

THE LTC JOURNAL

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The Long Term Care Coalition

Note to Our Readers

The LTC Coalition is committed to providing news and information on the issues effecting residents in nursing homes, assisted living and other facilities. In addition to *The LTC Journal*, we invite you to keep up-to-date by connecting with us on **Facebook** (www.facebook.com/ltccc) & **Twitter** (twitter.com/LTCconsumer). Visit us on the Web at www.ltccc.org, www.nursinghome411.org and www.assisted-living.org for all of our resources and reports.

If you would like to support our work or join the Coalition, please email info@ltccc.org.

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NEW FEDERAL REPORT ON NURSING HOME QUALITY: IMPROVEMENTS TO DATA & OVERSIGHT NEEDED

The US Government Accountability Office (GAO) is a small but important federal agency that plays a key role in assessing the integrity of government agencies and programs. In October 2015 the GAO issued a report: *Nursing Home Quality: CMS Should Continue to Improve Data and Oversight (the "Report")*. GAO conducted this assessment at the request of several members of Congress.

As the Report notes, “[f]or many years we and the HHS Office of the Inspector General have reported on problems in nursing home quality and on weaknesses in CMS’s oversight. For example, in multiple reports dating back to the 1990s, we have identified weaknesses in federal and state activities designed to correct quality problems in nursing homes.”

The new Report examined:

1. The extent to which reported nursing home quality has changed in recent years and the factors that may have affected any observed changes; and
2. How CMS oversight activities have changed in recent years.

Digging Deeper: What the Federal Data Say About Nursing Home Care

In 2015, LTCCC issued a report, *Safeguarding NH Residents & Program Integrity: A National Review of State Survey Agency Performance*, which for the first time (to our knowledge) looked at nursing home quality and oversight on a per resident basis. Following are a few of the key findings related to quality of care and government oversight:

- **Harm.** States rarely identify harm when they cite a facility for a deficiency. This means that facilities rarely face a penalty for deficient practices, even when residents are harmed and/or the government has paid for subpar or worthless services. The US average is 3.41% of citations at harm or above.
- **Antipsychotic Drugging.** Close to one in five nursing home residents (18.95%) are given Antipsychotic Drugs for off-label indications. Yet the annual F-329 citation rate per resident is less than one percent (0.31%). Despite the significant harm that these drugs cause, and the “Black-Box” warning from the FDA, only about 2% of F-329 deficiencies are cited at harm.
- **Pressure Ulcers.** Despite the serious nature of pressure ulcers and the fact that the vast majority are preventable and/or treatable with appropriate care, they are a problem for over 86,000 nursing home residents. Though pressure ulcers are largely preventable, States cite nursing homes the equivalent of less than 3% of the time that a resident has a pressure ulcer. When States do cite a facility for inadequate pressure ulcer care or prevention, they only identify this as harmful to residents about 25% of the time.

Selected Findings From the GAO Report

The GAO found that consumer complaints about care increased by 21% from 2005 to 2014. For that same time period, however, “the number of serious deficiencies—deficiencies that at a minimum caused harm to the resident—cited per nursing home surveyed decreased nationally from 0.35 to 0.21, a 41 percent decline over the 10-year period.” The GAO reported that the average total nurse hours per resident per day—a measure of registered nurse, licensed practical nurse, and nurse assistant hours—increased nationally from 4.2 to 4.6 from 2009 to 2014. The GAO also assessed eight quality measures and found that national nursing home scores on all eight measures improved, “at least somewhat.”

The GAO recognized that the accuracy of all of the identified trends was questionable due to a variety of issues with how the states and CMS collect data.

Consumer Complaints. The increase in consumer complaints may be due to states and CMS improving the ways in which people can make a complaint. For instance, CMS now provides a standard complaint form which anyone can use to file a complaint about care. [Note: the form is optional and does not have to be used to file a complaint.]

Nursing Home Staffing. Information on direct care staffing levels and quality measures are currently all self-reported by nursing homes and unaudited by either the states or CMS. Concerns that nursing home staffing levels and quality measures are often inflated are longstanding, serious concerns. LTCCC and other advocates have been advocating for better, more accurate reporting of these data. Fundamentally, when people make choices about nursing home care, they deserve to have accurate information about a facility’s staffing levels and important quality criteria related to resident care.

