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MONDAY

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THURSDAY

FRIDAY

MARCH 23, 1999

Steel Issue Faces Uncertain Fate In Finance Committee

TRADE

THE SENATE TODAY begins the process of coming up with a way to aid the ailing domestic steel industry — with the House already on record favoring quotas, and the Clinton administration seeking a softer option. The Senate Finance Committee will hear from witnesses today about steel legislation — including a companion bill to legislation approved by the House that would limit imports of many types of steel to mid-1997 levels, before the dumping began.

Senate Finance Chairman Roth expressed concern about the problem during hearings earlier in the year, but he will not likely agree to a quota bill, according to his

spokeswoman. The measure that the House passed last week, which was offered by Reps. Peter Visclosky, D-Ind., and Ralph Regula, R-Ohio, was reported from the Ways and Means Committee with an unfavorable recommendation, and the Clinton administration has indicated the measure would face a veto.

The administration and critics of the bill contend a quota would violate agreements of the World Trade Organization and send the wrong signal to the world's volatile financial markets. But U.S. steel producers and workers argue that inaction could send a message of weakness in the face of illegal activity. Senate Judiciary Chairman Hatch, whose state has lost jobs and

continued on page 7

Dems Seek United Front On Census

GOVERNMENT
OPERATIONS

HOUSE Democrats said they will be united in their opposition to a GOP census bill headed to the floor Wednesday that would require the Census Bureau to conduct post-census local review in the 2000 census.

Nevertheless, Republicans see future defections from Democrats who oppose the bureau's use of sampling in the census — a statistical method Republicans contend is illegal and unreliable.

House Minority Whip Bonior and Democratic Caucus Chairman Martin Frost of Texas sent Speaker Hastert a letter late last week urging him not to hold a vote on the GOP bill, which would give cities a chance to review bureau numbers before they become official.

The bill is one of 10 census initiatives sponsored by House Government Reform Census Subcommittee Chairman Dan Miller, R-Fla., that Republicans are moving quickly in preparation for a June 15 deadline to release the rest of the FY99 funding for the Commerce, Justice and State departments.

"While we may support some of these bills, we strenuously object to the manner in which the majority has attempted to rush these bills through without giving [Census Bureau Director Kenneth Prewitt] an opportunity to explain to us why these bills present such a threat to the 2000 census," Bonior and Frost wrote.

Although he did not appear before the full committee, Prewitt did appear before the subcommittee to oppose three of the initiatives, saying there is not time to adopt the GOP changes.

Republicans responded the administration has yet to submit a revised FY2000 Commerce-Justice-State funding request that includes funding for a traditional count — as a January Supreme Court decision requires.

Democrats oppose the local review, arguing it will delay the census operation and by default force the bureau to report numbers used by a traditional count.

However, Rep. Paul Ryan, R-Wis., said the entire Wisconsin delegation of five Democrats and

continued on page 8

▼ TODAY'S HIGHLIGHTS

Floor Schedule

Senate

Convenes at 10 a.m. to resume debate over the Kosovo resolution. The Senate also is expected to consider supplemental appropriations and any other items cleared for action.

House

Convenes at 9:30 a.m. to consider 16 bills under suspension of the rules and a resolution to fund House committees.

(Committee schedules begin on page 9)

Inside Stories

Energy

■ Members move to assist oil patch recovery page 4

Charlie Cook's Off To The Races

■ Dems need the breaks in Senate struggle page 5

LEVEL 1 - 92 OF 283 STORIES

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TELEGRAM & GAZETTE (WORCESTER, MA.)

October 12, 1998 Monday, ALL EDITIONS

SECTION: NEWS; Pg. A1; MEASURING UP: THE MASSACHUSETTS NURSING HOME REPORT
CARD

LENGTH: 2299 words

HEADLINE: Caring for our Elderly;
Companies moving to correct problems found by inspectors

BYLINE: Lisa Eckelbecker; TELEGRAM & GAZETTE STAFF

BODY:

Her gaze fixed into space, the woman at University Commons Nursing Care Center in Worcester left the food on her tray untouched.

She abandoned her lunch and dinner the next day, too. On the third day, after a nurse's aide cut up her meal and handed her a fork, the woman managed only a few bites of chicken before stopping and staring.

Workers in the room did nothing to help her.

It was, an inspector for the state Department of Public Health wrote after observing the incidents in February, part of a failure to ensure the nutrition of the woman, whose weight dropped 10 pounds over about three months, to 102 pounds.

"No cueing or encouragement was provided by any of the four staff members who were present in the room," the inspector wrote of the final incident.

The case was one of many cited by inspectors at Central Massachusetts **nursing homes** that scored below average on the state's new report cards and were owned or operated by regional or national **chains**.

Nine **nursing home** companies owned or managed about 68 percent of the Central Massachusetts **nursing homes** that fell below the statewide average on the new measurement tools. Six were publicly traded companies, including some of the nation's largest **nursing home** operators, and three were smaller, privately held companies.

The **problem** at too many nursing homes, according to some consumer advocates and labor representatives, is the pressure to make profits.

Even administrators and industry officials acknowledge that declining payments from insurers such as Medicare and Medicaid, plus rising costs, are challenging nursing homes.



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"Overall, they care, but at the same time there's a reality that the focus seems to be on the bottom line," said Sona A. Hargrove, coordinator of Worcester's senior center project and a nurse who has advocated for residents. "The little things that make people happy, they have trouble following through with because, frankly it takes time. "

MOST HOMES FOR-PROFIT

Most nursing homes in Massachusetts are owned by for-profit companies, and several companies performed well on the state's new nursing home report cards, including Vencor Inc. of Louisville, Ky., and The Salmon Family of Westboro. Vencor's Hillcrest Nursing Home in Fitchburg and The Salmon Family's Beaumont Rehabilitation & Skilled Nursing Center in Northbridge were among the nursing homes that received top scores.

The state Department of Public Health and the Massachusetts Extended Care Federation, a trade group, developed the report cards to give consumers a tool to measure nursing home quality.

The report cards grade nursing homes on 44 issues over two years, producing a maximum score of 88. The statewide average is 85.

Information comes from the annual, unannounced inspections known as surveys that are conducted by Department of Public Health inspectors.

In Central Massachusetts, **nursing home** scores range from 72 to 88.

As of last week, 25 of 73 Central Massachusetts **nursing homes** had below average grades. Seventeen of those grades were at **nursing homes** owned or managed by nine **chains**.

Surveys for the lowest scoring **nursing homes** reveal that several failed to prevent **accidents**, respond to resident grievances and handle toilet care.

Workers at Keystone Center in Leominster did not send a woman's urine specimen to a lab for analysis of a possible urinary tract infection until reminded by an inspector and did not obtain an antibiotic for the woman until three days later, an inspector wrote in 1997. Keystone Center scored 74 on the report cards.

A man at Olympus Healthcare Center-Worcester signed out one day but failed to return by nightfall. The nursing home refused to readmit him when relatives brought the man back and erroneously claimed he needed another admission screening. The man died several days later in a hospital, before he could be readmitted. Olympus scored 75 on the report cards.

Residents at Mariner Health Care of North Central Massachusetts in Fitchburg complained to an inspector in January that it sometimes took more than 30 minutes for workers to respond to call buttons. One worker told the inspector, "We are practically

killing ourselves, doing our best to provide the care, but things are worse than they have been in a long time - we just need more help. " Mariner scored 79 on the report cards.

Among nursing home owners and managers, the company with the most below-average report card scores in the area was Genesis ElderCare, a 350-nursing home chain of Genesis Health Ventures Inc. of Kennett Square, Pa.

Four of five area facilities owned or managed by Genesis received below-average grades, including Wachusett Manor of Gardner, which scored 72 and tied with the Leo P. LaChance Center for Rehabilitation & Nursing in Gardner for the lowest score in the region; Keystone Center of Leominster; Wayside Center of Worcester, which scored 82; and University Commons of Worcester, which scored 84. Genesis' fifth area nursing home, Lincoln Center of Worcester, scored 85, the statewide average.

IMPROVEMENTS

Genesis maintains that quality has improved at its Central Massachusetts nursing homes since past inspections. No deficiencies were cited at Wayside Center and Keystone Center this year, said Jennifer L. King, regional public relations consultant.

King declined to allow a reporter to visit Wachusett Manor or speak to its administrator but released a statement reporting that since Genesis acquired the nursing home in September 1997 it has started new safety, bowel, bladder, dining room and weight loss programs.

Genesis facilities in Massachusetts were cited for an average 1.58 deficiencies this year, below the state average of 2.14 deficiencies, King said.

"If somebody looks at our '97 data, I'm going to answer the question of how we plan to improve by pointing to our '98 data," King said.

At University Commons, which Genesis manages under a subcontract with Healthsouth Corp. for owner UMass Memorial Health Care Inc., deficiencies resulted from turnover among nurse's aides and have been addressed by substantial worker education, said Maureen A. Sroczynski, UMass Memorial Health Care vice president of post acute operations.

UNION CRITICISM

One of Genesis' harshest critics has been the Service Employees International Union, which represents more than 100,000 nursing home workers. The SEIU singled out Genesis nursing homes in Central Massachusetts in a recent report, "Rolling the Dice, Quality Failures at Genesis ElderCare. "

"Although Genesis may advertise that it provides consistent quality of care across its whole network, in fact, it doesn't," said Mark Smith



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of SEIU's nursing home "Dignity Campaign. "

Genesis contends that SEIU's criticism is an organizing tactic and that a national survey showed that Genesis had 4.3 deficiencies per inspection, below the national average of 5.3 deficiencies per inspection.

Yet the SEIU is not the only organization to examine Genesis. Rhode Island health officials last year ordered Genesis to hire an independent monitor for three nursing homes the company acquired when it bought The Multicare Cos.

Rhode Island imposed the order after finding that five Genesis facilities, 15 percent of its New England operations, had been cited for substandard care.

"It was an unusual step. We don't normally put such a condition on (an owner)," said John X. Donahue, chief of health systems development for the Rhode Island Department of Health. "But the nature of the analysis of their regional performance was a concern.."

So far, monitoring has uncovered no noteworthy or worrisome changes at the three Genesis facilities, Rhode Island reported.

ALL BELOW AVERAGE

Among Central Massachusetts nursing home operators, some publicly traded companies scored below average at all their area nursing homes, including Mariner Post-Acute Network Inc. of Atlanta.

According to industry publications, Mariner owns Mariner Health Care of North Central Massachusetts in Fitchburg and manages Northbridge Nursing & Rehabilitation Center in Northbridge, which scored 83.

Mariner declined to allow a reporter to visit Mariner Health Care of North Central Massachusetts, a 99-bed facility that had three deficiencies in January and 11 deficiencies one year earlier.

NEW MANAGEMENT

Robert E. Kneeland, administrator at the nursing home since August, said in a written statement that Mariner has assembled new management at the nursing home and begun work on areas identified for improvement.

"We take the new report card survey process very seriously and feel it is one of the barometers which can be used to assess how a facility is doing," Kneeland wrote. "We, of course, are not happy with our report card survey results, however we share the Department of Health's interest in ensuring high quality care is provided to our residents, and we are working closely with the department to take whatever actions may be necessary to address issues identified by surveyors. "



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CHANGES

Another company undertaking change is Olympus Healthcare Group of Waltham, a privately held 15-nursing home chain that owns Olympus Healthcare Center-Worcester. The company bought the 162-bed nursing home in January 1997. An inspector who visited in April found 10 deficiencies.

"Obviously, it (Olympus) had troubles," said Steven L. Vera, who became administrator in September after leading Olympus facilities in Webster that earned high report card scores. "Just about every aspect of the nursing home had troubles. " Olympus has fired workers, brought in new managers in areas such as nursing and food service, conducted training for the 140-person staff and completed \$ 1.5 million in renovations, Vera said.

At the nursing home on a recent afternoon, residents gathered in a large room for apple desserts, while workers hustled through newly painted, wallpapered and carpeted halls. Residents of a secure Alzheimer's disease unit clustered around a worker who encouraged them to throw balls through a toy basketball hoop. Restraints, according to Vera, have been eliminated throughout the facility.

The goal is to take the nursing home's quality to a higher level, he said.

"Part of the Olympus business plan is to target and acquire facilities that have business problems and to put resources into the facility to make it a success," said Vera. "It takes time. It takes money. I think that's what we're doing here. "

Central Mass. nursing homes owned or managed
by publicly traded companies

Maximum score is 88; statewide average is 85 Report card score

Genesis ElderCare
An operation of Genesis Health Ventures Inc.
Kennett Square, Pa.

Wachusett Manor Nursing Home 72

Gardner

Keystone Center 74

Leominster

Lincoln Center 85

Worcester

University Commons Nursing Care Center 84

Worcester



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Wayside Center 82

Worcester

Mariner Post-Acute Network Inc.
Atlanta

Mariner Health Care of North Central Mass. 79
Fitchburg

Northbridge Nursing & Rehabilitation Center 83
Northbridge

Beverly Enterprises Inc.
Fort Smith, Ark.

Birchwood Care Center 81

Fitchburg

Hermitage Health & Rehabilitation Center 82
Worcester

Integrated Health Services Inc.
Owings Mills, Md.

Greenery Extended Care Facility 84

Worcester
Integrated Health Services of Greater
Worcester at Mill Hill 82

Worcester

Sunrise Healthcare Corp.
A subsidiary of Sun Healthcare Group Inc.
Albuquerque, N.M.

Milford Meadows Skilled Nursing &

Rehabilitation Center 88

Milford

Mediplex of Millbury No score yet

Millbury

Sandalwood Nursing & Rehabilitation Center 88

Oxford
Quaboag Nursing Home 87



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West Brookfield

Bancroft Nursing & Rehabilitation Center 82

Worcester

Sunrise Care & Rehabilitation-Hammond
House 87

Worcester

Spring Valley Nursing & Rehabilitation

Center 85

Worcester

Tenet Healthcare Corp.
Santa Barbara, Calif.

Providence House Nursing Home of Millbury 88

Millbury

Providence House Nursing Home of

Southbridge 84

Southbridge

Providence Extended Care Center 88

Worcester

Transitional Care Unit at St. Vincent
Hospital 88

Worcester

Vencor Inc.
Louisville, Ky.

Hillcrest Nursing Home 88

Fitchburg

River Terrace Health Care 88

Lancaster

Bolton Manor 85
Marlboro

Westridge Healthcare Center 85

Marlboro



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Oakwood Rehabilitation & Nursing Center 85
Webster

Westboro Health Care Center 88

Westboro

Central Mass. nursing homes owned or
managed by privately held chains

Report card score

Oriol Health Care
Holden

Gardner Skilled Nursing Center 81

Gardner

Holden Nursing Home 88

Holden
Wachusett Extended Care Facility 83

Holden

Oakdale Rehabilitation & Skilled Nursing

Center 88

West Boylston

The Essex Group
Rowley

Blaire House of Milford 85

Milford

Blaire House of Worcester 83

Worcester

West Side House 84

Worcester

Olympus Healthcare Group
Waltham

Olympus Healthcare Center - Lanessa 88

Webster



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Olympus Healthcare Center - Webster 86
Webster

Olympus Healthcare Center - Worcester 75

Worcester

The Salmon Family of Services
Westboro

Beaumont Rehabilitation & Skilled Nursing

Center 88
Northbridge

Beaumont Rehabilitation & Skilled

Nursing Center 86

Westboro

Source: Massachusetts Department of Public Health, Women's
Educational and Industrial Union, Massachusetts Extended Care
Federation, companies, nursing homes.

GRAPHIC: PHOTOS; CHART; (1) Dennis P. Lopata, administrator of the Leo P.
LaChance Center for Rehabilitation & Nursing in Gardner, is overseeing changes
that are improving the nursing home's performance on inspections. (2) University
Commons Nursing Care Center in Worcester, managed by the nursing home chain,
Genesis ElderCare, scored 84 on the state's report cards.; (1) T&G Staff/PAULA
B. FERAZZI; (2) A. BICKNELL; (CHART) T&G Staff

LANGUAGE: ENGLISH

LOAD-DATE: October 15, 1998



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09600061 (THIS IS THE FULLTEXT)

SUIT ACCUSES NURSING HOME OF PATIENT DUMPING

VICKIE CHACHERE AND LINDSAY PETERSON - OF THE TAMPA TRIBUNE

Tampa Tribune, Final ED, P 12

Friday, April 10, 1998

JOURNAL CODE: TT LANGUAGE: ENGLISH RECORD TYPE: FULLTEXT

SECTION HEADING: NATION/WORLD

Word Count: 609

TEXT:

TAMPA - At issue is if there was just cause to force residents out for renovations or if there was patient dumping.

A Tampa nursing home illegally tried to force its Medicaid clients out the door, state regulators said Thursday as a court battle began on the residents' behalf.

A lawsuit was filed in U.S. District Court in Tampa by a current resident and the families of two former clients, accusing Vencor Inc. of patient dumping and operating an unsafe facility at the Rehabilitation and Healthcare Center of Tampa.

The 54-page lawsuit also accuses the company of racketeering, saying Vencor billed the government for care that was not provided and falsely advertised that it would provide adequate care to all its residents.

"It's been devastating," said attorney Bennie Lazzara, who is representing the patients and their families.

"Here are people who are struggling, anyway, to try and properly care for their elderly loved ones. Some of these people have been here 10 years. It's like their home. It's not a hospital, it's not a hotel."

Also Wednesday, Attorney General Bob Butterworth wrote to the leaders of elder affairs committees in the state House and Senate, urging them to pass "with all deliberate speed" laws that would prohibit nursing homes from dumping patients.

"In light of Florida's large population of elders, we should take every step possible to protect them when they are most vulnerable," Butterworth wrote.

Vencor, based in Louisville, Ky., declined to comment on the

developments.

Last week, Vencor told its poorest residents they needed to move out so their rooms could be remodeled. But state regulators from the Agency for Health Care Administration reported Thursday the renovations could have been done easily without discharging anyone.

Residents weren't given an opportunity to appeal, regulators said. Ten moved out of the nursing home before Vencor halted the evictions Tuesday.

Vencor will be punished for the violations, agency spokeswoman Edie Ousley said. That punishment has not been determined.

"We need to meet with them (the patients) to see if they experienced some of the same intimidation that some of the others who were moved felt," Ousley said.

State records show that the home isn't required to house Medicaid patients, although about 60 percent of its residents receive the government benefit. It is against state law to evict a resident for reasons other than health, safety or non-payment of bills.

The lawsuit seeks national-class action status.

It was filed on behalf of Adelaida Mongiovi, 93, a current resident of the center; Carmen Napoli, 89, who was among those who already moved; and the family of Malcolm Waters, who died in 1995 at the home.

