

Hudson Valley Nursing Home Update: February 2025
Focus on Staffing

www.nursinghome411.org

- + The Long Term Care Community Coalition
  - LTCCC: Nonprofit, nonpartisan organization dedicated to improving care & quality of life for the elderly & adult disabled in long-term care (LTC).
  - Our focus: People who live in nursing homes & assisted living.

#### ■ What we do:

- Policy analysis and systems advocacy;
- Data resources & analyses;
- Education of consumers and families, LTC ombudsmen, and other stakeholders;
- Home of two local LTC Ombudsman Programs in the Hudson Valley.
- Website: www.nursinghome411.org.

# John W. Rodat Public Signals, LLC

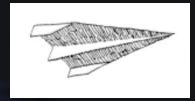
Think in systems ... and *Use the Damn Data* 

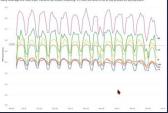
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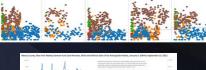


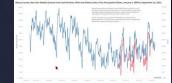














# Outline of Today's Program



**INTRODUCTION**: A bit about this new series and what we will be providing.



#### **DATA BRIEFING & INSIGHTS:**

What's going on in Hudson Valley nursing homes.



**RESIDENT RIGHTS**: Discussion of a relevant standard of care, with resources that you can use.



Q & A.

+

Introduction

# + Program Overview, Need & Goals

#### ■ The Need:

- Nursing home residents face growing challenges which have worsened post-COVID.
- Persistent substandard care and weaknesses in oversight allow profitdriven operators to compromise resident safety and dignity.

#### ■ Key Goals:

- Engage the Community: Equip families and community leaders with actionable data to better understand and address care quality challenges.
- Enhance Monitoring & Oversight: Support the ability of area leaders, LTC Ombudsmen, and other stakeholders to address challenges with relevant information on how facilities are performing.

#### Our Approach:

- Deliver data updates and targeted training sessions focused on the Hudson Valley region.
- Demonstrate interactive tools (e.g., color-coded maps of nurse staffing levels) to prioritize oversight and drive improvements.

Hudson County Nursing Home
Update – Part 1

**Data Briefing & Insights** 

# Why do the Data Matter?

- Though not perfect, data provide the strongest evidence basis for evaluating nursing home care.
- For example, many studies over the years have shown that there is a **strong** correlation between nurse staffing and quality of care.
  - Research has identified a particularly strong relationship between registered nurse (RN) staffing levels and quality.
  - Thus, data on the levels of nursing staff in nursing homes in our community can help us identify and address substandard care and neglect.
- Because data provide a strong basis for evaluating nursing home performance, the federal government collects and reports on a wide variety of facility level data, including:
  - Nurse staffing levels
  - Non-nurse staffing levels
  - Staff turnover rates
  - Ownership
  - Citations, fines, and other penalties
  - Antipsychotic drugging rates
  - Fall rates

- Rehospitalization rates
- Percent of residents with pressure sores
- Percent of residents who are depressed
- Percent of residents who lose control of their bowel or bladder
- And much more

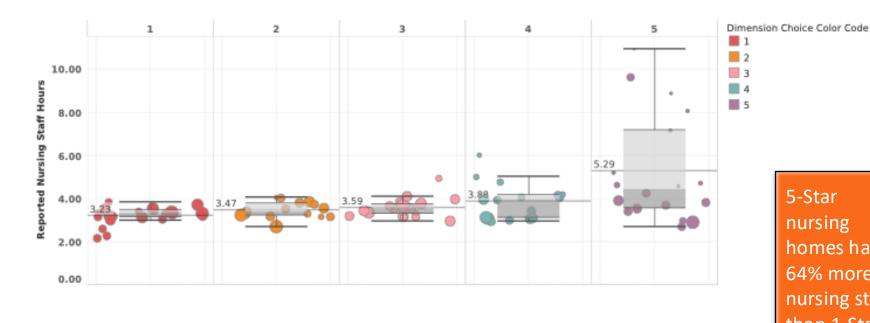
+ Total Reported Nurse Staffing x Overall 5-Star Rating for Hudson Valley Nursing Homes

#### Relationships Between 1 Dimension & 1 Measure

Does Measure Reported Nursing Staff Hours (Vertical Scale) vary by Overall Rating (Horizontal Axis)?

Color by Overall Rating and Size by Average Number of Residents per Day

Counties: Columbia, Dutchess, Greene, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester



5-Star
nursing
homes have
64% more
nursing staff
than 1-Star
nursing
homes.
[On average.]