Nursing Home Citations. The GAO found that the decline in citations may indicate an improvement in nursing home quality or it may be due to inconsistencies in measurement. Importantly, the GAO cited weaknesses in state survey agencies as a reason for “measurement inconsistencies.” These weaknesses include the use of less experienced surveyor staff and surveyors being assigned heavy workloads. According to the GAO, “CMS officials said these challenges led to reduced state survey agency capacity to conduct surveys, which could contribute to the decrease in the number of deficiencies cited on standard surveys. According to CMS officials, the recession had the significant and lasting effect of reducing some state survey agencies’ ability to complete high quality standard surveys.... Officials from one of the state survey agencies we interviewed said an increasingly heavy survey workload distributed among a limited number of surveyors could have contributed to the decrease in deficiencies cited....”

State & Federal Oversight. The GAO found that “CMS has modified oversight activities, but has not monitored potential effect on nursing home quality oversight.”

Potentially positive actions:

- “CMS expanded the number of tools available to state surveyors when investigating medication-related adverse events,”

- CMS “increased the amount of nursing home quality data available to the public,” and
- CMS “created new trainings for surveyors on unnecessary medication usage.”

Potentially negative actions:

- “CMS has reduced the scope of the federal monitoring surveys regional offices use to evaluate state surveyors’ skills in assessing nursing home quality,” and
- “Special Focus Facilities: CMS has reduced the number of nursing homes participating in the SFF program. Nursing homes placed in the SFF program receive additional oversight because of the homes’ history of poor performance.”

According to the Report, “CMS officials acknowledged the potential for adverse impacts on their ability to oversee nursing home quality.” Potential consequences identified by the GAO include:

- Reduction in number of state surveys, and
- Modification of state survey agencies’ “philosophy” from that of regulator (holding nursing homes accountable for meeting minimum standards) to “emphasizing more of a partner role with nursing homes.”

GAO Conclusions

- “CMS has made modifications to some activities it considered essential to its oversight, without knowing whether the modifications have affected the agency’s ability to assess nursing home quality,”
- “[S]ome modifications made by CMS regional offices and state survey agencies to their own nursing home oversight activities could adversely affect the CMS central office’s ability to oversee nursing home quality, while other modifications could be effective strategies that could be adopted more widely....”

GAO Recommendations

GAO recommended that CMS:

- “[E]stablish a process for monitoring modifications of essential oversight activities made at the CMS central office, CMS regional office, and state survey agency levels to better understand the effects on nursing home quality oversight,”
- “Establish and implement a clear plan for ongoing auditing to ensure reliability of data self-reported by nursing homes, including payroll-based staffing data and data used to calculate clinical quality measures,” and
- “Establish specific timeframes... for the development and implementation of a standardized survey methodology across all states.”

NY NURSING HOME INDUSTRY LOBBY GROUP TOUTS 2015 “ACCOMPLISHMENTS”

LeadingAge New York, the state affiliate of one of the two major national nursing home industry lobbying associations, has issued its state and federal “**2015 accomplishments.**”

For New York, LeadingAge's “accomplishments” included:

- “Obtained a favorable decision in a...” lawsuit to invalidate Governor Cuomo’s executive order which “prevents(s) public funds from being diverted to excessive compensation and unnecessary administrative costs” [See notes 1 & 2, below.],
- Defeating legislation to require that nursing homes have minimum safe staffing levels,
- Defeating legislation to reduce widespread inappropriate and dangerous antipsychotic drugging of residents in nursing homes and other adult care facilities. [See note 3 below.],
- “Successfully advocated for issuance of several pending Medicaid nursing home rate updates.” [I.e., increase the public funds allocated to nursing homes.], and
- “Successfully negotiated an \$850 million Universal Settlement agreement with the State.” [See green box below for important information on the Universal Settlement.]

Notes:

(1) Governor Cuomo's Executive Order #38 “prevents(s) public funds from being diverted to excessive compensation and unnecessary administrative costs, and ... ensure(s) that taxpayer dollars are being used to help New Yorkers in need” (Governor Andrew Cuomo, Executive Order #38). **LeadingAge fought to invalidate Governor Cuomo’s initiative to improve accountability for the public funds that are supposed to pay for nursing home care.**

(2) On December 30, 2015, the NYS Appellate Division, Second Department, unanimously upheld Executive Order #38. According to the LeadingAge NY website, “Legal counsels for LeadingAge NY and other groups challenging EO #38 are carefully analyzing these decisions and considering next steps. In the meantime, the regulations and filing requirements associated with EO#38 remain in effect throughout the State, with the exception of Nassau County where the earlier Supreme Court decision had stayed their implementation.”

