The Long-Term Care Ombudsman Program: A Brief Overview

Strengthening Oversight of Virginia's Nursing Homes
Executive Order Fifty-two
Nursing Home Advisory Board

September 15, 2025

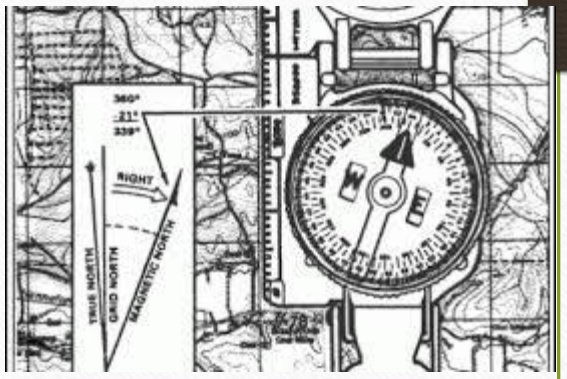
THE ROADMAP - Exploring the Ombudsman Program's unique role & perspective

I. Brief overview of the LTC Ombudsman Program's Purpose, Process, and Perspective

II. What Nursing Home Complaints Tell Us

III. Perspectives on Issues Impacting Quality

IV. Where Do We Go from Here?



The Long-Term Care Ombudsman Program - <u>WHAT & WHY</u>?

THE REALITY: Many vulnerable long-term care recipients are too weak, frail, disabled, or fearful to speak up for themselves.

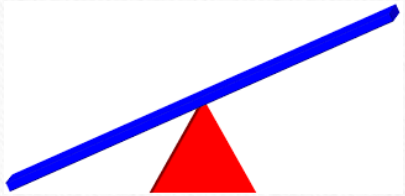
MISSION: Serve as an ADVOCATE

- For **basic rights** and dignity
- For **quality of care and quality of life**
- To **give voice** to recipient's concerns

But isn't there a **law?**?

Well, yes- -

- **State law and regulation – licensure, oversight**
- **Federal law & regulations** – Medicare & Medicaid
- **BUT** the rules and regulations are only as effective as the **implementation/ accountability.**



An **uneven** playing field

- Power imbalance
- Residents often lack understanding of the ‘system’, and of basic rights and protections
- Often urgent need for services, limited options
- Fear of retaliation – Fear of speaking up

Arthur Flemming captured it well:

"The individual in the nursing home is powerless. If the laws and regulations are not being applied to her or to him, they might just as well not have been passed or issued."

Long-Term Care Ombudsman Program

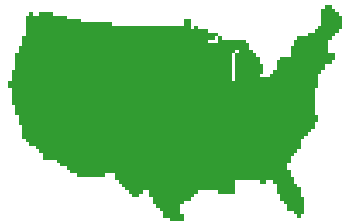
Federal law (45 CFR Part 1324, Subpart A) requires:

- **Each state establish an Office of the State Long-Term Care Ombudsman…**

Purpose:

- **to protect the health, safety, welfare, and rights of LTC residents – to include – but not necessarily be limited to residents of nursing homes and residential care facilities (known as "assisted living facilities" in Va.) …**

- **with a mandate to provide: :**
  - **individual advocacy AND**
  - **systems advocacy**



Virginia's LTCOP:

ONE Integrated Statewide Program

Office of the State LTC Ombudsman

at the Dept. for Aging and Rehabilitative Services

Trains, certifies & designates, oversees

27 (FTE) local representatives

in 20 Local Offices (AAA's)

Va. has expanded LTCOP's jurisdiction:

Advocates for LTC recipients in:

- nursing homes
- assisted living facilities
- The client's own home - receiving community-based services

- Medicaid Managed Care (**LTSS)**

Program Authority

- **FEDERAL**
  - Older Americans Act 42 U.S.C. Section 3001 et seq.
  - 45 CFR 1324, Part 1324, Subpart A (FINAL RULE)
- **STATE**
- Code of Virginia Title 51.5 182-185
    - ACCESS - Residents & Records
    - SCOPE/ MANDATE
    - INDEPENDENCE – Protection from retaliation

LTCOP Responsibilities

- **Identify, investigate and resolve** complaints made by or on behalf of residents
- **Provide information** to residents about long-term care services
- Provide technical support for the development of **resident and family councils**
- **Advocate for changes** to improve residents' quality of life and care
- **Represent resident interests** before governmental agencies
- **Seek legal, administrative** and other remedies to protect residents
- **Ensure** residents have regular and **timely access** to the LTCOP

Prevention 'worth a pound of cure'

- ✓ Info/ consultation to help consumers **make informed LTC decisions**, support 'aging in place,' autonomy, dignity & quality of life;

- ✓ Ensure LTC recipients can **access benefits**, understand and exercise their rights;
- ✓ Early intervention – **prevent suffering & harm** from poor care & costly, potentially life-threatening complications;
- ✓ **Prevent or reduce unnecessary costs** resulting from poor care.