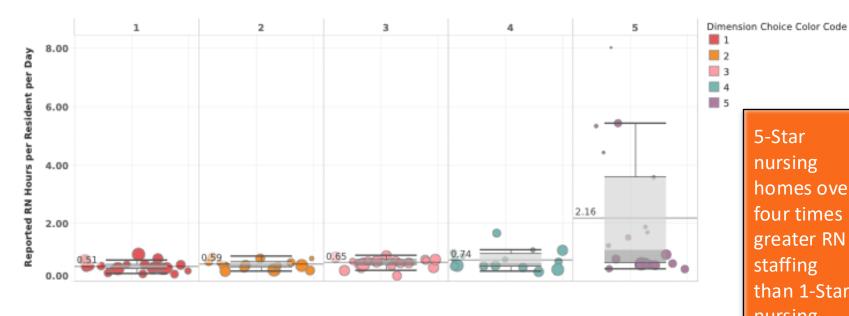
+ Reported Registered Nurse Staffing x Overall 5-Star Rating for Hudson Valley Nursing Homes

#### Relationships Between 1 Dimension & 1 Measure

Does Measure Reported RN Hours per Resident per Day (Vertical Scale) vary by Overall Rating (Horizontal Axis)?

Color by Overall Rating and Size by Average Number of Residents per Day

Counties: Columbia, Dutchess, Greene, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester



5-Star nursing homes over four times greater RN staffing than 1-Star nursing homes. [On average.]

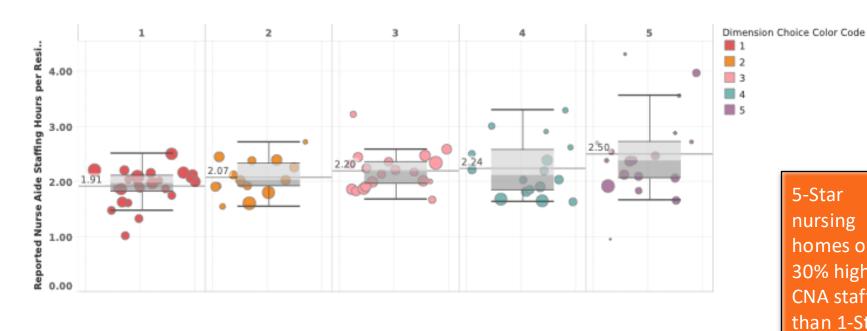
+ Reported Nurse Aide Staffing x Overall 5-Star Rating for Hudson Valley Nursing Homes

#### Relationships Between 1 Dimension & 1 Measure

Does Measure Reported Nurse Aide Staffing Hours per Resident per Day (Vertical Scale) vary by

Overall Rating (Horizontal Axis)?

Color by Overall Rating and Size by Average Number of Residents per Day Counties: Columbia, Dutchess, Greene, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester



5-Star
nursing
homes over
30% higher
CNA staffing
than 1-Star
nursing
homes.
[On average.]



Does Ownership Matter?

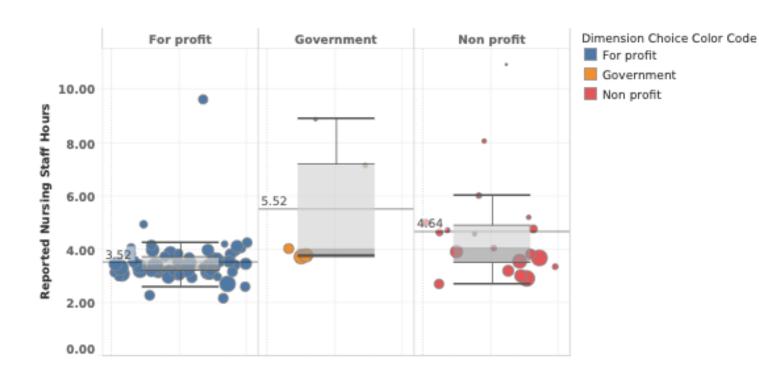
- Research has shown that who owns a facility can make a significant difference in the quality of care and quality of life for residents.
- □ While there are many good forprofit facilities — and many bad non-profit facilities — generally speaking, non-profit and government owned facilities put more of the money they receive into care and have higher staffing levels.
- ☐ Question: Is this true for the facilities serving Hudson Valley Communities?

# + Reported Total Nurse Staffing x Ownership for Hudson Valley Nursing Homes

#### Relationships Between 1 Dimension & 1 Measure

Does Measure Reported Nursing Staff Hours (Vertical Scale) vary by Ownership
Type Summary (Horizontal Axis)?