(3) This bill would require that before such drugs are ordered for a patient residing in a nursing home or an adult care facility, the patient or their representative is to be fully informed of the nature and seriousness of his or her condition, the anticipated benefit from the medication, the dosage and duration of the prescription, the probability, nature and degree of side effects, the reasonable alternatives to the drug and why the health care professional prefers the drug in this instance, and that the patient has the right to refuse consent for the drug, or later to revoke their consent. The consent would be written.

The Long Term Care Coalition strongly supports this bill, which is available at http://assembly.state.ny.us/leg/?default_fld=%0D%0A&bn=A07351&term=2015&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y. [EDITOR’S NOTE: **Federal law already requires, for nursing home residents, all of the above except for written consent.**]

THE MULTI-MILLION \$\$ RATE APPEAL SETTLEMENT WITH NYS NURSING HOMES – WHAT DOES IT MEAN FOR RESIDENTS & TAX-PAYERS?

The “Universal Settlement” is the term used to describe New York State’s plan to settle all outstanding rate appeals and litigation by nursing homes with one settlement. There are thousands of nursing home rate appeals and litigation relating, for the most part, to facilities seeking an increase to their payment rates for past services provided to residents.

In our view, the validity of these appeals is, to say the least, unclear. A group called The Southern NY Association provides the DOH’s lists of outstanding appeals and litigation on their website at <http://www.snya.org/settlement.htm>. Some of the nursing homes were sold to new owners. **Many are facilities with a serious record of substandard care, neglect and abuse.** This includes facilities where there have been prosecutions by the Medicaid Fraud Control Unit and facilities with a One Star rating on Nursing Home Compare, making them among the worst nursing homes in the country. [Editor’ Note: Substandard care is, of course, an indication that the facility failed to meet the minimum standards for which it was paid. **We believe it is a very sad irony that facilities which are failing to meet minimum standards are going to receive additional tax-payer money by the state as the result of the settlement.**]

The summaries provided in the records for outstanding litigation also raise serious questions in our mind as to whether the claims would be viable if actually tested. Over and over again they show the same lawyers (or paralegals) making appeals with similar descriptions, including: the contention that the DOH’s rate-setting methodology should be declared invalid, challenges to the State’s rebasing rates and challenges to the NYS Medicaid Inspector General’s audit authority. **One law firm filed four cases for four different facilities all challenging “the denial of a rate appeal by which petitioner sought a revision of its 2008 Medicaid reimbursement rates for inpatient medically managed detoxification care.”** [See <http://www.snya.org/nhlit1A.pdf> page 5.]

When the Universal Settlement was first discussed by the state, as part of the move to mandatory managed care for nursing home residents in New York, a figure of \$100M was proposed. This would mean that the industry would get \$100 million in exchange for dropping its rate appeals and litigation. **As consumer advocates, the LTC Coalition objected to the industry being given \$100M as pay-off for appeals that may or may not be legitimate.** However, we understood that DOH needed to “clear its plate” as it shifted responsibility for Medicaid nursing home payment to managed care organizations. At the time, we urged the state to tie some kind of quality requirements to these funds, rather than to just hand over an additional \$100M to facilities. The state did not respond to these requests.

Since then, we have asked DOH officials several times for information and updates on the status of the Universal Settlement. We have never received a clear answer from DOH. **Now, LeadingAge NY, one of the nursing home industry’s biggest lobby groups, states that it has “Successfully negotiated an \$850 million Universal Settlement agreement with the State.”** [Emphasis added.]

TROUBLED NY NURSING HOMES WITH RATE APPEALS

As described in the preceding article, there are literally thousands of outstanding rate appeals and rate litigation actions by nursing homes. The state has negotiated a “Universal Settlement” with the nursing home industry which, according to the industry’s lobbyists, will provide an \$850 million pay-off to settle the appeals. **Not only are the validity of those appeals unknown, many of the facilities which will likely receive a portion of the purported \$850 million payoff have a history of poor care and abuse.** These nursing homes are known to have failed to meet the minimum standards which they were paid to achieve. Now, in addition to their initial payment for providing substandard services, these facilities are likely to share in the \$850 million payoff.

