



The Historic Impact of COVID-19 on Nursing Homes and the Failed Response

Webinar: May 20, 2025

Presenter: Ken Levine, Stone & Magnanini LLP

OVERVIEW

2

- **Part 1:** The true scale of deaths caused by the first wave of COVID-19 on nursing home residents was massive, epic, and tragic, at a level that does not appear to be appreciated.

OVERVIEW

3

- **Part 1:** The true scale of deaths caused by the first wave of COVID-19 on nursing home residents was massive, epic, and tragic, at a level that does not appear to be appreciated.
- **Part 2:** COVID-19 exposed problems in the long term care industry that were well known and documented long prior to the outbreak.

OVERVIEW

4

- **Part 1:** The true scale of deaths caused by the first wave of COVID-19 on nursing home residents was massive, epic, and tragic, at a level that does not appear to be appreciated.
- **Part 2:** COVID-19 exposed problems in the long term care industry that were well known and documented long prior to the outbreak.
- **Part 3:** The response to the tragedy to date has been insufficient, with a reversal on progress for many important issues.

OVERVIEW

5

- **Part 1:** The true scale of deaths caused by the first wave of COVID-19 on nursing home residents was massive, epic, and tragic, at a level that does not appear to be appreciated.
- **Part 2:** COVID-19 exposed problems in the long term care industry that were well known and documented long prior to the outbreak.
- **Part 3:** The response to the tragedy to date has been insufficient, with a reversal on progress for many important issues.
- **Part 4:** Other than potential statutory and regulatory changes, there are available legal options to pursue bad actors in the field (primarily, the False Claims Act).

Background: Ken Levine

6

- Counsel at Stone & Magnanini LLP
- Represents whistleblowers (nationally) in False Claims Act and other cases, including against nursing homes and other health care providers.
- From 2017 to 2024, was a supervising attorney at the New Jersey Attorney General's Office, in the Government and Healthcare Fraud section (handling False Claims Act cases).
- *Worked on COVID-19/nursing home investigations at the New Jersey Attorney General's Office.*

STONE  MAGNANINI

COMPLEX LITIGATION

[ABOUT US](#)

[ATTORNEYS](#)

[PRACTICE AREAS](#)

[REPRESENTATIVE CLIENTS](#)

[NEWS](#)

[OPPORTUNITIES](#)

[CONTACT](#)



Background: COVID-19 Nursing Home Investigation

7

- On April 15, 2020, the national spotlight turned to a New Jersey nursing home, **Andover Subacute and Rehabilitation Center II**, where 17 bodies were found stacked inside a room and an additional body was placed in an outside shed.

The New York Times

After Anonymous Tip, 17 Bodies Found at Nursing Home Hit by Virus

There have been 68 recent deaths of residents and nurses from the facility in a small New Jersey town.



Background: COVID-19 Nursing Home Investigation

8

- The next day, New Jersey Governor Murphy said he was “outraged” by the reports of the “makeshift morgue at the [Andover] facility.”
- The Governor then directed “the [New Jersey] Attorney General to look into this matter as well as to do a review of all long-term care facilities that have experienced a disproportionate number of deaths during the COVID outbreak,” and then “take any and all appropriate action.”



Coronavirus Updates and Information

TRANSCRIPT: April 16th, 2020 Coronavirus Briefing Media

THE CORONAVIRUS CRISIS

New Jersey Investigates State's Nursing Homes, Hotbed Of COVID-19 Fatalities

MAY 11, 2020 · 6:57 PM ET

HEARD ON ALL THINGS CONSIDERED

By Maureen Pao, Ailsa Chang

“The true scale of deaths caused by the first wave of COVID-19 on nursing home residents was massive, epic, and tragic, at a level that does not appear to be appreciated.”

Part 1

9

Meltdown at Nursing Homes During the First COVID-19 Wave (March to August 2020)

10

- Highly vulnerable population, already highly susceptible to infectious disease
- Living in close quarters/congregant care (sharing rooms, common space)
- Even before the outbreak, facilities had (i) low staffing and (ii) weak infection control procedures (few RNs)
- Staff brought COVID into the facilities
- Staff were afraid to go to work
- Inadequate PPE and other supplies
- Supervisors also got sick, leading to lack of leadership when needed most
- Residents lay sick, unattended by overwhelmed staff

During the Initial Outbreak, the Media and Public Recognized the Scope of the Ongoing Tragedy.

11

The Most Important Coronavirus Statistic: 42% Of U.S. Deaths Are From 0.6% Of The Population



By [Avik Roy](#), Senior Contributor. ⓘ Commentary from Forbes' Senior ...
for [The Apothecary](#)

[Follow Author](#)

May 26, 2020, 12:14pm EDT

Blame game breaks out over COVID-19 toll in nursing homes

[Health](#) Jun 15, 2020 2:44 PM EDT

WASHINGTON (AP) — A grim blame game with partisan overtones is breaking out over COVID-19 deaths among nursing home residents, a tiny slice of the population that represents a shockingly high proportion of Americans who have perished in the pandemic.

The New York Times

Covid-19 deaths in long-term care facilities

All other Covid-19 deaths in the U.S.

37%

One-Third of All U.S. Coronavirus Deaths Are Nursing Home Residents or Workers

By [Karen Yourish](#), [K.K. Rebecca Lai](#), [Danielle Ivory](#) and [Mitch Smith](#) Updated May 11, 2020

New York COVID-19 nursing home scandal



CORONAVIRUS

Local Officials Say a Nursing Home Dumped Residents to Die at Hospitals

The deaths of 18 residents of a New York nursing home highlight the continuing controversy over the Cuomo administration's decision not to count deaths in hospitals as nursing home deaths. The home denies the allegations.

by Joe Sexton and Joaquin Sapien, Aug. 11, 2020, 5 a.m. EDT

COVID-19

Peter Cox · June 12, 2020 6:55 PM

MDH data: Nursing homes account for half of COVID-19 deaths in Minn.

The Official COVID-19 Death Toll

Over 200,000 Residents and Staff in Long-Term Care Facilities Have Died From COVID-19

Priya Chidambaram

Published: Feb 03, 2022

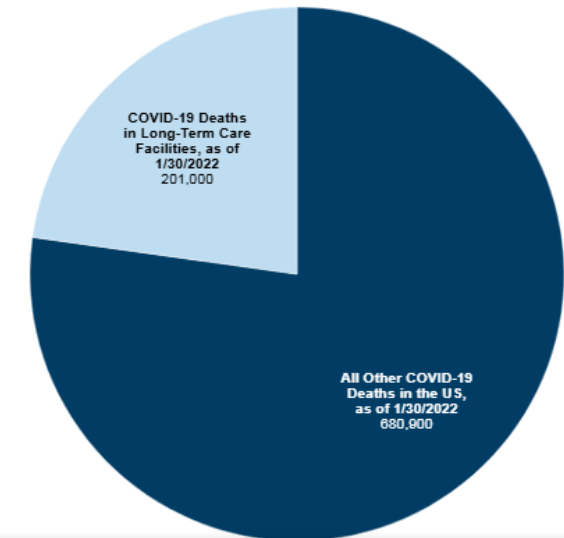


More than 200,000 residents and staff deaths to the total. The total number of resident and staff deaths from these two sources, roughly 201,000, is likely an undercount of the true number of resident and staff deaths in LTCFs since it excludes deaths in long-term care settings other than nursing homes after June 30th, 2021. Additionally, not all states reported data on all types of LTCFs prior to June 2021.

COVID-19 deaths in LTCFs make up at least 23% of all COVID-19 deaths in the US (Figure 1). This share has decreased since the start of the pandemic, when LTCF deaths were nearly [half of all deaths nationally](#). The share has dropped over time for a number of reasons, including [high rates of vaccination](#) among nursing home residents, rising vaccination rates among staff, an increased emphasis on [infection control procedures](#), and the lack of data on deaths in assisted living and LTCFs other than nursing homes in recent months. Despite this drop as a share of total deaths, nursing homes have continued to have disproportionately high [case and death rates](#) in the country during the recent surge. Higher death rates may be attributed to the highly transmissible nature of Omicron and the nature of congregate living. Higher death rates may be attributed to the high-risk status of those who reside in nursing homes.