It accuses the company of scheming to get rid of the Medicaid patients and said patients with more profitable insurance coverage were not asked to move. The company misled the public about the reasons for the evictions, the lawsuit claims.

Lazzara said his law firm already was investigating Waters' death and allegations that the nursing home didn't provide proper accommodations when the evictions were made public this week.

"You see the corporate attitude with this dumping, so what does that tell you about the attitude they paid to patient care?" Lazzara asked.

Records of state agency inspections since 1996 show the center was occasionally cited for infractions involving food handling, cleanliness and patient care. The facility corrected the infractions and, in the most recent review nearly a year ago, the center was given a "superior" rating.

(Chart) To report abuse

To report abuse, neglect or a violation of a nursing home resident's

rights, call the Florida Elder Abuse Hotline at 1-800-962-2873.

CAPTIONS: CHART

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09601051

STATE AGENCY BLASTS NURSING-HOME COMPANY

St. Petersburg Times (PE) - FRIDAY April 10, 1998

By: JEFF TESTERMAN

Edition: 0 SOUTH PINELLAS Section: CITY & STATE Page: 1B

Word Count: 644

TEXT:

TAMPA - A Tampa nursing home's claim that it needed to evict dozens of Medicaid patients because of an extensive remodeling project is a sham, state officials say.

Officials with the 170-bed Rehabilitation and Healthcare Center claimed 53 patients needed to be relocated for their safety during remodeling.

But state investigators determined Thursday that the renovation was to be superficial, bolstering suspicion that Medicaid patients were being dumped to make room for better-paying clients, said Edie Ousley, spokeswoman for the Florida Agency for Healthcare Administration.

"What they planned was basically carpeting, wallpaper and paint," said Ousley. "We are concluding it was never necessary to discharge any patients."

Ousley also said the Vencor nursing home at 4411 N Habana Ave. violated state law in the process of evicting patients and would be subject to fines and sanctions, including a possible moratorium on admitting new patients.

She said the facility, formerly called Hillhaven, would be cited for failing to offer patients the opportunity to appeal eviction notices. Another citation would be issued for unnecessary trauma to patients who were unexpectedly handed 30-day notices late last month, Ousley said.

The federal Health Care Financing Administration and the office of Florida Attorney General Robert Butterworth continue to investigate the allegations of patient dumping.

Thursday, Butterworth sent letters to state legislators urging them to adopt new laws patterned after California statutes to prevent patient dumping.

"In light of Florida's large population of elders, we should take every step possible to protect them when they are most vulnerable," Butterworth wrote.

The forced patient relocations also resulted Thursday in a federal lawsuit against Vencor on behalf of three residents at Rehabilitation and Healthcare Center and patients at more than 300 Vencor facilities across the nation.

The federal suit filed by Tampa attorney James L. Wilkes accuses Vencor of defrauding Medicaid patients and engaging in a "pattern of racketeering" by falsely claiming Medicaid patients needed to be relocated for safety reasons.

The real reason for the evictions, Wilkes said, is money.

The Tampa facility takes in about \$32,400 for each patient who receives the state's Medicaid subsidy for the poor. It gets \$9,000 to \$18,000 more for private-pay patients.

Wilkes obtained a court order Tuesday halting evictions at the local nursing home. His lawsuit raises the stakes considerably.

Wilkes seeks class-action status for the suit, and says he will seek damages from Vencor that could be in the hundreds of millions of dollars.

"We find that the eviction of patients is a symptom of a bigger problem - it's exploitation of the elderly and disrespect for their rights," said Wilkes. "We intend to go after the corporation that profits from entitlement payments like Medicaid."

Wilkes also asserts in his lawsuit that Vencor breached its contracts with Medicaid patients by offering substandard care.

He claims the health-care conglomerate provided fewer nursing staff than required by law, failed to provide patients with adequate daily nutrition, "grossly overcharged" for services and "covered up their misdeeds" by falsifying charts.

Officials at Vencor's corporate headquarters in Louisville, Ky., did not return phone calls from the Times.

On Thursday, the state also ordered Vencor to rescind eviction orders for 10 patients who left the Rehabilitation and Healthcare Center last week.

One patient notified by Vencor that he could return is 79-year-old

retired cigar worker Juan Oliva Sr., who fell into a depression and cried when he had to leave last week.

Family members said they planned to move Oliva back right away.

"He will be happily back at his home tomorrow," said Vickie Oliva, his daughter-in-law.

CAPTION:

BLACK AND WHITE PHOTO, KEN HELLE

Juan Oliva Sr., 79, one of the Medicaid patients forced to leave the Rehabilitation and Healthcare Center of Tampa, gets a visit from his son Juan Oliva Jr. and daughter-in-law Vickie Oliva at the center on Wednesday.

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09603030

SOME DAYS IT FEELS GOOD TO READ PAPER

Sun Sentinel (FL) - Monday, April 13, 1998

By: ENRIQUE FERNANDEZ Commentary

Edition: FINAL

Section: LIFESTYLE

Page: 1D

Word Count: 703

MEMO:

COLUMN: ENRIQUE FERNANDEZ Commentary

TYPE: COLUMN COMMENTARY

TEXT:

Probably even more than lawyers, our profession is the most maligned of our times. Society has a problem? Blame it on the media. Well, last week I saw media at work in a way that affected me, not as a media person, but as Joe Public. It touched me. It helped.

I was visiting Tampa, where I grew up and where much of my family has lived. Most of that family is gone now; many moved away and others died there. One uncle is left, my father's kid brother. Three years ago, my uncle suffered a stroke. Heart surgery saved him, but after a long effort at rehabilitation, he recovered his health and his strength but not his mind, and he became increasingly helpless. No longer able to tend to him around the clock, his wife found a suitable nursing home, Healthcare Center of Tampa, where she stays with him for long hours.

Thanks to Medicaid, this kind of quality care, which they would never be able to afford, was possible. That's where I went to see my uncle, for the first time in many years.

30 days and you're out

Knowing his condition, I was expecting the worst and braced myself for the shock. Happily, he looked fit and was able to recognize me. He immediately asked me, "And Enrique?" He meant his brother. Perhaps he thought that since I was alone something had happened to my father. I don't know. Emotions cross his face at lightning speed, or maybe it's lack of muscle control. I reassured him my father was in good health, as was my mom and everyone else.

His wife came in and told me the nursing home had given the patients 30 days to find a new home, for, they said, there was remodeling to be done. My aunt, and other relatives of patients, informed me the place had been redone only three months before. The suspicion was that they wanted to replace the Medicaid patients with paying ones, which would bring the home a higher return.

Enter the White Knight

And that's when the media rode in on a white horse. The next morning, the front page of The Tampa Tribune carried this headline: ``Home evicting elderly patients." The story by Lindsay Peterson, who writes about issues involving the elderly, quoted patients' relatives who, like the ones I talked to, thought the remodeling excuse was bogus. It also highlighted the plight of very old and very infirm patients who, like my uncle, would find such a move disorienting and traumatic .

The newspaper was only one of the media involved. Television news reporters were there, too, and the nursing home became a cause celebre. The state moved , in and two days later the headline on Peterson's front-page story was ``Home told to readmit residents." The story referred to the 10 patients who had already been pushed out.

Peterson's story said Ann Sarantos, area administrator for the Agency for Health Care Administration, ``wondered whether the parent company, Vencor Inc., was using the Tampa home as a ``test case" for ousting Medicaid residents at its homes around the country."

In South Florida, Vencor properties include Menorah House and Boca Raton Rehabilitation Center in Boca Raton; Hillhaven Convalescence Center in Delray Beach; North Broward Rehabilitation and Nursing Center and Pompano Rehabilitation and Nursing Center in Pompano Beach; and Rehabilitation Center of the Palm Beaches in West Palm Beach. No action like the one in Tampa has taken place nor is planned in any of them.

Vencor Chairman and CEO W. Bruce Lunsford announced Thursday that his company had stopped the transfer or discharge of patients and apologized to the patients and their families. He also took the opportunity to criticize the Medicaid system as outdated, inadequately funded, and not reimbursing providers adequately, and he hoped the incident would increase awareness and raise the debate over the system.

Fine. Let's debate. But in the meantime, let nursing homes patients be. And let's be thankful that, in spite of the media's bad rep, some mornings it feels really good to read the paper.

Enrique Fern ndez's column appears Monday in Lifestyle and Sunday in Sunshine.

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09606121 (THIS IS THE FULLTEXT)

VENCOR CHIEF APOLOGETIC AND CRITICAL
LINDSAY PETERSON - OF THE TAMPA TRIBUNE

Tampa Tribune, Final ED, P 1

Thursday, April 16, 1998

JOURNAL CODE: TT LANGUAGE: ENGLISH RECORD TYPE: FULLTEXT

SECTION HEADING: FLORIDA/METRO

Word Count: 529

TEXT:

TAMPA - The head of the nursing home company trying to rid itself of Medicaid residents says he's embarrassed.

Chief Executive Officer W. Bruce Lunsford of Vencor Inc. said Wednesday that when stories broke that his chain was ousting Medicaid patients from its nursing home in Tampa, it was news to him.

He knew nothing about the transfers until the story exploded in Tampa last week, he said. He came to Tampa this week, he said, to find out what happened at Rehabilitation and Healthcare of Tampa on Habana Avenue, which had given 52 Medicaid residents 30 days to get out so the home could remodel. None of the private-pay patients, who are more profitable to the nursing home, was told to leave.

Lunsford said he wants to make amends and scheduled meetings with residents and the news media.

"I'm embarrassed. Our company is embarrassed. We regret what happened," said Lunsford, who heads a company with 80,000 employees at hospitals and nursing homes in 46 states. "We want to correct this in a hurry."

What happened at the nursing home here is unacceptable, he said. But he used his visit also to criticize the state Medicaid system, which he said is inefficient and doesn't pay nursing homes enough money to care for residents.

Medicaid covers people who can't afford long-term nursing home care. It pays Rehabilitation and Healthcare about \$2,700 a month per resident. Private patients pay at least \$3,450.

The Tampa Tribune reported last week that Vencor's intention to reduce the number of Medicaid patients was in place at least nine months ago. At

that time a top executive warned his regional administrators to get on board with the plan and cease admitting new Medicaid residents.

Lunsford said he hadn't finished his own investigation of the Tampa incident and that any talk of who was responsible was premature.

The corporate plan was halted after residents hired a lawyer who obtained a temporary injunction to stop the Tampa evictions. However, 10 people had already moved out.

Florida health care officials investigated and determined there was no reason to move any residents for remodeling. All but two of the patients have returned.

The state Agency for Health Care Administration has fined the home \$260,000 for improperly transferring residents and endangering their health. It has recommended additional federal penalties of \$100,000.

Lunsford founded Vencor in 1985 with one acute care hospital in Indiana. The company got into the nursing home business two years ago when it bought about 309 homes from Hillhaven Inc. About 30,000 of the people in those homes, 75 percent of all residents, are on Medicaid.

He said Medicaid is a basically flawed system because it gives a nursing home the same amount of money for each resident on Medicaid. He advocates a system that pays more for sicker residents.

He also said Medicaid residents should be more evenly distributed among nursing home companies, and Vencor had more than its share.

"Medicaid is in crisis," he said. "There needs to be a more adequate national debate" of the system.

He said if Vencor attempts to reduce its Medicaid load further "we're going to do it another way."

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09611013 (THIS IS THE FULLTEXT)

**MACKAY VISITS NURSING HOME, URGES "PATIENT'S BILL OF RIGHTS"
WILLIAM MARCH - OF THE TAMPA TRIBUNE**

Tampa Tribune, Final ED, P 3

Tuesday, April 21, 1998

JOURNAL CODE: TT LANGUAGE: ENGLISH RECORD TYPE: FULLTEXT

SECTION HEADING: FLORIDA/METRO

Word Count: 527

TEXT:

ST. PETERSBURG - Taking a leaf from President Clinton's book, Lt. Gov. Buddy MacKay proposed a health care initiative and "patient's bill of rights" in a campaign stop at a St. Petersburg nursing home Monday.

MacKay said the goal of his plan was to protect the rights of patients in nursing homes and assisted living facilities and ensure that medical decisions are made by doctors and patients, not insurance or managed care executives.

This is not about bashing HMOs, nursing facilities or managed care," he said. "It's about quality. ... It's time health care decisions were made according to what's best for the patient, not the profitability of the nursing facility or insurance company."

Among his proposals are making health insurance companies or health maintenance organizations legally liable if they overrule a doctor's recommendations, and outlawing discrimination against Medicaid patients by nursing homes.

Two weeks ago, a Tampa nursing home made headlines by attempting to evict Medicaid patients, whose government-funded care pays less than private-paying patients.

"You need look no further than Vencor to see why we need a patient's bill of rights that includes nursing facilities," MacKay said, referring to that incident.

MacKay made stops Monday at two Jewish homes for the elderly, one in Miami and St. Petersburg's Menorah Manor.

At Menorah Manor, MacKay described his proposal in a panel discussion with a friendly group of about a dozen individuals, mostly elderly issues

advocates.

Such a proposal is virtually guaranteed to be popular. Legislation by a Republican congressman, Charlie Norwood of Georgia, for tighter regulation of HMOs has lined up dozens of sponsors, both Democratic and Republican.

Clinton's proposal, in his State of the Union speech, was popular with millions of individuals dissatisfied with their coverage.

But some insurers and business executives argue that forcing HMOs and insurance companies to pay for more coverage will only boost costs for consumers and could make health care plans so expensive employers won't offer them.

MacKay's proposal, like Clinton's, stops short of some controversial features proposed for a federal patient's bill of rights, such as elimination of lifetime caps on benefits and requiring coverage of experimental care or participation in clinical trials.

And MacKay's proposal was not fully detailed. For example, it says insurance and health plans "will be held legally responsible if they insist on making medical decisions" and deny coverage of treatment recommended by a doctor. But it doesn't specifically say whether HMOs would lose their current exemption from malpractice lawsuits.

MacKay's proposal includes:

Requiring that insurers or health plans cover "reasonable" use of emergency services.

Making insurers responsible if they refuse to cover preventive measures recommended by a doctor, such as pap smears or mammograms, and the patient becomes ill.

Requiring that HMOs provide treatment outside their physicians' network if the network doesn't include the needed specialists.

MacKay is the embattled front-runner in a three-way Democratic primary for governor, against state Rep. Keith Arnold of Fort Myers and former state Sen. Rick Dantzler of Winter Haven. The winner is likely to face Jeb Bush, so far unopposed for the Republican nomination.

CAPTIONS: PHOTO ; Buddy MacKay wants medical decisions made by doctors and patients.

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09611033 (THIS IS THE FULLTEXT)
NURSING HOME ONE EXAMPLE OF PROBLEM
LINDSAY PETERSON

Tampa Tribune, Final ED, P 3

Tuesday, April 21, 1998

JOURNAL CODE: TT LANGUAGE: ENGLISH RECORD TYPE: FULLTEXT

SECTION HEADING: BAYLIFE

Word Count: 576

MEMO:
PRIME TIME

TEXT:

A local nursing home's attempt to get rid of its 52 low-income Medicaid residents three weeks ago outraged people throughout the Tampa Bay area.

But many weren't surprised.

I think this is the tip of the iceberg," says Martie Daemy, with the local Long-term Care Ombudsman council, which investigates complaints about nursing homes.

She frequently hears complaints about improper discharges. And she believes a lot more people who face eviction never even complain. They just gather their belongings, or the belongings of their loved one, and try to find someplace else.

People don't know the state has rules to protect nursing home residents from being kicked out just for the convenience of the home, she says. They don't know they have a right to appeal.

The recent case in Tampa caught the public's attention because it involved so many people.

Officials at the home, Rehabilitation and Healthcare of Tampa, owned by Vencor Inc., said the residents had to go because their floor was being remodeled. No Medicare or private-paying residents, who bring the nursing home more money, were told to go.

After family members complained, state health care officials determined the home could easily have found other rooms for the 52 people. They accused Vencor of discriminating against Medicaid residents and fined the Louisville, Ky., company \$260,000. They also asked the federal

government to impose an additional \$100,000 in fines.

This is not the way an improper discharge usually happens.

Most often, residents are quietly sent away one by one.

Some are told to go because they're too much trouble or their family members demand better care. Often a resident becomes a target simply because he's on Medicaid and the home wants to free his bed for someone who will bring the home more money.

But residents can't be evicted from a nursing home because their Medicare or private savings runs out and they switch to Medicaid, says Ed Boyer, a Sarasota lawyer who works with the ombudsman council.

Money is grounds for discharge only if a resident refuses to pay. Otherwise, residents can be forced out only if the home can't meet their needs, if they endanger other residents or if they are not sick enough to need nursing home care.

Often the illegal discrimination begins before the resident even arrives, Boyer says.

Some homes tell people that to get into the home, they must agree to pay the private rate and not apply for Medicaid for a certain number of months, even if their savings run out before that time.

People will do this, then borrow from friends and family members to pay the bills.

Another technique is "reassessing" a resident when his savings runs out, then claiming that the home can no longer meet his needs.

Some homes tell residents they have to leave when they switch from Medicare to Medicaid because all the Medicaid beds are full.

None of this is legal.

Indeed, some homes set aside a certain number of beds for Medicaid residents, but state law allows them to increase that number any time.

The basic rule is, "Once you're in, you're in."

Another rule: If you're being told to leave and it doesn't make sense, ask questions.

Call the local office of the state Long-Term Care Ombudsman's Office,

(813) 871-7185; the Adult Abuse Hotline, 1-800-962-2873; or the National Citizens Coalition for Nursing Home Reform, (202) 332-2275.

CAPTIONS: SIG (C)

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09618067 (THIS IS THE FULLTEXT)

STOCKHOLDERS GIVE VENCOR CEO PAT ON THE BACK

LINDSAY PETERSON - OF THE TAMPA TRIBUNE

Tampa Tribune, Final ED, P 1

Tuesday, April 28, 1998

JOURNAL CODE: TT LANGUAGE: ENGLISH RECORD TYPE: FULLTEXT

SECTION HEADING: BUSINESS & FINANCE

Word Count: 640

TEXT:

LOUISVILLE, Ky. - Vencor shareholders hear the chief executive admit a mistake, but they say profits are the priority.

Vencor Inc.'s embattled chief executive was applauded by stockholders Monday after he explained why the company tried to oust its poorest residents from its homes.

CEO W. Bruce Lunsford said he would take no questions and none of the nearly 700 people attending the annual stockholder's meeting objected.

He and the rest of the company brass were then re-elected to the board of directors.