The LTC Coalition conducted a review of some of the nursing home facilities and companies that have been found to provide substandard care and or conducted Medicaid/Medicare fraud, to see if they are among those which could now reap financial benefits from the “Universal Settlement.” Following is a summary of our findings. For more details, see “NY State’s Troubled Nursing Homes With Rate Appeals” on our [nursinghome411.org](http://www.nursinghome411.org) website (Direct link: <http://www.nursinghome411.org/?articleid=10098>).

One-Star Nursing Homes (89 of 120 One-Star facilities have rate appeals)

One hundred and twenty (120) nursing homes in NY State have a one star designation on the federal website, Nursing Home Compare, meaning that they are among the worst facilities in the entire country. One-star nursing homes have typically failed their residents in significant ways and have, thus, failed to meet the minimum standards for which they were paid. Eighty nine (89) of these nursing homes have rate appeals seeking additional tax-payer money for their services. Some of them have numerous appeals.

Nursing Homes Identified on NBC New York News (41 rate appeals)

NBC New York has reported on several significantly egregious care problems in New York nursing homes, including Woodmere Rehab, Bishop Charles Nursing Home in Far Rockaway, Rosewood Rehabilitation and Nursing Center, Concord Nursing Home (Brooklyn) and Suffolk Center for Rehabilitation and Nursing. “In one case, a 55-year old Long Island man with dementia wandered away from his caretakers and his body was found three days later, in Brooklyn, face down on a sidewalk, no pulse and frozen.” “Other issues include a violation... where staff failed to notice maggots nesting in a resident’s open wound.”

There are 41 appeals pending among these facilities.

Sentosa Care Nursing Homes (142 appeals)

Sentosa Care facilities have been subject of numerous reports of poor care. Recently, ProPublica issued a report, "How N.Y.'s Biggest For-Profit Nursing Home Group Flourishes Despite a Record of Patient Harm." Based on a 2014 listing of Sentosa facilities, with 142 appeals they are in line to receive a piece of the multi-million dollar handout. [See article and links on [page 11](#) of this issue of The LTC Journal.]

Elant Nursing Homes (126 appeals)

In December 2015, New York State Attorney General Schneiderman reached settlement re. delaying discharges in order to keep reimbursement for residents who did not need care. According to the Attorney General's website, "Elant admitted that between 2008 and 2011 it had a practice of postponing discharges of short-term residents who were clinically ready to leave Elant facilities against the wishes or without the informed consent of the residents or their families. Elant, which is headquartered in Goshen, also admitted that it orchestrated the transfer of several long-term residents to one of its financially-troubled facilities to improve that facility's financial condition." [A.G. Schneiderman Announces \$600k Settlement With Mid-Hudson Nursing Home Chain That Delayed Patient Discharges, December 16, 2015. Accessed at <http://www.ag.ny.gov/press-release/ag-schneiderman-announces-600k-settlement-mid-hudson-nursing-home-chain-delayed>.]

Medford Multicare (11 appeals)

The Medford Multicare Center for Living has a long history of abuse, neglect and failing to meet the minimum standards of care that it is paid to provide under Medicaid and Medicare. A 2015 Newsday article summed up some of their most recent problems stemming from an investigation and lawsuit filed by the NY State Medicaid Fraud Control Unit:

In the lawsuit, filed Feb. 11, the attorney general accused the nursing-home owners and its management of defrauding the Medicaid program by accepting hundreds of millions of dollars in public funds, but failing to provide adequate care to the residents. ...The attorney general alleged that the owners... received \$280 million in Medicaid funds for a decade since 2003 and "looted" close to \$60 million for personal use.

["Medford nursing home admits to trying to hide circumstances of woman's death," October 8, 2015. Accessed at <http://www.newsday.com/long-island/medford-multicare-center-for-living-nursing-home-guilty-of-trying-to-hide-aurelia-rios-death-1.10939158>.]

Following is a partial list of the results of a search for "Medford" on the website of the NY State Attorney General.

Cuomo Announces Undercover Hidden-camera Investigation Into ...

www.ag.ny.gov/.../cuomo-announces-undercover-hidden-camera-investigation-long-island-nursing-home-nets

Oct 7, 2008 ... MINEOLA, NY (October 7, 2008) - Attorney General Andrew M. Cuomo today announced the arrest of four employees of the **Medford** Multicare ...