Figure 1

Long-Term Care Facility Residents and Staff Account for More Than 201,000 COVID-19 Deaths, and At Least 23% of All COVID-19 Deaths in the U.S., As of 1/30/2022.



This death count is based on state and federal data as of January 30, 2022. The total number of deaths is based on deaths in nursing homes, assisted living, and group homes, that is, deaths in long-term care facilities (excluding other types of LTCFs) prior to June 2021. The total number of resident and staff deaths in nursing homes and other types of LTCFs prior to June 2021.

There Was No COVID Tracking in the Early Weeks of the Outbreak

13

“Nursing homes were not required to report cases and deaths that occurred before May 8, 2020.”

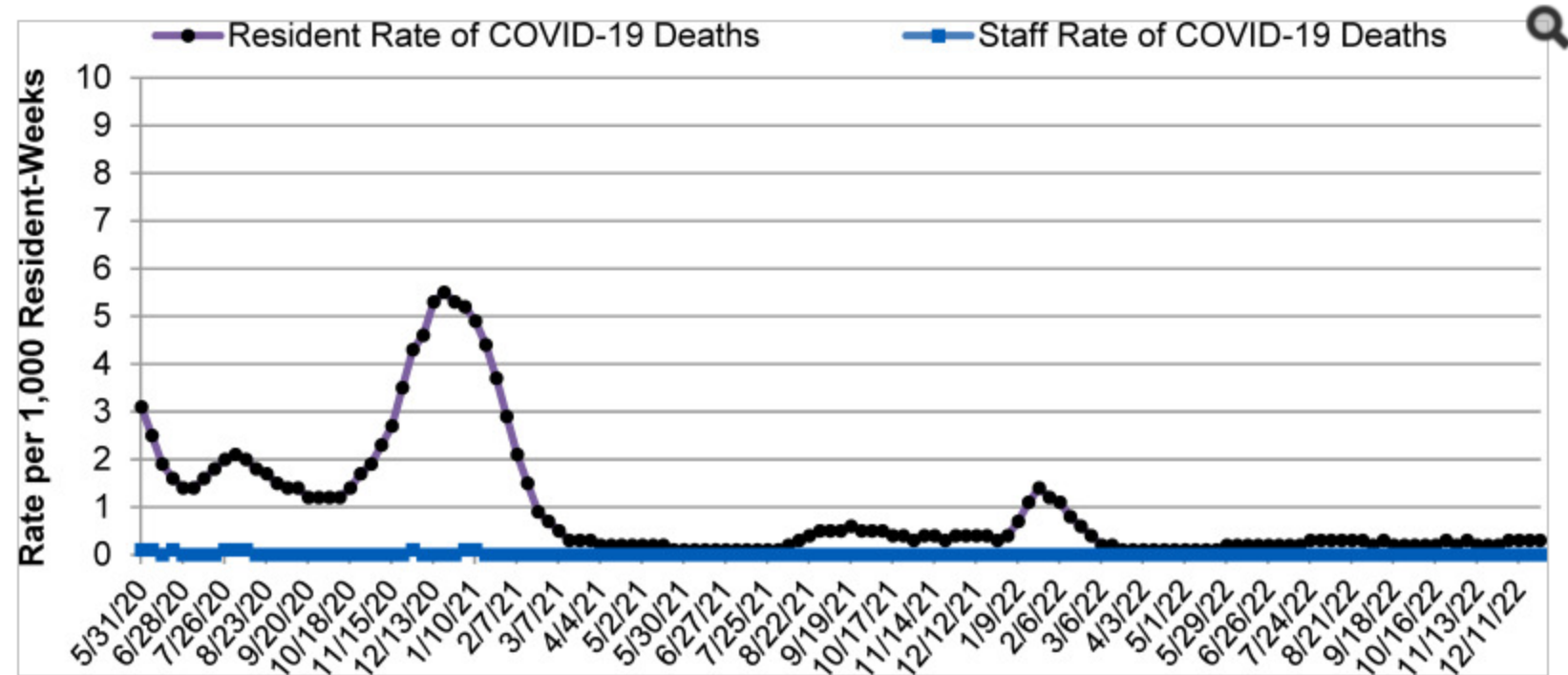


Figure 2 COVID-19 deaths per 1,000 resident-weeks among residents and staff, by week, May 2020-December 2022

Source: Centers for Disease Control and Prevention, National Healthcare Safety Network, Nursing Home Covid-19 Data Dashboard, May 2020-December 2022, <https://www.cdc.gov/nhsn/covid19/ltc-report-overview.html>.

From: [Impact of COVID-19 on Nursing Homes](#)



2023 National Healthcare Quality and Disparities Report.
Rockville (MD): Agency for Healthcare Research and Quality (US); 2023 Dec.

COVID-19 Deaths vs. Overall Deaths ("Excess Mortality")

14

June 14, 2021

Estimation of Excess Mortality Rates Among US Assisted Living Residents During the COVID-19 Pandemic

Kali S. Thomas, PhD^{1,2}; Wenhan Zhang, MPH¹; David M. Dosa, MD, MPH^{1,2};
[et al](#)

- “All-cause mortality rates, nationally, were significantly higher in 2020 compared with 2019.”

The Truer Numbers: The OIG Medicare Report

U.S. Department of Health and Human Services
Office of Inspector General
Data Snapshot
June 2021, OEI-02-20-00490



15

**COVID-19 Had a Devastating Impact on Medicare Beneficiaries
in Nursing Homes During 2020**

Note: In 2020, Medicaid paid for the care of 62% percent of all nursing home residents, **while Medicare was 12%** (and private payers for the remaining 26%).

The overall mortality rate in nursing homes rose 32 percent in 2020.

Almost 1,000 more beneficiaries died per day in April 2020 than in the previous year. In April 2020 alone, a total of 81,484 Medicare beneficiaries in nursing homes died. This is almost 30,000 more deaths—an average of about 1,000 per day—compared to the previous year. This increase in number occurred even though the nursing home population was smaller in April 2020. Overall, Medicare beneficiaries in nursing homes were almost twice as likely to die in April 2020 than in April 2019. In April 2020, 6.3 percent of all Medicare beneficiaries in nursing homes died, whereas 3.5 percent died in April 2019.

“The loss of life was not a surprise: COVID-19 exposed problems in the long term care industry that were well known and documented long prior to the outbreak.”

Part 2

16

What were the causes of the high death rates at nursing homes during the first COVID wave?

17

- “The pandemic exposed the chronic issues plaguing these facilities:
 - a critical lack of oversight,
 - chronic understaffing,
 - management challenges in many facilities, and
 - persistent quality concerns....”
- “This situation was intensified by longstanding staffing shortages and inadequate supplies, particularly of personal protective equipment (PPE), which became acutely problematic during the pandemic’s early stages.”

Independent Review of New Jersey's
Response to the COVID-19 Pandemic

Montgomery McCracken Walker & Rhoads LLP
Cherry Hill, New Jersey

March 7, 2024

Problems Identified Well Before COVID-19

18

- “Nursing homes did not begin the pandemic from a position of strength.”
- “The spread of the virus across the country introduced a new emergency to a long-term care sector that has been in a state of crisis for multiple decades.”
- “For years, nursing homes have been underfunded and understaffed, delivering inadequate care to their vulnerable residents ...”

Nursing Homes and COVID-19: A Crisis on Top of a Crisis

[Brian E. McGarry](#) and [David C. Grabowski](#)  [View all authors and affiliations](#)

[Volume 698, Issue 1](#) | <https://doi.org/10.1177/00027162211061509>



**Nursing Home Quality:
Continued Improvements Needed in CMS's Data and Oversight**

GAO-18-694T

Published: Sep 06, 2018. Publicly Released: Sep 06, 2018.

**Nursing Homes:
Improved Oversight Needed to Better Protect Residents from Abuse**

GAO-19-433

Published: Jun 13, 2019. Publicly Released: Jul 23, 2019.

