

Long Term Care Community Coalition
(formerly The Nursing Home Community Coalition)

**Position Brief: NEW YORK STATE MUST STOP PLACING
VULNERABLE PEOPLE INTO THE STATE'S MOST SEVERELY
UNDERSTAFFED NURSING HOMES**

SUMMARY: Nursing homes admit people in need with the promise of providing appropriate care for each individual. Unfortunately, all too often, that promise is broken. Nursing home residents – oftentimes our most frail and vulnerable citizens – suffer needlessly, not from ailments that they came in with, or the naturally occurring frailties of old age, but from the poor care they receive in the nursing home.

Direct care staff – licensed nurses and nurse aides – are the lifeline for nursing home residents. Insufficient staffing is widely recognized as a primary cause of poor nursing home care. According to a recent federal report, *Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes* (Phase II Final Report, December 2001) “The relationship between quality and critical minimum staffing levels was supported by case studies of individual facilities, units, and residents.” Many states have addressed this problem by mandating minimum staffing levels, to ensure a baseline of care in nursing homes. Unfortunately, New York has no such protection for its citizens. **(Most people we speak to are shocked to learn that the state has no minimum staffing requirements for nursing homes!)** Though a minimum staffing bill is introduced every year in Albany, it fails every year. This is particularly unfortunate for New Yorkers, given that our state's nursing home residents have a higher acuity level than the national average, yet our average staffing level is lower and New York nursing homes take in millions of dollars of government money every year!

While New York's leaders fail each year to pass any law with substantive protections for nursing home residents, too many residents continue to suffer needlessly. The current budget crisis and political climate make real reform even less likely this year. Thus, the time has come for an emergency measure – a moratorium on admissions to nursing homes that are at the bottom of the barrel in terms of staffing.

The Nursing Home Diversion Act would require nursing homes with extremely low staffing to divert incoming people to other nursing homes in the community until they are able to bring up their staffing level. This is similar to the policy long in place for hospital emergency rooms, which divert incoming patients when they don't have the staff or resources to provide adequate care for additional people. *Don't nursing home residents deserve the same safeguards as hospital patients?*

WHAT THE LAW WOULD DO: Nursing home residents are cared for by licensed nurses and certified nurse aides. As mentioned above, these direct care staff

are key to the well being of nursing home residents. Numerous studies have shown and confirmed that when staffing levels go down, resident injury and suffering goes up. Ninety-six percent of all nursing home residents need help with bathing, 87% with dressing, 53% with toileting, 45% with eating. On average, they need help with over three activities of daily living. Help takes time.

The Nursing Home Diversion Act (NHDA) would require that nursing homes with less than three hours of direct care staff time per resident per day go on diversion until they are able to improve their numbers. Three hours is the amount of direct care staff time identified in the federal study mentioned above as the threshold below which there is a higher likelihood of injury to the resident. It is not a good number, or a number that is acceptable in the long run. It is merely a threshold, below which conditions are often inhumane.

The Long Term Care Community Coalition (LTCCC) as well as other consumer advocates and nursing home experts believe that in order to provide good care to residents a facility should provide approximately 5.5 hours of direct care staff time per resident per day. That includes the total care a nursing home resident receives in a 24 hour period: including help with meals, bathing, changing, medication... not to mention the special care individuals in nursing homes usually need for illness, disabilities, injuries, infirmities, etc.... Good care in this sense does not mean luxury, it only means providing residents with the help they need to maintain their optimal health and quality of life. It means not suffering or declining because of poor care.

Important Note About The Numbers: It is important to remember that the numbers generally cited when people talk about staffing are self-reported by the individual facilities and are not independently verified for accuracy. An additional, serious concern is that the data used in reports on quality and staffing are generally collected from the facilities at the time of their survey. Since surveys take place annually (or thereabouts) a lot of people believe that many facilities temporarily increase their staffing when they expect a survey (this belief has been confirmed anecdotally to us by both nursing home staff, surveyors and ombudsman (usually off the record). **Both of these problems indicate that there is an additional, hidden danger: the low staffing numbers we see might oftentimes be inflated!**

