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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 25, 2021

SB 704
Nursing Homes – Transfer of Ownership – Site Visits and Surveys

Chairman Kelley, Vice Chair Feldman and Members of the Committee;

Thank you for the opportunity to present SB704, Nursing Homes – Transfer of Ownership – Site Visits and Surveys.

Nursing Homes should be a place for our elderly population to feel safe and for their loved ones to have confidence that their elderly family members are provided with good quality care. To accomplish this, the Office of Health Care Quality (OHCQ) does *unannounced* surveys for the nursing homes in our State annually, sometimes every fifteen months. The surveys are carefully conducted and any corrections needed are made as required.

Recently, out-of-state REITS and investment firms are purchasing nursing homes, frequently ones that are failing financially. However, instead of enhancing and improving the home, cost cutting measures are put in place in an effort to provide a return for their investors.

What happens when an investment company or REIT purchases a nursing home? Here are some headlines from articles and links describing the results:

Washington Post, December 21, 2020 - *"An investment firm snapped up nursing homes during the pandemic. Employees say care suffered."*
https://www.washingtonpost.com/local/portopiccolo-nursing-homes-maryland/2020/12/21/a1ffb2a6-292b-11eb-9b14-ad872157ebc9_story.html

Institutional Investor, March 11, 2020 - *"Private Equity Firms are Bad for Patients"*
https://www.institutionalinvestor.com/article/b1kq79bp4nv79t/Private-Equity-Backed-Nursing-Homes-Are-Bad-for-Patients-Research-Shows

New York Times, May 7, 2020 - *"Push for Profits Left Nursing Homes Struggling for Care"*
https://www.nytimes.com/2020/05/07/business/coronavirus-nursing-homes.html

International Health, Economics and Finance - *"What Happens to Nursing Home Chain when a Private Equity Takes Over"* https://journals.sagepub.com/doi/pdf/10.1177/0046958017742761

This is occurring all over the country. It is not practical to prohibit this practice—as you may hear later from the Health Care Commission or OHCQ, when a nursing home is failing the worse possible solution is to have it close. When this happened in Hagerstown, patients were moved all over the State and some even to Pennsylvania, making it difficult for families to visit their loved ones.

SB 704 simply requires that OHCQ inspect the recently purchased nursing homes more frequently, at one month, three months and six months. This only applies to nursing homes purchased by a "person" that is not already operating in Maryland. However the House amended House Bill 674 to require inspections only at 3 months and 6 months. This provides the purchasing company time to correct any deficiencies that may exist.

There are some issues with the fiscal note. The fiscal note uses numbers that are different from the numbers:

- Emily Berg of The Department of Health states: "There were 13 nursing homes change of ownerships in 2020 and 24 in 2019"
- The Fiscal Note uses 19 nursing home transfers in 2020 and 30 anticipated in 2021. The Fiscal Note however does not spell out if these transfers are from out if state investors or unknown purchasers, as the bill specifies.

If you have any doubt about the importance of this bill, you simply need to read this article in the **Washington Post** that describes the issues the nursing home in Chestertown experienced after being purchased by Portopiccolo and managed by their wholly owned management company, PEAK.
https://www.washingtonpost.com/local/portopiccolo-nursing-homes-maryland/2020/12/21/a1ffb2a6-292b-11eb-9b14-ad872157ebc9_story.html

Also, if you would like to see the 64 pages of Federal violations or the 73 pages of State violations, I can share those with you. The Office of Heath Care Quality assessed $730,000 in fines. Just to outline a few of the most egregious violations when Portopiccolo purchased the nursing home in Chestertown:

- Employees were expected to keep working after testing positive for Covid-19
- Failure to secure local suppliers
- Employees scrambling for medications and FOOD
- Software prohibiting employees from accessing patient records
- Weeks without hot water!

Portopiccolo purchased 20 nursing homes during the pandemic, EIGHT in Maryland

This bill is an attempt to protect or most vulnerable senior citizens. Thank you for your consideration of SB 704 and I urge the committee to move this bill with a favorable report.

An investment firm snapped up nursing homes during the pandemic. Employees say care suffered.