**Nursing Homes:
Better Oversight Needed to Protect Residents from Abuse**

GAO-20-259T

Published: Nov 14, 2019. Publicly Released: Nov 14, 2019.

GAO-20-576R

Published: May 20, 2020. Publicly Released: May 20, 2020.

**Infection Control Deficiencies Were Widespread and Persistent
in Nursing Homes Prior to COVID-19 Pandemic**

• November 29, 2011

Low Staffing and Poor Quality of Care at Nation's For-Profit Nursing Homes

20

NY's Nursing Home Staffing Shortages Raise Concerns About Quality of Care

BY VIRGINIA JEFFRIES BY JACLYN JEFFREY-WILENSKY AUGUST 26, 2019 11 MIN

Health Care

The nursing home funding crisis

Medicaid shortfall contributes to facility closures



By Lauren Anderson
Oct 14, 2019 10:06 am

Share



*'It's Almost Like a Ghost Town.' Most
Nursing Homes Overstated Staffing for
Years*

Nursing home care in jeopardy

Medicaid cuts, low wages threaten staffing levels

Chris McKenna, Daniel Axelrod cmckenna@th-record.com

Nov. 9, 2019, 4:03 p.m. ET

**In Illinois' understaffed nursing homes, deadly infections persist from
bedsores and common injuries that go untreated**

Pre-COVID Warning: Wanaque Center for Nursing and Rehabilitation (2018)

21

Families of NJ kids in virus outbreak reach \$6 million settlement

By [Sam Raskin](#)

Published Oct. 11, 2021 | Updated Oct. 11, 2021, 11:56 a.m. ET



The Wanaque Center for Nursing and Rehabilitation, which was sold in 2019, was found to have numerous health violations including rusted equipment.



2018 United States adenovirus outbreak

[Article](#) [Talk](#)

From Wikipedia, the free encyclopedia

The **2018 United States adenovirus outbreak** was an occurrence in which an unusual number of [adenovirus](#) cases were reported at two locations, one in [Maryland](#) and one in [New Jersey](#), from September to December 2018, resulting in deaths in both states.^{[1][2]} At least 35 people contracted the disease in each location of the outbreak.^{[3][4]} In New Jersey, the ill ranged in age from toddlers to adults,^[5] and eleven children died.^{[6][7]} It was "one of the nation's deadliest long-term-care outbreaks"^[7] and "one of the nation's worst recorded outbreaks of the [adeno]virus."^[8] The adenovirus outbreak led to the passage of new legislation in 2019 concerning the containment of outbreaks in long-term care centers in New Jersey.^[9]

Pre-COVID Warning: Wanaque Center for Nursing and Rehabilitation (2018)

22

Adenovirus Outbreak Leaves 6 Children Dead at N.J. Pediatric Center

NATION NOW Viruses Ad

10th child dies amid adenovirus outbreak at New Jersey pediatric care center

 [Lindy Washburn](#)
NorthJersey

Updated Nov. 1, 2018, 1:45 p.m. ET

Latest ▾ Local News ▾ • Live ▾ Shows ▾ ... CBS NEWS

11th child dies in viral outbreak at N.J. health care facility

Nursing home leadership faulted for adenovirus outbreak that killed 11 children, federal report says

A nursing home administrator disputed the findings of the federal report and said the center has appealed the "allegations."

New Jersey almost required stricter infection-control rules. But then it backed off.

Wanaque Fallout:

“New Jersey officials swore it would never happen again. Almost a year after a 2018 adenovirus outbreak killed 11 children at a long-term care facility in northern New Jersey, Gov. Phil Murphy signed legislation requiring every such facility in the state to develop outbreak response plans to prevent future tragedies.

There was just one catch: Only a handful of the roughly 670 facilities would have to run their plans by the state Department of Health. The rest were on the honor system.

Six sources with direct knowledge of the bill’s drafting in 2019 say the state Health Department — worried about its limited resources — objected to a requirement that all of the plans be submitted for state vetting. Lawmakers reworked the legislation to limit the mandate to less than two dozen sites.”

Shift to Private Ownership of Nursing Homes (and related party transactions)

24

The Washington Post
Democracy Dies in Darkness

Overdoses, bedsores, broken bones: What happened when a private-equity firm sought to care for society's most vulnerable

November 25, 2018

Nursing Home Ownership Trends and Their Impact on Quality of Care

Jul 31, 2009

David Stevenson, PhD, David Grabowski, PhD, and Jeffrey Bramson, BA

Harvard Medical School

Care Suffers as More Nursing Homes Feed Money Into Corporate Webs



THE NEW YORKER

MEDICAL DISPATCH

WHEN PRIVATE EQUITY TAKES OVER A NURSING HOME

After an investment firm bought St. Joseph's Home for the Aged, in Richmond, Virginia, the company reduced staff, removed amenities, and set the stage for a deadly outbreak of COVID-19.

By Yasmin Rafiei

August 25, 2022

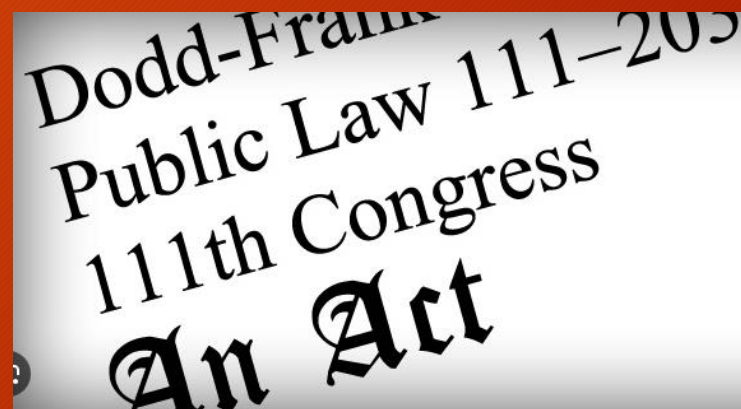
“The response to the tragedy to date has been insufficient, with a reversal on progress for many important issues.”