When it was over, stockholders praised him and said they understand the need to unload their Medicaid burden.

"We have public housing for people who didn't plan and can't take care of themselves," said stockholder John Connolly. "We have hospitals for the indigent. We should have special nursing homes for the indigent."

Lunsford said Vencor loses \$50 million to \$60 million a year to care for Medicaid residents.

But, he said, it was still wrong to try to evict low-income residents from some nursing homes, including one in Tampa. The company was trying to adjust to a new Medicare payment system that many fear will bring nursing homes less money, he said.

"Change sometimes creates mistakes," he said. "We made a couple of mistakes."

The 250 who faced eviction from their nursing homes in Indiana and

Florida were among a total of 30,000 of Vencor 's Medicaid residents, Lunsford said.

"A lot of our revenues come from the poor," he said.

But he vowed that even though the reimbursement rates were low, Medicaid residents would get the same quality of care as those paying higher rates. He also vowed that Vencor would be successful dealing with changes in Medicare reimbursements.

Many stockholders said the news of the Medicaid evictions upset them. Residents had already been moved in Indiana and were being evicted from Vencor 's Habana Avenue home in Tampa. A public outcry against the moves in Tampa and the threat of \$360,000 in state and federal fines forced the company to stop. Vencor has abandoned its plan to get rid of Medicaid residents.

"It's a difficult industry to make money in. I don't know if I could put my money in another nursing home company, but I believe in this one," said investor Jo Snider of Louisville.

Lunsford blamed the government for paying so little for the poor in nursing homes - substantially less for Medicaid than Medicare.

He criticized state and federal government officials who say they support stronger protections for people on Medicaid while pushing for the low-reimbursement system.

Investor Connolly doesn't like the idea, as expressed by Lunsford, that Vencor will give Medicaid residents the same quality of care it gives people paying higher rates.

He and others at the meeting said they believe that many people on Medicaid are actually wealthy people who gave away their assets to their children to qualify for the government program.

"These people need to keep their assets and take care of themselves," said stockholder John Woehrle.

"As a stockholder, I don't like that," said Keith Wilson, an investor from nearby Clarksville, Ind.

Government has a responsibility to take care of people who can't take care of themselves, and the money shouldn't come out of private industry's pocket, he said.

He winced at the mention of the Medicaid evictions.

"I think it was a knee-jerk reaction to some problems," Wilson said.

But he also understands why Vencor did it.

Wilson thinks of it in terms of a small businessman. Imagine having a sandwich shop and realizing that you were losing 50 cents on every hamburger you sold, he said.

"You would have to increase the price of your hamburger," Wilson said. "But if you couldn't do that, you might have to stop selling that hamburger."

CAPTIONS: PHOTO (C) ; (C) CEO W. Bruce Lunsford did not take any questions.

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09628032 (THIS IS THE FULLTEXT)

BILL AIMS TO STOP NURSING HOME EVICTIONS

PHIL WILLON AND LINDSAY PETERSON - OF THE TAMPA TRIBUNE

Tampa Tribune, Final ED, P 1

Friday, May 8, 1998

JOURNAL CODE: TT LANGUAGE: ENGLISH RECORD TYPE: FULLTEXT

SECTION HEADING: BUSINESS & FINANCE

Word Count: 653

TEXT:

WASHINGTON - A Tampa nursing home's recent attempt to evict Medicaid residents prompts action in Congress.

In response to a Tampa nursing home's recent attempt to kick out poor residents, a Florida senator and representative filed legislation Thursday to prohibit homes from evicting people insured by Medicaid .

U.S. Sen. Bob Graham, D-Miami Lakes, and U.S. Rep. Jim Davis, D-Tampa, said their bill would prevent a repeat of an incident in early April when Vencor Inc. tried to evict 52 Medicaid patients from its nursing home, Rehabilitation and Healthcare of Tampa.

"The legislation we're introducing will assure that tomorrow it won't be your mother or grandmother that will be subjected to this," Graham said.

Davis said the bill sends a clear message to nursing homes that if they accept seniors on Medicaid or have residents who run out of money during their stay and are forced on Medicaid , they must be treated "fairly and with dignity." Medicaid is the state and federal program that covers health care for the poor.

"This important lesson we have learned from this event is that there will be temptations on other nursing homes to engage in this type of inappropriate behavior," Davis said. "This bill will put a stop to that."

Still, both Graham and Davis conceded passing the legislation this year would be difficult. Graham said he will offer the bill as an amendment to other health care legislation moving through Congress, since that will increase odds of it being approved.

"I wanted it to go this far, but I imagined it only in my dreams," said Nelson Mongiovi, who with his wife, Geri, started the campaign to stop the Medicaid evictions at the Tampa nursing home on Habana Avenue.

"It's wonderful. It's something that's going to benefit so many people."

Jim Wilkes, the Mongiovis' attorney who filed for the stay that halted the evictions on April 7, said, "It's important that we permit people to live and remain in their homes."

"We've long needed strong protections for people on Medicaid," said Emma Holder, executive director of the National Coalition for Nursing Home Reform in Washington. She said people are often forced out of their nursing homes when their savings run out and they have to go on Medicaid, which generally pays about 70 percent of the typical private pay rate.

It won't be easy to pass, Holder said, because it's likely to face substantial opposition from the nursing home industry. "It will threaten their income."

But just bringing the problem into the open will do good, she said. "This is a serious, long-standing problem. We need a public debate."

Under the legislation, nursing homes will not be able to evict or transfer Medicaid residents even if the facility decides to opt out of the Medicaid program. Medicaid residents could only be replaced by higher-paying residents if they voluntarily leave the facility or die.

The homes also would be prohibited from kicking out residents who initially pay their own way but then are forced onto Medicaid once their savings are depleted.

Under current law, a nursing home can opt out of the Medicaid program. Once it does so, and if it takes the proper regulatory steps, the facility can kick out residents on public assistance for failure to pay.

Three weeks ago, Vencor made headlines when officials at its Habana Avenue home told 52 Medicaid residents they had to move for remodeling. Many were frail and bedridden. A judge halted the moves. The state fined the nursing home \$260,000, saying the discharge threat discriminated against Medicaid patients and put the patients' care in jeopardy. Investigators also recommended \$100,000 in federal fines.

After the incident, Vencor officially backed away from its discharge efforts. Chief executive Bruce Lunsford visited Tampa from company headquarters in Louisville, Ky., to apologize to residents.

CAPTIONS: PHOTO (C) ; (C) U.S. Sen. Bob Graham said passing the bill this year would be tough.

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09751053 (THIS IS THE FULLTEXT)

STATE PANEL WANTS TO HEAR EVICTION TALES

LINDSAY PETERSON

Tampa Tribune, Final ED, P 4

Tuesday, September 8, 1998

JOURNAL CODE: TT LANGUAGE: ENGLISH RECORD TYPE: FULLTEXT

SECTION HEADING: BAYLIFE

Word Count: 651

MEMO:

LINDSAY PETERSON PRIME TIME

TEXT:

The woman was at the dialysis center with her father when the nursing home called to say it planned to discharge him and she shouldn't bother bringing him back.

She knew this was probably illegal and called the local long-term care ombudsman office for help. One call from the ombudsman cleared up the "misunderstanding," and the woman wasn't forced to find a new home for her father.

But ombudsman Martie Daemy wonders about the people who don't know enough to challenge such eviction attempts.

"We get a lot of calls like this, but I think they're just the tip of the iceberg," she said.

The state Senate Health Care Committee wants to hear from people who've been threatened with eviction from a nursing home. It has scheduled a public hearing from 1 to 4 p.m. Monday in Tampa.

The hearing is a response to an attempt in April to evict 52 Medicaid residents from a Tampa home, Rehabilitation and Healthcare of Tampa, owned by Vencor Inc.

Officials said the residents had to go because their floor was being remodeled. No Medicare or private-paying residents were told to go.

After family members complained, state health care officials determined the home could have found other rooms for the 52 people. The state Agency for Health Care Administration accused Vencor of discriminating against Medicaid residents and fined the company \$260,000. Vencor has appealed.

This was a dramatic case, but it's not the way an improper discharge usually happens.

Most often, residents are quietly sent away one by one.

Some are told to go because they're too much trouble or their family members demand better care. Often a resident becomes a target simply because he's on Medicaid and the home wants to free his bed for someone who will bring the home more money.

"I know there are a lot of people out there who've had trouble. They need to tell their stories," Daemy said.

They also need to know the law.

Most nursing homes are required to set aside a certain number of beds for residents on Medicaid. If all those beds are filled, they can turn away new Medicaid admissions.

But the home doesn't have to say no. A facility can add Medicaid beds any time. It must get permission to add more for people on Medicare, which covers certain therapies and skilled services, but not Medicaid.

What a nursing home cannot do is dump people when their private savings or Medicare eligibility runs out and Medicaid begins paying the bills. Money is grounds for discharge only if a resident refuses to pay. Otherwise, residents can be forced out only if the home can't meet their needs, if they endanger other residents or if they are not sick enough to need nursing home care.

Often the discrimination begins before the resident even enters the home.

Some officials tell families that to get their loved one a bed, they must agree to pay the private rate and not apply for Medicaid for a certain period of time, even if the resident's savings are used up before that time.

After the resident is in, the eviction techniques come in many forms. Sometimes, the home will "reassess" a resident after he or she applies for Medicaid, then say it can no longer meet the resident's needs.

One nursing home administrator told a family member that the Medicare and Medicaid sides of his facility were actually different homes, and the resident couldn't simply move to the Medicaid side when his Medicare ran out, because there was no room over there.

None of this is legal.

If you have a story to tell, or just need information, come to the hearing on Monday. It's at the Florida Department of Law Enforcement auditorium, 4211 N. Lois Ave., Tampa.

For more information, call Tampa's Long-Term Care Ombudsman office, (813) 871-7185.

CAPTIONS: SIG (C)

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09758094 (THIS IS THE FULLTEXT)

LAWMAKER: AGENCY FAILED NURSING HOME RESIDENTS

LINDSAY PETERSON - OF THE TAMPA TRIBUNE

Tampa Tribune, Final ED, P 1

Tuesday, September 15, 1998

JOURNAL CODE: TT LANGUAGE: ENGLISH RECORD TYPE: FULLTEXT

SECTION HEADING: NATION/WORLD

Word Count: 791

TEXT:

TAMPA - Sen. Ginny Brown-Waite says state law on nursing home discharges needs to be tightened. State officials who are supposed to protect nursing home residents appear instead to have been "accomplices" in a corporation's attempt to evict Medicaid residents from one of its homes in Tampa, said a state lawmaker on Monday.

"I think the agency clearly dropped the ball," said state Sen. Ginny Brown-Waite, R-Brooksville, head of the state Senate Health Care Committee. "It seemed the agency was saying let me show you how to evict people. It almost was as if they were accomplices." Brown-Waite scheduled the committee hearing in Tampa to investigate the illegal practice of nursing homes dumping low-income Medicaid residents to make room for people who can pay more. About 75 people attended the hearing at a state office building on Lois Avenue.

It was a response to the attempt by Vencor Inc. this spring to discharge 54 people from its home, Rehabilitation and Healthcare of Tampa, one of 21 Vencor homes in Florida. After four hours of testimony, Brown-Waite said she believed that state law on nursing home discharges needs to be tightened. "We need to be more specific," she said. "The vagueness in the law almost invites evictions." She said she would address the problem this coming session. Early in the meeting, state health care official Marshall Kelley of Tallahassee testified that the Agency for Health Care Administration learned of the evictions first from an April 7 story in The Tampa Tribune, which ran three days after the first residents were moved.

Brown-Waite, however, revealed investigative documents showing that Alice Adler of the agency's Tampa office had met with Vencor officials and discussed the company's plans to move residents several days before the discharges began.

Vencor officials told residents and their families in March they had

to leave Rehabilitation and Healthcare of Tampa because the home was starting a major renovation. But none of the higher-paying residents on Medicare or those paying privately were told to move.

"We were enraged, hurt, angry and scared," said Geri Mongiovi, whose 93-year-old mother-in-law received a discharge notice. She said the first day they moved residents, there was chaos in the home. The hallways were filled with confused, crying people.

After family members complained and the story broke in the news, the state Agency for Health Care Administration ordered the home to stop the discharges. The agency eventually fined the company more than \$250,000 for discriminating against the poorest of its residents.

At the time, Vencor officials said the agency already had agreed to the company's plans, but agency officials denied that. "This is news to us," spokeswoman Edie Ousely said then.

Notes from a State Attorney General's investigation of Vencor, obtained by Brown-Waite, show that Rehabilitation and Healthcare administrator Marie Panapolis came to the health care agency offices in late March to meet with Adler.

Adler told investigators in June that Panapolis said Vencor planned a renovation and wanted to move residents out of the facility because there could be toxic fumes from new carpet installation.

Adler said she thought the move would be only temporary. She also said she suggested Panapolis move the residents to other rooms in the home, but Panapolis said that wasn't possible because the home was full.

In response to a series of probing questions from Brown-Waite, Adler said she didn't check the home's records or visit the home to confirm Panapolis' statements. Instead, she called an official in Tallahassee, Pat Hall, to get advice on the procedure Panapolis should use to discharge the residents.

Hall suggested that Vencor should say the residents had to move for their own safety. Protecting a resident's safety is a legal reason for discharge.

Adler repeated on Monday that Panapolis gave her the impression the move was only temporary and the residents would be returned when the work was finished.

She said she was shocked when she learned April 7 that the only people moved were Medicaid residents and that they were told they would not be able to return.

The investigative notes, however, say that before April 7, the local long-term-care ombudsman had called the agency. Ombudsman Martie Daemy testified Monday that she learned around March 31 from residents that only people on Medicaid were being moved, and that she called the agency offices in Tampa.

"This appears to be an example of a lazy bureaucracy," Brown-Waite said on Monday. "These people need to get out of their cozy offices."

"If they had acted quicker, maybe we wouldn't be here today and people wouldn't have been put through that problem."

CAPTIONS: PHOTO (C) ; (C) State Sen. Ginny Brown-Waite

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09819156 (THIS IS THE FULLTEXT)

"WILL THINGS GET BETTER HERE? WILL THEY GET WORSE?"

LINDSAY PETERSON - OF THE TAMPA TRIBUNE

Tampa Tribune, Final ED, P 4

Sunday, November 15, 1998

JOURNAL CODE: TT LANGUAGE: ENGLISH RECORD TYPE: FULLTEXT

SECTION HEADING: SPECIAL

Word Count: 1,224

MEMO:

MONEY OR MERCY? A SPECIAL REPORT ON NURSING HOMES

TEXT:

Changes in nursing home ownership and staffing prove unsettling to an elderly resident's only child.

Eva Karle grabbed life with two hands.

The Midwestern farm girl became a professional masseuse as well as a wife, mother, volunteer and bicycle rider, filling her world with close friends and simple pleasures.

Now her world is half of a room in a nursing home. She holds nothing except an occasional pinch of fabric between her restless fingers. On a good day she can raise a plastic glass, slowly, shakily, all the way to her lips.

At 81, in the later stages of Alzheimer's disease, she depends on other people to put food in her mouth and to lift her out of bed.

Still, there's a spark. She sometimes smiles and winks, flashing hints of the lively girl who left her parents' home at 16 and made her way in Chicago.

"She's a sweet woman," a nursing aide recently told her daughter, Karen Karle.

Karen can sleep most nights because she believes the aides treat Eva with love and kindness.

But for how long? She wonders.

The Abbey Rehabilitation and Health Care Center has been sold twice

since Eva moved in two years ago. And each time, long-term employees were dismissed.

Two months ago, state officials banned the home from accepting new residents for two weeks. Some residents weren't being fed; others were getting bed sores.

Karen said the problems didn't reach her mother - but she worries.

There are countless people like Karen, whose parents or spouses or siblings have Alzheimer's, heart disease, emphysema or other illnesses destroying the ability to care for themselves. Many people try to keep these loved ones at home, often risking their own collapse, before turning to paid strangers.

"The guilt eats you alive every day," Karen said. "You're waiting for the phone to ring, wondering: Has she fallen? Is she getting bed sores? Should I go visit?"

Karen tries to bring memories of her mother's prime years to life for the nursing aides, so they'll know Eva wasn't always the confused woman they see.

Eva's parents grew onions in rural Illinois, and she worked in the fields. But at 16, she grew restless and moved in with a sister in Chicago.

She enjoyed giving massages; as a girl she had rubbed her mother's feet at night. So she attended Chicago's Melquist School of Swedish Massage, then spent five years working in prestigious "reducing salons."

She quit to work in a factory during World War II, and she got married in 1947. Karen was born three years later, the only child of Eva and Lee Karle.

They were devoted, active parents, Karen said. Eva passed on her craft to her daughter, who became a massage therapist in Chicago.

After Eva's husband died in 1974, Eva and her mother-in-law moved to Florida.

As in Chicago, Eva threw herself into her new life. She became relicensed in massage therapy. She volunteered and biked. Standing in line for bingo, she would massage the shoulders of the person in front of her.

But in the late 1980s, Karen began to get disturbing reports from neighbors: Eva was forgetting her favorite card games and wearing wool

gloves in 90-degree weather.

Eventually, Karen left behind the work she loved in Chicago to join her mother. Sharing Eva's Largo mobile home, in a new city with no friends, she began what has become a seven-year journey through a brutally complicated health care system.

Medical tests told Karen what she and her mother feared most.

"When you actually see it in print, it just slaps you in the head," she said.

Karen began to lose her mother as she struggled not to lose her own mind. Money was running out. Friends and family were far away. Support and understanding were hard to find.

Karen would leave the house for five minutes to go to the store, and Eva would accuse her of being gone for days.

One day, Karen found Eva crouched beside her bed, crying, "I can't get up." It wasn't that she was physically unable, Karen said; she had forgotten how.

Alzheimer's wasn't the only problem. Eva also had lupus, which required her to get shoulder and hip surgery.

While rehabilitating at Palm Garden nursing home, near her home in Largo, Eva strolled out the front door a half-dozen times.

The administration at Palm Garden, which wasn't set up for people with dementia, told Karen her mother had to leave.

Physically and emotionally drained, Karen began searching for a new home for Eva, whose care was funded by Medicaid. She faced one closed door after another until she was accepted at NHC Healthcare of St. Petersburg, which has a dementia unit.

Karen noticed some residents appeared strange. She learned many had severe disorders, including violent behaviors and schizophrenia. She accepted it, uneasily, because the staff gave her mother good care.

Then something changed; Karen isn't sure what. But she saw the care begin to slip. And she began to get those dreaded calls.