By
Rebecca Tan and
Rachel Chason
Dec. 21, 2020 at 11:00 a.m. EST
https://www.washingtonpost.com/local/portopiccolo-nursing-homes-maryland/2020/12/21/a1ffb2a6-292b-11eb-9b14-ad872157ebc9_story.html

An investment firm has bought more than 20 nursing homes during the coronavirus pandemic, leading to disruptions at multiple facilities that weakened care for vulnerable residents amid the worst health crisis in generations, interviews and documents show.

From April through July, the New Jersey-based Portopiccolo Group — which buys troubled nursing homes and tries to make them profitable — paid hundreds of millions of dollars to acquire facilities in Maryland, Virginia and elsewhere.

The purchases drew scant scrutiny from regulators despite poor safety records at dozens of the company's other nursing homes, including hefty fines for infection-control lapses and shortages of staff.

Many of Portopiccolo's existing facilities were struggling to contain outbreaks of the coronavirus when its leaders went seeking new properties, state health records show. At a Virginia nursing home, staff hosted a hallway dance party for residents in April, weeks after federal guidelines had cautioned against such events. Conditions were so bad at one North Carolina facility that it was placed on a federal watch list even after the Centers for Disease Control and Prevention dispatched a strike team to help.

At its new nursing homes in Maryland, Portopiccolo's operating companies made major changes to insurance and time-off benefits, failed to buy enough supplies and protective equipment and asked some employees to keep working after testing positive for coronavirus, said 14 current and former employees from four of the eight facilities.

Many veteran staffers quit as a result of the changes, said the employees, most of whom spoke on the condition of anonymity because they feared reprisals. Those who remained found themselves tending to dozens of residents at a time, the employees said.

"It was hair on fire," said Katrina Pearthree, a former social worker at two facilities purchased by Portopiccolo over the last 15 months. She resigned from her job after losing health insurance coverage and disagreeing with new managers on patient care.

Portopiccolo spokesman John Collins denied that caregiving suffered and said that while benefits changed, they remained competitive within the industry. The firm, he said, wants to fill the gap left by nursing home owners exiting the industry because of the pandemic.

"Our company was founded by people who share a passion for caring for the sick, elderly and forgotten," Collins said in a statement. "Any attempts to characterize our work or the work of our teams differently is flat out wrong."
Elder-care advocates say Portopiccolo's record of fines at other facilities, and the timing of its acquisitions, should have raised red flags for regulators, especially as the virus decimated the country's nursing home population.

But the Centers for Medicare and Medicaid Services (CMS), the main federal agency regulating nursing homes, said the only way it tracks ownership changes is when facilities report the information for Medicare enrollment.

President-elect Joe Biden has said he wants to increase federal oversight through mandatory audits of nursing home cost reports and ownership data. Typically, such monitoring has fallen to state regulators, said Charlene Harrington, a professor emerita of sociology and nursing at the University of California at San Francisco. But even before the coronavirus crisis, she said, most states did a poor job.

In Maryland, the commission that oversees changes in nursing home ownership said the sale of a facility requires little more than "timely notification." Virginia officials said they don't closely monitor such sales, either.

"Your history indicates what you're going to do in the future," said Richard Mollot, executive director of a national advocacy group called the Long Term Care Community Coalition. "There needs to be more oversight of these purchases."

'From bad to worse'

Portopiccolo founders Simcha Hyman, 31, and Naftali Zanziper, 38, bought their first nursing home in 2016 after selling their medical supplies company to a private equity firm. They have since purchased more than 70 facilities in nine states, including 18 in Virginia. The nursing homes are run by operating companies set up and financed by the firm, including Peak Healthcare, Accordius Health and Pelican Health — a trend first reported by the business magazine Barron's.

For years, Hyman and Zanziper described Portopiccolo as a private equity firm. But that description, along with the group's promise to swiftly turn "distressed assets" profitable, was removed from the Portopiccolo website in early December after inquiries from The Washington Post about the firm's nursing home acquisitions.

Collins said the label "private equity" — which typically describes groups that raise funding from private investors — is inaccurate. He declined to explain why the group described itself that way for months, including in news releases, and still does on its LinkedIn page.

Atul Gupta, a professor of health-care management at the Wharton School at the University of Pennsylvania, said it is possible Portopiccolo is trying to rebrand itself because of the increasingly negative stigma tied to private equity groups — which have been criticized for slashing costs at nursing homes, then selling them off to new owners. Studies, by Gupta and others, show that private equity ownership correlates with declines in staffing and quality of care.