Ownership Summary: For profit, Government, Non profit
Counties: Columbia, Dutchess, Greene, Orange, Putnam, Rockland, Ulster,
Sullivan, Westchester



For-profit facilities have 24% lower nurse staffing than nonprofit facilities and 36% lower nurse staffing than government owned facilities. [On average.]

# + Reported Registered Nurse Staffing x Ownership for Hudson Valley Nursing Homes

#### Relationships Between 1 Dimension & 1 Measure

Does Measure Reported RN Hours per Resident per Day (Vertical Scale) vary by Ownership Type Summary (Horizontal Axis)?

Ownership Summary: For profit, Government, Non profit
Counties: Columbia, Dutchess, Greene, Orange, Putnam, Rockland, Sullivan,
Ulster, Westchester.

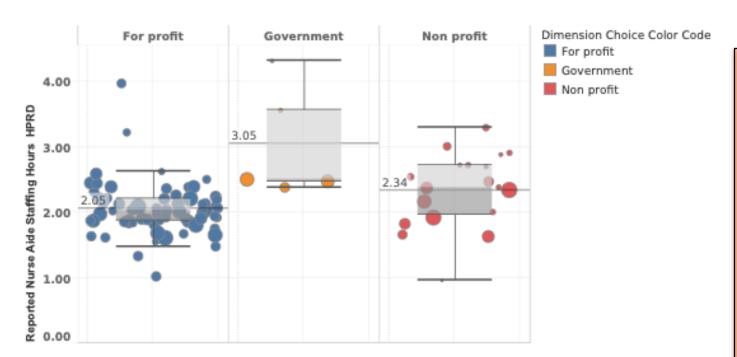


For-profit facilities have less than 1/2 the RN staffing levels of non-profit facilities and 1/3 of the RN staffing of government owned facilities. [On average.]

# + Reported Certified Nurse Aide Staffing x Ownership for Hudson Valley Nursing Homes

#### Relationships Between 1 Dimension & 1 Measure

Does Measure Reported Nurse Aide Staffing Hours per Resident per Day (Vertical Scale) vary by Ownership Type Summary (Horizontal Axis)? Ownership Summary: For profit, Government, Non profit Counties: Columbia, Dutchess, Greene, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester.

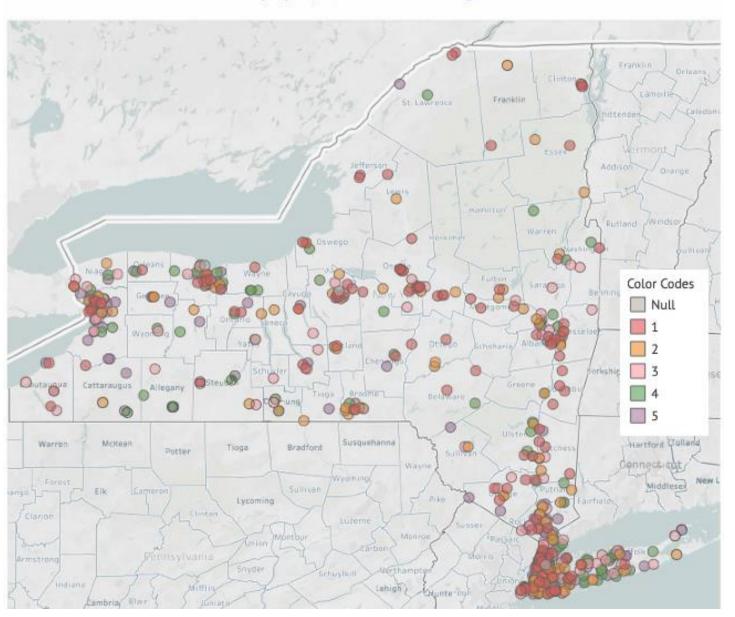


Government owned facilities have approx. 50% higher CNA staffing than for-profits and 30% higher CNA staffing than non-profits. [On average.]

