



BIG MONEY OUT VA

“DEMOCRACY LOSES WHEN BIG MONEY WINS”

The Corrosive Impact of Money in Politics: The Nursing Home Lobby

Background: The nation’s 1.4 million nursing home residents, who are often in frail health and living in close proximity to one another, account for over 40% of all COVID-19 fatalities while representing less than half a percent of the U.S. population. By mid-September, the nationwide death toll from long-term care facilities had reached more than 77,000 residents and staff. The crisis is not a new problem: the vast majority of nursing homes were cited for deficiencies in infection prevention and control between 2013 and 2017. A new federal watchdog report noted “many of these practices can be critical to preventing the spread of infectious diseases, including Covid-19.” Long-term care in the U.S. has been marginalized for decades, leaving aging adults who can no longer care for themselves at home reliant on poorly funded and insufficiently monitored institutions.

The Influence of Special Interests:

The \$137 billion nursing home industry is one of the lobbying world’s quiet powerhouses. An increasing number of facilities have been purchased by out-of-state private equity firms. At the federal level, the industry has spent more than \$4 million on lobbying over the past year. The industry launched a nationwide campaign at the beginning of the pandemic to escape accountability for negligent actions that result in harm or death of long-term care residents during the pandemic -- even if the harm is not due to COVID-19. Many states, including Virginia, have provided immunity from civil liability to nursing homes and/or healthcare providers, while other states have passed laws providing immunity from criminal liability. Now, Congress is considering legislation that would strip residents of their right to hold nursing homes accountable for substandard care and abuse and/or neglect that occurs during the pandemic and beyond.

The American Health Care Association, representing 14,000 nursing homes, argues it would be disastrous for care facilities to be held liable for the deaths of elderly residents, who are far more vulnerable to coronavirus than the rest of the population. But lawyers and victims’ advocates point to reports of horrifying neglect and egregious misjudgments by nursing homes across the country they allege contributed to resident deaths. In many states with weak regulations, the threat of a lawsuit represents a crucial protection for the most vulnerable.

Nearly half a billion dollars of federally collected nursing home fines, in the Civil Monetary Penalty Reinvestment Fund, rather than being used to make necessary improvements to battle the coronavirus pandemic, are largely lying untapped in state coffers. The exceptions, according to Families for Better Care’s executive director Brian Lee, involve owners tapping into the fund so they can offset operational costs and pad profits.

How This Affects You:

- In 2017, 102 of 263 Virginia nursing homes surveyed (38.8%) had an infection prevention and control deficiency cited.
- As the pandemic tore through facilities earlier this year, 40 residents died at Canterbury Rehabilitation & Healthcare Center outside Richmond.
- As of Oct 25, 2020, there have been 1,147 nursing home deaths in Virginia (49.6 deaths per 1,000 residents).
- A new study released by JAMA Internal Medicine showed that “only a small fraction” of nursing homes were able to obtain COVID-19 testing results for staff or residents within the recommended surveillance guideline of less than 24 hours.
- As much as \$15 billion in federal funds for nursing homes are estimated by advocates to be required to survive the Covid pandemic. Recent congressional relief packages have started to address the anticipated shortfall, though experts say they will not be enough.
- As Medicaid has shifted long-term care into homes, funding has not kept up with that trend. This means more is demanded of families, who are often responsible for providing informal, unpaid care. An adult child who cares for an aging parent will face losses equivalent to \$100,000 a year, on average — roughly the same cost as a nursing-home stay.
- Virginia is one of over 26 states that have to date granted some degree of immunity from civil liability to long-term care facilities and health care providers. Allowing long-term care facilities to escape accountability for their negligent actions means that residents and families will have no recourse for egregious harm that happens during the COVID-19 emergency. Immunity for care that harms residents rewards bad actors -- nursing homes that for years have cut staffing, training, and quality of care to maximize profits. Immunity places current and future residents at risk as it sanctions substandard care that harms residents.