Eva fell out of her chair and cut her arm. Eva was found on the floor. Scabies broke out, twice.

One afternoon, Karen found her mother in a diaper full of feces, cold and caked.

Karen looked for a new address for Eva. When she found the Abbey, it was clean and homelike.

But soon after Eva arrived in mid-1996, the home was sold to PersonaCare, which soon was sold to Vencor Inc.

With each change, Karen said, she saw fewer familiar faces. Every six months or so, she was dealing with a new administrator or nursing director.

Karen has watched closely for signs of neglect, particularly after the problems in September. But her mother still appears to get good care.

Karen stayed with Eva through dinner recently, gently spooning mashed potatoes with pureed beets and meat loaf into her mouth.

Next to her, a nurse calmly fed another woman, who ate like a hungry baby. The nurse stroked the woman's cheek.

"I know the staff is doing the best they can," Karen said.

But she also sees worrisome signs. She found ants on Eva's bed one day. Then she saw a dead roach on the floor, and it stayed for at least three days until she complained.

"I almost started calling around to find another place the other day," she said. "But I don't know. Will I find any place better?"

"Do I take her away from the place she knows? Will things get better here? Will they get worse? It's so hard to know."

CAPTIONS: PHOTO 5(4C) ; (C) Above, Karen Karle feeds pudding to her mother, Eva Karle, at The Abbey Rehabilitation and Health Care Center in St. Petersburg. GARY RINGS/Tribune photo Eva Karle was an active and devoted parent during her daughter's childhood, left. Young Karen picked up her mother's craft as well as becoming a massage therapist. Photos from Karen Karle (2C) Even after moving as a widow to Florida, Eva Karle remained active as a licensed masseuse, above. But now in a nursing home, left, she has trouble raising her once strong hands. Photos from Karen Karle (C) Eva Karle's comfort in the nursing home remains a source of worry for her daughter. GARY RINGS/Tribune photo

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09823015 (THIS IS THE FULLTEXT)

U.S. ATTORNEY INVESTIGATING VENCOR
VICKIE CHACHERE - OF THE TAMPA TRIBUNE

Tampa Tribune, Final ED, P 1

Thursday, November 19, 1998

JOURNAL CODE: TT LANGUAGE: ENGLISH RECORD TYPE: FULLTEXT

SECTION HEADING: BUSINESS & FINANCE

Word Count: 383

TEXT:

TAMPA - The company insists there is no connection between this probe and an earlier one regarding patient evictions.

U.S. Attorney Charles Wilson is investigating for-profit nursing home and hospital chain Vencor Inc., prompting more problems for the embattled company.

Vencor received a subpoena for company records about two weeks ago, said Vencor spokeswoman Susan Moss. Moss would not disclose what federal authorities had requested; she called the inquiry a "routine" look at the company's Medicare billing practices.

Vencor, based in Louisville, Ky., informed its stockholders about the investigation in a U.S. Securities and Exchange Commission report this week.

The U.S. attorney's office declined comment on the investigation. Federal investigators based in Tampa often play a central role in health care fraud investigations because a unit of specially trained agents and prosecutors is here.

Vencor has been the subject of government scrutiny since spring, when it attempted to evict Medicaid patients at a Tampa nursing home and at facilities in other states. Moss said there is no connection between that action and the current probe.

The Florida attorney general's office did not pursue a case against the company; earlier this month, Vencor paid a \$270,000 state fine in the matter. It is appealing a related federal fine.

In May, the inspector general of the U.S. Department of Health and Human Services, which administers Medicare, said it was investigating Vencor but did not divulge details.

Since May, Vencor 's stock has fallen more than 67 percent. Vencor shares closed Wednesday at \$4.683/4.

In its Wednesday edition, the Wall Street Journal quoted an unidentified person familiar with the U.S. attorney's subpoena as saying it was focused on the company's hospital operations. About 63 percent of the company's hospital revenue in 1997 was from Medicare, according to Vencor 's 1997 annual report filed with the SEC.

The Justice Department has made similar inquiries at other large, for-profit health care companies. Beverly Enterprises Inc., the nation's largest nursing home chain, reported in its SEC filing this week that a federal grand jury in California is investigating its Medicare billing practices.

Two former Beverly employees were notified they are targets of the grand jury investigation, the company said in its report. That company's stock also has taken a hit with news of the investigations, dropping 35 percent in July.

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10043074 (THIS IS THE FULLTEXT)
REGULATORS FAULT NURSING HOME IN MEDICAID PATIENT EVICTIONS
VICKIE CHACHERE AND JACQUELINE SOTEROPOULOS - OF THE TAMPA TRIBUNE
Tampa Tribune, Final ED, P 1
Friday, February 12, 1999
JOURNAL CODE: TT LANGUAGE: ENGLISH RECORD TYPE: FULLTEXT
SECTION HEADING: NATION/WORLD
Word Count: 748

TEXT:

WASHINGTON - A Brandon nursing home is accused of dumping Medicaid patients.

A Brandon nursing home kicked out patients dependent on Medicaid under false pretenses, state regulators allege in a case that stunned two Tampa area congressmen Thursday.

Integrated Health Services of Brandon is operating under a moratorium and fines of \$6,000 a day imposed by state and federal regulators for its treatment of patients, according to Florida's Agency for Health Care Administration.

An investigation on Feb. 1 found four patients who either had been told to move out or whose discharges were handled improperly, records showed.

"She felt like she was a dog with no place to go," said Judy Vargas, who complained last month to state regulators when her 74-year-old mother was told to prepare to leave IHS of Brandon.

IHS, a Maryland-based chain that operates 27 nursing homes in Florida, denied the patient dumping allegations Thursday.

The allegations were made public during a hearing on federal legislation to prohibit "Medicaid dumping," a practice of some nursing homes to clear their beds for more profitable patients.

The homes accept patients from a hospital while the bills can be paid by private savings or insurance or Medicare, the federal health program for the elderly. But when those sources stop paying and Medicaid, the program for the poor, takes over, the homes are reimbursed at much lower rates and try to discharge the residents.

The legislation sponsored by Rep. Jim Davis, D-Tampa; Rep. Michael

Bilirakis, R-Palm Harbor; and Sen. Bob Graham, D-Miami Lakes, was prompted by a 1998 Tampa dumping scandal.

Vencor Inc. of Louisville, Ky., tried to evict 54 Medicaid patients from Rehabilitation and Healthcare of Tampa to make room for higher-paying residents under the pretense of remodeling rooms. Geri and Nelson Mongiovi, whose mother was a patient at the nursing home, attended Thursday's hearing to support the bill.

A U.S. Health Care Financing Administration official surprised the House Health and Environment Subcommittee when he said the Vencor case wasn't the only one in Hillsborough County, then made the allegations against IHS.

Neither Davis nor Bilirakis had heard of the IHS case until then.

"I'm very disappointed," Davis declared, saying IHS appeared to be a "another nursing home succumbing to the temptation to put profits ahead of people."

Karen Janson, a company spokesman reached for comment late Thursday, would not discuss the case in detail but provided a written denial of wrongdoing. She said the nursing home staff was briefed about proper discharges, a consultant was hired and family meetings were held.

"Our facility in no way does patient dumping," she said.

Dumping may not be the problem widely stated, said U.S. Rep. Tom Coburn, R-Okla., who called the legislation "a feel-good law."

Federal regulators were not able to tell Coburn at the hearing how many people have been dumping victims, and he noted Vencor has faced hefty fines and public criticism.

"The system worked," Coburn said. "We really need to know how big a problem this is ... and are we going to hit a gnat with an atomic bomb."

Davis and Bilirakis say their bill, which failed when introduced last year, has broader bipartisan support now. That includes Senate Finance Committee Chairman William Roth, R-Del.; Senate Aging Committee Chairman Charles Grassley, R-Iowa; and Rep. John Dingell, D-Mich., ranking minority member of the House Commerce Committee.

Vargas said her mother moved in to the IHS home on Kings Avenue in December. She asked that her mother's name not be used.

Vargas said her mother's Medicare eligibility was running out about a

month later when IHS management abruptly announced the woman would be transferred to a Pasco County home because they didn't have a bed for a Medicaid patient. State regulators later documented the bed the woman occupied was for either a Medicare or Medicaid patient.

"They walked in the room one day and they said. 'You are going to Crystal Springs tomorrow.' They put her in a wheelchair and threw her clothes in plastic bags," Vargas said. "She was hysterical."

Vargas said she pleaded in vain with the home's administrator. When the move was delayed because the other home couldn't accept new patients, Vargas said, she began searching for help.

CAPTIONS: PHOTO (C) ; (C) Nelson Mongiovi's mother was evicted from a nursing home to make room for higher-paying residents. He and his wife, Geri, supported a ban on the practice Thursday. BRUCE HOSKING/Tribune file photo

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09819152 (THIS IS THE FULLTEXT)
PROFITS CAN COME AT HIGH COSTS
LINDSAY PETERSON AND DOUG STANLEY - OF THE TAMPA TRIBUNE
Tampa Tribune, Final ED, P 2
Sunday, November 15, 1998
JOURNAL CODE: TT LANGUAGE: ENGLISH RECORD TYPE: FULLTEXT
SECTION HEADING: SPECIAL
Word Count: 2,476

MEMO:
MONEY OR MERCY? A SPECIAL REPORT ON NURSING HOMES

TEXT:
Corporate chains increasingly run the nursing home industry, and research shows they have a large share of problems in Florida.

Mary Johann died alone.

She lay on a plastic sheet that covered her bed at a nursing home, her neck pinned between the mattress and bed rail. The same thing had happened 10 days earlier, but a worker had found her before she strangled. Not this time. Mary Johann was alone too long this night.

Her death came three days after the nursing home's corporate leaders delivered good news to shareholders.

Profits were up, they said, higher than in years because cost controls were so tight.

Tight cost controls mean tight staffs at homes like Johann's, Wellington Specialty Care and Rehabilitation Center of Tampa.

More than 10 years ago, Congress heralded its passage of new laws to ensure humane treatment of people in nursing homes. Another institution, however, has quietly imposed its own standards:

Wall Street.

The nursing home industry, once a collection of individual operations, is dominated increasingly by companies that thrive only when they take care of shareholders. Their stocks have soared in the 1990s as Americans have poured money into the market.

The six largest nursing home companies in Florida are traded on Wall Street. They control the lives of roughly 20,000 people, about one-third of the state's nursing home population.

More than three-fourths of the people in Florida nursing homes can't button a blouse or put on a pair of pants alone. Half need help to eat. Many are in their last days.

Caring for them requires attention and tenderness. And many nursing homes are filled with people who chose the hard work because they love and revere older people.

But many of their bosses have other priorities, such as satisfying investors who expect steadily rising profits.

State and federal records show business profits can come at a high human cost.

About one-quarter of Florida's nursing homes fell below state standards during annual inspections between January 1997 and March 1998. Among four of the state's six major chains - Beverly Enterprises Inc., Integrated Health Services Inc., Vencor Inc. and Mariner Health Group Inc. - the substandard rate was 32 percent to 40 percent.

Federal data show these chains had higher-than-average rates of reported neglect and abuse, as did many smaller companies with publicly traded stock.

Only one had substantially lower rates: Health Care & Retirement Corp., which recently merged with Manor Care.

There also are problems among nursing homes not tied to shareholders. But government data show the care overall is better at those operations.

"All you have to do is look at the nonprofits to see what's happening," said Jean Venturino, a visiting nurse who sees patients in several area nursing homes.

"Maria Manor, Menorah Manor, in St. Pete, they're nonprofit. They have an ethic of caring," Venturino said.

Scott Bell thinks a nursing home can make money and still care for people, but it's not easy for the big companies.

For two years, Bell has run a company in Pensacola, Delta Health Group, with 30 nursing homes in three states, including Florida. He has had some

problems, but Delta's overall deficiency rate is low.

Bell is successful, he said, because he doesn't have to convince stock analysts his company is a winner. He needs to make a profit, but he has freedom to invest in training and other things that help a home in the long run even if they hurt the bottom line today.

"Investors look at the short term. Investors look at returns and dividends. They're not looking at quality of care," Bell said.

When the government announced cuts last year in Medicare, its health care program for the elderly, the price of several health stocks plummeted as investors prepared for falling profits.

One company, Vencor , responded in early 1998 with a plan to evict its residents on Medicaid in homes across the country, including Tampa. Medicaid is the government health care program for the poor.

Vencor dropped its plan after residents' families sued in Tampa and exposed the company's bogus explanations for the transfers. But away from the spotlight, care elsewhere has suffered under Vencor .

When the company took over PersonaCare of St. Petersburg in mid-1997, nurse Rhonda Poinelli saw the number of nurses and nurses aides drop.

Working in the evenings, Poinelli said, she found supply cabinets locked, and she searched from floor to floor for bandages and catheter bags. Often she couldn't find them, which meant patients did without.

Frequently alone with as many as 40 people, Poinelli would find some wet or hungry, pleading for help, she said. But she couldn't detour to help them or her patients wouldn't get their medications on time.

The nursing director's job had become a revolving door, she added. "It seems like I had a new boss every day. ... I started having nightmares."

She finally left in May.

"You get attached to these patients," Poinelli said. "And when you're in a position where you can't get them what they need, it starts eating away at you."

Vencor spokeswoman Susan Moss said she would be shocked by supply problems in a Vencor home. And if staffing seemed short, she said, it probably could be traced to increases elsewhere.

But Moss acknowledged the company has not built solid, stable management in some of its 309 homes.

"Overall, we have improved quality," she said. "There are a couple of spots where we have not been as successful, and Florida is one of them."

Vencor has restructured and plans to focus more on quality in its nursing homes, she said.

"Everyone in this business is trying to do a good job," said Stephen Guillard, chief executive of Harborside Healthcare, a private corporation in Boston that owns nine homes in Florida.

It's tough, Guillard said. Profits aren't as high as many people think. Government payments are shrinking. More residents have complex, difficult illnesses. And workers are hard to find.

Some of these problems - shrinking government payments, mostly - have depressed nursing home stocks and piqued the concerns of the analysts. They want signs the companies will adjust to the new payment system to keep profits growing.

Those expectations can be powerful.

In 1995, Beverly Enterprises came under scrutiny after some high-priced purchases.

"We have been concerned for some time about the prices (the company) paid for the recent pharmacy acquisitions and the company's ability to cut costs quickly enough to achieve a reasonable and timely return on these investments," wrote two stock analysts in a 1995 news release.

Ten months later, Beverly boasted to business reporters it would bring in its highest nursing home profits in years, crediting an increase in high-cost treatments and "tight internal cost controls."

From 1995 to 1996, the number of Beverly homes cited for harming or endangering patients in Florida doubled from 13 to 27.

In early June 1996, the one where Mary Johann died, Wellington Specialty Care, landed on the state's substandard list. State inspectors had found a string of problems in March; the home was dirty and understaffed.

By late June, the deficiencies were considered corrected.

Mary Johann arrived in September.

A Kentucky native who had come many years earlier to Tampa, she sold shoes downtown and lived alone in a small apartment. As she grew older, she became increasingly frail and confused.

She was 87 and unable to walk when her son brought her to the nursing home. She was sometimes aware of her surroundings, sometimes lost, often agitated and restless. Workers enclosed her between bed rails to keep her from falling.

What happened to her is described in police and state social services reports.

On Jan. 25, 1997, an aide found her with her head caught between the rails and the mattress. The pressure of her head on the edge of the mattress had allowed her to push past the rails before the space closed, pressing on her neck.

Johann was too confused to free herself, but the aide worked her loose and jotted a note on her record. The worker mentioned the incident to a nurse on the next shift.

But the nurse didn't recall it. She was busy that night, she told investigators. She had 49 patients.

There was no further mention of the matter. On Feb. 4, Johann got trapped again, and no one was around to find her in time.

State inspectors descended on the home Feb. 5, then again Feb. 13. They found six residents at risk of getting caught in their bed rails. Others suffered from dehydration and advancing bed sores. Again, the inspectors found too few workers. The Wellington administrator was replaced in June 1997. But when inspectors returned in December, they found the home still understaffed.

Under almost daily scrutiny from regulators in 1998, the home passed inspection in May. But by September, it had problems again.

Wellington is one of five Beverly homes on a list released by the state in September of 18 Florida homes with repeated, serious problems.

Beverly officials won't discuss Wellington, which is appealing a \$425,000 fine the state imposed after the death.

The company has said it's working to improve care with new systems and

training.

Beverly has some of the best employees in the business, said Mary Tellis-Nayak, an expert on the aging process and former intensive-care nurse who works for Beverly as a clinical specialist.

"These people come from a culture of caring, and we have that culture in 95 percent of our homes," she said.

The company may not look good on paper, she said, because the inspection process is "subjective."

The human body shuts down near the end of life, ceasing to absorb food and no longer healing itself, she said. That can lead to bed sores and weight loss often cited in inspections.

"There are aspects of the aging process that no one can escape," added company spokesman Dan Springer.

Health care regulators aren't the only ones challenging Beverly. In July, the U.S. Justice and Health and Human Services departments said they were investigating the company for possibly illegal billing of Medicare from 1990 to 1997.

Vencor's Moss said she thinks state regulators are holding the industry to a higher standard than ever, and she commended them for their attention.

Tougher scrutiny is warranted by the frailty of nursing home patients, said Gilda O'Brien, a former nursing home activities and marketing director in St. Petersburg who now works for lawyer Sean Scott.

"We've figured out all these ways to keep people alive," O'Brien said. "Now do we just forget them?"

About 30,000 people died in Florida nursing homes last year, roughly 17 percent of all discharges. Because most were old and ill, it's difficult to know if they were pushed over the edge by neglect.

But O'Brien said the problem is not only that people die unnecessarily; it's the lack of warmth when a home is understaffed or has rapid employee turnover.

After a corporation took over one of the homes where O'Brien worked recently, the new administrator immediately cut staff.

One of the first moves was to reduce kitchen workers' weekly hours from

40 to 36, O'Brien said. Many quit. Some had worked there for years, knew the residents and often made special foods to encourage them to eat.

A stable crew of aides and nurses is vital, O'Brien said. They know who likes to sleep until 9 a.m., who prefers a bath in the morning and tea in the evening.

It takes strong, caring managers to build a strong, loyal staff, she said. But many corporations treat administrators like interchangeable parts. In many nursing homes around Tampa Bay, management stays for less than two years.

"I'd like to see these companies slow down on the constant changing of administrators and DON's (directors of nursing). It's really hard on the residents and the staff," said Ron Milliner, administrator of Tampa's Lakeshore Villas, a family-run home that has had superior ratings.

But it seems the only constant in today's nursing home environment is change. There have been dozens of corporate mergers and takeovers in the last two years.