TESTIMONIALS FROM NURSING HOME RESIDENTS AND THEIR FAMILIES: The Coalition has an ongoing campaign, "Tell My Story," in which people can send us a brief account of their personal experience with nursing home care. This campaign has been taken up by other organizations as well, we encourage any individual or organization who wishes to contribute to contact us at 212-385-0355. The Tell My Story campaign serves as a repository of personal accounts of the state of nursing home care, and, with the writer's permission, the stories are used to highlight the need for better care. In addition, we LTCCC is often contacted by concerned friends and family members. Here are two of the most recent stories we have learned of:

1. Mr. B is a man in his 80's who emigrated here from Europe after surviving living in a concentration camp under the Nazi's. He went on to marry and have children and grandchildren. He was admitted to a nursing home in New York not because he had grown feeble, but simply because he needed short-term rehab. Instead of being rehabilitated, however, this nursing home did what even the Nazi regime couldn't do. Rather than getting the care he needed and going home to his family, Mr. B lies in a hospital bed, on a respirator and ventilator, suffering with septic shock from pressure ulcers. (Pressure ulcers, also known as bed sores, are one of the most serious and common consequences of inadequate care.)
2. Ms. V, a frail nursing home resident, was not seen by the staff or heard from for 14 hours – through two shifts in her nursing home. She was finally discovered laying on the floor of her bathroom. According to the person who reported this to us, the staff on duty waited four hours before calling in someone to examine her, and then wrote in her records that she received care during the time she was actually laying helpless on the floor. Ms. V was lucky to survive this nightmare.

Shortly after entering the nursing home, Mr. B appeared dazed and unable to speak. When the family asked what was wrong the home told him it was dementia. Only later did they find out that he had been put on sedating drugs. It is untenable for New York to continue to allow innocent people to be admitted into facilities that are unable to safely care for the residents they already have responsibility for. Ninety-six percent of all nursing home residents need help with bathing, 87% with dressing, 53% with toileting, 45% with eating. On average, they need help with over three activities of daily living. How can we continue to allow such homes to “warehouse” our mothers, our fathers, ourselves?

We would not allow nursing home providers to abuse residents in other ways than in ways related to staffing. In the words of a friend of the Coalition, if a facility did not have enough money to provide beds for all its residents, the state would not allow it to put two people in a single bed. If a facility did not have enough money to buy food for all of its residents, the state would not say that it is permissible for them to feed everyone less, or to skip meals. And when fuel prices go up, the state would not allow a nursing home to say “we only have enough money to heat 60% of our rooms, but we’re going to keep going at 90% capacity.” How can we continue to allow nursing homes with inadequate staffing to add more residents to those it is currently failing. How can we condemn our citizens to such a life?

Similar to the practice with hospital emergency rooms - which divert incoming patients to other hospitals when they reach capacity - we strongly believe that nursing homes should be required to divert people when they already have more residents than they can provide reasonable care for.

Until minimum safe staffing standards are passed for all nursing homes in New York, the state must take steps to protect people from going into nursing homes with alarmingly low staff levels. A recent federal study determined that less than three hours of direct care staff time for each nursing home resident in a day is the threshold below which injury is likely to occur. Our research into current staffing levels and occupancy rates across New York indicates that this would effect about 25% of the state's nursing homes, but would still enable people in every county in New York to find a home close by if they need one.

We are not suggesting that any home with less than 4.1 nursing hours divert, we are only suggesting the threshold be 3 hours or less of direct care staff time per resident per day. This is below our state average and is the figure identified in a recent federal study as the threshold below which injury is likely to occur. We do not believe that this will cause any access problems for consumers, there is enough empty beds throughout every county in the state.

This is not a permanent solution but rather a temporary emergency measure that we believe will provide at least some relief to a growing crisis until we mandate actual levels of what "sufficient" staff means.

While this is not a perfect solution, we believe that it is crucial to protect our citizens who are now being admitted into homes where, according to the federal study, they are likely to be harmed. **The State cannot allow this to happen.**

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The Long Term Care Community Coalition (LTCCC) is a coalition of over two dozen organizations working together to protect the rights and welfare of long term care consumers in all settings, including nursing homes, assisted living facilities and managed long term care, by strengthening laws and regulations, improving surveillance and enforcement, and holding providers accountable for providing adequate care.

For more information on this and other issues impacting long term care consumers, please visit us on the Internet at www.nhccnys.org, www.nursinghome411.org or www.assisted-living411.org. We can also be reached by phone at (212) 385-0355.