Collins declined to say how many facilities Portopiccolo owns, how many it has sold or how much the firm has profited. Neither Peak Healthcare nor Accordius Health responded to multiple requests for comment.

An analysis of federal data shows that nearly 70 percent of facilities Portopiccolo owned before the pandemic have Medicare ratings of one or two stars out of five — based on patient-care metrics such as staffing ratios and infection control.

Two Portopiccolo facilities last month were placed in a federal monitoring program for having "a history of serious quality issues"; two others were listed as candidates because of severe deficiencies. Prior to the pandemic, the firm's facilities in North Carolina were fined more than $480,000 for violating state and federal rules, federal data shows.

One facility placed in the monitoring program was the Citadel Salisbury, a one-star nursing home in Salisbury, N.C., where more than 150 staff and residents have contracted the virus, according to state data. Employees and residents alleged in a lawsuit filed in Rowan County Superior Court that Portopiccolo, which bought the facility from Genesis HealthCare on Feb. 1, left the nursing home woefully unprepared for the pandemic.

Employees testified in sworn affidavits that managers from Accordius, the operating group, prohibited staff from wearing masks in March, saying that doing so would scare residents. Nurses sometimes had to care for more than 50 residents at a time, employees alleged.

The lawsuit asks that the facility be required to improve conditions or be closed or put under new ownership. But lawyers for Portopiccolo asserted that staffing and equipment have been adequate. Hyman, Zanziper and Accordius executives sought to downplay their role at the Citadel, claiming in a motion to dismiss that daily operations were the responsibility of staff on site.

At the same time, Portopiccolo sued the families in federal court, arguing that they had signed agreements that preclude litigation against the nursing home.
Such arbitration clauses have become increasingly common at for-profit nursing homes, studies show, and have been criticized by consumer advocates as well as lawmakers as a way for facilities to avoid accountability. Biden said he wants to restore an Obama-era ban on the practice that was overturned by the Trump administration.

In June, North Carolina officials identified a slew of violations at the Citadel that they said placed residents in "immediate jeopardy," including a systemic failure to control infection and failing to inform the families of those who tested positive. Some found out their relatives had the virus from an emergency room physician. One man said he learned his aunt had died only when a funeral director called, asking what to do with her body.
Two hundred miles away in Virginia, staff shortages at Accordius Health in Harrisonburg were so dire before the pandemic that residents sometimes went days without showers, inspection records show.

"This place has gone from bad to worse," one resident told an inspector. "They cut costs at our expense."

After Accordius took over the facility in 2019, Ruth Simmers-Domzalski said, she noticed fewer staff members tending to her mother-in-law, Mary Domzalski, whose family twice found her lying on soiled bedsheets. On April 6, the facility held a hallway dance party where residents interacted without masks.

Domzalski, 88, attended. Three weeks later, she died of covid-19.

When asked about the event, Collins said the dance party did not conflict with federal guidelines at the time. CMS said on April 2 that all nursing home residents should cover their noses and mouths while interacting with staff; nearly a month before, it told facilities to cancel all group activities.

Tumultuous takeovers

Portopiccolo declined to say how many nursing homes it has bought during the pandemic, but The Post used CMS records to identify at least 22 facilities — eight in Maryland — that reported that Hyman and Zanziper had become owners since April.

Three of the Maryland facilities were bought from Genesis HealthCare, one of the largest skilled-nursing operators in the country. Amid plummeting occupancy rates and ballooning expenses, Genesis told stockholders this year that the firm would "improve its liquidity position" by selling off nearly two dozen of its roughly 400 nursing homes.

One was the Sligo Creek Center in Takoma Park, Md., where Pearthree, 59, worked part time as a social worker.

She had spent 18 years full time at another Genesis nursing home, the Fox Chase Rehabilitation Center in Silver Spring, leaving months after Portopiccolo bought it in 2019.

That sale was a "nightmare," said Pearthree, recalling that new managers failed to secure local suppliers, leaving employees scrambling for medication and food. One afternoon, she said, staff members were unable to access digital patient records because Peak Healthcare had not put a new software system in place.

Less than a year after she left Fox Chase, Pearthree found herself facing another Portopiccolo takeover — this time amid a pandemic.