One of the largest was orchestrated by Leon Black, a former junk bond trader: Paragon was created from the merger of two companies last year, and this year it merged with Mariner Health Group to create the second-largest chain in the country, Mariner Post-Acute Network.

Before the summer merger, Mariner owned or leased 26 Florida homes, many of which had substandard ratings last year.

Analysts predict even more consolidations as companies struggle with the cuts in Medicare. That's what happened 15 years ago when Medicare cut its payments to hospitals.

"There was an upheaval. That's when our big layoffs began," said Cheryl Harrell, a social worker formerly with University Community Hospital who helped place patients in nursing homes.

Everyone worries about the Medicare changes and nursing homes, she said. "We're praying it won't affect care. But we're afraid it will." (CHART) Comparing care Nursing homes are inspected at least every 15 months and graded on compliance with federal requirements. A Tampa Tribune analysis of the latest inspections, up to April 1998, showed five of the six largest nursing home companies in Florida had a higher than average number of deficiencies when compared with all nursing homes in the state.

Total deficiencies for every 10 homes Vencor 118 *Mariner Health

Group 111 Integrated Health Services 110 Beverly Enterprises 106
 Genesis 95 All other homes 89 Health Care & Retirement Corp. 80
 Deficiencies that caused "actual harm" for every 10 homes Each deficiency
 is graded to reflect its severity. Homes owned by five of the six largest
 companies, which are all publicly traded, had a higher than average number
 of deficiencies that caused "actual harm" to residents. Health Care &
 Retirement Corp. had three harmful deficiencies for every 10 homes, four
 below are the statewide average.

Integrated Health Services 12 Vencor 11 *Mariner Health Group 9
 Beverly Enterprises 8 Genesis 7 All other homes 7 Health
 Care & Retirement Corp. 3 Before merger in July 1998 that created Mariner
 Post-Acute Network Source: Tribune research ANDY DORSETT/Tribune graphic
 (CHART) Care crisis People are living longer, with hospitals under
 increasing pressure to discharge patients earlier. The ratio of likely
 family caregivers in the home is shrinking. All this is driving up nursing
 home populations, projected to nearly triple between 2000 and 2040.

Projected nursing home residents In millions Year 2000 1.5 2010 1.9
 2020 2.2 2030 2.9 2040 4.1 Potential caregivers The ratio of the
 population 50 to 64 to those 85 and older 1990 11 to 1 2010 10 to 1
 2030 6 to 1 2050 4 to 1 Source AARP Public Policy Institute ANDY
 DORSETT/Tribune graphic

CAPTIONS: CHART 2 PHOTO

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LEVEL 1 - 66 OF 283 STORIES

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The Tampa Tribune

November 15, 1998, Sunday, FINAL EDITION

SECTION: SPECIAL, Pg. 3

LENGTH: 2585 words

HEADLINE: Regulation often fails residents;

BYLINE: VICKIE CHACHERE; ; of The Tampa Tribune;

BODY:

Florida's nursing home regulation system is mired in weakness, much of which appears self-inflicted. The agency in charge pledges reform.

Florida's Agency for Health Care Administration, which bills itself as the toughest nursing home regulator in the country, has failed repeatedly to protect residents from dangerous conditions - including some that have turned deadly.

Even when a long pattern of neglect exists, the system to protect nursing home residents protects the industry instead, a review of scores of agency records has found. Often, nothing happens until there's a crisis.

Often, someone has to die.

Then, in a flurry of tough talk and news releases, regulators impose punishments that often are watered down in subsequent months as a home's owner files appeals or brings the business to minimum standards.

As a result, Florida's 71,000 nursing home residents lack the safety net they have been promised against abuse or neglect.

"AHCA has chosen to roll over," declared Barbara Hengstebeck, a former executive regulator who said she quit the agency in 1996 because she felt it allowed dangerous nursing homes to stay open.

The AHCA "goal is to clean up these facilities," she said. "The reality is that doesn't happen."

The system, which records show to be a multilayered bureaucracy filled with legalese, belies the apparent concern of the agency's front-line inspectors.

Records describe how these surveyors - the nurses and social workers who inspect operations for AHCA - spend hours in nursing homes and are quick to point out deficiencies big and small.



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Surveyors have been known to save patients from choking or to demand they be cleaned when found soiled. One even wrote up a nursing home for not providing a resident chocolate milk when he wouldn't drink plain milk.

But once the survey work enters the bureaucracy of regulation, good intentions often are overwhelmed.

Consider:

The agency routinely minimizes life-threatening situations such as poor medical care, short-staffing and filthy conditions. Officials have said they're hesitant to defend citations if the nursing homes appeal.

Bad homes often elude fines simply by promising to do better. Those fined by the state are afforded lengthy appeals and delays. And when the federal government levies heftier fines that can reach \$ 10,000 a day, the homes get even more chances to appeal.

The AHCA boasts in print of recommending \$ 5 million worth of civil penalties by the federal government against nursing homes. But the material fails to mention only 5 cents on the dollar has been collected.

The AHCA's strongest leverage - the threat of shutting down a home - is scoffed at by the industry because the agency has made it obvious it will do just about anything to avoid jeopardizing residents by moving them.

"We are not dummies. We see some of this for ourselves," said Erwin Bodo, a top agency official interviewed recently. "We are trying to do the right thing."

But in 1998 - a year in which substandard **nursing homes** are under intense scrutiny - AHCA actions are under the microscope as well.

The agency has been implicated in controversies triggered by two **nursing home chains**, Vencor Inc. and Chartwell Healthcare Inc., which attempted to dump their poorest patients. Each time, families and attorneys accused the agency of neglecting **problems** until faced with a crisis.

In St. Petersburg in February, two residents died violently in nursing homes with histories of mistreating patients. Records show AHCA efforts to goad the homes into better care had no real impact.

The two homes, St. Petersburg Health Care Center and IHS of St. Petersburg, were emerging from a year of trying to correct **problems** such as unattended patients at IHS and abusive conditions at the other center.

Records show regulators followed the system of citing a home's **problems** and giving it a chance to correct them. Yet in both cases, conditions deteriorated to the point of being dangerous.

The AHCA also has had to answer for the deaths of two patients in a Miami Chartwell home, where a broken air-conditioning system left patients sweltering in 90-degree rooms for weeks.



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The Tampa Tribune, November 15, 1998

An AHCA surveyor was notified of the problem but waited 16 days to investigate. During that time, two residents died of dehydration.

Agency Director Doug Cook acknowledges shortcomings in the system and pledges regulators are trying to address them.

"We are not impotent, beleaguered regulators," Cook said this month. "We are excited, passionate, ... determined public servants.

"But that does not mean there are not going to be problems."

Cook said federal regulations have hamstrung the state because bad nursing homes receive many chances before they can be put out of business.

Also, he said, surveyors can't match the expert witnesses and legal resources mustered by the nursing home companies to challenge AHCA work.

The job is exhausting, and inspectors often burn out soon after they are fully trained.

"It is like a combat assignment," Cook said, that forces regulators to join the industry or leave health care completely.

The Tampa Tribune asked to accompany AHCA surveyors in their work, but the agency denied access, saying patient confidentiality would be compromised.

While the agency describes itself as outgunned, the nursing home industry argues it is the victim - of overzealous regulators who are even more aggressive in response to bad publicity in the Vencor and Chartwell cases.

"The surveyors are much more aggressive and less forgiving or willing to listen to an excuse," said spokesman Ed Towey of the Florida Health Care Association. "The question is does that benefit the residents or not?"

Beverly Enterprises Inc., the nation's largest nursing home chain, has accused the AHCA of being arbitrary and inconsistent in its inspections of company facilities.

One in five of Beverly's 60 Florida homes have been cited for dangerous deficiencies. The company contends that's because the AHCA has targeted it.

"There are individuals in political positions who see nursing homes as an easy target," said company spokesman Dan Springer.

Beverly officials wouldn't identify specific incidents of surveyors overreacting in a recent inspection of a nursing home on Fletcher Avenue in Tampa. The nursing home has been given a conditional rating for a series of violations, including understaffing and neglected bedsores.

Beverly is appealing the rating.

AHCA officials point to 30 license revocations or home closures in the last three years as evidence of their resolve. During that same period, there have been more than 70 bans on new admissions, called moratoriums, across Florida.



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The Tampa Tribune, November 15, 1998

A moratorium can cost the typical 120-bed facility \$ 100,000 in lost revenue.

Of the 13 moratoriums issued to local nursing homes since 1995, most lasted about a month. The longest was for 31/2 months at the Beverly-owned Wellington Specialty Care and Rehabilitation Center in Tampa, where a woman suffocated last year after her head became wedged between her mattress and a bed rail.

Beverly officials did away with the rails throughout its homes nationwide, company officials said.

But other problems at Wellington, such as staff shortages and residents developing dangerous pressure sores, remained a problem for another year after the moratorium was lifted, AHCA records show.

Moratoriums aren't perfect, Cook said. Some homes upgrade care in response while others cut spending because there isn't any new revenue.

Cook said moratoriums also put a big drain on his staff. Homes under such a ban need more frequent monitoring, and that takes regulators away from keeping close tabs on other troubled homes.

The AHCA also has investigated more than 100 administrators of troubled nursing homes.

But the state Board of Nursing Home Administrators has disciplined only three in the last three years, records show. The board has the final say in such cases.

One administrator had her license revoked; one had her license suspended for a year and was fined \$ 1,000; and the third was put on probation for a year.

AHCA also has sought the emergency suspension of licenses for two administrators who worked at Chartwell's Jackson Manor in Miami.

The AHCA began retooling its efforts in January, when it quietly planned to target 19 homes with a history of repeated serious offenses. Inspectors were to make surprise visits to check up on the homes.

In Pinellas County, the agency's new supervisor wasn't notified that two homes, St. Petersburg Health Care and IHS, were on the list. Inspectors didn't get to those homes for the special inspections before the two deaths.

This summer, in the wake of Chartwell's collapse, Cook announced a similar but less-quiet initiative to clean up the worst offenders.

Dubbed "Get Up or Get Out," the plan targeted 18 homes with a long history of dangerous conditions - seven of them from the earlier list of 19. They were given 90 days to correct problems or face severe penalties, including forced closure.

As of this month, three homes on the list have been forbidden from accepting new residents. Those homes will be on probation for the next two years, during which time any serious problems might prompt the AHCA to seek new owners.

Last month, the agency also announced that complaints at substandard homes

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The Tampa Tribune, November 15, 1998

would get special attention, with serious deficiencies investigated in 72 hours and all other complaints checked in 10 days or less.

That's down from the previous AHCA standard of investigating most complaints within 90 days or at the home's next survey. The agency's current policy of responding to reports of imminent danger within one or two days remains.

At some of the Tampa area's worst nursing homes, records show the state has let complaints pile up for months until the next annual survey.

This year, the AHCA let 11 complaints against Trinity Health and Rehabilitation Center, a Lakeland home with a history of severe problems, accumulate before taking action.

Cook, who could leave his position when Gov.-elect Jeb Bush restructures the administration, said he also thinks the state should increase its daily Medicaid payments to nursing homes on the condition they use the money to pay nursing aides more and to train them better.

Certified nursing assistants earn about \$ 6 to \$ 8 an hour.

"Long-term care facilities do not pay, nor do they attract, the best trained, best educated, best professionally situated people in the health care system," Cook said. "They attract people who don't necessarily have other choices."

Cook also backs legislation that would make it harder for families to sue nursing home companies, saying attorneys who seek big payments are taking money that could be spent on patients.

But little of what the AHCA has done in the way of reform has impressed its critics.

Hengstebeck, who served more than six years as Florida's ombudsman for nursing home patients and then worked another two years in the AHCA Medicaid division, said the problem with the enforcement system is that residents are largely forgotten.

Hengstebeck is head of the Coalition to Protect America's Elders, a group founded and funded by lawyer Jim Wilkes of Tampa, who has represented the families of nursing home patients in lawsuits that won millions of dollars.

"There are some staff people out there who are residents' advocates," she said. "But the big boys? No."

The system isn't supposed to be this way.

In 1984, Congress passed a law that promised an end to nursing home abuses. Legislators said the law would give regulators heavy weaponry in fighting nursing homes that made big profits at patient expense.

After the law passed, federal bureaucrats and industry representatives negotiated to write the regulations. That process took seven years.

When it was done, the industry had won the right to negotiate everything from citations to ratings and fines with the state agencies that impose them.

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And while a home appeals, it doesn't have to fix the problem.

"I find it ludicrous that the industry that's being regulated helps decide what's in the regulations," said Betty Camblor, coordinator for volunteer ombudsman activities in Pinellas.

The AHCA inspects each nursing home at least once every 15 months and also serves as the regulatory eyes for federal Medicare programs.

The surveys are supposed to be unannounced, but even the agency acknowledges the homes often know the regulators are coming.

Small wonder. Inspectors stick to the same pattern of inspections from year to year.

Manhattan Convalescent Center in Tampa, which has a history of patient mistreatment and poor living conditions, received its "surprise" inspections every June between 1989 and 1996. In 1997 and again this year, the surprise came in July.

AHCA inspectors almost always show up between 8 a.m. and 5 p.m. - contrary to the agency's recommendation that surveys take place during nights and weekends when serious problems crop up most often.

And sometimes inspectors do nothing even when they could take action.

Earlier this year, a complaint that residents at Manhattan were left lingering in wet beds was reported to both the AHCA and the adult abuse section of the Department of Children and Families.

The adult abuse investigator went to the home immediately and confirmed the complaint. The AHCA waited until the next morning, when the residents were clean and dry. So the surveyor ruled the neglect unsubstantiated despite the other investigator's finding.

Ann Sarantos, who leads the Tampa AHCA office, said the surveyor was worried about losing to the nursing home if her citation was appealed.

The poor suffer most, Cook concludes.

"If you have money, you can protect yourself from the potential worst circumstances," he said. "If you don't have money, you are heavily reliant on regulations to protect you, and regulation is not sufficient."

So, many residents of the most troubled nursing homes and their families are left with an uncertain future.

At Meadowview Life Center in Lakeland, a home that has made the state's recent list of the 18 worst, Sherry Gaylord struggles to make due for her father-in-law, a 79-year-old Alzheimer's disease patient. Earlier this year, he suffered a series of falls, including one that hospitalized him with 17 stitches in his head.

The family complained to the AHCA in March. The agency investigated and found



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conditions unsafe. A moratorium was imposed along with a \$ 10,000 daily fine from the federal government.

Two weeks later, the fine was reduced to \$ 1,500 a day because Meadowview had made some progress. In May, the fine dropped to \$ 50 a day.

In September, Meadowview paid about \$ 65,000 on what was an \$ 111,000 fine. Regulators gave the home a discount for not appealing.

That has made no difference to the Gaylords.

Sherry Gaylord still wants to move her father-in-law. But no other homes will take him because it's expensive to care for Alzheimer's patients.

"Our hands are tied," she said. "I don't even like the fact that he's there, but I can't do anything about it. ... If someone could just tell me what I could do."

GRAPHIC: PHOTO,
Doug Cook, Florida's top nursing home regulator, visits Helene Moak in Tampa's Manhattan Convalescent Center. BRUCE HOSKING, Tribune photo

TYPE: MONEY OR MERCY? A SPECIAL REPORT ON NURSING HOMES

LOAD-DATE: November 19, 1998



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SEC. 3039. NURSING HOME RESIDENT PROTECTION ACT.

(a) SHORT TITLE. --This Act may be cited as the "Nursing Home Resident Protection Act of 1999".

(b) PROTECTION OF RESIDENTS IN NURSING HOMES AND OTHER RESIDENTIAL HEALTH CARE FACILITIES. – Chapter 63 of title 18, United States Code, is amended by adding at the end the following new section:

(1) "SEC. 1349. Pattern of Violations Resulting in Harm to Residents of Nursing Homes and Related Facilities.

"(a) Offense.--Whoever engages in a pattern of knowing and willful violations of Federal laws, regulations, or rules, or State laws governing the health, safety, or care of individuals residing in a residential health care facility or facilities that results in significant physical or mental harm to one or more such residents, shall be punished as provided in section 1347, except that any organization shall be fined not more than \$2,000,000 per residential health care facility.

"(b) Civil provisions .--

(1) Civil Penalties --The Attorney General may bring an action in a

United States district court to impose on any individual or entity that engages in a pattern of violations of Federal laws, regulations, or rules, or State laws, which violations affect the health, safety, or care of individuals residing in a residential health care facility and where such pattern results in physical or mental harm to one or more such residents, a civil penalty of --

subsection occurred.

(C) The United States shall be required to prove all actions under this subsection by a preponderance of the evidence.

(D) The Civil Investigative Demand procedures set forth in 15 U.S.C. §§ 1311 -14 and regulations promulgated pursuant thereto shall apply to investigations and actions pursued under this subsection.

(E) The filing or resolution of a matter under this subsection does not preclude any other remedy that is available to the United States or any other person.

“(c) Prohibition against retaliation.--Any person who is the subject of retaliation, either directly or indirectly, for reporting conditions that may constitute a violation of this section shall be authorized to bring an action in an appropriate United States district court for damages, attorneys’ fees and other relief.

“(d) Definitions.--For purposes of this section, the following definitions apply:

“(1) ‘Residential health care facility’ means any facility (including any facility

that does not exclusively provide residential health care services) including but not limited to skilled and unskilled nursing facilities and mental health and mental retardation facilities, that receives Federal funds, directly from the Federal government or indirectly from a third party on contract with or receiving a grant or other monies from the Federal government, to provide health care, or that provides health care services in a residential setting and that, in any calendar year in which

(A) in the case of an individual (other than an owner, operator, officer or manager of such a residential health care facility) up to \$10,000;

(B) in the case of an individual who is an owner, operator, officer or manager of such a residential health care facility up to \$100,000 for each separate facility involved in the pattern of violations under this section; or

(C) in the case of a residential health care facility up to \$1,000,000 for each pattern of violations, and in the case of an entity up to \$1,000,000 for each separate residential health care facility involved in the pattern of violations owned or managed by that entity.

“(2) Other appropriate relief.--If the Attorney General has reason to believe that an individual or entity is engaging in or is about to engage in a pattern of violations of Federal laws, regulations, or rules, or State laws, which violations affect the health, safety, or care of individuals residing in a residential health care facility, and where such pattern results in or has the potential for resulting in physical or mental harm to one or more such residents, the Attorney General may petition an appropriate United States district court for appropriate equitable and declaratory relief to eliminate the pattern.

“(3) Procedures for this subsection —

(A) A subpoena requiring the attendance of a witness at a trial or hearing conducted under this subsection may be served at any place in the United States.