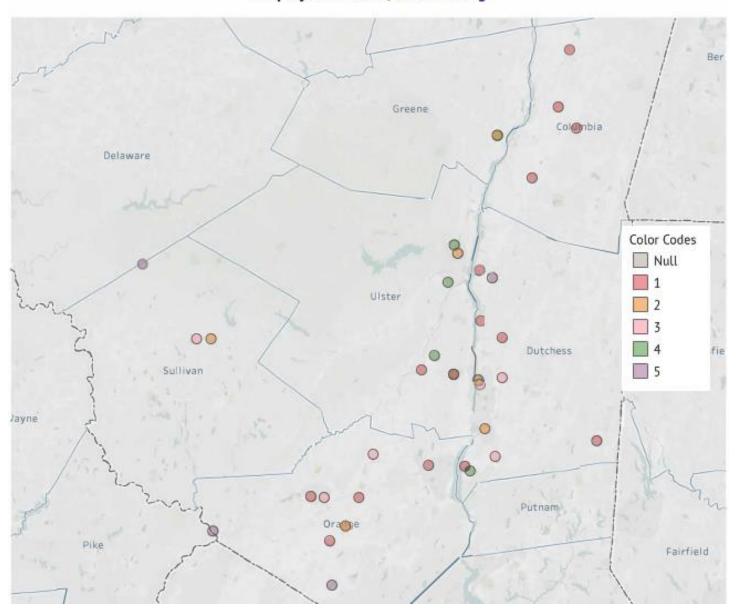
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Hudson Valley Nursing Homes Exploring the Data

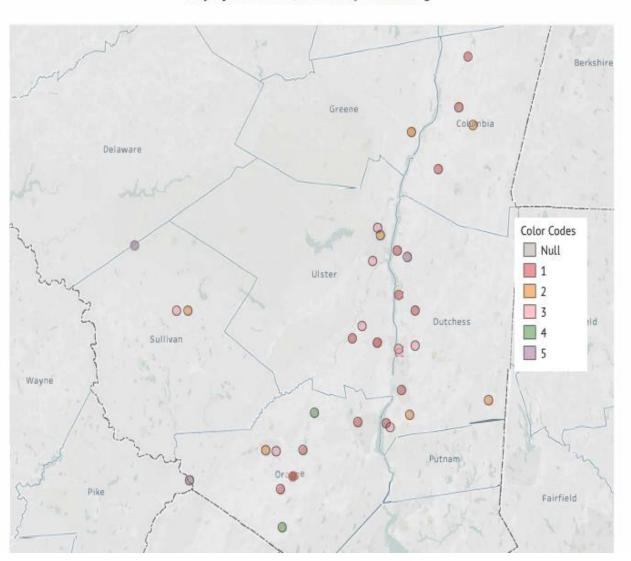
#### Long Term Care Community Coalition Map by Dimension, Overall Rating



# Long Term Care Community Coalition Map by Dimension, Overall Rating



#### Long Term Care Community Coalition Map by Dimension, Health Inspection Rating



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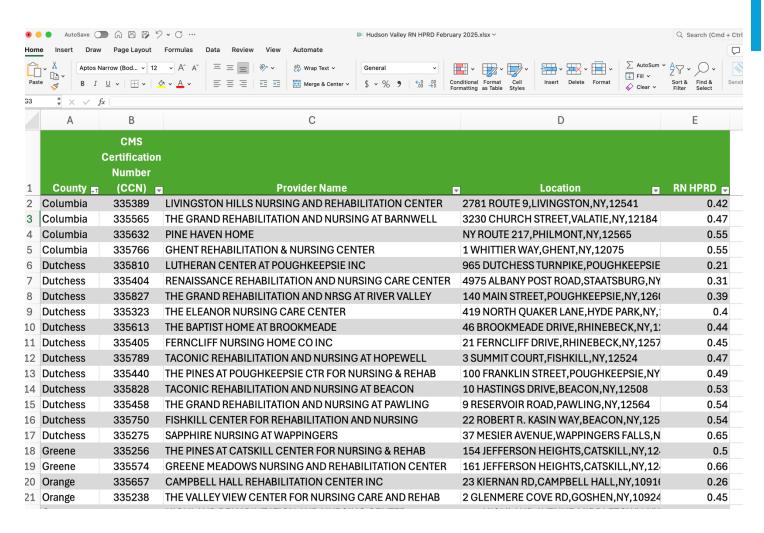
How are Hudson Valley Nursing Homes Performing?

Tools You Can Use

# \* Searchable File of Total Nurse Staffing @www.nursinghome411.org

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# \* Searchable File of Registered Nurse Staffing @www.nursinghome411.org



Hudson County Nursing Home
Update – Part 2

Resident Rights: Sufficient Nurse Staffing

- + The Nursing Home Reform Law
  - ■The law passed in 1987.
  - Every nursing home that participates in Medicaid/Medicare agrees to meet or exceed the standards laid out in the Reform Law and its implementing regulations.
  - ■Participation in Medicaid/Medicare is voluntary. Nursing homes that do not wish to meet these standards are free to run private facilities.