Again, the transition was chaotic. Peak did not actively recruit employees or offer them competitive packages prior to the takeover, leading to the departure of longtime staffers, including the administrator and director of nursing, said Pearthree and a senior Sligo Creek employee who spoke on the condition of anonymity because she feared reprisals. The former administrator and director of nursing did not respond to requests for comment.

Pearthree, a graduate student who worked 30 hours a week, was told she would have to increase her hours to keep her health insurance, she and Collins said.

Pearthree and the current employee also said Peak stopped providing hazard pay for contract employees and laid off a group of nonmedical staff Genesis had assembled to take temperatures and wipe down surfaces at the onset of the pandemic.

The facility has been cited twice by Maryland regulators since Peak took over, state inspection records show — in June for failing to test all residents and staff, and in August for failing to consistently inform family members of viral outbreaks.

Collins said staffing gaps were part of a nationwide shortage of nursing home workers and disputed the accounts from Pearthree and the current employee, saying supplies at both Sligo and Fox Chase were adequate and benefits were fair.

Eleven workers at three other Maryland nursing homes acquired by Portopiccolo during the pandemic said they lost paid time off and were offered more limited insurance packages. One worker who has asthma and high blood pressure said her bimonthly health insurance co-pay increased from $67 to $113 when Peak took over.

At Peak Healthcare Chestertown, on Maryland's Eastern Shore, employees said the company offered a more limited benefits package than the facility's previous owners, Autumn Lake, including less paid time off for new employees and no paid time off on major holidays.
The company scrimped on supplies, including cutlery, cleaning materials and clothing for residents, said employees at three facilities, who also spoke on the condition of anonymity out of fear of retribution.

Three employees at another facility said nurses have had to use hand soap to clean residents and rip up towels or bedsheets to dry them off.

"We risk our lives every day, and we don't have proper supplies," said one geriatric nursing assistant who brings her own gloves to work. "At what point do we put the patients first?"

Collins denied there were shortages, adding that at Chestertown, the budget for supplies had actually increased. He also denied that employees lost time off to which they were entitled, but said he could not address specific claims without knowing the names of the employees.

Reducing operating costs appears to be part of Portopiccolo's business strategy, according to documents reviewed by The Post. In 2019, while acquiring three nursing homes in North Carolina, the group said it expected to save $360,000 by lowering expenses associated with employee benefits and insurance and $410,000 by cutting equipment and transportation costs. These measures, outlined in a mortgage loan contract, had allowed Portopiccolo to save more than $50 million across 37 facilities. Collins said Portopiccolo has invested more than $6.7 million to purchase cleaning supplies and protective equipment since the start of this year. In comparison, Genesis, which operates about three times as many nursing homes, said that as of September, it had spent about $40 million more than normal on cleaning supplies and protective equipment.

Little government scrutiny

A recent study by the Long Term Care Community Coalition identified 15 states as having some good oversight practices for nursing home purchases, including requiring companies to disclose what other assets they own. Of the nine states in which Portopiccolo operates, none made the list.

"If your facilities in other states have very low staffing or a history of citations, you should not be allowed to purchase another one," said Mollot, executive director of the coalition. "But states have a very hands-off approach to anything that happens outside their borders."

Maryland Department of Health spokesman Charles Gischlar said the agency saw "no reason to change" the way it tracks shifts in nursing home ownership during the pandemic.

The Maryland Health Care Commission, another entity meant to oversee the sale of nursing homes, last year started asking prospective owners to affirm that they have not been convicted of a felony within the past 10 years or penalized more than $10 million because of their ownership of nursing homes.

But this requirement, which was designed "to keep out poor performers," has not deterred a single transaction, said Paul Parker, a director at the commission.
For each facility that Hyman and Zanziper bought in Maryland, they declared to state regulators that they would not make substantive changes to services, staffing or bed ratios. State officials did not respond to questions asking how they ensured this would be true.

Gupta, the Wharton professor, said there should have been a moratorium on nursing home sales when the pandemic started because the changes that follow any acquisition can hamper a facility's pandemic response.

But federal and state lawmakers never considered such a move.
"Nobody knew what was going on, nobody was in control," Gupta said.
Joani Latimer, Virginia's long-term-care ombudsman, said her office has been concerned by Portopiccolo's pattern of buying facilities with low CMS ratings. Such facilities need more investment — not less — for conditions to turn around, she said.
"It's not a process that you can just streamline to machine-like efficiency," she said. "These are human needs with human challenges."