(B) An action brought under paragraph (1) of this subsection may not be brought more than 6 years after the date on which the violation of this

a violation occurs, is the recipient of benefits or payments in excess of \$10,000 from a Federal Health Care Program.

“(2) ‘Entity’ means any residential health care facility (including facilities that do not exclusively provide residential health care services), any entity that manages a residential health care facility, or any entity that owns, directly or indirectly, a controlling interest or a 50% or greater interest in one or more residential health care facilities, including States, localities and political subdivisions thereof.

“(3) ‘Federal Health Care Program’ means:

(A) any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States Government; or

(B) any State health care program, as defined in section 1320a-7(h) of Title 42, United States Code.

“(4) ‘Pattern of violations’ means multiple violations of a single law, regulation, or rule, or single violations of multiple laws, regulations, or rules, that are widespread, systemic, repeated, similar in nature, or result from a policy or practice.

“(5) ‘State’ means a state of the United States, the District of Columbia, and any common wealth, territory, or possession of the United States.”.

(c) **AUTHORIZED INVESTIGATIVE DEMAND PROCEDURES.** --Section 3486(a)(1) of title 18, United States Code, is amended by inserting after “Federal health care offense”, “or act or activity involving Section 1349 of this title”.

(d) The table of sections for chapter 63 of title 18, United States Code, is amended by adding at the end:

“1349. Pattern of violations resulting in harm to residents of nursing homes and related facilities.”.

Citation
6/11/98 LATIMES B1
6/11/98 L.A. Times B1
1998 WL 2435960

Search Result

Rank(R) 23 of 41

Database
ALLNEWS

(Publication page references are not available for this document.)

Los Angeles Times
Copyright 1998 / The Times Mirror Company

Thursday, June 11, 1998

Metro; Zones Desk

State Closes 4 Homes for the Elderly After Complaints of **Neglect** Investigation:
Operator of the **residential care facilities** in Thousand Oaks has her license
suspended. One resident hospitalized with bedsores, regulators say.

KATE FOLMAR
TIMES STAFF WRITER

THOUSAND OAKS -- State officials have shut four board-and-care facilities for
the elderly here, and suspended the operator's license, because of suspected
neglect of aged clients.

The homes were shuttered after one elderly client was hospitalized with a
urinary tract infection, a scratched cheek, a bruised left arm and advanced,
seeping bedsores on her tailbone, heels, ankles and elbow, according to a
temporary suspension order written by lawyers for the state Department of Social
Services, which oversees homes for the elderly.

According to the state report, the woman arrived at the home April 15 with
one bedsore. She was hospitalized May 18.

The suspension order also maintains that a second elderly client, who also was
admitted to a facility on Doone Street in the Shadow Oaks neighborhood April 15
died at a hospital a week later. The operator, however, did not report the death
to authorities as required by state law, the order said. State officials would
not disclose the cause of death.

The two incidents are both alleged to have occurred at the residential care
center operated by Thousand Oaks resident Grazyna (Grace) Baran at 59 Doone St.
The three other homes operated by Baran--at 51 Doone St., 1491 Kirk Ave. and
2739 Tennyson St.--were also closed June 4, said Karen Perkins, a spokeswoman
for the state social services department.

Relatives, state officials and police descended on the neighborhood of single
family ranch houses June 4 to help close the homes and relocate the facilities'
remaining 19 residents. Some of those elderly residents have returned to their
family homes. Others have been moved to other residential care facilities in Los
Angeles and Ventura counties.

"Usually in these kind of cases, when you close one, the others are looked at
as well," Perkins said. "That decision was made in this case, because of the
apparent severity of the neglect."

6/11/98 LATIMES B1

(Publication page references are not available for this document.)

Baran could not be reached for comment Wednesday. A lawyer for her family would not discuss the allegations.

"We're reviewing our options at this time," said lawyer Mike Levin. "We could be subject to an administrative hearing, so I really don't want to comment."

If substantiated, the two incidents would violate half a dozen Health and Safety Code regulation sections, according to the state's complaint.

Baran has until June 19 to respond to the state charges. An administrative hearing--at which Baran's license could be permanently yanked--should be set within 30 days of that response.

"This is serious," Perkins said. "As I understand it, those [bedsores] were a pretty serious thing to have."

Neighbors on Doone Street have complained about the three side-by-side facilities for about three years--not because they suspected abuse, but because their small block houses three of the homes operated by Baran and her relatives

According to property records, all three facilities on Doone Street sit on properties owned by Ted and Halina Baranski, relatives of Baran's. They share the same brick-red fencing, matching red and green lighted signs, separate sliding glass doors for each room and matching asparagus ferns at the doorways.

But only the two homes operated by Baran were closed last week, because the third adjoining facility is licensed to the Baranskis. As recently as 1995, licensing records show, one of the homes now operated by Baran was operated by the Baranskis.

Reached at her home, Halina Baranski said the allegations of abuse were not true, but she declined to discuss specifics, saying the facilities had nothing to do with her own.

"You'll have to talk to Grace, they're her's" she said.

The 25-year old neighborhood is appealing to residential care providers because of its large stock of reasonably priced, five- and six-bedroom single-story homes, said neighbor Paul Murray.

Murray has called authorities from Sacramento to Ventura to Thousand Oaks trying to figure out why his small tract is allowed to house so many of the facilities.

"The thing is, they really don't have any rules, restrictions and regulations," Murray said. "They're governed by state law and the city has no authority over them whatsoever. They have no zoning requirements. They don't even have to get a business license like foster homes, rehab homes and child-care centers."

6/11/98 LATIMES B1

(Publication page references are not available for this document.)

Murray and other neighbors believe the motive for opening the privately-operated homes has more to do with money than care for the elderly.

"My personal opinion is that they're in this for the money," said another neighbor, who would not give her name, fearing retaliation. "It's not a good atmosphere . . . People leave their parents there thinking they're getting good care--but they're not."

TABULAR OR GRAPHIC MATERIAL SET FORTH IN THIS DOCUMENT IS NOT DISPLAYABLE

PHOTO: The Doone Street home is one of four residential care facilities closed by state officials last week.; PHOTOGRAPHER: CARLOS CHAVEZ / Los Angeles Times; PHOTO: (A1) POOR CARE: State regulators have shut four residential homes for senior citizens in Thousand Oaks, including the one above, because of suspected elder abuse. One client was recently hospitalized with bruises, infection and bedsores.; PHOTOGRAPHER: CARLOS CHAVEZ / Los Angeles Times

---- INDEX REFERENCES ----

STORY ORIGIN: THOUSAND OAKS

EDITION: VENTURA COUNTY EDITION

Word Count: 757

6/11/98 LATIMES B1

END OF DOCUMENT

Citation

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Rank 16 of 246

Database

11/19/98 ORLDSTL 1

ALLNEWS

11/19/98 Orlando Sentinel 1

1998 WL 18564296

(Publication page references are not available for this document.)

Orlando Sentinel

Copyright 1998

Thursday, November 19, 1998

LAKE SENTINEL

2ND NURSING HOME IS SUED FOR NEGLECT

Frank Stanfield of The Sentinel Staff

TAVARES - The family of an elderly woman has sued a Mount Dora nursing home, saying the facility neglected the woman so badly that she suffered painful bedsores that ultimately led to her death.

The suit, filed by the estate of Clara Jones in Lake Circuit Court, seeks more than \$15,000 in damages from Mount Dora Health Care Center and its parent company, Beverly Health and Rehabilitation Services.

The nursing home declined to comment.

Jones was a resident at the home from April 1992 until February 1996.

During that time, the home didn't provide her adequate care, the suit states. The home failed to provide the proper mattress and positioning devices, and workers didn't turn her to prevent bedsores, the suit said.

The suit also states that the home failed to keep complete medical records and did not develop an adequate plan to assess and meet Jones' needs. Changes in her condition were not monitored, and her family was not notified of any changes, the suit says.

The lawsuit also criticizes what it described as an inadequate number of staff members who weren't properly trained.

The suit states Jones suffered bodily injury and disfigurement.

11/19/98 ORLDSTL 1

(Publication page references are not available for this document.)

Doctors had to amputate her left leg above the knee after bedsores became infected.

The suit also cites mental anguish, loss of capacity for enjoyment of life, the expense of hospitalization and nursing care, and aggravation of an existing condition.

Jones was 93 when she died.

The suit is the latest legal action to be filed against a Lake County nursing home. In recent months, two circuit judges have issued orders allowing lawyers to seek punitive damages against Leesburg Nursing Center.

The family of Frank Phipps, 84, has sued the home owned by Diversicare, saying that he suffered bedsores and that his weight plunged from 137 to 85 pounds in seven months.

In another suit, the family of John Boswell Sr., 95, made similar complaints against the Leesburg facility.

Among the Boswell family's claims were allegations that the senior Boswell was left alone for long periods of time, lying in his own waste.

The Boswell suit was settled out of court in late October. The terms were not disclosed in the court file.

----- INDEX REFERENCES -----

NEWS SUBJECT: Lawsuits; Local/Regional Section (LWS LCR)

EDITION: CENTRAL FLORIDA

Word Count: 366

11/19/98 ORLDSTL 1

END OF DOCUMENT

Citation

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Rank(R) 14 of 435

Database
ALLNEWS

2/5/99 TAMPABUSJ 8

2/5/99 Tampa Bay Bus. J. (Fla.) 8

1999 WL 7950946

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Tampa Bay Business Journal

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Business Journals Feb 5-Feb 11, 1999

Friday, February 5, 1999

Volume 19, Issue 6; ISSN: 0896-467X

Nursing home executives face state RICO charge
Gary Shepherd

Two top executives of NewCare Health Corp., which owns and operates several Tampa Bay area nursing home and assisted living facilities, have been arrested on state Medicaid fraud and racketeering charges.

NewCare Chairman Chris Brogdon and President Darrell Tucker were charged after a joint investigation by the Florida Attorney General's Office and the State Attorney for the Eighth Judicial Circuit around Gainesville.

Brogdon and Tucker "deny any wrongdoing, and intend to vigorously defend themselves against the allegations," said a statement by NewCare Corp.

NewCare also noted that the allegations relate to events at a nursing home in Gainesville operated by Retirement Care Associates Inc., an Atlanta-based company Brogdon also heads.

Brogdon and Tucker face state Racketeer Influenced and Corrupt Organizations Act and fraud charges, state officials said.

Each faces four counts of **abuse** and **neglect** of elderly and **disabled** persons, and each also was charged with two counts of first degree grand theft. Charges were also filed against three corporate entities in the case.

"The investigation revealed that several elderly residents were not properly cared for and had not received necessary medical treatment," said a press release from State Attorney Rod Smith's office.

NewCare is a former Largo corporation which Brogdon moved to Atlanta in 1997. Its owned and operated nursing homes in the Bay area include Oak Manor Nursing Home in Largo, which had served as NewCare headquarters; Suncoast Nursing Home and Victoria Martin Nursing Home in St. Petersburg; Central Tampa Nursing Home; Pasco Nursing Center; and Venice Nursing Pavilion.

2/5/99 TAMPABUSJ 8

Publication page references are not available for this document.)

The company also owns Oak Manor assisted living facility in Largo. It leases and operates Remington House assisted living facilities in New Port Richey and Pompano Beach and it manages financially troubled Princeton Hospital in Orlando.

Susan Lundine of the Orlando Business Journal contributed to this report.

Word Count: 300

2/5/99 TAMPABUSJ 8

END OF DOCUMENT

Citation

Search Result

Rank 3 of 246

Database

18/99 FTWTHST 1

ALLNEWS

2/18/99 Ft. Worth Star-Telegram 1

1999 WL 6218735

(Publication page references are not available for this document.)

The Fort Worth Star-Telegram

Copyright 1999

Thursday, February 18, 1999

BUSINESS

2nd nursing home being shut down Colonial Manor in Fort Worth is part of a chain taken over by the state.

Worth Wren; Sarah Lunday

Star-Telegram Writer

FORT WORTH - The state is moving to close another nursing home - Colonial Manor of Fort Worth - that was operated by the beleaguered Sensitive Care.

Jeff Cook, a lawyer for the state trustee overseeing the five Sensitive Care homes in Tarrant County, said about 100 residents will need to be out of Colonial Manor by Monday. The home is at 400 S. Beach St.

Last week, the state closed Boulevard Manor Care Center in Richland Hills, forcing 80 residents to find new care.

The state took control of Sensitive Care's 13 homes last month after the federal government accused the Fort Worth company of overbilling Medicare. After stepping in, trustees found that vendors and employees were left unpaid.

Eleven of Sensitive Care's homes will continue to operate until further notice. The state is closing the two others to stem what could become unmanageable losses, Cook said. He said the state is struggling with an estimated \$75,000 daily operating shortfall for all nursing homes formerly managed by Sensitive Care.

The financial problems contributed to a staff shortage at Boulevard Manor. Don Miller, the trustee for the Tarrant County homes, said the state stepped in quickly because it was concerned

2/18/99 FTWTHST 1

(Publication page references are not available for this document.)

about the quality of care.

By contrast, quality was not the deciding factor in the closing of Colonial Manor, Cook said. Rather, the home had not attracted any interest from possible buyers, state officials said.

The shutdown is scheduled to begin today, and the relocations of all remaining residents should be complete by Monday afternoon, he said.

Rosemary Patterson, a spokeswoman for the Department of Human Services, said state trustees have been working with family members for several days to begin moving families out.

As of November, Colonial Manor was home to 115 people, state documents indicate. Cook said yesterday that many families have already made new arrangements for residents.

Other families should not have problems finding homes, he said.

"There are a lot of empty beds in that area," Cook said of Colonial Manor's broad geographic area in southeast Fort Worth.

Two companies - BMW Healthcare of Tyler and Karell Capital Ventures of Chicago - have expressed interest in operating Sensitive Care's other homes.

Sensitive Care left about \$1 million in unpaid payroll when the state took over last month, Cook said.

But the state has covered that sum and has continued to make the payroll to continue operating the nursing homes, he said. It will try to get Sensitive Care to reimburse the state for the money spent.

State officials have said that many employees at Boulevard Manor quit after learning that Sensitive Care had insufficient funds to meet payroll and to cover more than \$15 million in bills.

Unless the state approves a buyer or buyers for the facilities, Cook said, the shutdowns will continue gradually.

Worth Wren, (817) 390-7721

2/18/99 FTWTHST 1

(Publication page references are not available for this document.)

worth@star-telegram.com

Sarah Lunday, (817) 390-7064

slunday@star-telegram.com

----- INDEX REFERENCES -----

NEWS SUBJECT: Business, Finance & Economy Section (BFN)

EDITION: FINAL AM

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END OF DOCUMENT

Citation

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Database
ALLNEWS

3/8/99 TAMPATRIB 1

3/8/99 Tampa Trib. (Fla.) 1

1999 WL 4646352

(Publication page references are not available for this document.)

The Tampa Tribune

Copyright 1999

Monday, March 8, 1999

FLORIDA/METRO

Fight looms over nursing home suits

VICKIE CHACHERE

of The Tampa Tribune

TAMPA - This year's most bitter legislative fight may change how people sue nursing homes.

Nursing home giant Beverly Enterprises Inc. barely shrugged in telling its investors that a California jury had ordered \$95 million paid to a resident who suffered a broken hip.

The monstrous verdict would be overturned on appeal, the company predicted in March 1998. And despite scores of other lawsuits pending against Beverly, it assured investors litigation wouldn't hurt its bottom line.

"The company does not believe that the ultimate resolution of those matters will have a material adverse effect on the company's consolidated financial position or results of operations," it declared.

But a year later, such nonchalance is gone. Beverly and its competitors are pleading with Florida lawmakers to make it harder for people to sue nursing homes, saying such cases are killing business.

"It strips us. We are naked," industry lobbyist Ed Fortune said of current state law during a recent hearing on legislation to curtail the lawsuits.

"Where is the truth?" countered Alexander Clem, a lawyer with Morgan, Colling & Gilbert of Tampa who has made a career of suing nursing homes. "Either they are misrepresenting the truth about the economics of nursing homes to the Legislature in Tallahassee or they are misrepresenting the burden these lawsuits will place to their shareholders."

The legislation has become a bitter battle, pitting for-profit nursing home chains against lawyers who have found a booming business in bedsores and bad care. It's the no-holds-barred fight of the 1999 Legislature.

8/99 TAMPATRIB 1

Publication page references are not available for this document.)

And although it is just one part of an effort to tighten Florida's civil litigation system, it's so contentious that some lawmakers say it could derail the broader effort, known as tort reform.

Drowned out in the din, despite their clear stake in it, are nursing home residents and their families. They have come to depend on the civil court system for recourse when reporting abuse and neglect to government agencies gets them nowhere.

"No one sues a nursing home just for the fun of it. The only way you can reach them is through their pocketbook," said Audrey Hillenberg, whose lawsuit against The Arbors of Altamonte Springs alleges an aide inflicted a fatal injury to her mother, Frances Kelly.

Hillenberg said she couldn't get action when she complained of abuse while her mother was alive. She remembers finding the 94-year-old woman black and blue on their final Mother's Day together as nursing home supervisors said there was nothing they could do.

Kelly died in August, 17 days after certified nursing assistant Candace Vogel allegedly bashed her head with a can of liquid nutrient. Vogel faces a murder charge in Orange County.

THE LEGISLATIVE debate is fiercest in the House, where a bill sponsored by state Rep. Johnnie Byrd, R-Plant City, puts people suing nursing homes, child care centers and facilities for the developmentally disabled under the same laws governing other civil cases.

The Legislature had given those people an exemption allowing unlimited punitive damages on grounds that seniors, children and the **disabled** are so vulnerable they need extra protection from **abuse** and **neglect**.

Judges and juries are the gatekeepers. Judges decide which lawsuits may seek punitive damages; juries decide whether penalties should apply and how much.

There also is no forced mediation as required in other civil cases. And with nursing homes, a losing defendant pays a plaintiff's legal fees on top of the damages. The House bill caps punitive damages at three times compensatory damages such as lost wages or medical bills. Compensatory damages often are low in nursing home cases, with punishments for damages such as "pain and suffering" typically the bulk of awards.

The only way to exceed the cap in the House bill is if a plaintiff can prove intent to cause harm. That's the standard applied in criminal cases and the reason state attorneys say they can't

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successfully prosecute operators of dangerous nursing homes.

Ed Towey of the Florida Health Care Association, which represents the for-profit industry, said the threat of unlimited damages has sent nursing home insurance premiums skyrocketing in the last three years. Florida homes on average pay much higher premiums than similar homes elsewhere, he said.