A.G. Schneiderman Announces Indictment Of Nine Suffolk County ...

www.ag.ny.gov/.../ag-schneiderman-announces-indictment-nine-suffolk-county-nursing-home-employees

Jun 5, 2014 ... Two Additional Employees Of **Medford** Nursing Home Arrested In Ongoing Criminal Negligence Case Related To Death Of 72-Year-Old ...

[AG Schneiderman Announces Homicide Conviction By Jury Of Long ...](#)

www.ag.ny.gov/.../ag-schneiderman-announces-homicide-conviction-jury-long-island-nursing-home-healthcare

Jul 10, 2015 ... Schneiderman: The Trial Has Put An End To The Lies About What Happened At **Medford** Multicare. NEW YORK – Attorney General Eric T....

LTC NEWS & BRIEFS

Over-the-counter sleep aids linked to dementia.

[Following is excerpted from the Medical New Today report. Emphasis and link in original.]

Although the link between raised risk of dementia and anticholinergics has been found before, the new study uses more rigorous methods - including over 7 years of follow-up - to establish the strength of the link. By accessing pharmacy records, the researchers were also able to include non-prescription use of anticholinergics in their data.

It is also the first study to show a dose-response effect, note the authors. That is, the higher the cumulative amount of drug taken, the higher the risk of developing dementia.

And another first for the study, is that it also shows that dementia risk linked to anticholinergics may persist long after people stop taking the drugs.

Study Assesses Prevalence of Frailty in Nursing Home Residents. Results, published in the Journal of the American Medical Directors Association, indicated that “about one-half of the nursing home patients were frail. Approximately 40% were still prefrail and could be targeted by interventions for frailty prevention or treatment to avoid its negative health outcomes....”

Center for Medicare Advocacy Report: “Yet Again, Value-Based Purchasing Did Not Improve Quality.”

Background. The federal and state governments are increasingly turning to “value-based purchasing” strategies for Medicare and Medicaid services, including those provided by nursing homes. The idea is that rather than simply paying a provider for providing services, the provider will be paid based on the quality of services provided. Higher quality and outcomes will result in higher payment.

While this sounds like a reasonable and rational approach, it is one that can be fraught with unintended consequences. For instance, if nursing homes are paid more for keeping residents out of hospitals, there is a risk that a nursing home will not send a resident who needs

hospitalization to the hospital because they don't want to lose the money. In addition, as noted in the following excerpt from the Center for Medicare Advocacy's report, there are significant questions as to whether or not value-based purchasing actually improves quality.

The LTC Coalition's Position. Nursing homes are already paid to provide services that meet (or exceed) standards of care. Regulations became necessary because too many providers failed to meet professional standards of care or treat their residents with basic dignity. However, regulations are only meaningful to the extent to which they are enforced. The failure to enforce standards (see, for example, LTCCC's 2015 study, [Safeguarding Nursing Home Residents & Program Integrity](#), discussed in box on page 2) renders them meaningless. Paying facilities more to provide adequate or superior services essentially feeds into the industry's "playbook" of making both quality assessment and reimbursement mechanisms moving targets of which they control the levers and CMS and the state agencies are constantly playing catch-up (to the extent that state and federal enforcement agencies are not, in fact, partnering with the industry (as noted in the recent GAO report discussed in earlier in this issue).

The Center for Medicare Advocacy Report. [From CMA's website. Emphasis added.] "The federal government's funding of a value-based purchasing (VBP) demonstration project in the Medicare Advantage (MA) program did not improve quality of care, as measured by the plans' five-star quality ratings. The findings from this demonstration are the most recent evidence that paying health care providers more to provide better care, or to improve their performance – the essential approaches of VBP – does not actually improve quality of care for program beneficiaries or reduce costs for Medicare. Like the MA demonstration, **earlier VBP demonstrations for hospitals and skilled nursing facilities also found no improvements in quality.**" [Emphasis added. [Click here](#) to read further.]

CDC Issues Two Data Briefs on Assisted Living in US.

In November 2015, the National Center for Health Statistics of the CDC published two briefs on assisted living based on 2014 data:

1. Variations in resident characteristics. Key findings:

- Residents in communities with more than 25 beds were older than those in smaller communities.
- A higher percentage of residents in communities with 4–25 beds were receiving Medicaid compared with residents in larger communities.
- The prevalence of Alzheimer's disease and depression was higher among residents of communities with 4–25 beds than in larger communities, but the prevalence of cardiovascular disease was lower.
- The percentage of residents needing assistance in bathing, dressing, toileting, transferring, walking, and eating was highest in communities with 4–25 beds.
- The percentage of residents who had fallen in the previous 90 days increased with increasing community bed size.