Officials at the Virginia Department of Health, however, said they did not pay particular attention to Portopiccolo's acquisition this year of Accordius Health at Courtland in Southampton County and Accordius Health at Waverly in Sussex County.
Such deals are "a business decision between the parties involved," said Kimberly Beazley, director of the state Office of Licensure and Certification. "And we do not regulate business decisions made by facilities."

Weeks with no hot water

Multiple employees at Portopiccolo-owned facilities, including one who worked in the kitchen at Chestertown, said their new managers had so much trouble filling staffing gaps this spring that employees were asked to work after learning they had the virus.
"It was a disaster," said the Chestertown employee, who said she tested positive May 15 and declined when asked to come to work three days later. "People were still testing positive, and we were being asked to reapply for our jobs because this new company was coming in."

Kent County Health Officer William Webb said local officials intervened that month after learning that a different employee at the facility who also had coronavirus was still working. "It was very concerning to me at the time, and we made sure to put a stop to it," he said.

The facility's water heater was broken from July to September, which meant there was no hot water for dishes or hand-washing. State inspectors fined the facility $730,000 for not fixing or reporting the problem, which they said posed "immediate jeopardy" to residents' health. Collins said the firm is disputing the fine.

Webb said Peak's decision not to promptly replace the water heater was "especially difficult" because the facility had seen scores of coronavirus cases and more than a dozen deaths in April and May. "If you're in the business," he said, "[you know] ample hot water is the core of any infection prevention program."

When Peak took over managing the facility, roommates Patricia Sparkman, 82, and Brenda Middleton, 79, were isolated in their ground-floor room after testing positive for the virus.

Sparkman said in an interview that staff members left after the transition. Those who remained seemed less able to help, she said, including with basic tasks like bringing her water.

Middleton's daughter, Tina Hurley, said the family moved Middleton a few months later to Peak Healthcare at Denton, about 30 miles away, so they could visit more frequently. But that facility had also been acquired by Portopiccolo on May 1.

Hurley said her mother is rarely checked on in Denton and has fallen several times while trying to get things for herself. At one point, she added, Middleton injured her leg but went without care from the facility's doctor for days.

"I wouldn't have brought her here if I knew how bad it would be," Hurley said.
For Pearthree, the social worker at Sligo Creek, the breaking point came when she was asked to transfer back to Fox Chase in mid-May as director of social work. By then, Peak was operating both facilities.

She found residents she had known for years alone in their rooms, she said, confused and despondent in some cases. Relatives of those who died, she added, were given little information about how or when their loved ones had gotten sick.

When she raised concerns with managers, she said, she was brushed aside.
"The families felt betrayed by us," Pearthree said. "And that was the part that overwhelmed me." She sent a resignation letter in June.

Collins said Fox Chase administrators were unaware of her resignation and said Pearthree was terminated after she stopped coming to work. But the executive director of Fox Chase left Pearthree a voice mail on June 3 acknowledging her resignation and pleading with her to return.

"You do your job great and I like that," director Eli Loloyan said in the voice mail, which Pearthree shared with The Post. Loloyan did not respond to an email requesting comment.

Collins said that Portopiccolo leaders see their employees as "health care heroes."
"We remain committed to putting care first," he added.

Days before Thanksgiving, as all but one of the firm's Maryland facilities reported new coronavirus outbreaks to the state, the firm closed on deals worth $37.7 million to acquire four more facilities in Florida.

Douglas MacMillan contributed to this report.

Private Equity-Backed Nursing Homes Are Bad for Patients, Research Shows

Researchers at New York University and the University of Pennsylvania say that staff cuts appear to be the cause of declines in patient health.

Alicia McElhaney
March 11, 2020
https://www.institutionalinvestor.com/article/b1kq79bp4nv79t/Private-Equity-Backed-Nursing-Homes-Are-Bad-for-Patients-Research-Shows

Private equity investments in nursing homes could spell trouble for patients and staff, according to new research.

Staff cuts at private-equity owned nursing homes appear to be responsible for declines in patient health and compliance with care standards, according to a paper published in February by researchers at the University of Pennsylvania, the University of Chicago, and New York University.

The research is particularly notable as nursing homes nationwide are struggling to handle coronavirus infections. Although none of the major nursing homes affected at present are private-equity owned, that could change as the virus rapidly spreads.