"You can say, 'Fine. That's because you have worse nursing homes.' But if you look at the federal data, they are in the ballpark [of other homes]," Towey said.

The premiums generally are for insurance that doesn't pay punitive damages, however. Still, Towey reasoned, the money comes out of the pockets of the nursing homes.

"If you cap everybody else and not these facilities, then they become a target," he said. "They become one of the last few places; they become a really big score."

The House bill goes on to allow just one punitive damage award per cause. So a nursing home with chronic neglect might face dozens of lawsuits but pay out only once.

Advocates for the elderly say if changing the law curtails the financial incentive for lawyers, victims would have a hard time finding willing representation, effectively ending access to justice.

A Senate bill continues to keep nursing homes and other facilities for the vulnerable exempt from civil litigation limits. But it also requires that cases go to court-supervised mediation in 90 days, and if plaintiffs reject a settlement offer and don't win a court judgment greater than the offer, they don't get their legal fees paid.

That measure was part of a tort reform package adopted by last year's Legislature and vetoed for various reasons by the late Gov. Lawton Chiles.

SETTING THIS debate apart from others is how personal the battle has become between the companies and millionaire lawyer Jim Wilkes of Tampa, whose aggressive pursuit of nursing home cases is credited with exposing industry wrongdoing.

Wilkes, who goads industry leaders by calling them "lying dogs" and vowing to match them dollar for dollar in a public relations campaign, is leading the bid to keep the current law.

"They figure [the legislative fight] keeps me busy for three

8/99 TAMPATRIB 1

ublication page references are not available for this document.)

months, and the value of the case I don't take justifies the expense even if they don't get it," he said.

Wilkes estimates he accepts just one of 10 cases brought to him and wins more than half, with an average settlement of \$500,000.

There is no reliable tally of all nursing home lawsuit awards in Florida; the largest case may be a \$6 million strike against Vencor Inc. in Palm Beach last year. And several verdicts or settlements have reached the \$3 million range.

Nonetheless, there is no dispute that Wilkes and others have found a lucrative line of work. Law firm billboards soliciting such cases are regular sights along roadways, and eager attorneys buy plenty of broadcast advertising time. The ability to collect legal fees apart from awards to plaintiffs has led scores of attorneys to focus solely on nursing homes.

The Florida Health Care Association, citing an informal survey, estimates the annual cost of settling claims and defending lawsuits in Florida has reached \$30 million.

Vencor, operator of 20 Florida nursing homes that house about 700 people, recently told lawmakers it paid \$8.3 million in claims statewide last year. That was nearly half what the Kentucky-based chain paid nationwide, even though only 7 percent of its beds are in Florida.

Karen Goldsmith, a Winter Park attorney who defends nursing homes, said there's a question of fairness. The industry should be judged under the same legal system as any other business in Florida, she said.

The threat of huge damages - like the award in California, which this year a judge reduced to \$3 million - leads nursing homes to settle before trials to avoid the unknown, she said.

The industry portrays neglect lawsuits, particularly, as fraught with imbalances. Juries may be swayed by pictures of helpless elders near death, and few things are more gruesome than a bed sore burrowed down to the bone.

Industry representatives say the reality of aging is that skin breaks down, people lose weight, and they generally get sicker rather than healthier because their bodies are shutting down even in the best nursing homes.

IF A FRAIL resident's family is unhappy with care, Goldsmith added, it's easier to sue the nursing home than the patient's doctor.

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(Publication page references are not available for this document.)

"Juries have unrealistic expectations. Families have unrealistic expectations," she said. "You take a person who is 80 years old, they haven't taken care of themselves all of their lives, they have multiple health problems, and people put them in a nursing home and expect them to get better. It's not realistic."

But families suing homes often bristle at such statements.

A current trial in Tampa has Emma Louise Butler pursuing damages in the 1994 death of John Butler, her 65-year-old son. He was emaciated after years at north Tampa's Brian Center, a nursing home now renamed and under new management.

Attorneys allege a coverup of neglect was so extensive that aides accustomed to falsifying care records noted the man was alert and responsive the day after he died.

Yet his mother didn't sue immediately. She said she agonized over the decision, seeking a pastor's advice before a lawyer's. Ultimately, she said, she was haunted by thoughts of other patients she had come to know in five years of visiting her son nearly daily.

"I sat on my sofa," she recalled, "and said, 'Somebody needs to do something.' "

TABULAR OR GRAPHIC MATERIAL SET FORTH IN THIS DOCUMENT IS NOT DISPLAYABLE

PHOTO (C); Caption: (C) Emma Louise Butler, left, confers with attorney Camille Godwin in court. She is suing a local nursing home over her son's death.
ROBERT BURKE/Tribune photo

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Long-Term Care Companies

One-Year Price Movements

<u>Company</u>	<u>Closing Price on 4/9/99</u>	<u>Closing Price on 3/9/98</u>	<u>%Decline</u>
Vencor	\$.75	\$10.38	(92.8%)
Sun Health	\$.88	\$18.88	(95.3%)
Advocat	\$ 1.94	\$ 9.00	(78.4%)
Mariner	\$ 2.31	\$19.38	(88.1%)
IHS	\$ 3.63	\$36.00	(89.9%)
Centennial	\$ 3.94	\$21.25	(81.4%)
Beverly	\$ 4.44	\$15.50	(71.3%)
Genesis	\$ 4.63	\$29.25	(84.2%)
NHC	\$ 7.69	\$34.75	(77.9%)
HCR/Manorcare	\$24.44	\$46.31	(47.2%)

ARTICLES

THE SHAME OF OUR NURSING HOMES

The day before Kimberly Holdford left on a camping trip with her husband and twin girls in June of 1997, she stopped by a nursing home to visit her grandmother. It had been a month since Jewel Elizabeth Forester entered the Beverly Health and Rehabilitation Center in Jacksonville, Arkansas, to recover from a bout with the flu that had left her severely dehydrated. She hated the facility. Beverly aides seldom bathed her and often neglected to take her to the bathroom, leaving her caked in dried feces and sobbing in shame. Holdford didn't know what to do; Beverly was the only nearby nursing home with an available bed. "We're understaffed," she recalls an aide telling her. "We don't have enough people to do the job."

At 80, Forester remained feisty and sharp-witted, tackling crossword puzzles and reveling in the afternoon soaps. But on the day before the camping trip, Holdford found her groggy and disoriented. "What's wrong with my grandmother?" she asked the

nursing staff. "She won't wake up." Assured that a doctor would be called, Holdford reluctantly left for the weekend.

But no one at Beverly called the doctor. The next day Forester was screaming in pain and moaning in her sleep. Aides tried to calm her down because she was disturbing other patients. On Monday a respiratory therapist found Forester nearly comatose. She was rushed to the hospital, where doctors found three times the maximum therapeutic level of a drug called digoxin in her system. The nursing home had administered an overdose of the drug, even though it had been warned that Forester had trouble tolerating the medication.

"What followed was nine days of the worst deathwatch you ever saw in your life," recalls Robert Holdford, Kimberly's husband. "She was screaming and moaning as her organs shut down from the overdose. She suffered an agonizing death because of Beverly."

Nor was Forester the only patient at the home to suffer from substandard care. With too small a staff to turn and feed them, some residents developed bone-deep wounds; one was hospitalized weighing only eighty-one pounds. Last September a 58-year-old man died after an untrained and unlicensed nurse punctured his stomach lining when she tried to reinsert a feeding tube.

Dan Springer, a vice president at Beverly, calls the facility "an aberration," but the company has acknowledged that things were seriously amiss. "We knew that we had some problems," a top executive told reporters after the home was finally shut down by the state. "It was horrible."

Such horror stories involving nursing homes have become almost commonplace. For three decades, federal and state investigations have repeatedly documented widespread understaffing, misuse of medication and restraints, even physical attacks on patients. Yet thousands of vulnerable citizens remain confined in depressing, debilitating—and often deadly—institutions like the one in Jacksonville. Last summer, a federal study found that nearly one-third of all nursing homes in California had been cited for violations that caused death or life-threatening harm to patients. Federal officials charged with policing dangerous homes "generally took a lenient stance," William Scanlon, director of health financing and systems issues for the US General Accounting Office (GAO), testified before a Senate panel in July. "Homes can repeatedly harm residents without facing sanctions."

Federal officials are promising to subject nursing homes to closer scrutiny in the coming months. President Clinton has ordered a crackdown on repeat offenders, the Justice Department is investigating charges of fraud and abuse, and Congress is poised to reshape Medicare and other programs that pay for long-term care. Yet such efforts focus more on cutting costs than improving care; they fail to recognize that standards remain lax and reforms fall short because of the very nature of nursing homes. Facilities that care for nearly 2 million elderly and disabled residents form a lucrative private industry that profits directly from pain—while taxpayers foot the bill. Nursing homes ring up \$87 billion of business each year, and more than 75 cents of every dollar comes from public funds through Medicaid and Medicare. The less of that money homes spend on care, the more they pocket for themselves and their shareholders. To insure those profits, nursing homes are careful not to skimp when it comes to investing in politics: The industry gives millions in contributions to state and federal officials, insuring weak public oversight.

At a time when Republicans and Democrats alike are clamoring to let big business run everything from prisons to schools, nursing homes represent the nation's longest-running experiment in privatization—one that, after half a century, offers a graphic portrayal of what happens when private interests are permitted to monopolize public services. While the industry is currently strug-

gling to adjust to new limits on Medicare spending, nursing homes still rely on a generous flow of public subsidies. Leading the for-profit field is Beverly Enterprises, which controls more nursing-home beds than any other firm in the nation. Founded in 1963 as privatization accelerated, the company now owns 561 homes like the one in Jacksonville, which is located just a few hours down the road from its corporate headquarters in Ft. Smith, Arkansas. Although Beverly posted a loss last year, it remains an industry giant. In 1997 the company enjoyed after-tax profits of \$58.5 million on revenues of \$3.2 billion.

The money did little to help elderly residents like Jewel Forester. "I trusted them not to let her come to harm," says Kimberly Holdford, looking at a photo of her grandmother. "Instead, this sweet little old woman who loved me all my life suffered a brutal death. Somebody has got to stop these big corporations from hurting our old people. They're supposed to be in the healthcare business, not the money-making business. All they care about is keeping profits up."

From colonial times, caring for the elderly poor has been a responsibility of government. At first, officials tried not only to pass the buck but to make a few as well. Until the 1820s vil-

lages and cities confronted with growing numbers of impoverished citizens routinely auctioned them off to families who provided squalid accommodations in return for gruel-

ing work. An observer at one Saturday-night auction at a village tavern noted that citizens "could speculate upon the bodily vigor and the probable capacity for hard labor of a half-witted boy, a forlorn-looking widow, or a halt and tottering old man." But as abuses—and profits—mounted, cities and counties began to operate their own poorhouses for the sick and aged. The expression "over the hill" comes from an 1871 ballad that depicts the plight of an old woman cast out by her children to live in a government-run workhouse.

As industrial mechanization eliminated jobs after World War I, the public began to protest overcrowding and illness in county poorhouses. Reformers often seemed less concerned about aiding the poor, however, than about keeping them away from the well-to-do. "Worthy people are thrown together with moral derelicts, with dope addicts, with prostitutes, bums, drunks—with whatever dregs of society happen to need the institution's shelter at the moment," the New York Commission on Old Age Security complained in a 1930 report. "People of culture and refinement," the commission noted, were forced to share services "with the crude and ignorant and feeble-minded."

Spurred by scandals over conditions in public poorhouses, federal lawmakers decided to hand the elderly over to private industry. In 1935 Congress specifically framed the Social Security Act to prohibit cash payments to any "inmate of a public institution." Those over 65 received small monthly pensions, but none of the money could go to government-run homes for the aged. The massive transfer of tax dollars to private business fueled the creation of for-profit homes. Almost overnight, operators set up facilities to exploit pensioners. Sometimes little changed but the name. In Minnesota, private owners removed a large sign identifying the "Dodge County Poor Farm," replacing it with one

Nursing homes are the nation's longest-running experiment in privatization—fifty years of private interests providing public services.

reading "Fairview Rest Home." The federal government soon began making direct payments to private nursing homes and providing low-interest loans for construction, insuring the fledgling industry a handsome profit. "So rapidly has the nursing home developed during the past 20 years," two observers noted in 1955, "that its history seems more like an eruption than an evolutionary development."

The eruption became volcanic in 1965, when Congress created Medicaid to assist the elderly poor and Medicare to provide health insurance for the aged. The two programs provided a huge infusion of public money into private nursing homes, with few strings attached. Most states limited the number of homes, thus insuring a supply of patients to fill the beds. They also reimbursed homes for all expenses, from mortgage and depreciation on the building to the staff and supplies inside—in essence, giving owners a blank check that virtually guaranteed them a healthy profit on their investment. Before long, global corporations like ITT rushed to cash in on the industry. With backing from Wall Street, the number of homes soared from 13,000 in 1967 to more than 23,000 in 1969.

"That was when nursing homes moved away from mom-and-pop operations to large, for-profit enterprises," says Charles Phillips, director of the Myers Research Institute in Beachwood, Ohio. "They were more interested in real estate transactions than healthcare. They shuffled properties back and forth between subsidiaries, jacking up property costs to increase reimbursement. Our current long-term-care system is fundamentally a creature of government policy. Those real estate ventures became the source of corporate empires."

Today those empires represent a booming business. With the number of elderly citizens needing long-term care expected to double over the next two decades, Wall Street sees a steady stream of customers for nursing homes—with a guaranteed flow of cash consisting almost entirely of public funds. "We believe nursing homes are naturally well positioned to capitalize on this growing opportunity," the investment bank Hambrecht & Quist recently advised investors, predicting that corporate chains would boost profits by laying off staff members, cutting wages and doubling patient loads. With the help of large institutional investors like Goldman Sachs and Lazard Frères, nursing-home chains are also making shareholders happy by swallowing competitors at a record pace. Last year two of the largest chains in the country merged

with two fellow giants, creating parent companies with annual revenues of about \$3 billion each. Thanks to their big financial backers, seven chains now collect 20 cents of every dollar spent on nursing homes nationwide (see sidebar, page 18).

The oldest and largest chain is Beverly Enterprises. Founded by a California accountant at the outset of the federal bonanza, the company quickly earned him \$10 million on his initial investment of \$5,700. In the seventies, backed by the influential Arkansas brokerage house of Stephens, Inc., Beverly led the industry in a frenzied buying spree, adding nearly 1,000 nursing homes in less than a decade. "No other chain has been able to put together as successful an acquisition formula," reported a study by the Food and Allied Service Trades of the AFL-CIO.

For a time, Beverly found, bigger was better. For five years in the eighties the chain maintained an annual return on equity of 23 percent—the fifth-highest rate of any healthcare company nationwide. But unable to manage its far-flung network of nursing homes, Beverly lost \$60 million in 1987 and began selling off facilities to avoid a hostile takeover. "We probably grew too fast," acknowledged David Banks, a former typewriter salesman and Stephens executive who now heads Beverly.

Led by Banks, the company also moved to Arkansas, where it enjoyed legal advice from a young attorney at the Rose Law Firm named Hillary Clinton and political support from her husband, Bill, in the governor's mansion. In one deal that demonstrated the kind of favoritism Beverly enjoyed, a state board approved \$81 million in tax-free revenue bonds that would have given the company badly needed cash to pay its debts—without creating a single new job. Clinton, who appears to have originally seen the deal as a way to help woo the company to Arkansas, backed away from it only after Steve Clark, his attorney general, revealed that a lobbyist had offered him \$100,000 in campaign gifts if he supported the bond handout. "The only way this proposal can be described," Clark told a meeting of startled officials unused to hearing criticism of Beverly, "is one which is the product of the arrogance of wealth and the arrogance of power." Even Clinton was forced to concede that the deal went too far. "They were trying to milk this bond system," he said.

While Beverly executives and shareholders profited from the company's rapid growth during the eighties, many patients suffered. Across the nation, health officials filed reports on Beverly nursing homes documenting filthy living conditions, infected bedsores and painful deaths. The State of Washington banned the company from opening any new homes because of its poor track record. The chain bowed out of Maine after inspectors there cited it for substandard conditions. A Missouri grand jury investigated reports of Beverly patients with gaping wounds. Texas suspended Medicaid payments to twenty-four of the company's homes because of health hazards. California fined the firm \$724,000 and put it on probation after accusing Beverly of contributing to the deaths of nine patients. At one home, inspectors found that ants had swarmed over the body of a woman, entering her respiratory system through a wound in her throat. "Something is very wrong at Beverly Enterprises," a deputy attorney general in California concluded. Beverly considered it business as usual. "We pretty well mirror the industry," said

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CEO Banks at the time of the California investigation.

Beverly certainly mirrors the industry in the way it cashes in on Medicaid and Medicare. To improve the bottom line, homes have funneled as much money as possible into property, administrative salaries and ancillary services like drugs and physical therapy, while cutting corners on patient care and staff wages. Many facilities have only one registered nurse on duty, relying on skeleton staffs of nurse's aides to provide almost all the hands-on care for dozens of patients. Most earn little more than the minimum wage and receive only seventy-five hours of training for difficult jobs that require them to monitor and feed patients and move frail and disabled residents with little assistance. Annual turnover industrywide is nearly 100 percent.

"They're short-staffing," says an aide at a Beverly home in Center Point, Alabama. "If you have twenty residents, it means you can't spend as much time with them as you should. You don't give residents the kind of care they deserve."

In nursing homes, skimping on labor costs can be lethal. In Minnesota, investigators found that at least eight residents at Beverly homes

died after receiving inadequate care and supervision between 1986 and 1988. Myrtle Schueuer, 83, choked to death after a nurse's aide gave her bacon and toast, despite a doctor's order to feed her only soft food because she had difficulty swallowing. Lucy Gralish, 79, suffered for three hours after a heart attack before the home called a doctor. Joy Scales, 65, died of a skull fracture after an aide left her unattended on the toilet, contrary to her doctor's orders. "So much of this goes right back to the question of staffing and corner-cutting," James Varpness, the Minnesota ombudsman for older residents at the time, told reporters. "Why are people being left unattended on toilets so that they fall off and fracture their skull? It's because the nursing staff has too much to do and something else that needs to get done."

In many homes there are still too few aides to do the job. In 1993 two dozen employees at a Beverly home in Yreka, California, signed a letter to David Banks, warning him that staffing was dangerously low. "We are jeopardizing the safety of our residents as well as our own," the employees wrote. "It is a matter of time before a tragedy occurs that may have been preventable." They were right. In 1995 a suit was filed alleging that Reba Gregory, a 69-year-old resident, had been dropped by a nursing aide who was trying to move her from her bed without assistance, fracturing her right hip and shoulder. Last March a jury awarded Gregory a record \$95.1 million—later reduced by a judge to \$3 million—after evidence showed that time sheets the company originally claimed were destroyed had in fact been doctored to reflect nonexistent staffing.