A Truly Person-Centered Advocate

- **Resident-Directed / Empowering**
- **Confidential**
- **Resolution – Focused**

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NOT Regulatory

NOT APS

NOT Case Managers

Office of the State Long-Term Care Ombudsman

The VOICE for those who often cannot speak for themselves… we LISTEN, inform, assist, investigate and advocate.

Outcomes 2024

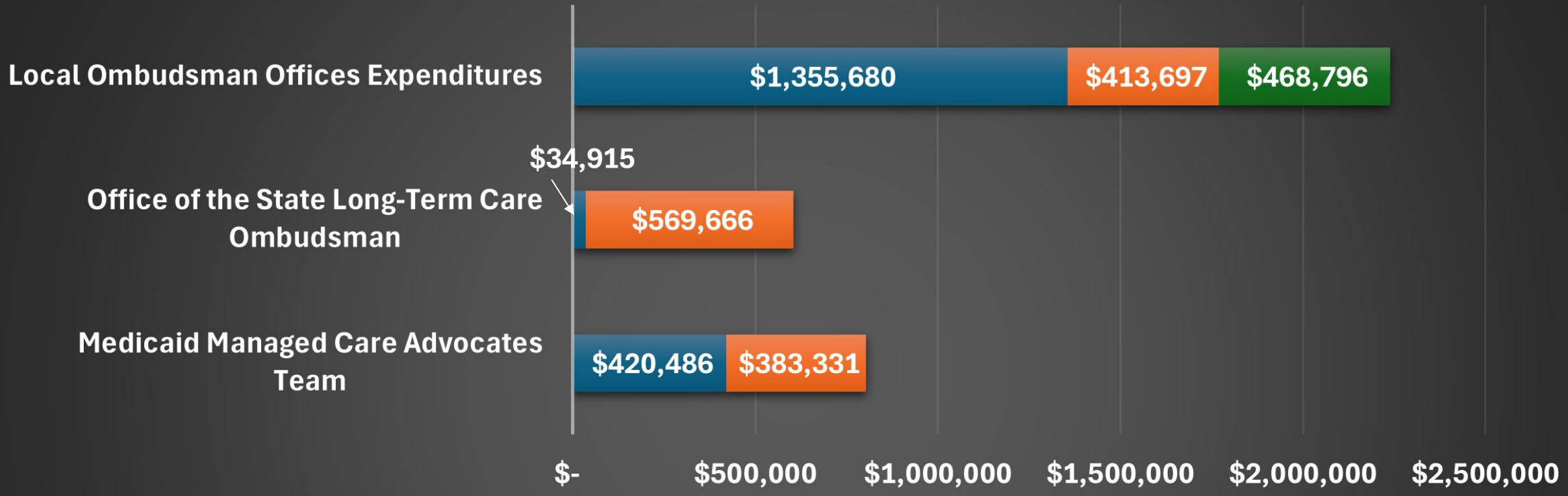
- 3,188 complaints investigated
- 79% resolution rate
- 21,963 information & consultations, including 1,806 Medicaid Managed Care beneficiaries

6,407 facility visits to monitor and promote quality and ensure access to the program's services

- Nursing Homes: 296 (33,109 beds)
- Assisted Living Facilities: 563 (37,393 beds)
- Mental Health Beds (273 beds)
- 35 local ombuds (27 Total full-time equivalent)