Nursing homes are a large sector in healthcare in the United States, according to the paper, "with $166 billion in spending in the U.S. in 2017 and projected to grow by about 50 percent to $240 billion in 2025."

The sector is dominated by public spending, with public programs accounting for 85 percent of insurer payouts, the paper said. This is compared with 55 percent for hospitals and 45 percent for physician services.

This dearth of public spending is one of the major reasons for the declines in care standards at nursing homes, according to one of the paper's authors, Sabrina Howell, who is the assistant professor of finance at New York University's Stern School of Business and a faculty research fellow at the National Bureau of Economic Research.

"When you have a lot of government subsidies in imperfect markets, coupled with product and price opacity, the drive to increase profits and firm value is not as well-aligned with consumers," Howell said by phone Wednesday.

Howell contrasted this with a consumer buying a hamburger at McDonald's.

"You are the source of the revenue and you consume the hamburger," she said. "The revenue and the consumer are closely tied together. In the case of nursing homes, you have the separation of care and revenue."

Howell — along with her fellow researchers, Atul Gupta, Constantine Yannelis, and Abhinav Gupta — used several sources of data to compile the research. These included data from the Center for Medicare & Medicaid Services, a proprietary list of deals in the "elder and disabled care" sector compiled by Pitchbook, a list of deals from market intelligence firm Levin Associates, and other data found via internet searches.

The group analyzed a total of 119 unique private equity deals starting in the year 2004, the paper showed, with the authors noting that it was difficult to determine whether they comprehensively captured private equity activity in the sector during the period. The biggest nursing home investors during that time period were Onex

Partners, with 325 investments; Hillview Capital, with 162 investments; the Carlyle Group, with 140 investments; and Stockwell Capital, with 140 investments.

The research showed that private equity-owned nursing homes were able to fill more beds than their peers, as patient volume at these acquired facilities increased by eight percent. At the same time, nursing staff declines following buyout deals. Total nursing staff hours fell by 1.4 percent, the research showed.

These measures combined resulted in the addition of nearly $770,000 to the average private equity-owned nursing home each year, according to the paper.

As this all happened, though, five-star ratings from the Center for Medicare & Medicaid Services declined. These ratings measure "non-compliance with federal guidelines on quality of care, facility infrastructure, managerial quality, and patient rights; nurse staffing compliance with guidelines; and patient health outcomes computed using administrative data," according to the paper.
On average, the five-star rating following buyouts declined by 7.7 percent of the mean rating, according to the paper. Another quality measure, re-hospitalization rate after 30-days, increased by 0.5 percentage points post-buyout, the paper said.

"The particular incentives of PE managers appear responsible, as quality does not decline after acquisitions by non-PE corporates and chains," the authors wrote.

The New York Times

Push for Profits Left Nursing Homes Struggling to Provide Care

Some with private equity owners, focused on making money, were particularly ill equipped and understaffed to handle Covid-19.

By Matthew Goldstein, Jessica Silver-Greenberg and Robert Gebeloff

May 7, 2020

When the pandemic struck, the majority of the nation's nursing homes were losing money, some were falling into disrepair, and others were struggling to attract new occupants, leaving many of them ill equipped to protect workers and residents as the coronavirus raged through their properties.

Their troubled state was years in the making. Decades of ownership by private equity and other private investment firms left many nursing homes with staggering bills and razor-thin margins, while competition from home care attendants and assisted-living facilities further gutted their business. Even so, many of their owners still found creative ways to wring profits out of them, according to an analysis of federal and state data by The New York Times.

In many cases, investors created new companies to hold the real estate assets because the buildings were more valuable than the businesses themselves, especially with fewer nursing homes being built. Sometimes, investors would buy a nursing home from an operator only to lease back the building and charge the operator hefty management and consulting fees. Investors also pushed nursing homes to buy ambulance transports, drugs, ventilators and other products or services at above-market rates from other companies they owned.

These strategies paid off handsomely for investors, but they forced nursing homes to skimp on quality. For instance, for-profit nursing homes — roughly 70 percent of the country's 15,400 nursing homes and often owned by private investors — disproportionately lag behind their nonprofit counterparts across a broad array of measures for quality, The Times found. Also, they are cited for violations at a higher rate than nonprofit facilities.

