in low-cost and higher intensity lighting during the day with reduced intensity at night is a proven fall prevention strategy for long-term care homes.

“Upgrading ambient lighting to incorporate higher intensity blue-enriched white light during the daytime and lower intensity overnight represents an effective, passive, low-cost, low-burden addition to current preventive strategies to reduce fall risk in long-term care settings.”

- Leilah K. Grant PhD; Melissa A. St. Hilaire PhD; Jenna P. Heller; *et al.*

Note: LTCCC hosted a webinar on falls and accident prevention featuring [Sharon Banks Tarr](#), (MN, RN, LNCC). Video and slides available at <https://nursinghome411.org/webinar-falls/>.

AT RISK FOR HOSPITAL TRANSFER

Nursing home to hospital transfers, which are often avoidable, can lead to traumatic emergency room visits and prolonged hospitalizations. This leaves nursing home residents vulnerable to poor outcomes such as hospital acquired infections and harm to mental health. [In a recent study](#), researchers explored the characteristics of residents encountering repeat transfers by evaluating hospital transfer data in Missouri nursing homes. According to the study, most individuals sent to hospitals are Black residents, have full-code status (meaning their heart has stopped beating and/or they stopped breathing), and are younger with complex needs. Additionally, Black residents have a higher risk of transfer because they are more likely to be differently abled, come from lower quality facilities, or receive sub-standard care.

The study found that most transfers were due to complications from underlying medical conditions, family requests, or lack of resources at the nursing home. In a [recent U.S. News report](#), Vogelsmeier, lead author of the study, commented that “the results suggest that nursing homes might not be doing all they can for certain residents to prevent hospitalization.”

Overall, repeat transfers to hospitals decrease residents’ quality of life, cause considerable financial burdens, and can lead to physical or psychological decline. There is an urgent need for nursing home staff to avoid hospital transfers and frequently discuss advanced care planning with their residents.

“In the US, Black residents comprise 14% of the NH population, yet in our study they accounted for 20% of all transfers and 32% of repeat transfers.”

- Amy Vogelsmeier; Lori Popejoy, Elizabeth Fritz; *et al.*

MORE LTC RESEARCH HIGHLIGHTS

- **On medication prescribing...** “Current evidence outside of the NH [nursing home] suggests that the most effective interventions to reduce PHM [potentially harmful medication] use are multidisciplinary, multifaceted, patient-centered, and provide educational information directly to the patient and/or caregiver. However, the implementation of such interventions the NH setting can be challenging.” -[JAMDA](#).
- **On reduced occupational and physical therapy...** “The Patient Driven Payment Model led to a “significant reduction” in occupational and physical therapy minutes in its first few months of implementation, a [new study](#) has found.” -[McKnights Long-Term Care News](#).
- **On trauma-informed care...** “Rather than abating with age, the impact of trauma can intensify with conditions including dementia. For older adults who successfully managed past trauma, new stresses, such as care home admission, can reactivate PTSD or activate late-onset PTSD. For people in care homes, the COVID-19 pandemic has both presented new and exacerbated past trauma.” -[JAMDA](#).
- **On hypothyroidism and dementia...** “Adults aged 65 and older with a history of hypothyroidism had an 81% increased relative risk of having dementia, they found. What’s more, patients who required thyroid hormone replacement treatment had more than three-fold increased odds of dementia.” -[McKnights Long-Term Care 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:

- Over the summer, Pennsylvania became the fourth state to require nursing homes to spend a specific amount on resident care. LTCCC executive director Richard Mollot spoke with the [Philadelphia Inquirer](#) on these new spending laws. “Putting providers on notice is a good thing. That we’re going to hold them more accountable is a good thing, but there are too many loose ends in all these rules to ensure that there’s going to be improvement,” Mollot said.
- LTCCC’s [NursingHome411 Data Center](#) is a go-to resource for consumers and advocates to learn about staffing, ratings, and other important information in U.S. nursing homes. In a Q&A with [KPBS](#), Attorney Anthony Chicotel (California Advocates for Nursing Home Reform) recommended LTCCC’s user-friendly staffing data to families searching for a nursing home. “But if you really want a much more detailed look at a facility staffing rate, there’s another website. It’s from the Long Term Care Community Coalition,” Chicotel said. “Their website has quarterly staffing data that’s uploaded from the facilities payroll records, and you can see the facilities’ average daily staffing rate per their staffing records, which is probably the most accurate records we have.”
- LTCCC’s policy brief, “New York’s Direct Care Minimum Spending Ratio – Improved Care for Nursing Home Residents and Accountability for Taxpayer Funds” was featured in the [New York State Bar Elder Law and Special Needs Journal \(Volume 32, No. 2\)](#).
- LTCCC board member [Eilon Caspi led a study](#) which evaluated the extent to which mistreatment of residents (including abuse/seclusion, neglect, and misappropriation) are identified in CMS standard surveys vs. complaint surveys.
- A landmark 2001 study recommends a minimum standard of 4.1 nursing hours per resident per day to ensure the safety and wellbeing of residents. In a discussion on nursing home staffing, Mollot told [Bloomberg Law](#), “Only 25% of nursing homes meet the 4.1-hour threshold.”
- In a piece on the workforce challenges faced by nursing home operators amid the pandemic, Mollot tells [USA Today](#), “President Biden’s plans are the most ambitious and potentially most valuable we’ve seen in 35 years.”

“President Biden’s plans are the most ambitious and potentially most valuable we’ve seen in 35 years.”

- Richard Mollot, LTCCC

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Staff: Richard J. Mollot, Executive Director; Sara Rosenberg, Office Manager; Hayley Cronquist, Policy Attorney; Eric Goldwein, Director of Policy and Communication; Stefan Foster, Policy Intern; Tabassum Mohibi, Policy Intern.

Board of Directors: Deborah Truhowsky, Esq., President; Joan Burke; Eilon Caspi, PhD; Patricia Fildes-Vosburg; Geoffrey Lieberman; Martin Petroff, Esq.; and Dennis Rosen.

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.