Mandated by Older Americans Act & state laws

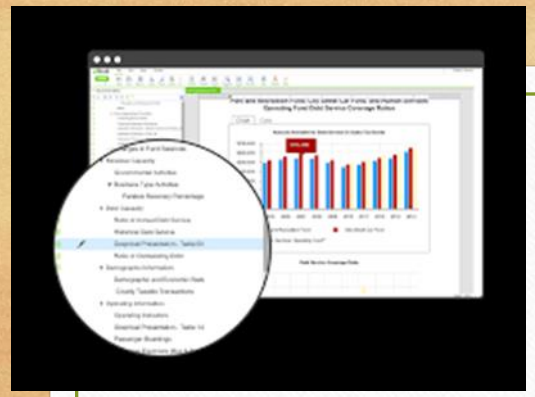
LTCOP Funds Expended By Funding Source



	Medicaid Managed Care Advocates Team	Office of the State Long-Term Care Ombudsman	Local Ombudsman Offices Expenditures
Federal	$420,486	$34,915	$1,355,680
GF	$383,331	$569,666	$413,697
Local Funding Held at AAA			$468,796

Virginia's Nursing Homes 'State of the State' of Things

VITAL SIGNS



Clearly there is a problem…

GAO (2019-2020)

- **Abuse citations doubled from 2013-2017**. (2019)
- **Gaps in CMS oversight**, insufficient steps to address abuse
- **"Infection control deficiencies** were widespread and persistent in nursing homes prior to COVID-19 pandemic" (2020)
- **"Inadequate nursing home staff** – Direct links to potential harm and actual harm of residents" OIG (2024)
- Nursing facilities were among six provider types with the **most patient abuse and neglect convictions**

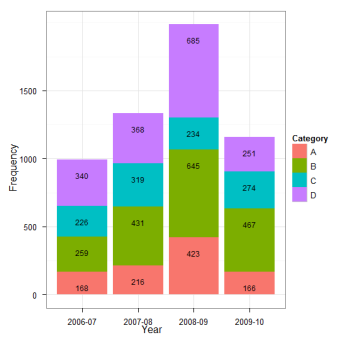
COVID – A PAINFUL **AWAKENING**

- **In FAR TOO MANY of our nursing homes - -**
  - LACK OF SUFFICIENT **STAFF**
  - INADEQUATE **TRAINING**
  - LACK OF EFFECTIVE **SUPERVISION**
  - LACK OF **STABLE LEADERSHIP…**

➔ **A RECIPE FOR FAILURE TO MEET MOST BASIC CARE NEEDS**

Virginia LTCOP: Top 5 Nursing Home Complaint Types

FFY 2023	FFY 2024
1. Medications errors	Inappropriate discharge or eviction
2. Inappropriate discharge or eviction	Medications errors tied with Symptoms unattended, not addressed, care not provided
3. Not bathed, allowed to remain in soiled clothing and/or briefs, lack of personal hygiene	Staff failure to respond to call lights, call bells or requests for assistance
4. Symptoms unattended, not addressed, care not provided	Problems with shortage of staff, and/or lack of staff training
5. Substandard quantity, quality, choice, temperature, timing of meals and snacks	Not bathed, allowed to remain in soiled clothing and/or briefs, lack of personal hygiene



CMS Quality Ratings: Virginia's Nursing Homes

Out of a total 290 certified nursing facilities, Virginia has -

- **56 2-star facilities = "Below Average" (19%)**
- **85 1-star facilities ="Much Below Average" (29%)**