The toll of putting profits first started to show when the outbreak began. No nursing home could be completely prepared for a pandemic as devastating as Covid-19, but some for-profit homes were particularly ill equipped and understaffed, which undercut their ability to contain the spread of the coronavirus, according to interviews with more than a dozen nursing home workers and elder-care lawyers.

The Burbank Rehabilitation Center has a one-star rating — the lowest ranking in the federal government's five-star rating system for nursing home care. Taylor Glascock for The New York Times

The pandemic "has brought a lot of these issues to the forefront," said David Grabowski, professor of health care policy at Harvard Medical School. "With this huge health crisis and economic downturn, we are all of a sudden seeing how risky it is to have the ownership split between the real estate side that has the most valuable asset and the operator, who is left with much less."

Controlling the real estate gives investors, including real estate investment trusts, leverage to raise rents. Separating the real estate from the operating business can also help limit liability in wrongful-death lawsuits, because the latter typically has little cash and few assets.

"The structure is designed to keep liability on the company that has the fewest assets and the most debt," said William Murray, a plaintiffs lawyer who specializes in suing nursing homes.

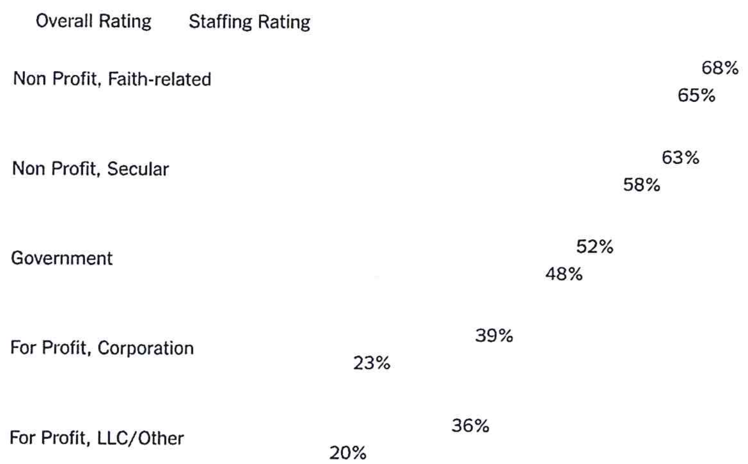
Private equity firms and other investors first gravitated to nursing homes more than a decade ago, betting that aging baby boomers would create demand irrespective of economic cycles and counting on a steady stream of Medicare and Medicaid reimbursements.

A recent report on private equity buyouts of nursing homes, which studied 119 transactions from 2000 to 2017, said private equity owners tended to put "high-powered profit maximizing incentives" first. The researchers found that after private equity stepped in, nursing staff hours per patient fell 2.4 percent, and staff quality as measured by federal regulators fell 3.6 percent.

"The quality of care declines after the private equity buyout, which seems to reflect staffing cuts," said one of the report's authors, Sabrina T. Howell, assistant professor of finance at New York University's Stern School of Business.

Nursing Home Quality Ratings

Facilities operated by non profit entities are far more likely to score 4 or more stars on the federal government's five-star rating system, especially on metrics related to staffing levels.



Source: CMS Nursing Home Compare • By Karl Russell

Ruthie Moore, a 68-year-old certified nursing assistant who works at Burbank Rehabilitation Center, a for-profit nursing home in Illinois owned by a prominent local investor, said she had been overwhelmed with patients even before the pandemic. The facility provided below-average staffing that was also highly inconsistent, records show. On some days, there was one certified nursing assistant for every 10 residents, according to payroll records. On other days, there was one for every 19.

Ruthie Moore, a certified nursing assistant who works at Burbank.

Things got much worse when the virus hit, Ms. Moore said. Residents, including ones with possible symptoms of Covid-19, were mixing with other patients. Personal protective equipment was scarce, and members of the staff were told to wear the same mask for up to two weeks, she said.

Six residents of the Burbank facility have died of Covid-19 and 41 others have fallen sick, according to local reports citing state health officials. The facility gets a one-star rating — the lowest ranking in the federal government's five-star rating system for nursing home care. In a document filed with federal regulators for 2018, Burbank's operator listed assets of $4.4 million and liabilities of $10 million.

"Had we had more staff and protective equipment, there would have been fewer deaths," said Ms. Moore, who recently began showing symptoms and is awaiting a diagnosis.