2. Variations in operating characteristics. Key findings:

- As community bed size increased, chain affiliation increased.
- Compared with communities with more beds, a higher percentage of communities with 4–25 beds offered disease-specific programs for residents with diabetes, cardiovascular disease, & depression.
- The use of electronic health records and computerized support for any electronic health information exchange increased as community bed size increased.

ProPublica Report: NY’s Biggest For-Profit Nursing Home Group Flourishes Despite Record of Patient Harm

ProPublica is an independent, non-profit journalist organization that conducts investigations in the public interest. This report first focuses on the horrifying experience of a rehab patient at Avalon Gardens Rehabilitation & Health Care Center on Long Island. It then focuses on how that nursing home’s owner is able to flourish its nursing home businesses in New York State despite a serious record of substandard care and resident harm. Following is excerpted from the ProPublica report, available at <https://www.propublica.org/article/new-york-for-profit-nursing-home-group-flourishes-despite-patient-harm>.

The nursing home is one of several in a group of for-profit homes affiliated with SentosaCare, LLC, that have a record of repeat fines, violations and complaints for deficient care in recent years.

Despite that record, SentosaCare founder Benjamin Landa, partner Bent Philipson and family members have been able to expand their nursing home ownerships in New York, easily clearing regulatory reviews meant to be a check on repeat offenders. SentosaCare is now the state’s largest nursing home network, with at least 25 facilities and nearly 5,400 beds.

That unhindered expansion highlights the continued weakness of nursing home oversight in New York, an investigation by ProPublica found, and exposes gaps in the state’s system for vetting parties who apply to buy shares in homes.

State law requires a “character-and-competence” review of buyers before a change in ownership can go through. To pass muster, other health care facilities associated with the buyers must have a record of high-quality care.

The decision maker in these deals is the state’s Public Health and Health Planning Council, a body of appointed officials, many from inside the health care industry. The council has substantial leverage to press nursing home applicants to improve quality, but an examination of dozens of transactions in recent years show that power is seldom used.

Moreover, records show that the council hasn’t always had complete information about all the violations and fines at nursing homes owned by or affiliated with applicants it reviewed. That’s because the Department of Health,

which prepares character-and-competence recommendations for the council, doesn't report them all.

The department's assessments of Landa and other owners of SentosaCare homes have routinely found that the facilities provided a "substantially consistent high level of care" – the standard owners must meet to receive council approval.

Yet the agency's assessments in 15 separate ownership applications since 2013 did not mention at least 20 federal fines paid by the group's homes, records show. In more than a dozen cases, the department reported "no repeat violations," even when a SentosaCare home had been cited multiple times for the same serious deficiency.

New Study: "Nurse Staffing Hours At Nursing Homes With High Concentrations Of Minority Residents, 2001-2011"¹

Numerous studies over the years have identified disparities in quality and staffing levels among nursing homes that serve minority communities.² This new study, published in *Health Affairs*, tracked trends in nurse staffing levels between 2001 and 2011, "focusing on disparities between nursing homes with high concentrations of racial/ethnic minority residents and those with low concentrations."

Abstract from Study. Recent increases in state Medicaid payments to nursing homes have the potential to reduce disparities in nurse staffing between facilities with high and low concentrations of racial/ethnic minority residents. Analyses of nursing home and state policy survey data for the period 2001–11 suggest that registered nurse and licensed practical nurse staffing levels increased slightly during this period, regardless of racial/ethnic minority resident concentration. Adjusted disparities in registered nurse hours per resident day between nursing homes with high and low concentrations of minority residents persisted, although they were reduced. Certified nursing assistant hours per patient day increased in nursing homes with low concentrations of minorities but decreased in homes with high concentrations, creating a new disparity. Overall, increases in state Medicaid payment rates to nursing homes were associated with improvements in staffing and reduced staffing disparities across facilities, but the adoption of case-mix payments had the opposite effect. Further reforms in health care delivery and payment are needed to address persistent disparities in care between nursing homes serving higher proportions of minority residents and those serving lower proportions, and to prevent unintended exacerbations of such disparities.

¹ Li Y, Harrington C, Mukamel D, et al., "Nurse Staffing Hours At Nursing Homes With High Concentrations Of Minority Residents," 2001–11, *Health Affairs* 34, NO. 12 (2015): 2129–2137.