- + The Nursing Home Reform Law
  - The federal law requires that every nursing home resident is provided the care and quality of life services sufficient to attain and maintain their highest practicable physical, emotional, & psychosocial well-being.
  - The law emphasizes individualized, patient-centered care.
  - Importantly, the law lays out specific resident rights, from good care and monitoring to a quality of life that maximizes choice, dignity, & autonomy.
  - Sufficient staffing with the appropriate competencies has been required since the beginning.

# + The Problem(s)

Federal data, our studies, and countless OIG and GAO reports indicate that these minimum requirements are, too often, unenforced.



# + What Can We Do?

- Getting good care and humane treatment in a nursing home can be a formidable challenge.
- The purpose of these programs is to engage stakeholders in the Hudson Valley at every level, including residents and families; policy makers and agency staff; and LTC Ombudsmen and others who work directly with residents and families.
- We all have opportunities to improve care and ensure that nursing homes fulfill their promises to residents, families, and tax-payers!
- The first part of this program provided data insights that can be useful for both individual and systemic advocacy.
- This part of the program presents information and resources that can be used to support resident-centered advocacy for better staffing and care.

# The Federal Nursing Home Standards:

# Requirements for Care Staff

#### Why Are These Rules Important?

- Staffing is critical to nursing home quality and resident safety.
- Too many facilities are understaffed, leading to inadequate care.
- Staff competencies vary, too often failing to meet resident needs.
- Some owners and administrators neglect minimum care standards, including proper staffing.
- Knowledge = Power: Understanding resident rights and accessing key resources strengthen advocacy for better care.

**Note**: This discussion focuses on the federal requirements for care staff. States can provide additional standards and protections. For example, New York has a quantitative minimum staffing requirement of 3.5 nursing staff hours per resident per day (HPRD).

+ Fundamental Requirements for Care Staff

# **Nursing Services [42 CFR 483.35 F-725]**

The facility must have sufficient nursing staff with the appropriate competencies and skills sets to provide nursing and related services to assure resident safety and attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care and considering the number, acuity and diagnoses of the facility's resident population....

# + Sufficient Staff [42 CFR 483.35(a) F-725]

The facility must provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans:

- (i) ...licensed nurses; and
- (ii) Other nursing personnel, including but not limited to nurse aides.

#### Notes:

- 1. There are limited circumstances under which the licensed nurse requirement may be waived.
- 2. Many states have additional requirements such as quantitative minimum staffing ratios.

# + Federal Guidance for RNs

The facility must designate a registered nurse (RN) to serve as the DON on a full-time basis. The facility can only be waived from this requirement if it has a [limited, state-approved] waiver.... This requirement can be met when two or more RNs share the DON position.

## + Nurse Aide Competency [42 CFR 483.35(d) & (e) F-728]

**Proficiency of nurse aides**. The facility must ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the plan of care.

A facility must not use any individual working in the facility as a nurse aide for more than 4 months, on a full-time basis, unless—

- That individual is competent to provide nursing and nursing related services; and
- That individual has completed a training and competency evaluation program, or a competency evaluation program approved by the State...; or
- That individual has been deemed or determined competent [based on long-term experience and other federal requirements]....

Non-permanent employees. A facility must not use on a temporary, per diem, leased, or any basis other than a permanent employee any individual who does not meet the [above] requirements....

+ CMS Statement on Competency

"A measurable pattern of knowledge, skills, abilities, behaviors, and other characteristics that an individual needs to perform work roles or occupational functions successfully."

[From CMS Surveyor Training.]

# + Performance Review & Training of Nurse Aides

#### **I.** *Regular in-service education.* [42 CFR 483.35(d)(7) F-730]

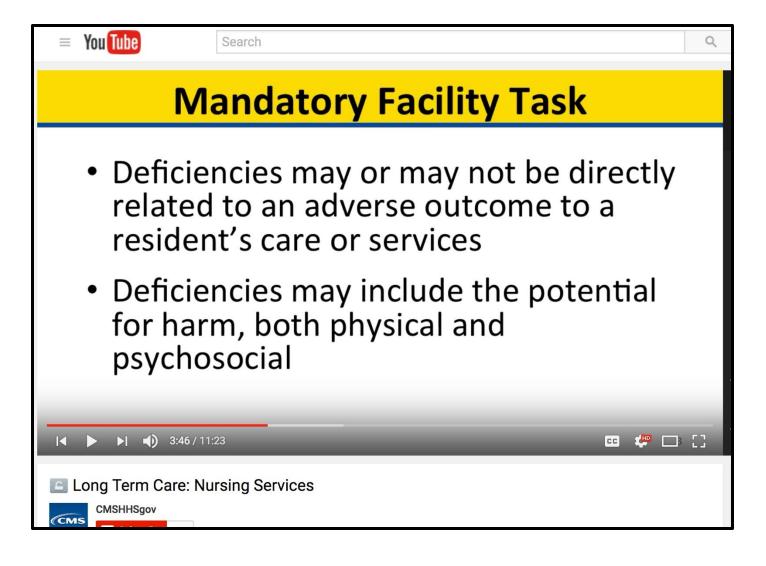
The facility must complete a performance review of every nurse aide at least once every 12 months, and must provide regular in-service education based on the outcome of these reviews. In-service training must comply with the requirements of §483.95(g).

