



September 28, 2007

The Hon. Max Baucus
Chairman, Committee on Finance
United States Senate
219 Dirksen Senate Office Bldg.
Washington, DC 20510

The Hon. Charles Grassley
Ranking Member, Committee on Finance
United States Senate
219 Dirksen Senate Office Bldg.
Washington, DC 20510

Dear Chairman Baucus and Ranking Member Grassley:

Twenty years after Congress passed landmark nursing home reform legislation, the modest but real progress made is now threatened by a new breed of nursing home operator that profits at the expense of nursing home residents, their families, caregivers, and taxpayers. The *New York Times* "At Many Homes, More Profits and Less Nursing," September 23, 2007, investigative story confirms what many caregivers in our nation's nursing homes already know: Medicare and Medicaid resources that are intended to support vulnerable Americans are being diverted to the private benefit of wealthy investors.

On behalf of the 1.9 million members of SEIU, including one million caregivers, I respectfully request that you exercise your oversight authority immediately to protect nursing home residents, their families, and taxpayers. Tens of thousands of nursing home residents and their caregivers are potentially at risk of deteriorating care and working conditions as the Carlyle Group prepares to take the publicly traded Manor Care nursing home chain private in a deal that will shower Manor Care CEO Paul Ormond with \$186 million and saddle Manor Care with hundreds of millions in new debt. Specifically, we ask that your Committee investigate the following:

- What is the effect of private equity ownership on nursing home quality measures—including nurse staffing levels—and costs to the Medicare and Medicaid program overall? How does this business model affect the quality and costs of the Medicare and Medicaid programs? What are the innovations that these new nursing home owners are bringing to this industry, and what is the evidence that these innovations are benefiting residents and Medicare taxpayers? SEIU is concerned that excessively high interest payments, management, and transaction-related fees, combined with aggressive cuts to nursing and other staff as documented by the *New York Times*, lead inevitably to declines in quality and patient outcomes, and contribute to higher Medicare hospitalization costs and unnecessarily lengthy and costly nursing home stays.
- What is the experience of nursing home caregivers, nursing home residents, their families, consumer advocates, ombudsmen and the consumer advocates with the recent ownership trends in the nursing home industry?
- What impact do ownership changes and frequency of ownership changes have on the number of resident and other complaints and the frequency of

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deficiencies found by the Center for Medicare and Medicaid Services (CMS)? How is CMS responding to these complaints? Are they devoting sufficient resources to surveys and inspections? Is the current level of fines, sanctions, and other tools states have sufficient to motivate corrective action?

- Are these companies complying with the new Medicaid whistleblower and fraud and abuse detection training provisions that became law under the 2005 Deficit Reduction Act? Have nurses and other aides been trained and given reassurances about their ability to report concerns without fear of discipline and retaliation?
- How is CMS holding these private equity companies accountable? Does the structure of ownership prevent them from being held accountable for quality of care and deficiencies?
- What are the trends in the states with consumer fraud and Medicaid fraud related to nursing homes owned by private equity firms? What is the effect of ownership changes on the frequency and type of complaints and cases handled by state attorney offices?
- What percentage of Manor Care's revenues is derived from taxpayer-financed Medicare and Medicaid payments? Are the payouts of \$254 million for top Manor Care executives and the tens of millions of dollars in fees that financial advisors and private equity executives will receive as a result of this deal reasonable in view of the fact this is a taxpayer-subsidized enterprise?
- A full 87 percent of Carlyle's \$6.3 billion offer for Manor Care is debt financing. What are the federal tax revenue implications of this highly leveraged deal, which it is estimated to increase Manor Care's debt to \$5.5 billion?

In addition, we urge you to request the following:

- A Government Accountability Office (GAO) audit of nursing homes bought by private equity firms and CMS's efforts to hold them accountable. GAO should compare cost reports filed in the year before homes were bought by private equity firms and cost reports filed after a full year under the ownership of a private equity firm. Are fair market rents being paid? What is the size of the management fees being paid to corporate parents and other entities? What has happened to labor costs and to nursing labor and therapy costs as a proportion of total labor costs? Are costs being correctly allocated to various cost centers? Are individuals who have been excluded from the Medicare program for fraud able to hide in these complex corporate webs? What is the impact of debt payments on overall profit margins? GAO should also compare quality measures and deficiency reports for these nursing homes both before and after private equity firms bought them.

SEIU is concerned that high interest payments and other transaction-related fees can depress net margins of nursing homes that are highly profitable, and may mislead both the CMS and Congress about the overall financial condition of these facilities. After publicly-traded nursing home chains are taken private, important Securities and Exchange Commission filings and independent audits are no longer required. These are important sources of information for those analysts and policymakers who assess the adequacy of Medicare payment rates and make changes to those payments.

- Medicare skilled nursing facilities—facility rates of discharge to the community and potentially avoidable hospital readmissions—indicated that quality worsened between 2000 and 2004. In a detailed analysis commissioned by MedPAC to analyze the factors related to better performance on these measures, facilities with higher nursing hours per patient day did better, while for-profit nursing homes performed worse relative to nonprofit and government-owned facilities

In addition to exercising your oversight authority, SEIU urges you to consider new legislative reforms to improve quality in our nation's nursing homes. As caregivers, we want to be full partners in a national effort to improve quality and resident satisfaction. Unfortunately, in too many nursing homes, caregivers have no willing and competent management with which to partner, and there are few incentives in existing Medicare and Medicaid policy to encourage that partnership. Fortunately, recent requirements for more data collection and public reporting help highlight the quality gaps that can be closed if we renew our collective efforts to reform and reinvent our nation's nursing homes. Profit for investors cannot come at the price of patient safety and care.

We urge you to immediately begin an investigation and hold a public hearing that involves all the stakeholders. If you have any questions please contact Alison Reardon, Director of Legislation at 202-730-7706, or alison.reardon@seiu.org.

Sincerely,



Anna Burger
International Secretary-Treasurer

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