² For instance, as noted in this new study, a 2004 study found that "40% of black nursing home residents, but only 9 percent of whites, resided in... lower-tier facilities." [Mor V, Zinn J, Angelelli J, et al., "Driven to tiers: socioeconomic and racial disparities in the quality of nursing home care," *Milbank Q.* 2004;82(2):227–56.]

LTC COALITION'S NYS LEGISLATIVE PRIORITIES

Following are some of the New York State bills that the LTC Community Coalition is supporting this year. More information on our state legislative priorities can be found in the News Room section of our website at <http://www.ltccc.org/news/>. **Please support these priorities for residents and families** by visiting our **LTC Citizen Action Center** and sending a free message to our state leaders. The Action Center appears on the right hand page of all of our websites: www.ltccc.org, www.nursinghome411.org and www.assisted-living411.org.

(1) **Safe staffing bill** (A01548/S00782). NY is one of a minority of states without minimum staffing standards to ensure that residents receive adequate care. With changes in ownership and implementation of mandatory managed care, the need for safe staffing standards is needed now more than ever!; (2) **Psychotropic drugging in residential care** (A07351). This bill would ensure that residents and families are fully informed before residents are drugged with antipsychotics or other potentially dangerous medications.; (3) **Personal needs allowance increase** (A04160/S02906). This bill would raise the personal needs allowance for individuals in nursing homes and in residential programs for victims of domestic violence.; (4) **RN in enhanced & special needs assisted living** (A02141/S01049); (5) **Mandatory reporting of abuse** (A03673). This bill would establish mandatory reporting of alleged incidents of abuse, mistreatment or neglect of residents in assisted living and adult care facilities; (6) **Assisted living closure protections** (A08566A) This bill specifies procedures for the closure of assisted living residences to protect residents.; (7) **Nursing home private right of action** (A00442/S00124). This bill clarifies that a nursing home patient's right to sue for injuries can be exercised by the patient's legal representative or estate.; (8) **Reporting of death and felony crimes in adult care facilities** (A3829/S0301). This bill extends the existing reporting requirement to enriched housing programs and provides for reporting of death and felony crimes within 24 hours.

LTC OMBUDSMAN PROGRAM SEEKS VOLUNTEERS ACROSS NY STATE

The LTC Ombudsman Program (LTCOP) is dedicated to ensuring that residents in long term care facilities have good care and are treated with dignity. As reported in the last issue of the LTC Journal, New York State recently regionalized the local programs. LTCCC was awarded the contract to operate the LTCOP in the Hudson Valley.

Being an Ombudsman volunteer is both challenging and rewarding. Volunteers receive extensive training to advocate for, educate and empower family members and residents living in nursing homes, assisted living, and family type homes. They can make a big difference in the lives of some of the most vulnerable people in our communities.

The LTCOP is seeking volunteers who can contribute a minimum of two hours a week to help residents in facilities in their communities. The Hudson Valley LTCOP currently has volunteer opportunities in Dutchess, Ulster, Orange, Sullivan, Columbia and Greene counties.

To volunteer in the Hudson Valley, please call 845-229-4680 or email Gloria@hudsonvalleyltpop.org. To volunteer in another area of New York State, please go to the

“Who is My Ombudsman” page on the NYS LTC Ombudsman Program’s website:
<http://www.ltcombudsman.ny.gov/whois/index.cfm>.

NYS ENFORCEMENT OF SUBSTANDARD NURSING HOMES

Starting in 2016 and with this issue, the LTC Coalition is posting all available enforcement actions from the state and federal governments on our dedicated website page, [New York State Nursing Home Enforcements](http://www.ltccc.org/enforcements/archives.shtml) (<http://www.ltccc.org/enforcements/archives.shtml>). While in the past we have posted quarterly data on our website and in our newsletter, these data will now be provided in files that cover each calendar year in its entirety. This way, visitors can look in one file to see any fine issued in 2015, rather than having to view four different files separately. For the current year, we will update the file for the year on a quarterly basis (or when we receive the information).

In addition, we are now posting, on a semi-annual basis, [all of the NY State nursing home deficiencies that are currently on the federal website](#), Nursing Home Compare. Nursing Home Compare provides information on nursing home staffing, inspections and quality for the last three years. We believe that this information will be useful to consumers, families and LTC Ombudsmen now and in the future since it will enable them to access current and historical information on nursing homes in their communities.

The LTC Journal

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