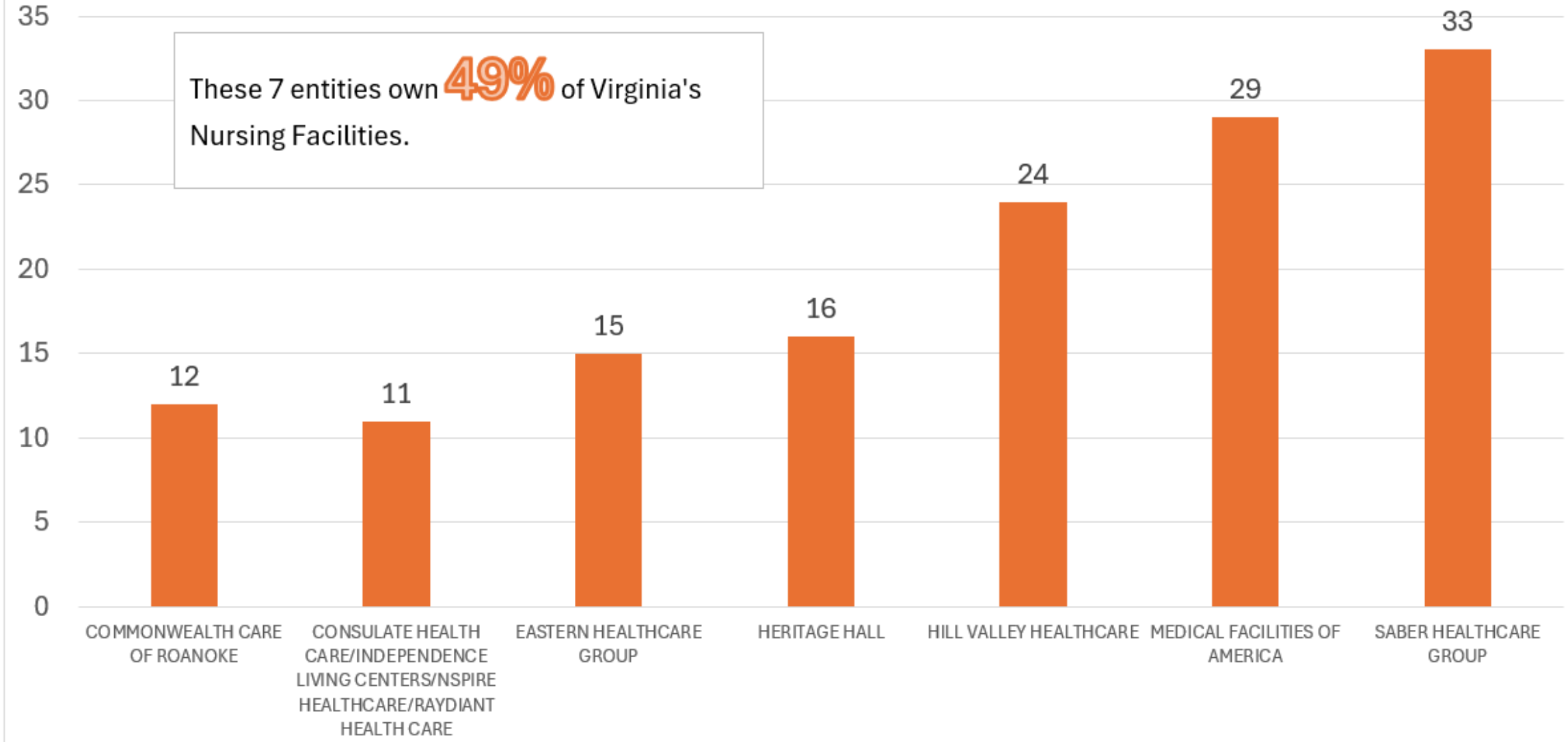
48% of Virginia nursing homes (141 facilities) fall below the **national average star rating** of 2.85 (updated June 2024).

Throwing fuel on the fire - and then - - a 'perfect storm'

- **WORKFORCE CRISIS –** Health care in particular
- **INDUSTRY PUSH-BACK** against regulation, regulatory actions
- **ENFORCEMENT** under-resourced - **HUGE BACKLOG**
- **CONSTANT 'CHURNING' – NH Ownership changes –**

  Va. 4th highest ownership change in U.S.
- **TROUBLING TREND:** PE & REIT Acquisitions

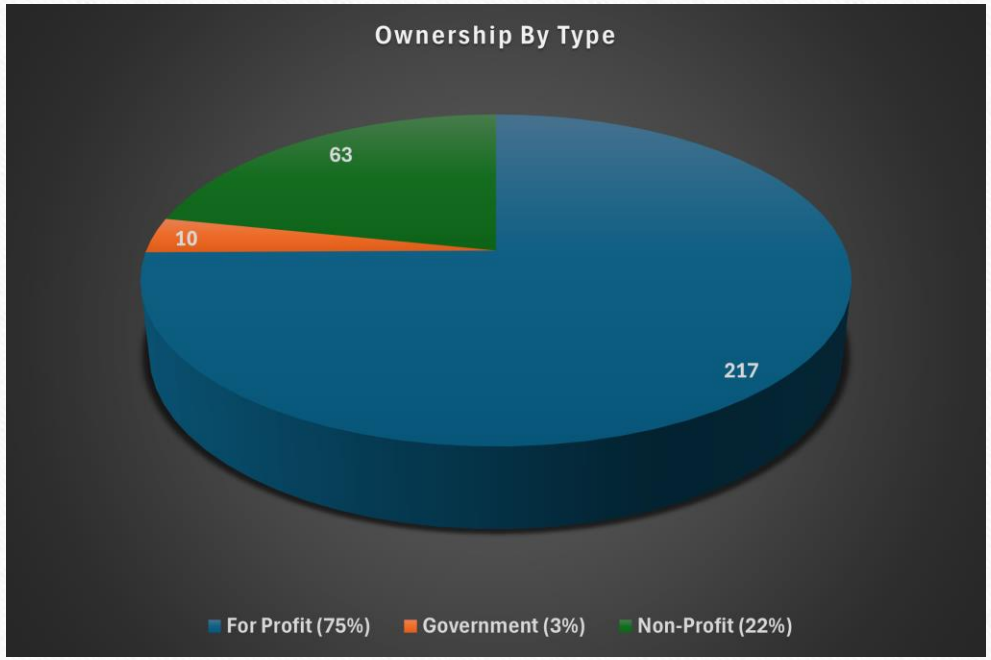
Virginia Nursing Home – Corporate Chain Ownership



