

SENIOR CARE POLICY BRIEF



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The [Brief](#) recently highlighted the stark contrast between the extraordinary profits the industry reports to investors and the business press, and its simultaneous claims to state and federal political leaders that it lacks the funding to hire more staff or offer competitive wages.

This issue looks into the claims providers are making in court that requiring them to meet safe staffing requirements is unfair, unachievable, or denies them their Constitutional rights.

Editor's note: All U.S. nursing homes that participate in Medicaid and/or Medicare (virtually all facilities) agree – and are paid – to provide sufficient staff to ensure safety and dignity.

Healthcare Association of NJ and Nursing Home Chains Sue to Block State's Safe Staffing Requirement

What you need to know:

- New Jersey facilities pay Healthcare Association of New Jersey over \$2 million a year to protect their interests. That money could pay for 100,000 additional hours of nurse aide time.
- [All six of the facilities listed in the lawsuit](#) are part of for-profit chains.
- Facts about conditions for residents in these chains (averages):
 - ⇒ 21% of short-stay residents were re-hospitalized after admission
 - ⇒ 9% of short-stay residents had to go to the emergency room
 - ⇒ 9% of long-stay high-risk residents got pressure ulcers (a key indicator of quality & safety)
 - ⇒ 52% of long-stay low-risk residents lost control of their bowels or bladder

NY Lobbyists and Nursing Homes Struggle to Evade Courtroom Accountability

What you need to know:

- At the end of 2021, more than 200 facilities sued to stop a state law requiring nursing homes to spend at least 70% of their revenue on resident care and limiting reported profits to 5%.
- Curiously, the facilities divulged exactly how much money they were diverting away from resident care and into excess profits: an average of \$2,144,770 each. That is equivalent to almost 112,000 additional nurse aide hours per facility per year.
- At the same time, NYS Attorney General James has filed several petitions against major NY nursing home operators alleging massive fraud, self-enrichment, and grossly substandard care.
- Current status: The industry's lawsuit to overturn the state law was dismissed in January. Last month, [the court ruled against the nursing homes' motion to dismiss](#) in one of AG James' lawsuits.

Nursing Home Lobbyists and Texas Attorney General Sue to Overturn Federal Staffing Standards

What you need to know:

- As discussed in our [May 31 Brief](#), the American Health Care Association (AHCA), LeadingAge, the Texas Health Care Association, and three nursing homes sued to overturn CMS's rule which established a very low baseline staffing requirement for nursing homes that wish to receive taxpayer funds. That suit is pending.
- More recently, [the Texas AG also sued the federal government](#), claiming *inter alia*, that the government had not explained why the rules are needed and calling compliance a "practical impossibility."
 - ⇒ Given that the rule's minimum is well below what is needed to provide basic safety (according to a landmark federal study), who is Texas AG Ken Paxton working to protect – seniors and their families or predatory operators?