Part 3

25

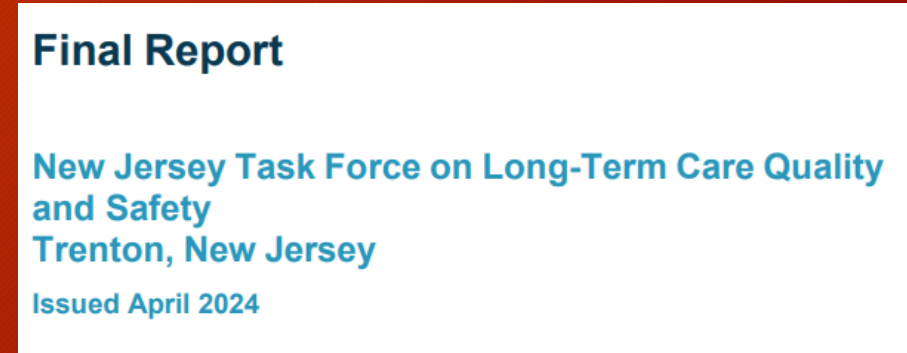
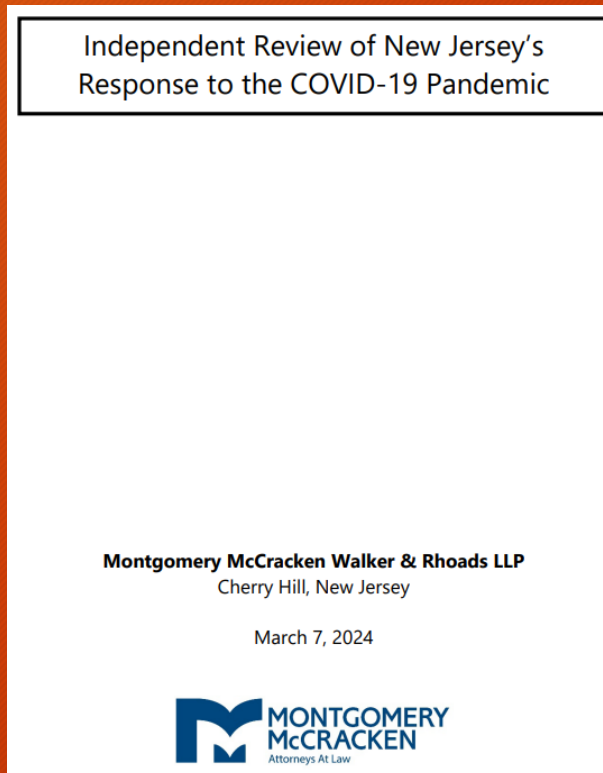
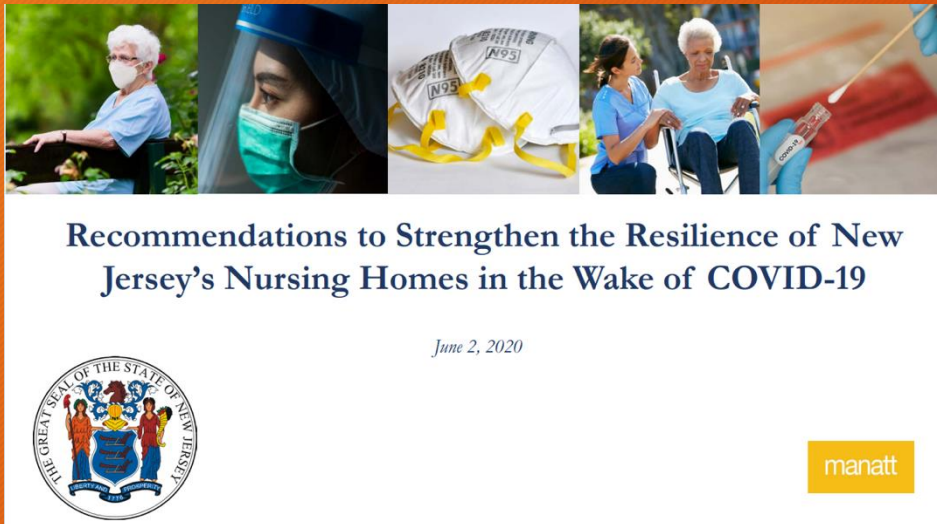
Tragedies Often Lead to Major Legislative Changes

26



There Have Been a Number of Post-COVID Reports/Studies (e.g. New Jersey)

27



Post-COVID Efforts to Improve Staffing Levels

28

- CMS regulations have long required nursing homes to have sufficient nursing staff with the appropriate competencies to assure resident safety and attain or maintain the highest practicable level of physical, mental, and psychosocial well-being of each resident.
- Before COVID, CMS had not required specific minimum staffing levels, although some states did.
- Many advocates sought a federal minimum standard.

Appropriate Nurse Staffing Levels for U.S. Nursing Homes

[Charlene Harrington](#)^{1,✉}, [Mary Ellen Dellefield](#)², [Elizabeth Halifax](#)³, [Mary Louise Fleming](#)⁴, [Debra Bakerjian](#)⁵

► [Author information](#) ► [Article notes](#) ► [Copyright and License information](#)

PMCID: PMC7328494 PMID: [32655278](#)

November 29, 2011

Low Staffing and Poor Quality of Care at Nation's For-Profit Nursing Homes

By Elizabeth Fernandez

The nation's largest for-profit nursing homes deliver significantly lower quality of care because they typically have fewer staff nurses than non-profit and government-owned nursing homes.

That's the finding of a new UCSF-led analysis of quality of care at nursing homes around the country. It is the first-ever study focusing solely on staffing and quality at the 10 largest for-profit chains.

The article is published online in advance of print publication in [Health Services Research](#).

"Poor quality of care is endemic in many nursing homes, but we found that the most serious problems occur in the largest for-profit chains," said first author [Charlene Harrington](#), RN, PhD, professor emeritus of sociology and nursing at the UCSF School of Nursing. Harrington also is director of the UCSF National Center for Personal Assistance Services.



Charlene Harrington, RN, PhD, FAAN

"The top 10 chains have a strategy of keeping labor costs low to increase profits," Harrington said. "They are not making quality a priority."

Post-COVID Efforts to Improve Staffing Levels

29

CMS.gov

Centers for Medicare & Medicaid Services

Newsroom

Fact Sheets Apr 22, 2024

Medicare and Medicaid Programs: Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting Final Rule (CMS 3442-F)

[Policy](#)

Share



On April 22, 2024, the Centers for Medicare & Medicaid Services (CMS) affirmed its commitment to hold nursing homes accountable for providing safe and high-quality care for the nearly [1.2 million residents](#) living in Medicare- and Medicaid-certified long-term care facilities by issuing the Minimum Staffing Standards for Long-Term Care (LTC) Facilities and Medicaid Institutional Payment Transparency Reporting final rule.

This final rule was informed by the feedback CMS received from over 46,000 public comments submitted in response to the proposed rule. Central to this final rule are new comprehensive minimum nurse staffing requirements, which aim to significantly reduce the risk of residents receiving unsafe and low-quality care within LTC facilities. CMS is finalizing a total nurse staffing standard of 3.48 hours per resident day (HPRD), which must include at least 0.55 HPRD of direct registered nurse (RN) care and 2.45 HPRD of direct nurse aide care. Facilities may use any combination of nurse staff (RN, licensed practical nurse [LPN] and licensed vocational nurse [LVN], or nurse aide) to account for the additional 0.48 HPRD needed to comply with the total nurse staffing standard.

Legal Challenges to Staffing Changes and Lack of Compliance (Federal)

30

NEWS

UPDATED: Judge tosses nursing home staffing rule in 'major victory' for sector



KIMBERLY MARSELAS

x @KIMMARSELAS

APRIL 7, 2025

SHARE

A federal judge Monday threw out a national nursing home staffing mandate, quickly shifting providers into considering how they'll use their freedom from inflexible requirements to rebuild and modernize the workforce.

Judge Matthew J. Kacsmaryk of the US District Court for Northern Texas found in favor of four nursing homes, the American Health Care Association and LeadingAge, ruling that a 24/7 requirement for registered nurses exceeded the authority of the Centers for Medicare & Medicaid Services.

"The Court has confirmed that CMS does not have the authority to issue such staffing requirements — only Congress does. Therefore, we now call on Congress to act," said Clif Porter, president and CEO of the American Health Care Association/Center for Assisted Living in a statement. "In light of evolving care practices and our nation's changing demographics, federal policymakers should not be dictating staffing hours but encouraging innovation and high-quality outcomes. The staffing mandate is a 20th Century solution that should be blocked by Congress once and for all."

As Trump Admin Rushes to Eliminate Federal Rules, Nursing Home Staffing Rule Maybe Cut

By Zahida Siddiqi | April 15, 2025

Share



The Trump Administration is preparing a plan to eliminate federal regulations swiftly and permanently, which could include removal of the nursing home staffing mandate.

According to the New York Times, officials at several federal agencies are being instructed to bypass the traditional repeal process, one that often takes years.

LTCCC Alert:

Nine in 10 Nursing Homes Fall Short of Expected Staffing, New Federal Data Show (Q3 2024)

Q3 2024 Nursing Home Staffing

Efforts to Improve Staffing Changes (New Jersey) ... and Legal Challenge

31

Governor Murphy Signs Legislation Requiring Reforms to Long-Term Care Industry

10/23/2020

Bills Establish Minimum Staffing Ratios and Require Policies to Prevent Social Isolation of Residents

NATURE OF ACTION

1. This is an action challenging the constitutionality of L. 2020, c. 112, N.J.S.A. 30:13-18 (the “Staffing Law”), which sets new, mandatory minimum staffing ratios for certain facilities that offer long-term care services (“Nursing Homes”).

2. Most of the day-to-day care provided at Nursing Homes in New Jersey comes from Certified Nursing Assistants (“CNAs”). They aid residents with everything from feeding, to toileting, bathing, dressing, and all the other daily regimens with which residents need assistance. In the years leading up to 2020, there was already a recognized shortage of CNAs who were willing or available to work in Nursing Homes to provide these services to the elderly or infirm.

