

LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

LTCCC Alert: New York Nursing Homes Profit as Residents Lose

Too many New York nursing home owners and operators are skimping on staffing and services, profiting at the expense of nursing home residents' basic dignity and safety¹ as a result of lax monitoring and oversight. The need for greater accountability is broadly recognized, but little is being done to ensure funds allocated for nursing home care are actually being used to provide care.

Though nursing home industry lobbyists claim razor-thin margins, reports indicate that too many owners are using complex financial arrangements to obfuscate profits and understate bottom lines. A Kaiser Health News analysis² found that nearly half of New York's nursing homes hired companies controlled by their owners – related parties – paying them well above the cost of services. These related parties amassed \$269 million in profits in 2020, despite the staffing shortages and resident deaths. These millions in profits are on top the generous payments and loans from the federal government during the pandemic,³ as New York's nursing home owners profited lavishly.⁴

In 2021, former New York Governor Andrew Cuomo signed into law modest requirements which provide that nursing homes must spend at least 70% of gross revenues received in any year on direct patient care, with 40% of gross revenues spent on resident-facing staff. The law also limits facility operator's profits to 5%. The law was deemed necessary to address the serious and persistent failure of too many operators to provide sufficient staffing and supplies to meet residents' basic needs.⁵ At the end of 2021, more than 200 New York nursing homes filed a lawsuit⁶ against the state seeking to stop the implementation of that new state law.⁷ The nursing homes' complaint disclosed the amount of money each nursing home would have had to pay back to the state had the profit cap been in effect

¹ See LTCCC's study of federal data indicating that New York's nursing homes are among the most poorly performing (on average) in the country. Available at <https://nursinghome411.org/reports/survey-enforcement/survey-data-report/>.

² Rau, J., "Nursing Home Owners Drained Cash During Pandemic While Residents Deteriorated," (February 1, 2023). Available at <https://kffhealthnews.org/news/article/nursing-home-owners-drained-cash-during-pandemic-while-residents-deteriorated/>.

³ Edelman, T., Edelman, M., "Nursing Facilities Have Received Billions of Dollars in Direct Financial and Non-Financial Support During Coronavirus Pandemic," (March 17, 2021). Available at <https://medicareadvocacy.org/report-snf-financial-support-during-covid/>.

⁴ Rau, J., "Nursing Home Owners Drained Cash During Pandemic While Residents Deteriorated," (February 1, 2023). Available at <https://kffhealthnews.org/news/article/nursing-home-owners-drained-cash-during-pandemic-while-residents-deteriorated/>.

⁵ That law has already been weakened as a reform signed by Governor Kathy Hochul which allows facilities to avoid penalties if they limit their use of contract staff.

⁶ The providers' lawsuit has since been dismissed.

⁷ The state law also requires every facility to maintain daily staffing hours equal to 3.5 hours of care per resident per day by a certified nurse aide, licensed practical nurse, or registered nurse.

in 2019. Altogether, these facilities reported excess income of over \$510 million in 2019 alone.⁸ In other words, the industry’s lawsuit shows that nursing homes aren’t spending enough on resident care.

Where is the money going?⁹ Nursing homes do, in fact, receive frequent increases in funding, including Medicaid reimbursement. Nursing home owners and operators continuously decry Medicaid rates and go as far as to say there have not been Medicaid increases in years. In fact, New York raised its Medicaid rate by 7.5% in 2023.¹⁰ While the industry and trade associations claim that rates are inadequate and less than the cost of actual care, studies show that far too many operators maximize profits¹¹ for owners and investors while providing substandard care to residents. Unfortunately, providers can rake in these profits because little is known about nursing home finances beyond the unvalidated figures that facilities self-report to the government. Meanwhile, the industry continues to receive significant investments from private equity firms, real estate investment trusts, and other sophisticated investors. Without transparency and accountability, there is no telling whether Medicaid rates cover the cost of care. Though the nursing home business appears healthier than ever, its clients – the residents – suffer each day because of a lack of transparency and oversight that incentivizes cost-cutting measures.

Too many nursing home operators flout basic standards of care – as well as human decency – so they can maximize profits. New York Attorney General James’ recent lawsuits¹² against nursing home operators show how much money those facilities actually receive and how public funds can be diverted to private profit.¹³ The lawsuits also meticulously detail the enormous levels of unnecessary suffering, degradation, and even death of nursing home residents while the owners and operators of facilities are sitting on millions.

Unfortunately, these horrific practices are not just occurring in the nursing homes which Attorney General James has sued. Who is protecting the residents in New York’s remaining 600 nursing homes?

For more information and resources on nursing home and assisted living care, visit www.nursinghome411.org. Please email feedback@LTCCC.org with questions or comments.

⁸ LTCCC Alert: NY Nursing Homes Admit Excess Profits (January 21, 2022). Available at <https://nursinghome411.org/nys-provider-lawsuit/>.

⁹ See “United States’ Nursing Home Finances: Spending, Profitability, and Capital Structure,” (December 2023). Available at <https://journals.sagepub.com/doi/10.1177/27551938231221509>.

¹⁰ Harris, J., “Nursing Homes, Hospitals Get Medicaid Rate Increase in State Budget – Just Not as Much as They Wanted,” (May 1, 2023). Available at https://buffalonews.com/news/local/business/nursing-homes-hospitals-get-medicaid-rate-increase-in-state-budget-just-not-as-much-as/article_cca00ce2-e83f-11ed-bb87-17cf5ed33317.html.

¹¹ Jaffe, I., “For-Profit Nursing Homes’ Pleas for Government Money Brings Scrutiny,” (October 22, 2020). Available at <https://www.npr.org/2020/10/22/918432908/for-profit-nursing-homes-pleas-for-government-money-brings-scrutiny>.

¹² Attorney General James Secures \$656,000 from Unlicensed Nursing Home Operator for Years of Fraud and Neglect (December 21, 2023). Available at <https://ag.ny.gov/press-release/2023/attorney-general-james-secures-656000-unlicensed-nursing-home-operator-years>.

¹³ Nolan, E., “Nursing Homes Defrauded Taxpayers of \$83 Million, Lawsuit Says,” (June 28, 2023). Available at <https://www.nytimes.com/2023/06/28/nyregion/ny-attorney-general-nursing-homes-fraud.html>.