

LTCCC Endorses NYS Comptroller’s Call for Needed Improvement to Enforcement of Nursing Home Violations; Calls on All State Leaders to Assess the Safety of Nursing Homes in Their Communities & Withhold Dividends From the “Universal Settlement” from Facilities With a History of Poor Care & Abuse

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NEW YORK, February 22, 2016: Widespread and persistent nursing home problems result in unnecessary harm to thousands of vulnerable residents every day. Deficient and worthless services cost taxpayers millions of dollars a year. The nursing home industry frequently complains that it is one of the most highly regulated in the country. But what does that mean when so many nursing homes are not held accountable for substandard or worthless services?

Today, NYS Comptroller DiNapoli issued the results of an audit which sheds light on the failure of the NYS Department of Health (DOH) to hold nursing homes accountable for substandard care and abuse.

“LTCCC applauds Comptroller DiNapoli and his auditors for shedding light on an issue that is at the heart of persistent and widespread nursing home problems,” stated Richard Mollot, LTCCC’s executive director.

Among the numerous critical findings in the Comptroller’s audit is that DOH “...does not utilize the full array of enforcement actions available to it under both State law and CMS guidelines, choosing to not levy fines for certain categories of violations that comprise almost 85 percent of the problems identified during its surveys.”

“This and other findings in the Comptroller’s audit corroborate LTCCC’s findings last year that DOH is failing to hold nursing homes accountable for serious and pervasive quality of care issues,” Mollot said. LTCCC’s 2015 study, *Safeguarding Nursing Home Residents & Program Integrity*, assessed the quality of DOH’s enforcement on a number of criteria critical to resident well-being.

Among the findings from LTCCC’s 2015 study:

- **Citation Rates.** The annual US average per capita state citation rate is 14%. The average rate for NY is only 5% - among the very lowest citation rates in the country.



See how certain providers are “Adding Insult to Injury” on the next page.

- **Fines.** The average fine in the US is \$19,159. Despite being in one of the most affluent areas of the country, NY penalties for substandard care are significantly below the national average (\$12,174).
- **Pressure Ulcers.** According to the CDC, pressure ulcers are one of the important measures of the quality of clinical care in nursing homes. New York has a higher than average pressure ulcer rate: 8.76% (over 9000 of our nursing home residents). Despite DOH's so-called "War on the Sore," its annual F-314 citation rate is a fraction of the US average at 0.88%. This is **the second lowest citation rate in the nation**. In addition to rarely citing for inadequate pressure ulcer care, New York only finds harm about half as often as the national average (12.35%). **How can a pressure ulcer not be harm?**
- **Staffing.** New York, in the bottom quarter of states in the country in terms of staffing levels, is also among the states least likely to cite a facility for insufficient staffing. With over 600 facilities and over 100,000 residents, DOH only cites for insufficient staff about 13 times a year in total. That means that there is roughly a two percent (2%) chance of a facility receiving a staffing citation in the course of the year. On a per resident basis, the annual percentage of staffing deficiencies in New York is 0.012%. **This is about the same as the likelihood of dying in an airplane crash.** For the three year period covered on Nursing Home Compare, **DOH never cited insufficient staffing as having resulted in harm or immediate jeopardy to any resident.**
- **Antipsychotic Drugging.** Antipsychotics have a black-box warning against use on the elderly with dementia, due to increased risk of heart attack, stroke and even death. Yet close to 20% of residents were found to be given these dangerous drugs. Despite this, **DOH only cited for inappropriate drugging at a fraction of the low national rate.** Of these citations, DOH identified resident harm only 2.32% of the time.

[<http://www.nursinghome411.org/?articleid=10094>]

ADDING INSULT TO INJURY: NURSING HOME LOBBYISTS TOUT 2015 "ACCOMPLISHMENTS"

The latest issue of the *LTC Journal* (LTCCC's newsletter), published this week, reports that the nursing home association **LeadingAgeNY is touting on its website how it defeated Governor Cuomo's Executive Order 38** which "prevents(s) public funds from being diverted to excessive compensation," **defeated NYS legislation for minimum safe staffing in nursing homes and "Successfully negotiated an \$850 million Universal Settlement agreement with the State."**

As the [newsletter](#) and [accompanying data file](#) indicate, **"many of the facilities which will likely receive a portion of the purported \$850 million Universal Settlement 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."**

VISIT WWW.NURSINGHOME411.ORG TO READ ABOUT THE UNIVERSAL SETTLEMENT AND TO FIND OUT WHICH NURSING HOMES WITH A HISTORY OF PROBLEMS ARE NOW LINING UP TO RECEIVE THESE FUNDS.