Beverly has also repeatedly broken the law to prevent its 65,000 employees from joining a union to improve staffing and conditions. Last August the National Labor Relations Board issued an unusual corporationwide "cease and desist" order against the company for 240 violations of labor laws in eighteen states, including threats, coercion and surveillance of employees. A study of federal contractors by the GAO ranked

The big money these days is in ancillary services that companies provide, through subsidiaries, to their own nursing homes.

Beverly among the fifteen worst violators of federal labor laws.

Beverly and others in the industry complain that Medicaid rates are simply too low to pay for decent staffing and adequate care. In Arkansas, where Beverly owns one of every six nursing-home beds, Medicaid reimburses the industry an average of \$63.99 a day for each resident—only two-thirds the national average. But the low rates don't stop companies like Beverly from enjoying big profits. According to the latest available figures, Arkansas nursing homes rank second to last in the nation in median spending on direct care for patients and dead last in staffing levels. Such miserliness enables them to post the eighth-highest profit margin nationwide—nearly double the US average. Seven of the twenty most profitable homes in the state belong to Beverly.

Even when the company claims a loss, it still finds ways to make money. The home in Jacksonville, where Jewel Forester died of an overdose, reported a loss of \$859,000 for fiscal 1998, which

ended last June. But cost reports filed with the state show that the "loss" included nearly \$309,000 in "management fees and home office costs" that the home passed along

to corporate headquarters. According to proxy statements, David Banks and two other Beverly executives topped \$1 million in compensation for 1997.

When it comes to compensating nurse's aides, however, Beverly and other chains plead poverty. In Arkansas, where nursing homes pay half of their 25,000 employees only \$5.15 an hour, the industry didn't want to use any of its profits to raise the minimum wage as mandated by Congress. So during the closing days of the 1997 state legislative session, lobbyists snuck an amendment into the budget requiring taxpayers to reimburse nursing homes for any increase in the minimum wage. Republican Governor Mike Huckabee vetoed the bill, but lawmakers easily overrode him. The measure could end up costing taxpayers more than \$17 million.

Privatized nursing homes have other, less direct ways of raiding the public treasury. Until recently, the big money for conglomerates like Beverly has been in what are considered ancillary services—drugs, diapers, ventilators, speech therapy and other supplies and care that nursing-home patients often need. Medicare billings for physical and occupational therapy, for example, rose to \$7 billion in 1996—double the 1993 rate and six times the 1990 rate. Such hefty reimbursements gave Beverly and other companies an incentive to create subsidiary firms to supply ancillary services to their own nursing homes. That way, they could bill taxpayers for the retail prices they pay their subsidiaries, rather than the lower costs the companies actually incur.

"These services typically are provided by outside contractors or through wholly-owned subsidiaries of nursing home companies that focused on maximizing revenues, not pursuing cost-effective care," Beverly notes in its latest annual report. Although the company says a new Medicare plan that caps some payments has prompted it to hire its own staff therapists, it acknowledges in the report that "there has been little incentive to reduce costs or pursue operating efficiencies, even though the result is higher costs for the federal government and other payors."

"Higher costs" for taxpayers means "higher profits" for Beverly. An internal company report on rehabilitative therapy shows the company has made much larger returns on ancillary services than cost reports for individual nursing homes indicate. In the first eleven months of 1994, according to the report, Beverly made revenues of \$671 million on rehabilitative therapy—yet the services cost the company only \$360 million. That's an annual return of 46 percent on revenues. In 1994 Beverly cleared more than \$1 million on therapy every day—and almost all of it came from taxpayers.

"It's big money, and it's hidden money," says Elma Holder, founder of the National Citizens Coalition for Nursing Home Reform. "They have a set of books that show they're losing money on one side, and yet they're making money hand over fist on the other side."

Other internal documents show similar profit rates, even in homes where Beverly claims it has been unable to make money. In Texas, for example, the chain paid \$100,000 to settle claims at a home where a resident's sore foot had been ignored for forty-three

days until it rotted off her leg. In another case a judge awarded \$55 million to the estate of a woman who died in 1994 from an infection caused by bedsores, including a bone-deep wound the size of a grapefruit at her tailbone. In 1997, calling the regulatory environment in Texas "punitive," Beverly sold its forty-nine nursing homes in that state to a company called Complete Care Services for \$143 million in cash. But what Beverly claimed was a dry well looked more like a gusher to the new owners. According to internal documents, one investor who contributed \$6 million expected to make \$3.5 million in cash, management fees and interest in the first year—an immediate return of nearly 58 percent.

Nursing homes can enjoy even higher returns, of course, if they simply provide no services at all in return for government subsidies. A 1996 report by the GAO on Medicare payments to nursing homes found that "fraud and abusive billing practices are frequent and widespread." The federal government, the report added, allows homes to bill Medicare without confirming that "the care or items were necessary or were delivered as claimed. As a result, the program is highly vulnerable to exploitation."

A recent government audit showed that nursing homes billed Medicare for more than \$3 billion in improper claims in 1996 and 1997. Another report estimated that taxpayers may be losing 11 cents of every Medicare dollar to fraud. In one case a Georgia company was certified to bill the insurance program for therapy services even though it had no salaried therapists. A clerical employee in a storefront office simply served as a shell company that subcontracted with two uncertified providers, adding a markup of 80 percent on every bill. Another company was a "paper organization" with no staff at all, enabling its "owner" to add \$170,000 in administrative costs to Medicare bills over a six-month period.

Last July Beverly announced that the Justice Department had launched an investigation into whether the company improperly billed Medicare for labor costs between 1990 and 1997. Two former Beverly employees have been called before a California grand jury, and Blue Cross of California is also reviewing its dealings with the company. Investors reacted angrily to the news. In October Beverly shareholders filed a class-action suit alleging that the company "engaged in a scheme to inflate billings to Medicare" by shifting labor costs at homes that weren't Medicare-certified to those that were.

Beverly says it is cooperating with investigators, but the company is quick to knock the government for its approach to inspections. "We believe the system that regulates nursing homes is punitive, subjective and inequitable," says vice-president Dan Springer. "Rather than the government finding problems, fining facilities and upsetting the lives of good people, why not flip the tables and work in partnership?" He adds that Beverly has devised a "report card" to evaluate its own operations. "There is no arguing that there are places where care needs to be improved. But there are instances where the process as it's implemented today doesn't recognize the positive things that go on in nursing homes."

It's no secret why companies like Beverly see "positive things" in nursing homes: With the number of elderly Americans requiring long-term care projected to reach 14 million by the year 2020, the industry is virtually guaranteed a profitable future. As with other public services that have been privatized, however, the question is: What is a reasonable profit, and how can taxpayers insure they're getting their money's worth? Congress has responded to

More Beds, More Money

Beverly Enterprises controls more than 60,000 nursing-home beds, more than any other company worldwide. But six other chains also enjoy significant shares of the industry, rapidly placing more patients in the hands of big conglomerates.

§ Integrated Health Services (Owings Mills, Maryland). The chain moved into the front ranks of the industry when it acquired rival Horizon/CMS Healthcare for \$1.2 billion. It now boasts 42,600 beds and revenues of \$3 billion.

§ Vencor (Louisville, Kentucky). The chain drew fire last year when it evicted low-income residents to make way for wealthier clientele. With 38,300 beds, it enjoys revenues of \$3 billion.

§ Sun Healthcare Group (Albuquerque, New Mexico). After a buying spree that brought it two smaller chains, Sun has vaulted into the big leagues with 44,000 beds and \$3.2 billion in revenues.

§ HCR Manor Care (Toledo, Ohio). A merger between two industry giants formed a new chain with 47,000 beds and revenues of \$2.2 billion. Chairman Stewart Bainum Jr. immediately promised "future acquisitions, at the lowest cost of capital in the industry."

§ Mariner Post-Acute Network (Atlanta, Georgia). Another member of the billion-dollar club, formed by the merger of Mariner Health Group and Paragon Health Network. Dogged by allegations of racketeering at a former nursing home in Tampa, the chain controls 48,100 beds and \$2.7 billion in revenues.

§ Genesis Health Ventures (Kennett Square, Pennsylvania). The company bought a pharmaceutical chain and sponsored a real estate investment trust for some of its 37,700 beds, boosting revenues to \$1.4 billion. E.B.

Source: All figures are from company officials; revenues are for the latest available twelve-month period.

the soaring costs of nursing homes by moving Medicare and other federal programs into managed care, which caps costs at set levels. But lowering costs doesn't automatically improve the quality of care. A new reimbursement plan that took effect on January 1 gives nursing homes a fixed amount for services, then allows them to spend the money however they see fit. "The less you spend, the more you make," says Elma Holder of the Citizens Coalition.

For its part, the industry knows how to use its political and financial clout to block any meaningful reform. In 1978, on a trip to Arkansas to testify about nursing-home abuses, Holder found herself being driven to the airport by an ambitious attorney general named Bill Clinton. "I remember him saying he would never take any money from corporations that ran nursing homes," she recalls. "I was quite impressed with this man, of course, that he would say that." In 1996 Clinton raised \$1.1 million from nursing-home owners, including several who attended breakfasts at the White House. The following year, at the President's recommendation, Democrats named Alan Solomont, a Massachusetts nursing-home magnate who lobbied for weaker federal enforcement, the party's new finance chairman.

Beverly has contributed more than \$100,000 to federal candidates and their parties since 1995, and its board of directors enjoys high-powered contacts on both sides of the aisle. Republicans on the board include Edith Holiday, the White House Cabinet liaison during the Bush Administration, and Carolyn Davis, who served under President Reagan as administrator of the Health Care Financing Administration, the federal agency responsible for overseeing nursing homes. Democrats include Beryl Anthony, a former US representative and chair of the Democratic Congressional Campaign Committee. The industry also uses its influence to block reforms at the state level. In Beverly's home state of Arkansas an analysis of campaign contributions shows that nursing homes were the second-largest donor to state legislative candidates in 1994.

Given the political clout of companies like Beverly, it's hard to imagine lawmakers getting behind the reform proposals advocated for years by patients and their families. But with the cost of long-term care skyrocketing, some officials are starting to listen. Advocates say more money should be directed at keeping people out of nursing homes—by providing adult daycare, home health aides and other community-based programs that keep people healthy and independent. They also point to model facilities, like the nonprofit Hampton Woods in rural North Carolina or the state-run Benton Services Center in Arkansas, that invest in providing top-flight nursing care rather than maximizing profits.

The most promising reform efforts focus on the most direct and effective way to improve care: Require homes that rely on public funds to hire more nurses and aides. Advocates in sixteen states have convinced lawmakers to introduce measures that would raise minimum staffing levels, forcing homes to provide at least four hours of direct care each day. It's a seemingly simple idea, but it strikes at the heart of industry profits. Nursing homes would have to spend tax dollars directly on care rather than funneling money into lucrative sidelines. "It's the most serious issue we face," says

Holder of the Citizens Coalition. "Common sense would tell you that you can't achieve good care if you don't have enough staffing, but no one wants to talk about it because of the cost involved."

Despite the cost—and opposition from nursing homes—staffing standards are gaining support from those traditionally supportive of the industry. In Arkansas, lawmakers are expected to vote in the next few weeks on a bill mandating that nursing homes hire more aides—and pay stiff penalties for understaffing. The measure's sponsor is State Senator John Brown, a conservative Republican who generally knocks government regulation in favor of "free enterprise." On a recent sunny afternoon Brown stands in a hallway of the state capitol in Little Rock, at the bottom of a marble staircase leading to the governor's office, and caucuses with patient advocates about how to pay for the increased staffing.

"We have to talk about where the money's going to come from," Brown says.

"How about profits?" suggests Virginia Vollmer, a member of Arkansas Advocates for Nursing Home Residents.

Brown surprises her by nodding in agreement. "But we've got to look behind their published numbers," he says. "Whether it's the way they report expenses or amortize interest, there are different accounting ploys that homes can use to make money. By and large they have a pretty good re-

turn. We're paying them hundreds of millions of dollars, but in too many cases they're endangering people rather than caring for them."

The advocates are encouraged, but they remain skeptical. "I don't know that any of the increased staffing will come out of the industry's pockets," says Jim Porter, whose mother died in a Beverly home in Little Rock last November. "It will probably all come out of the taxpayer's pocket. That's the shame of it." Like Senator Brown, Porter is hardly an antibusiness activist. The chairman of the Arkansas Entertainer's Hall of Fame and a Beverly investor, Porter called CEO David Banks personally after witnessing the inadequate care at his mother's nursing home. "I told him they weren't paying the salary they need to get and keep the help they need," Porter recalls. "He said he knew they were having problems and he'd get things in order. But he didn't."

Porter has a simple explanation for why care at Beverly and other nursing homes remains substandard. "Greed," he says. "They don't want to pay these nurse's aides more because it would be money out of their profits. It's as simple as that." He also has a simple idea of how to improve care: Return nursing homes to public control. Given the history of abuses at county homes and the current political climate, it's not a proposal that's likely to gain much ground. But it does suggest the depth of frustration with a privatized system that profits from pain—and the importance of remembering who ultimately pays the price.

"Perhaps nursing homes should be taken over by the state, county or city," Porter says. "Each one of them could be run for less by the government, because there wouldn't be an owner sitting there siphoning off hundreds of thousands of dollars. Imagine what kind of care we could provide with all those profits." ■

Justice.

- D. A request for written certification to undertake a prosecution will be based on a written recommendation of a Department of Justice attorney. Any written recommendation by the U.S. Attorney for such action shall include HCFA's position on the matter. If HCFA has not concurred in the initiation of the civil action, the Assistant Attorney General, or his designee, shall solicit the views of the Administrator or her designee before deciding on the merits of the U.S. Attorney's recommendation.
- E. Any action taken by the Department of Justice will be based on a set of definitions of key terms used by HCFA so as not to create conflicting standards that facilities will need to meet.

WHITE HOUSE STAFFING MEMORANDUM

Date: 4/16/99 ACTION / CONCURRENCE / COMMENT DUE BY: ASAP

Subject: RADIO ADDRESS — ELDER ABUSE

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	MOORE	☐	☐
PODESTA	☒	☐	NASH	☐	☐
ECHAVESTE	☒	☐	REED	☒	☐
RICCHETTI	☒	☐	RUFF	☐	☐
LEW	☐	☐	SOSNIK	☒	☐
BERGER	☐	☐	SPERLING	☒	☐
BLUMENTHAL	☒	☐	STEIN	☒	☐
CAHILL	☒	☐	STERN	☐	☐
FRAMPTON	☐	☐	STREETT	☐	☐
IBARRA	☐	☐	TRAMONTANO	☒	☐
JOHNSON	☐	☐	UCELLI	☒	☐
KLAIN	☒	☐	VERVEER	☐	☐
LANE	☐	☐	WALDMAN	☒	☐
LEWIS	☒	☐	YELLEN	☐	☐
LINDSEY	☐	☐	<u>WOOLLEY</u>	☒	☐
LOCKHART	☐	☒	<u>CERDA</u>	☒	☐
MARSHALL	☐	☐	<u>JENNINGS</u>	☒	☐

REMARKS:

Comments to Jordan Tamagni

RESPONSE:

Draft 4/16/99 11:00am
Tamagni

**PRESIDENT WILLIAM J. CLINTON
RADIO ADDRESS ON ELDER ABUSE
DETROIT, MICHIGAN
April 17, 1999**

99 APR 16 AM 11:14

Good morning. Of all the duties we owe to one another, our duty to our parents and grandparents is among the most sacred. Today I want to talk about the steps we must take to build a safety net for America's seniors that cracks down on elder crime, fraud, and abuse.

For more than six years, we have worked hard to take back our streets from crime and give American families the security they need to thrive. We have made remarkable progress, with violent crime dropping to its lowest levels in twenty-five years.

For elderly Americans who once locked themselves into their homes in fear, the falling crime rate has been a godsend. But the greatest threat many older Americans face is not a criminal armed with a gun, but a telemarketing scam artist armed with a slick rap. And for our most vulnerable seniors -- those who are sick or disabled and living in nursing homes -- there is no way to lock the door against abuse and neglect by the very people paid to care for them.

That is why the 21st Century Crime Bill I will send to Congress next month includes tough measures to target people who prey on elderly Americans.

First, we must take action against telemarketing fraud that robs senior citizens of their life savings and endangers their well being. Every year, illegal telemarketing operations bilk the American people of an estimated \$40 billion -- and more than half of the victims are over 50.

Last year, I signed into law tough new penalties for telemarketing fraud -- but we should take steps now to stop scam artists before they have a chance to harm America's senior citizens. My Crime Bill will give the Justice Department new authority to terminate telephone service when it finds evidence of an illegal telemarketing operation or a plan to start one. This new law will send a message to telemarketers: if you prey on older Americans, we will cut off your phone lines and shut you down.

Second, we must take action against nursing home neglect and abuse -- a practice that violates the law and the values we hold dear as a nation. We have already taken strong steps to put an end to nursing home abuse, issuing the toughest regulations in history and stepping up investigations of nursing homes suspected of neglect and abuse.

But when reports show that one out of four nursing homes in America still fail to provide quality care to their residents -- and when people living in substandard nursing homes have as much to fear from abuse and neglect as they do from the diseases of old age -- we know we must do more.

My Crime Bill gives the Justice Department new authority to investigate, prosecute, and punish nursing homes operators who repeatedly neglect and abuse their residents. With prison sentences of up to ten years or more and fines of up to \$2 million, these new provisions make clear that we will settle for nothing less than the highest quality care in America's nursing homes.

Third, we must press on in our fight against health care fraud. Every year, health care fraud costs American tax payers billions of dollars -- \$12.6 billion for Medicare fraud alone -- draining resources from programs that provide vital care to senior citizens. As Vice President Gore announced last month, my Crime Bill will allow the Justice Department to take immediate action to stop false claims and illegal kick-back schemes, and grant federal prosecutors new tools to tackle fraud cases.

Finally, we must do more to stop retirement plan rip-offs. My Crime Bill will toughen penalties for people who steal from pension and retirement funds through embezzlement, bribery, and graft. To borrow a line from Senator Leahy -- who is working closely with us to strengthen the safety net for America's seniors -- the only people who should benefit from pensions are the people who worked a lifetime to build them.

In all these ways, we will protect our parents and grandparents, protect our values, and build a stronger America for 21st Century.

Thanks for listening.