MER-L-001712-24 08/28/2024 4:48:54 PM Pg 1 of 26 Trans ID: LCV20242112489

Peter Slocum, Esq. (Bar No. 037762010)
Anish Patel, Esq. (Bar No. 382142021)
Julie A. Minicozzi, Esq. (Bar No. 340702021)
LOWENSTEIN SANDLER LLP
One Lowenstein Drive
Roseland, New Jersey 07068
973.597.2500
Counsel for Plaintiffs

THE HEALTH CARE ASSOCIATION OF NEW JERSEY;
COMPLETE CARE AT BEY LEA LLC;
WOODLANDS REHABILITATION CENTER;
MAYWOOD HEALTHCARE CENTER;
HEALTHCARE CENTER OF CARING AT TEANECK;
CORAL REHABILITATION HEALTHCARE CENTER,
Plaintiffs,

vs.

NEW JERSEY DEPARTMENT OF HEALTH;
KAITLAN BASTON IN HER OFFICIAL CAPACITY,
Defendants.

SUPERIOR COURT OF NEW JERSEY
MERCER COUNTY
LAW DIVISION
Docket No.:
Civil Action

COMPLAINT

Plaintiffs the Health Care Association of New Jersey (“HCANJ”), Complete Care at Bey Lea LLC (“Complete Care Bey Lea”), Complete Care at Woodlands

Lack of Compliance with Staffing Changes - New Jersey

“In the aftermath of a pandemic that claimed the lives of more than 9,000 nursing home residents and staff in New Jersey, the state imposed a landmark law last year that set strict limits on the number of nursing home residents CNAs could be assigned to care for on any given shift.”

“The staffing law was one of the most important reforms for an industry long plagued by a shortage of aides and health care workers in long-term care facilities devastated by the pandemic. For the first time, a limit was set on how many residents a nurse aide could be asked to handle — no more than 8 on the day shift, with higher numbers on the evening and overnight shifts when residents presumably would be sleeping.”

“Months later, however, it is clear that understaffing remains prevalent.”

“An analysis by NJ Advance Media of data reported to the state by New Jersey’s more than 350 nursing homes found that nearly 6 in 10 do not meet the requirements of the new state law.”

Special Report

Understaffed and Overwhelmed

N.J. nursing homes lack the staff required by landmark legislation. Is the law being enforced?

Updated: Feb. 15, 2023, 9:09 p.m. | Published: May. 15, 2022, 7:00 a.m.

Lack of Compliance with Staffing Changes - New Jersey: NJ DOH Staffing Data

33

Governor Murphy Signs Legislation Requiring Reforms to Long-Term Care Industry

10/23/2020
Bills Establish Minimum Staffing Ratios and Require Policies to Prevent Social Isolation of Residents

S2712 establishes minimum direct care staff-to-resident ratios in nursing homes. The Manatt Report cited longstanding staffing shortages as one of the sy exacerbated the industry’s COVID-19-response challenges. Specifically, the law requires:

- One CNA to every eight residents for the day shift;
- One direct care staff member (RN, LPN, or CNA) to every 10 residents for the evening shift; and
- One direct care staff member (RN, LPN, or CNA) to every 14 residents for the night shift.



Health Facilities

Nursing Home Staffing Reports

Quarterly Report: First Quarter of the Year 2025

Nursing Home Staffing Reports												
Quarterly Report: First Quarter of the Year 2025												
Facility Name ^Δ	Day Shift				Evening Shift				Night Shift			
	Average Resident Population	RN to Resident Ratio	LPN to Resident Ratio	CNA to Resident Ratio	Average Resident Population	RN to Resident Ratio	LPN to Resident Ratio	CNA to Resident Ratio	Average Resident Population	RN to Resident Ratio	LPN to Resident Ratio	CNA to Resident Ratio
	1RN:#Res	1LPN:#Res	1CNA:#Res	1RN:#Res	1LPN:#Res	1CNA:#Res	1RN:#Res	1LPN:#Res	1RN:#Res	1LPN:#Res	1CNA:#Res	1CNA:#Res
Statewide for 8 hour shifts	118	39.8	21.1	8.6	118	52.9	26.6	9.8	118	73.6	40.1	14.6
Statewide for 12 hour shifts	92	28.4	15.0	8.8	NS	NS	NS	NS	92	36.1	18.3	11.5

M: Data is missing , facility has missed data for 6 or more shifts. Note that 'M' also stands for facilities that were closed for business during Quarter.

CNA to Resident Ratio

1CNA:#Res

8.6

8.8

Lack of Compliance with Staffing Changes - New Jersey: NJ DOH Staffing Data

34

Quarterly Report: Fourth Quarter of the Year 2024

Facility Name ^Δ	Day Shift			
	Average Resident Population	RN to Resident Ratio	LPN to Resident Ratio	CNA to Resident Ratio
		1RN:#Res	1LPN:#Res	1CNA:#Res
Statewide for 8 hour shifts	117	39.7	20.9	8.6
Statewide for 12 hour shifts	96	27.5	15.7	8.2

Quarterly Report: Second Quarter of the Year 2024

Facility Name ^Δ	Day Shift			
	Average Resident Population	RN to Resident Ratio	LPN to Resident Ratio	CNA to Resident Ratio
		1RN:#Res	1LPN:#Res	1CNA:#Res
Statewide for 8 hour shifts	116	38.0	21.0	8.8
Statewide for 12 hour shifts	92	21.7	15.7	8.2

Quarterly Report: Third Quarter of the Year 2024

Name ^Δ	Day Shift			
	Average Resident Population	RN to Resident Ratio	LPN to Resident Ratio	CNA to Resident Ratio
		1RN:#Res	1LPN:#Res	1CNA:#Res
Statewide for 8 hour shifts	116	38.3	21.1	8.7
Statewide for 12 hour shifts	96	27.0	16.2	8.4



STATE OF NEW JERSEY
DEPARTMENT OF HEALTH



NJHealth
New Jersey Department of Health
A Nationally Accredited Department

Health Facilities

Nursing Home Staffing Reports

Potential Medicaid Cuts; Impact on Nursing Home Care

35

HEALTH

Looming Medicaid cuts would hit NJ patients, nursing home residents hard

5-minute read



Scott Fallon

NorthJersey.com

Updated March 17, 2025, 8:56 a.m. ET



How cutting Medicaid would affect long-term care and family caregivers

APRIL 14, 2025 · 7:00 AM ET

By Kat McGowan

Lack of Transparency for Nursing Home Owners / Related Party Transactions

36

Requiring Financial Transparency for Nursing Home Owners/Operators

Current Status

A1872 — Assembly Aging and Human Services Committee

[Check for hearings or updates](#)

S1948 — Senate Health, Human Services, and Senior Committee

[Check for hearings or updates](#)

The legislation requires certified financial statements for every nursing home and any related parties engaged in the nursing home's operations. Companies that own multiple nursing homes would be required to submit certified statements that consolidate financial data across all of their nursing homes.

New Jersey nursing homes currently submit financial statements that are not audited by any outside entity or closely scrutinized by state or federal regulators. The financial statements do not account for other nursing homes owned by the same company and they provide very little detail about payments to related parties — companies that are owned or controlled by the same principals.

This lack of transparency enables nursing home owners to pay higher-than-market rates to related estate and purchase services (such as property management, pharmacy, and staffing resources) for care into hidden profits for the owners. The situation can also make it appear that profitable nursing homes are for residents.

Under the status quo, nursing home owners can prioritize profits over the dignity and well-being of residents, and the trend toward corporate consolidation and private equity ownership of nursing homes continues.



New Jersey Long-Term Care Ombudsman

Laurie Facciarossa Brewer



It's been called one of the **worst nursing homes** in New Jersey.

For years it "siphoned" millions of dollars of Medicaid funds out of the home and to various side businesses, a state watchdog found, "leaving residents to live in a dismal, understaffed, and under-resourced facility."