#### **II.** Required in-service training for nurse aides. [42 CFR 483.95(g) F-947]

In-service training must—

- (1) Be sufficient to ensure the continuing competence of nurse aides, but must be no less than 12 hours per year.
- (2) Include dementia management training and resident abuse prevention training.
- (3) Address areas of weakness as determined in nurse aides' performance reviews and facility assessment... and may address the special needs of residents as determined by the facility staff.
- (4) For nurse aides providing services to individuals with cognitive impairments, also address the care of the cognitively impaired.

+ What Does CMS Tell Surveyors About Reviewing for Insufficient and Inadequately Trained Staff?



## +

### Note on Posting of Staff Working in the Nursing Home

Since January 1, 2003, all licensed nursing homes have been required to post "in a clearly visible place" the number of nursing staff on duty on each shift.

Unfortunately, too often, this information is not clearly visible or even accurate.

To help address this problem, CMS has issued the following guidelines for facilities:

- The facility's "document" may be a form or spreadsheet, as long as all the required information is displayed clearly and in a visible place.
- The information should be displayed in a prominent place accessible to residents and visitors and presented in a clear and readable format.
- This information posted must be up-to-date and current.
- The facility is required to list the total number of staff and the actual hours worked by the staff to meet this regulatory requirement. The information should reflect staff absences on that shift due to call-outs and illness.
- Staffing must include all nursing staff who are paid by the facility (including contract staff). The nursing home would not include in the posting staff paid for through other sources; examples include hospice staff covered by the hospice benefit, or individuals hired by families to provide companionship or assistance to a specific resident.

RNs = 2 LPNs = 5 CNAs = 11 Resident Census = 162 + The new federal standard vs. NYS standards: How do they compare?

#### **Federal**

- 24/7 registered nurses (RNs)
- Overall nursing staff of 3.48 hours per resident per day (HPRD).
- Minimum of .55 HPRD of RN time.
- Minimum of 2.45 HPRD of CNA time. No minimum of LPN time.

#### State

- 3.5 hours per resident per day (HPRD) of total nursing staff.
- Minimum of 1.1 HPRD professional nurse time (either RN or LPN).
- Minimum of 2.2 HPRD of CNA time.

# + Free, Easy-to-Use Fact Sheets & Guides

# LONG TERM CARE COMMUNITY COALITION

Advancing Quality, Dignity & Justice

#### CONSUMER FACT SHEET:

#### REQUIREMENTS FOR NURSING HOME CARE STAFF & ADMINISTRATION

Staffing is widely considered to be the most important factor in the quality of care provided in a nursing home. Too often, facilities fail to have sufficient staff or the staff does not have the appropriate knowledge and competencies to provide the care residents need. Thus, federal requirements for sufficient and competent staff are critical to support resident-centered advocacy to ensure that residents are safe and that they receive appropriate services. This is what we pay for and what every facility agrees to provide for all of its residents when it participates in Medicaid/Medicare.

Below are relevant standards with descriptions excerpted from the federal regulations, followed by some points for you to consider when you advocate on these issues. [Note: The brackets below provide, for reference, the applicable federal regulation (42 CFR) and the F-tag number used when a facility is cited for failing to meet the standard.]

#### I. Fundamental Requirements for Nursing Services [42 CFR 483.35 F-725]

The facility must have sufficient nursing staff with the appropriate competencies and skills sets to provide nursing and related services to assure resident safety and attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care and considering the number, acuity and diagnoses of the facility's resident population...

#### II. Sufficient Staffing Levels [42 CFR 483.35(a) F-725]

The facility must provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans:

(i) ...licensed nurses; and (ii) Other nursing personnel, including but not limited to nurse aides.

