



California Association of Long Term Care Medicine
Promoting quality patient care through medical leadership and education

April 10, 2023

Assembly Member Jim Wood
Chair Assembly Health Committee
State Capitol, Room 6005
Sacramento, CA 95814

RE: AB 1537 (Wood) Skilled Nursing Facilities: Direct Care Spending Requirement – Support

Dear Chairman Wood:

On behalf of the California Association of Long Term Care Medicine (CALTCM), I am writing in support of AB 1537.

CALTCM is the medical voice for long term care in California. We represent physicians, nurse practitioners, physician assistants, nurses, pharmacists, social workers, and others who work to provide care to the residents of nursing homes. Even prior to the pandemic, our members have been deeply concerned by the myriad issues that impede the promotion of quality care in our state's nursing facilities. For many years we have observed dedicated administrators and directors of nursing struggle to manage staff while dealing with financial pressures. Low wages and limited benefits have made finding and maintaining staff challenging. Studies have shown that understaffed nursing homes are correlated with poorer clinical quality.^{1,2,3,4} The lack of transparency regarding how revenue is utilized to provide care is well known.^{5,6} Ultimately, we need complete transparency to assure that an ample amount of facility revenue goes towards providing care to the residents.

In 2010, California nursing facility revenues were \$7 billion. Of total revenues, 36% were for nursing services, 13% for ancillary, and 17% for support services for a total of 66%. The remainder were: 20% for administration and other costs (including licensing and quality assurance fees), 8% for capital costs. Average profits were 6.0%.⁷ This does not take into consideration the profit margins to real estate entities and related parties. Real estate investment companies (REITs), which may or may not be related parties, have dramatically expanded their ownership of nursing homes to over 2,000 nursing home and assisted living communities nationwide.⁸ These companies lease the homes to nursing home operating companies on a triple net lease arrangements and some lease agreements are so onerous that operating companies have been forced into bankruptcy (e.g. ManorCare and Genesis).⁹

Under the Affordable Care Act, insurers must spend a certain percentage of their premium on health care claims or quality improvement, set at 85 percent for the large group market and called a medical loss ratio (MLR).¹⁰ In 2019, insurers were owed rebates to 11.2 million

enrollees of about \$2.46 billion (\$219 per person).¹¹ This concept should be applicable to the operations of a skilled nursing facility, where the primary responsibility is to providing care for a frail and vulnerable population. The same approach could be imposed on nursing homes. New Jersey, New York and Massachusetts adopted such laws calling for a minimum “direct care ratio” in 2020-2021.¹² By limiting administrative costs, property, and profit taking, nursing homes can reallocate their revenues to nursing, ancillary, and support services.

While there are some financial controls on Medi-Cal spending, there are no controls on spending for Medicare, managed care and private payers.¹³ Therefore, nursing homes can cut staffing and wages and benefits while increasing spending on administration, profits, and property. Homes with the highest profit margins have been found to have the worst quality in the US.¹⁴

Studies show that nurse staffing levels are lower in for-profit nursing homes, especially RN staffing, as companies reduce wages, benefits, and pensions to maximize profits, compared to nonprofit and government facilities, which provide higher staffing and quality care.^{15,16,17,18} A GAO study found that private equity nursing homes had increased costs for operation and capital, along with higher profit margins compared to other for-profit or nonprofit homes. Facilities owned by private equity firms (about 11 percent of nursing facilities nationwide), had 10 percent excess 90-day mortality for short-stay Medicare patients compared to non-private equity held facilities, despite increases in taxpayer spending that would suggest the opposite.¹⁹ A recent study showed an increase in nursing facility profitability between 2019 and 2020 while thousands of residents died during the first year of the pandemic.²⁰

Who suffers from this? The residents and the staff who provide their care. It’s time to combine full transparency with accountability for how our money is spent with the expectation of providing high-quality care to nursing home residents. AB 1537 would assure that financial resources are focused on the actual care of residents in California’s nursing homes. In the wake of the COVID-19 pandemic and its tragic outcomes in nursing homes, we cannot afford to wait. It is essential that AB 1537 be passed as soon as possible.

Sincerely,



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APh, BCGP, FASCP
President, CALTCM



Michael R. Wasserman, MD, CMD
Chair, Public Policy Committee
CALTCM

¹ Harrington, C. et al. [Appropriate Nurse Staffing Levels for U.S. Nursing Homes](#). (Health Services Insights, June, 2020).