And in December, acting State Comptroller Kevin Walsh moved to kick South Jersey Extended Care, its owner and those associated with its operations from the state's Medicaid program.

"This was a massive scam," he said. "These individuals were able to amass a fortune by pretending to be independent parties. In reality, they operated as one unit, providing terrible care to the sick, the elderly, and the poor, so they could make big profits."

Inside the 'multibillion-dollar game' to funnel cash from nursing homes to sister companies

Updated: May. 01, 2025, 6:54 p.m. Published: Apr. 30, 2025, 7:00 a.m.

Few Civil Enforcement Actions

37

Attorney General James Secures \$45 Million and Delivers Major Reforms to Four Nursing Homes Following Significant Financial Fraud and Resident Neglect

Independent Monitors Installed by AG James to Oversee Four Centers Nursing Homes Will Continue Improving Care After Residents Suffered Years of Mistreatment and Neglect
Settlement Marks Third Set of Significant Nursing Home Reforms Achieved by AG James to Protect Residents

November 14, 2024

Attorney General James Secures \$8.6 Million and Significant Reforms to Long Island Nursing Home after Repeated Financial Fraud and Resident Mistreatment

Fulton Commons Owners Pocketed Millions of Taxpayer Funds While Leaving Residents to Suffer
AG James Secures Reforms to Improve Resident Care and Guilty Pleas on Criminal Charges After Fulton Commons Covered up Reports of Sexual Assault

March 4, 2024



Webinar: Weeding Out Medicaid Fraud: Lessons from NJ's Long-Term Care Ombudsman & State Comptroller's Collaboration



News from the




Owners of Four New Jersey Skilled Nursing Facilities to be Suspended from New Jersey Medicaid

The Office of the State Comptroller took the action after the owners of the New Jersey facilities and their operating company pleaded guilty to federal health care fraud and tax conspiracy charges.

Posted on - 02/10/2025

TRENTON—The Office of the State Comptroller announced today that the owners of four skilled nursing facilities will be suspended from New Jersey Medicaid, effective May 7, 2025.

Few Civil Enforcement Actions



Portfolio Media, Inc. | 230 Park Avenue, 7th Floor | New York, NY 10169 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Learning From COVID-19 Enforcement Against Nursing Homes

By **Kenneth Levine** (April 18, 2025, 6:43 PM EDT)

Five years ago, the U.S. epicenter of the initial COVID-19 outbreak was in nursing homes, where an estimated 60,000 residents died in the first months alone.[1] New York-New Jersey was the hardest-hit region,[2] and the news at the time was filled with stories of residents dying in isolation as overwhelmed staff with insufficient supplies of personal protective equipment struggled to attend to the sick.[3]

Many of these facilities also had long histories of regulatory violations for understaffing, poor infection control procedures and substandard care. Both New York and New Jersey pledged to investigate and pursue appropriate civil enforcement action against facilities that failed to take reasonable steps to protect their residents.



Kenneth Levine

38

“The COVID-19 outbreak was a tragedy for nursing home residents on a truly massive scale. Many of the deaths were preventable, and the tragedy called for a comprehensive response, including holding bad actors civilly responsible where warranted.”

“The New York Attorney General’s office fulfilled this role with comprehensive civil enforcement actions against nursing homes in response to the COVID-19 outbreak. These actions reflected a strong commitment of resources, and an impressive willingness to take legal and political risks.”

“New Jersey residents did not have the benefit of similar actions.”

“Other than statutory and regulatory changes, there are available legal options to pursue bad actors in the field (primarily, the False Claims Act).”

What Can Be Done (Other Than New Laws)?

40



Learning Center, LTCCC Webinars

Webinar: How Existing Legal Authorities Can Help Fix America's Nursing Home Crisis

Presenter: Nina Kohn, David M. Levy Professor of Law at Syracuse University College of Law
Using What We Have: How Existing Legal Authorities Can Help Fix America's Nursing Home Crisis

[Read More](#)

- Levers:
 - Certification
 - Financial Penalties
 - State Licensure
 - Federal Mortgage Insurance

William & Mary Law Review

[Using What We Have: How Existing Legal Authorities Can Help Fix America's Nursing Home Crisis](#)

“The common theme across the four opportunities identified is that they are all cases involving statutory authority that is not being employed to drive quality but could be.”

False Claims Act (FCA) as an Option in Nursing Home Litigation

41

- One common type of litigation against nursing homes allege wrongful death/negligence (sometimes as class actions).
- **More sweeping in scope are cases that focus on systemic failures, or engaging in some type of widespread fraudulent practice.**
- **The False Claims Act (FCA) is the typical statute used for these claims.**



False Claims Act (FCA) Basics



42

- The FCA allows private citizen/whistleblower (known as a “relator”) to bring claims on behalf of the government, against defendants who are defrauding the government.
- The whistleblower/relator receives a share of the government’s recovery, as a reward.
- FCA dates back to the U.S. Civil War.
- FCA cases are known as “qui tams”



- FCA cases are initially filed under court seal to allow the government an opportunity to investigate without the defendant being aware of the action.
- The government can issue subpoenas (CIDs) to investigate, take testimony, etc.
- The government then decides whether or not to intervene and take over the case.
- If the government does not intervene, the whistleblower/relator can pursue the claim.



FCA Pleading Requirements

44

- FCA Prohibits:
 - Presenting false claims
 - Making a false claim material to an obligation to pay money to the government
 - Failing to return government funds

FCA Damages

45



Damages/Penalties:

Treble damages

Attorneys Fees

Civil Penalty (\$25,000) per submitted false claim.



**Whistleblowers recover
15% to 30% of what the
government recovers as a
reward**



FCA Recoveries

46

PRESS RELEASE

**False Claims Act Settlements and Judgments Exceed
\$2 Billion in Fiscal Year 2022**

PRESS RELEASE

**False Claims Act Settlements and Judgments Exceed
\$2.9B in Fiscal Year 2024**

PRESS RELEASE

**False Claims Act Settlements and
Judgments Exceed \$2.68 Billion in
Fiscal Year 2023**



FCA and Nursing Homes

47

- Most nursing homes receive federal and state funds through Medicare and Medicaid.
- FCA cases against nursing homes focus on the false statements made in connection with the Medicare/Medicaid billing.
- Common claims: overbilling for services, upcoding, other fraudulent billing practices, or failing to meet health and safety requirements.



Department of Justice Special Interest in Nursing Home Cases

48

PRESS RELEASE

Department of Justice Launches a National Nursing Home Initiative

Tuesday, March 3, 2020

Share >

For Immediate Release

Office of Public Affairs

Attorney General William P. Barr announced today the launch of the Department of Justice's National Nursing Home Initiative, which will coordinate and enhance civil and criminal efforts to pursue nursing homes that provide grossly substandard care to their residents.

This initiative is focusing on some of the worst nursing homes around the country and the Department already has initiated investigations into approximately thirty individual nursing facilities in nine states as part of this effort.

"Millions of seniors count on nursing homes to provide them with quality care, and to treat them with dignity and respect when they are most vulnerable," said Attorney General William P. Barr. "Yet, all too often, we have found nursing home owners or operators who put profits over patients, leading to instances of gross abuse and neglect. This national initiative will bring to

SPEECH

Principal Deputy Assistant Attorney General Brian M. Boynton Delivers Remarks at the 2024 Federal Bar Association's Qui Tam Conference

Thursday, February 22, 2024

Another area that I want to highlight is our use of the False Claims Act to combat schemes involving nursing homes.

Nursing home residents are among the most vulnerable members of our society — as we tragically witnessed during the COVID-19 pandemic. They often are victims of fraud schemes that are completely out of their control.

Our cases have involved many different types of fraud, including medically unnecessary rehabilitation therapy, the misuse of antipsychotic medications to chemically restrain residents and medically unnecessary lab tests.

Perhaps the worst cases we encounter are those that involve grossly substandard care. We have aggressively pursued these cases.