#### III. Nurse Aide Competency [42 CFR 483.35(d) F-728]

**General rule**. A facility must not use any individual working in the facility as a nurse aide for more than 4 months, on a full-time basis, unless—

That individual is competent to provide nursing and nursing related services; and

That individual has completed a training and competency evaluation program, or a competency evaluation program approved by the State...; or

 $That individual \ has been \ deemed \ or \ determined \ competent \ [based \ on \ long-term \ experience \ and \ other federal \ requirements]...$ 

**Non-permanent employees.** A facility must not use on a temporary, per diem, leased, or any basis other than a permanent employee any individual who does not meet the [above] requirements....

LTCCC Fact Sheet: Care Staff & Administration Requirements

#### Page 2

#### Considerations for Resident-Centered Advocacy - Staffing Competency & Quantity:

- Note the reference to the 1987 Nursing Home Reform Law's requirement that nursing home services must be sufficient to assure that residents attain and maintain their "highest practicable physical, mental and psychosocial well-being." This means that services must be tailored to what residents need, <u>not</u> what the facility wishes to provide based on its profit margins and financial goals.
- 2. Nursing services must be <u>both</u> sufficient and competent to fulfill the needs identified in <u>each</u> and <u>every</u> resident's assessment and care plan.
- 3. When a facility accepts a resident it is affirming that it has both enough staff to meet the care and service needs of that individual and that the staff it hires and retains are appropriately trained to carry out this promise. When a facility lacks sufficient staff to meet the needs of its residents it is breaking that promise and violating its agreement with the federal government.

#### IV. Nursing Home Administration [42 CFR 483.70 F835]

A facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

#### Considerations for Resident-Centered Advocacy – Administration:

Federal guidelines state that, to order for a facility to be cited for substandard administration the surveyor's "investigation must demonstrate how the administration knew or should have known of the deficient practice and how the lack of administration involvement contributed to the deficient practice found."

This is important in two ways:

- Is the administrator aware of the specific problem or concerned about which you are advocating? Depending on the nature of the problem, and how long it has continued, it may be worth bringing it to the attention of the administrator and/or senior staff.
- Even if you do not know if the administrator has direct knowledge, there are numerous situations for which it is <u>expected</u> that an administrator is aware and accountable, includine:
  - "all alleged violations involving neglect, abuse, including injuries of unknown source, and/or misappropriation of resident property, by anyone furnishing services on behalf of the newider."
  - overall implementation of the facility policies/procedures, including to prohibit involuntary seclusion...." and
  - c. any reasonable suspicion of a crime against a resident.

#### RESOURCES

<u>WWW.NURSINGHOME411.ORG</u>. LTCCC's website includes materials on the relevant standards for nursing home care and a variety of resources on specific issues, such as dementia care, resident assessment and care planning, dignity and quality of life.

Can Nursing Homes Hire More Staff?

Dispelling the Industry's False & Dishonest Narrative

- Myth: Nursing home payment is insufficient to provide good care.
  Reality: Most nursing homes are run for-profit and are seen as attractive investments.
  - The industry's longstanding argument that it does not get paid enough to provide sufficient staffing, baseline infection control protocols, etc... is unsubstantiated.
  - In fact, nursing homes are increasingly operated by forprofit entities.
  - Private equity and REITs have increasing, substantial investment in the sector.
  - There are virtually no limitations on the use of public funds to pay for administrative staff or siphon off into profits.
  - Operators commonly use related party transactions to hide profits (and perpetuate the myth of "razor-thin margins").

# + Medicaid Funding



Advancing Quality, Dignity & Justice

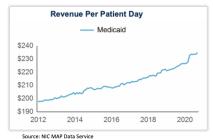
#### LTCCC POLICY BRIEF

#### NURSING HOME MEDICAID FUNDING: SEPARATING FACT FROM FICTION

Background. Medicaid is the primary funding source for the majority of nursing home services in the US. Managed by states using a mix of state and federal funding, Medicaid covers more than 60% of residents nationwide. Each state has broad flexibility to determine eligibility standards and payment methods and design reimbursement rates.

Industry Claims vs. Facts. Nursing home providers and trade associations claim that Medicaid rates are inadequate and less than the cost of actual care. The industry also blames low Medicaid rates for substandard care. However, recent studies suggest that for-profit facilities have maximized profits for owners and investors while skimping on resident care.

- Medicaid rates have <u>steadily</u> increased in the past decade, rising 12.6% since 2012, according to the <u>National Investment</u> <u>Center for Seniors Housing & Care</u> (NIC).
- Nursing homes received an average of \$214 per resident per day in Medicaid funding in 2019, a 2.2% increase from 2018.