Burbank's owner is a Chicago-area investor, William Rothner. He and his family run a network of companies that have stakes — owning a piece of either the operating business or the building — in at least 60 nursing homes across the country, according to disclosures and other documents. Companies owned by Mr. Rothner also provide ventilators, pharmaceuticals, management services and payroll services to many of those facilities, according to financial filings with Illinois.

Most of the nursing homes in which Mr. Rothner has an interest in Illinois reported a net loss from operations in 2018, regulatory filings show. For instance, the Parc at Joliet, which has had at least seven coronavirus-related deaths, reported an operating loss of $714,000. But other companies that Mr. Rothner owns charged the home $1.4 million in rent as well as $138,000 in professional fees and $335,000 in fees to an affiliated pharmaceutical supply company, among other charges, according to those filings.

Mr. Rothner said in an email that there had been no "recent citations for inadequate staffing" and "no valid assertions or claims on inadequate P.P.E." at Burbank. He also said his firm, Altitude Health Services, monitored management fees taken by the separate firms that run the nursing homes to make sure they were not excessive. He added that his firm provided ancillary services at competitive prices that were often lower than other companies and complied with all regulations.

Mr. Rothner's company also owns the buildings for two nursing homes in Sussex County, N.J., where more than 60 residents have died of Covid-19 and where 17 of the bodies were hidden in a small on-site morgue. His company leases the facilities for about $8 million a year to Alliance Healthcare, which runs the nursing homes.

On Thursday, federal health regulators said they had fined the operator $220,000, and that the fine could keep growing until the problems are remedied. Specifically, regulators found that one of the facilities was not following infection control safety practices and guidance recommended by federal officials during the pandemic.

Medical workers with a patient from Andover Subacute and Rehabilitation Center. The building is owned by Altitude Health Services. Eduardo Munoz Alvarez/Getty Images

The nursing home industry is pushing for broad immunity in the wake of the pandemic. So far, 16 states, including New York, New Jersey, Michigan, Georgia and Illinois, have already approved measures granting immunity from lawsuits — a development that worries longtime critics of the industry.

"A lot of these nursing homes are trying to get immunity because of Covid, and that is really scary because some of these companies are so negligent," said Charlene Harrington, a professor emerita of nursing at the University of California, San Francisco. Many for-profit nursing home operators report meager profits only because income is "drained off in their management contracts," she said.

Not all nursing home buyouts have worked well for private equity firms. In 2018, HCR ManorCare, which was the nation's second-largest nursing home operator, filed for bankruptcy protection — a decade after the Carlyle Group, a big private equity firm, acquired it. When it filed, ManorCare had $7.1 billion in debt, and its facilities had racked up numerous citations for failure to treat infections and properly monitor residents' medications, records show.

Years before ManorCare declared bankruptcy, Carlyle sold the homes for $6.1 billion to a real estate investment trust, a move that largely wiped out the debt of the nursing homes. ManorCare then rented many of those facilities.

Serious Deficiencies

Nursing homes flagged as "Special Focus" facilities have persistently under-performed in government quality metrics. Regulators also flag homes that have recently been cited for patient abuse. These situations are rare, but are more common among for-profit entities.

	Special Focus Facility	Cited for Abuse
Non Profit, Secular	1.5%	3.0%
Non Profit, Faith-related	2.2%	4.2%
Government	2.3%	5.3%
For Profit, Corporation	4.0%	5.7%
For Profit, LLC/Other	4.5%	6.0%

Source: CMS Nursing Home Compare • By The New York Times

In November, Senators Elizabeth Warren of Massachusetts and Sherrod Brown of Ohio sent letters to four private equity firms, including Carlyle, seeking information about their involvement with nursing homes. Carlyle, in its response to the two Democrats, said that patient care had not been affected during the bankruptcy and that all employees were paid. A spokeswoman for Carlyle, which no longer owns any nursing homes in the United States, declined to comment.

A representative for Ms. Warren said that only Formation Capital, an Atlanta private equity firm that specializes in nursing home investments, hadn't responded.

Formation led the buyout of Genesis Healthcare, the nation's largest nursing home operator, in 2007; Genesis returned to the public markets seven years later. The private equity firm has a consulting arm that sells services to nursing homes, including some that Formation owns or has a financial interest in.

Formation has said in a filing that it had policies "that are intended to mitigate this potential conflict of interest." The firm did not respond to requests for comment.