In February 2023, for example, the department recovered more than \$7.1 million relating to the operation of a facility called the Saratoga Center for Rehabilitation and Skilled Nursing Care. The operators failed to adequately staff the facility, and residents suffered medication errors, unnecessary falls and the development of pressure ulcers. As part of that resolution, the operators were excluded from participating in federal health care programs.

It is also worth noting that our False Claims Act work is just one component of the department's comprehensive efforts to combat elder abuse, neglect and financial exploitation.

FCA as a Vehicle for Impact Litigation Against Nursing Homes

49

- Brings fraud to the government attention
- Imposes treble damages
- Resolutions often involve imposition of monitoring, forced improvements, and changes of ownership
- FCA cases are a vehicle to effect change

(Active) State Attorney General Offices Also Use the FCA in Nursing Home Cases.

50



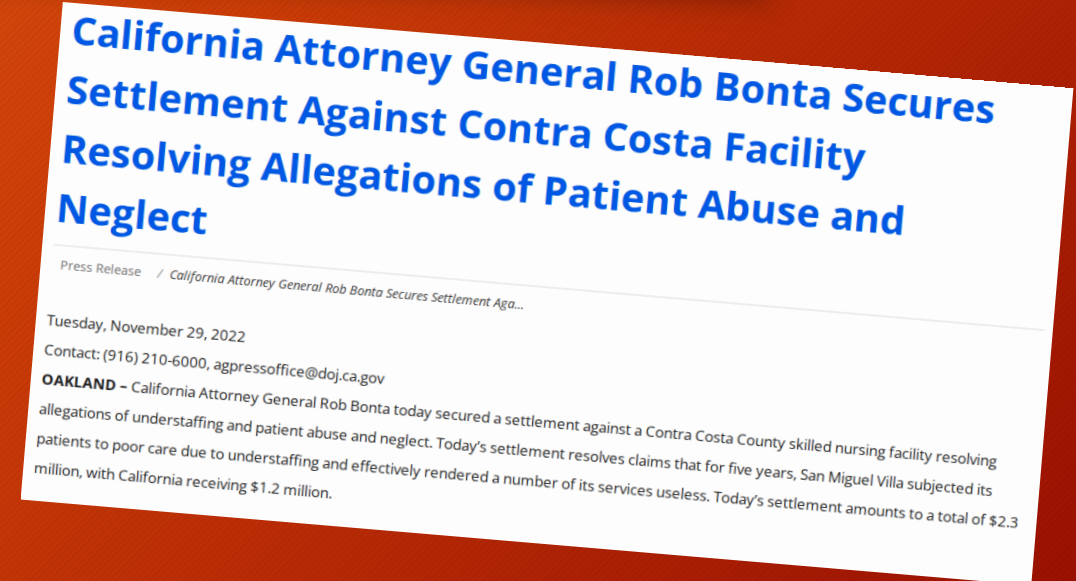
The image shows the header and main headline of the New York State Attorney General's website. The header features the New York State Attorney General's seal on the left, which includes the text "NEW YORK STATE" and "ATTORNEY GENERAL" around a central emblem. To the right of the seal, the name "Letitia James" is displayed in a large, bold, blue font, followed by "New York State Attorney General" in a smaller, black font. Below this, there are navigation links: "About", "Resources", "Libraries & Documents", "News & Media", and "Contact". A search bar with the text "Search ag.ny.gov" and a button "I Want To..." are also present. The main headline, in a large, bold, blue font, reads: "Attorney General James Secures \$656,000 from Unlicensed Nursing Home Operator for Years of Fraud and Neglect". Below the headline, a sub-headline in a smaller, black font states: "Chaim Scheinbaum Allowed Widespread Resident Neglect and Abuse in Saratoga County Nursing Home Settlement Follows Four Prior Settlements Against Nursing Home's Operators For \$7.1 Million".

Letitia James
New York State Attorney General

Home | Press Releases | Attorney General James Secures \$656,000 From Unlicensed Nursing Home Operator For Years of Fraud and Neglect

Attorney General James Secures \$656,000 from Unlicensed Nursing Home Operator for Years of Fraud and Neglect

Chaim Scheinbaum Allowed Widespread Resident Neglect and Abuse in Saratoga County Nursing Home Settlement Follows Four Prior Settlements Against Nursing Home's Operators For \$7.1 Million



The image shows a press release from the California Attorney General's office. The headline, in a large, bold, blue font, reads: "California Attorney General Rob Bonta Secures Settlement Against Contra Costa Facility Resolving Allegations of Patient Abuse and Neglect". Below the headline, the text "Press Release / California Attorney General Rob Bonta Secures Settlement Aga..." is visible. The date "Tuesday, November 29, 2022" and contact information "Contact: (916) 210-6000, agpressoffice@doj.ca.gov" are provided. The main body of the press release, in a smaller, black font, states: "OAKLAND - California Attorney General Rob Bonta today secured a settlement against a Contra Costa County skilled nursing facility resolving allegations of understaffing and patient abuse and neglect. Today's settlement resolves claims that for five years, San Miguel Villa subjected its patients to poor care due to understaffing and effectively rendered a number of its services useless. Today's settlement amounts to a total of \$2.3 million, with California receiving \$1.2 million."

California Attorney General Rob Bonta Secures Settlement Against Contra Costa Facility Resolving Allegations of Patient Abuse and Neglect

Press Release / California Attorney General Rob Bonta Secures Settlement Aga...

Tuesday, November 29, 2022
Contact: (916) 210-6000, agpressoffice@doj.ca.gov

OAKLAND - California Attorney General Rob Bonta today secured a settlement against a Contra Costa County skilled nursing facility resolving allegations of understaffing and patient abuse and neglect. Today's settlement resolves claims that for five years, San Miguel Villa subjected its patients to poor care due to understaffing and effectively rendered a number of its services useless. Today's settlement amounts to a total of \$2.3 million, with California receiving \$1.2 million.

AG Healey Announces Seven Settlements Following Major Investigation into Nursing Home Facilities

Investigations Uncovered Broad and Systemic Failures that Led to Death and Injury; Agreements Secure Safety Reforms, Compliance Programs

FCA – Typical Plaintiffs (Relators/Whistleblowers)

51

- Anyone with personal knowledge and non-public information about the fraud
- Current or former employees
- Competitors
- Customers/patients
- Data analysts

Nursing home FCA Cases: Examples

52

PRESS RELEASE

Justice Department Sues American Health Foundation and Its Affiliates for Providing Grossly Substandard Nursing Home Services

Wednesday, June 15, 2022

Share



For Immediate Release

Office of Public Affairs

PRESS RELEASE

SavaSeniorCare LLC Agrees to Pay \$11.2 Million to Resolve False Claims Act Allegations

Friday, May 21, 2021

For Immediate Release

Office of Public Affairs

Allegations Include Medically Unnecessary Rehabilitation Therapy Services and Grossly Substandard Skilled Nursing Services

PRESS RELEASE

Vanguard Healthcare Agrees to Resolve Federal and State False Claims Act Liability

Wednesday, February 27, 2019

For Immediate Release

Office of Public Affairs

Settlement by Nursing Home Chain is Largest Worthless Services Resolution in Tennessee's History

The Department of Justice announced today that Brentwood, Tennessee-based Vanguard Healthcare LLC, and related Vanguard companies (Vanguard) agreed to pay more than \$18 million in allowed claims to resolve a lawsuit brought by the United States and the State of Tennessee against them for billing the Medicare and Medicaid programs for grossly substandard nursing home services. Vanguard Healthcare and several related Vanguard companies that have reorganized in bankruptcy agreed to pay more than \$5.1 million towards the settlement, and two Vanguard entities that are liquidating in bankruptcy have agreed to \$13.5 million in allowed claims in bankruptcy. The settlement agreement also resolves claims brought by the United States against Vanguard's majority owner and CEO, William Orand, and Vanguard's former director of operations, Mark Miller, who agree to pay \$250,000 as part of this settlement.