- An NIC report with data through September 2020 shows a <u>national average reimbursement rate of \$235</u>, though this \$21 increase from 2019 is likely a COVID-related boost.
- Although industry leaders claim that nursing homes are <u>losing money</u> on Medicaid residents and blame <u>closures and financial struggles on low reimbursement rates</u>, typical <u>nursing home profits are in the 3 to 4 percent range</u>, according to Bill Ulrich, a nursing home financial consultant. This does not include profits that are hidden in related-party transactions, which 75% of nursing homes report, or bloated administrative costs. Numerous studies and reports have shown that related-party transactions can be used to "siphon off higher profits, which are not recorded on the nursing home's accounts," giving the false impression that a nursing home has low profits or is losing money."

209 West 29<sup>th</sup> Street, New York, NY 10001 | P: 212-385-0355 | E: info@ltccc.org

Nursing Home Medicaid Funding: Separating Fact From Fiction

Lack of Accountability. Bolstered by government funding, providers are raking in profits while facing limited accountability for how they utilize Medicaid funds. Though not illegal, operators too often utilize Medicare and Medicaid funds by using public reimbursement to cover salaries, administrative costs, and other non-direct care services. Without transparency and accountability, determining the extent to which Medicaid rates cover the costs of care for Medicaid nursing home residents is simply not possible. Providers must be held accountable for their finances in order to safeguard residents

from owners and operators who prioritize profits while providing grossly substandard care.

Conclusion. Nursing homes do, in fact, receive frequent increases in funding, including Medicaid reimbursement. Though Medicaid pays for the majority of nursing home services, there is virtually no transparency or accountability in respect to how facilities actually use these funds. In the absence of federal limits on diverting public funds to hide profits in contracts with related parties or in inflated administrative costs, the industry's argument that it

"Just enough is spent on Medicaid residents to keep state inspectors satisfied, while, at the same time, Medicare patients are not given the full value of their insurance coverage."

- Will Englund and Joel Jacobs, The Washington Post

does not receive enough money to provide sufficient staffing and good care is inaccurate (if not fraudulent).

The growth of for-profit ownership in nursing homes over the years, including significant investment by private equity firms and real estate investment trusts (REITs), make it clear that nursing homes are profitable businesses which, in the absence of government quality assurance, too often sacrifice resident safety in order to maximize profits. More financial accountability for facilities would decrease the likelihood of facilities funneling cash to owners and investors at the expense of better resident care.

The Long Term Care Community Coalition is a non-profit, non-partisan organization dedicated to improving care and dignity for individuals in nursing homes and other residential care settings. Visit our homepage, <a href="https://www.NursingHome411.org">www.NursingHome411.org</a>, for resources and information on nursing home policy issues.

This policy brief is part of a new series on reimagining nursing home care in the wake of the devastation wrought by the coronavirus pandemic. To sign up for future alerts, visit https://nursinghome411.org/join/.

# Medicare Funding

According to the Medicare Payment Advisory Commission...

- The average marginal profit from Medicare nursing home patients in 2022 was 27%.
- The average Medicare profit margin has been above 10% for over 20 years.

Unfortunately, the focus of Medicare rate setting has been almost entirely on controlling costs rather than ensuring quality. Medicare prospective payments are based on estimated costs and not on actual expenditures. This system allows nursing homes to keep staffing and operating expenses low in order to maximize profits.

NOTE: These profit margins do not take into account profits hidden in administrative costs or relatedparty transactions.

<sup>\*</sup> Medicare Payment Advisory Commission, *Report to the Congress: Medicare Payment Policy,* March 2024.

+ Funding is NOT the Problem

OIG: Adverse Events in Skilled Nursing Facilities: National Incidence Among Medicare Beneficiaries

- OIG found that one-third of residents who were in a nursing home for short-term care were harmed w/in an average of 15.5 days.
- Almost 60 percent of the injuries were preventable and attributable to poor care.
- Much of the preventable harm was due to substandard care, inadequate resident monitoring, and failure or delay of necessary care.
- As a result, six percent of those who were harmed died, and more than half were rehospitalized.

Even when profits are high, nursing homes fail to provide adequate care, safety, or treat residents humanely.

# + Staffing

# ■ Industry lobbyists claim:

- 1. They cannot find care staff and
- 2. They don't get enough \$\$ to hire sufficient staff.

# ■ Both of these claims are dishonest:

- 1. The typical nursing home has 50%+ annual turnover and
- 2. In the absence of strong oversight, operators can maximize profits by cutting staffing.

In any case, nursing homes are not warehouses.

# +

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