² Backhaus, R., Verbeek, H., Van Rossum, E., Capezuti, E., & Hamers, J. P. (2014). Nurse staffing impact on quality of care in nursing homes: A systematic review of longitudinal studies. *Journal of the American Medical Directors Association*, 15(6), 383–393. <https://doi.org/10.1016/j.jamda.2013.12.080>

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- ⁴ Spilsbury, K., Hewitt, C., Stirk, L., & Bowman, C. (2011). The relationship between nurse staffing and quality of care in nursing homes: A systematic review. *International Journal of Nursing Studies*, 48(6), 732–750. <https://doi.org/10.1016/j.ijnurstu.2011.02.014>
- ⁵ Harrington C, Ross L, Kang T. Hidden Owners, Hidden Profits, and Poor Nursing Home Care: A Case Study. *Int J Health Serv*. 2015;45(4):779-800. doi: 10.1177/0020731415594772. Epub 2015 Jul 9. PMID: 26159173.
- ⁶ Wasserman, M. et al. [These Administrative Actions Would Improve Nursing Home Ownership and Financial Transparency in the Post COVID-19 Period](#). (Health Affairs, February 2021)
- ⁷ Harrington, C., Ross, L., Mukamel, D., and Rosenau, P. Improving the Financial Accountability of Nursing Facilities. Report prepared for the Kaiser Commission on Medicaid and the Uninsured, Washington, DC: Kaiser Commission on Medicaid and the Uninsured, June, 2013. <http://kff.org/medicaid/report/improving-the-financial-accountability-of-nursing-facilities/>
- ⁸ Cockburn, A. Elder Abuse. Nursing homes, the coronavirus, and the bottom line. *Harper's Magazine*. September 2020: 43-49. <https://harpers.org/archive/2020/09/elder-abuse-nursing-homes-covid-19/>
- ⁹ Ibid.
- ¹⁰ Patient Protection and Affordable Care Act (ACA) (PL. 11-148). Signed by President Barack Obama on March 23, 2010.
- ¹¹ Keith, K. ACA round-up: record-high medical loss ratio rebates, pass-through funding, preventive services. *Health Affairs Blog*. November 17, 2020. See also <https://www.cms.gov/CCIIO/Resources/Data-Resources/Downloads/2019-Rebates-by-State.pdf>
- ¹² New Jersey. Assembly, No. 4482, 219th Legislature. *Establishes minimum wage requirements for certain long-term care facility staff; establishes direct care ratio requirements for nursing homes; requires nursing home care rate study*. 2020-09-16, executive: Approved P.L.2020, c.89. <https://fastdemocracy.com/bill-search/nj/219/bills/NJB00038520/>
- ¹³ U.S. Government Accountability Office (US GAO). (2016). *Skilled nursing facilities: CMS should improve accessibility and reliability of expenditure data*. GAO-16-700. Washington, D.C.: GAO, September.
- ¹⁴ O'Neill, C., Harrington, C., Kitchener, M., Saliba, D. Quality of care in nursing homes: an analysis of the relationships among profit, quality, and ownership. *Med Care*. 2003; 41(12):1318–1330.
- ¹⁵ Comondore, V.R., P.J. Devereaux, Q. Zhou, S.B. Stone, et al.. Quality of care in for-profit and not-for-profit nursing homes: Systematic review and meta-analysis. *British Medical Journal*. 2009; 339:b2732.
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- ¹⁸ Rau, J. and Lucas, E. 1,400 nursing homes get lower Medicare ratings because of staffing concerns. *Kaiser Health News*. July 30, 2018. <https://khn.org/news/1400-nursing-homes-get-lower-medicare-ratings-because-of-staffing-concerns/>
- ¹⁹ Government Accountability Office (GAO). *Private Investment Homes Sometimes Differed from Others in Deficiencies, Staffing, and Financial Performance*. (GAO-11-571): July 15, 2011. <http://www.gao.gov/products/GAO-11-571>
- ²⁰ Harrington, C., Hailer, L., Mollot, RJ, Mukamel, DB. Examining California nursing home profitability and related factors before and during the COVID-19 Pandemic. *Journal of the American Geriatrics Society*, (accepted March 2023, in press).