DAILY UPDATE NEWS

Kindred Healthcare settles whistleblower claims that judge gave go-ahead to



KIMBERLY MARSELAS

x @KIMMARSELAS

APRIL 4, 2025

SHARE

Nursing home FCA Cases: Examples

53

PRESS RELEASE

Extendicare Health Services Inc. Agrees to Pay \$38 Million to Settle False Claims Act Allegations Relating to the Provision of Substandard Nursing Care and Medically Unnecessary Rehabilitation Therapy

PRESS RELEASE

The Grand Health Care System and 12 Affiliated Skilled Nursing Facilities to Pay \$21.3M for Allegedly Providing and Billing for Fraudulent Rehabilitation Therapy Services

Wednesday, July 10, 2024

For Immediate Release
Office of Public Affairs

Company Admits that Supervisory Officials Falsified Information in Medical Records

PRESS RELEASE

California-Based Nursing Home Chain and Two Executives to Pay \$7M to Settle Alleged False Claims for Nursing Home Residents Who Merely Had Been Near Other People With COVID-19

Friday, April 26, 2024

For Immediate Release

PRESS RELEASE

United States Sues Skilled Nursing Company, Executives and Consultant for Fraudulent Billing

Tuesday, February 25, 2025

Share >

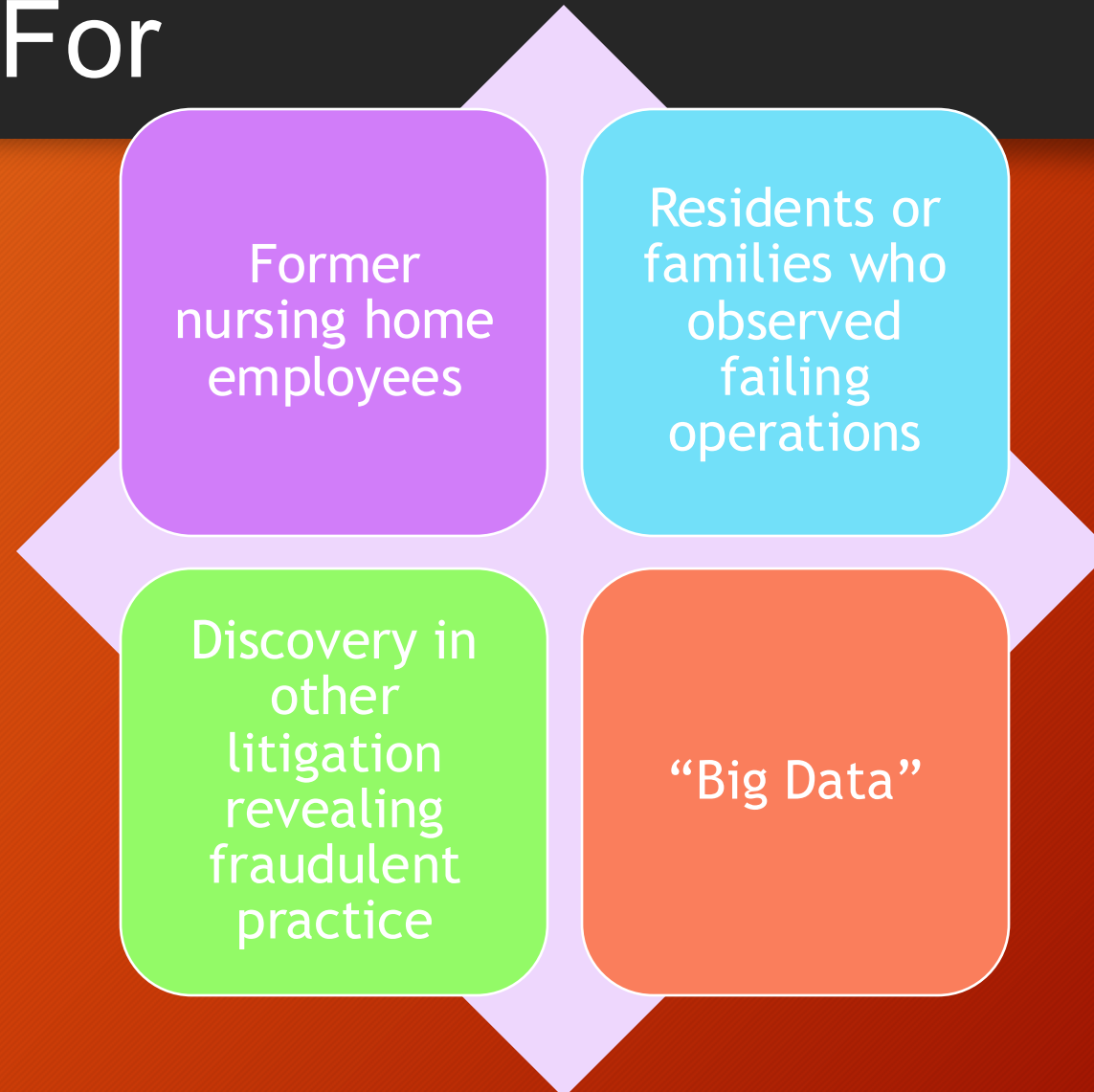
For Immediate Release
U.S. Attorney's Office, District of Massachusetts

Complaint alleges systematic fraudulent billing of Medicare and Medicaid for unnecessary care at skilled nursing facilities in Massachusetts and Connecticut

BOSTON – The U.S. Attorney's Office has [filed a joint complaint](#) with the Massachusetts Attorney General's Office under the federal and Massachusetts False Claims Acts against 19 skilled nursing facilities (SNFs) in Massachusetts and Connecticut and their present and former management companies, RegalCare Management Group, LLC and RegalCare Management 2.0 (together "RegalCare"); RegalCare's owner, Eliyahu Mirlis and an executive, Hector Caraballo; and RegalCare's therapy consultant, Stern Therapy Consultants (Stern).

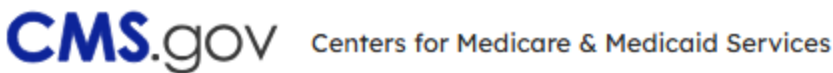
FCA Nursing Home Cases: What to Look For

54



Additional Data Available to Support FCA Claims

55



Staffing Data Submission Payroll Based Journal (PBJ)

Five-Star Quality Rating System

Medicare Cost Reports

Example of Hospital Form 2552-10, Worksheet S-3, Part I

FORM CMS-2552-10														
4090 (C)														
WORKSHEET S-3 PART I														
Component	Inpatient Days / Outpatient Visits / Trips				Full Time Equivalents				Discharges					
	Worksheet A Line No.	No. of Beds	Bed Days Available	CAH Hours	Title V	Title XVIII	Title XIX	Total All Patients	Total Interns & Residents	Employees On Payroll	Nonpaid Workers	Title V	Title XVIII	Title XIX
1 Hospital Adults & Peds. (columns 5, 6, 7 and 8 exclude Swing Bed, Observation Bed and Hospice days)	1	2	3	4	5	6	7	8	9	10	11	12	13	14
2 IDHO														
3 IDHO IPF <i>Subprovider</i>														
4 IDHO IPF <i>Subprovider</i>														
5 Hospital Adults & Peds. Swing Bed SNF														
6 Hospital Adults & Peds. Swing Bed NP														
7 Total Adults and Peds. (exclude observation beds) (see instructions)														
8 Residential Care Unit														
9 Custodial Care Unit														
10 Burns Intensive Care Unit														
11 Surgical Intensive Care Unit														
12 Other Special Care														
13 Nursery														
14 Total (see instructions)														
15 C All units														
16 Subprovider - IPF														
17 Subprovider - IPF														



About Us

Your Health

Healthcare Facilities & Services

Public Health

Chief State Medical Examiner

Health Facilities

Home

Surveys and Inspections

Licensing and Certification Credentials

Certificate of Need and Facility Licensing

CMP Funding

About Us

Home > Surveys and Inspections > License Surveys/Inspections

COVID-19 Survey

License Surveys/Inspections

CONCLUSION

KEN LEVINE
STONE & MAGNANINI LLP
400 Connell Drive, Suite 6200
Berkeley Heights, NJ 07922
Email: KLevine@smcomplex.com
www.smcomplex.com