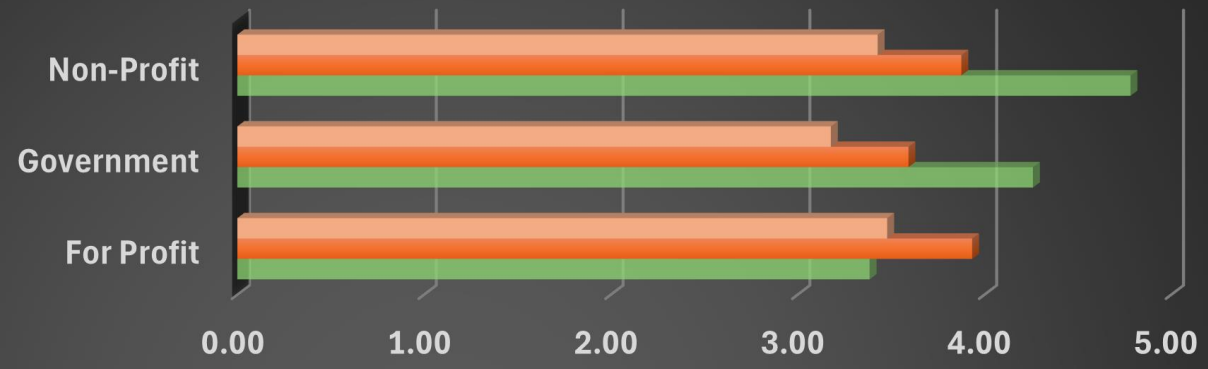
Ownership Types in Va. Nursing Homes

Virginia – combination of 'For Profit' and 'Not for Profit':

Type	%	Avg. star rating
For profit	75%	2.55
Government	3%	3.67
Non-profit	22%	4.1



Actual Staffing VS Needed Staffing (Per CMS Data)



	For Profit	Government	Non-Profit
(Acuity-Based) Average of Case-Mix Weekend Total Nurse Staffing Hours per Resident per Day	3.48	3.18	3.43
(Acuity-Based) Average of Case-Mix Weekday Total Nurse Staffing Hours per Resident per Day	3.93	3.59	3.88
Average of Reported Total Nurse Staffing Hours per Resident per Day	3.38	4.26	4.78

(Acuity-Based) Average of Case-Mix Weekend Total Nurse Staffing Hours per Resident per Day

(Acuity-Based) Average of Case-Mix Weekday Total Nurse Staffing Hours per Resident per Day

Average of Reported Total Nurse Staffing Hours per Resident per Day

Where do we go from here?

- Strengthen oversight & enforcement – More resources, regulatory tools.
- Strengthen other critical protections – APS, LTCOP, Protection & Advocacy.
- Increase transparency & accountability:
  - Collect, share, and utilize accurate information - ownership/ affiliation, financing, staffing.
  - Ensure incentive payments go to the right operators for the right purposes.
  - Promote and reward sustainable solutions to address root problems.
- Continue addressing WORKFORCE issues, including workplace culture.

It comes down to business, after all – but far too often, it comes down to…

REAL HARM to some of the **MOST VULNERABLE** – often too weak, disabled, and fearful to speak up for themselves…

It's the loss of rights, dignity, quality of life and too often, it's a matter of **life and death.**

WE can and must do better.


THANK
YOU

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