

LONG-TERM CARE 101:

FREQUENTLY ASKED QUESTIONS ABOUT NURSING FACILITIES IN TEXAS



Authors

Chris Willuhn, New Projects Director
Gabriella McDonald, Deputy Director
Sophie Gillard, New Projects Intern

Contact Us



Chris Willuhn

cwilluhn@texasappleseed.org



Gabriella McDonald

gmcDonald@texasappleseed.org

About Texas Appleseed

As one of the most trusted resources for data-driven policy analysis and solutions, Texas Appleseed advocates at the state and local level for fair, just, and equitable laws. Our work has shaped hundreds of laws and positively affected millions of Texans by breaking down barriers through transformative policy solutions.

Tel: 512.473.2800 | **Web:** www.TexasAppleseed.org

First Edition © 2023 by Texas Appleseed. All rights are reserved except as follows: Free copies of this document may be made for personal use. Reproduction of more than three (3) copies for personal use and reproduction for commercial use are prohibited without written permission of the copyright owner. The work may be accessed for reproduction pursuant to these restrictions at TexasAppleseed.org.

TABLE OF CONTENTS

	p. 1
• Introduction	
	p. 2
• What is long-term care?	
• What types of long-term care exist?	
	p. 3
• What is a nursing home?	
• What is a skilled nursing facility?	
• What is an assisted living facility?	
• What are home-based or community-based services?	
• What home-based or community-based services are available in Texas?	
	p. 4
• How large is the long-term care industry in Texas?	
	p. 5
• Who owns long-term care facilities?	
	p. 6
• How much does long-term care cost?	
• How do consumers pay for long-term care if they cannot afford it?	
• How do long-term care facilities make money?	
	p. 8
• Why is it important to understand the financial structure of long-term care facilities?	
• Who regulates long-term care facilities?	
	p. 9
• How are long-term care facilities regulated?	
	p. 10
• Are long-term care facilities rated?	

p. 11

- What are the most common consumer complaints against long-term care facilities?

p. 12

- How do I report a problem at a long-term care facility?
- What are other ways I can get involved in improving long-term care in Texas?

p. 13

- What are the major issues facing long-term care?

p. 15

- How did the COVID-19 pandemic impact the quality of life and care within Texas' long-term care facilities?

p. 16

- Why has Texas Appleseed prioritized long-term care reforms?

INTRODUCTION

Long-term care — the spectrum of services provided to some elderly individuals or people with disabilities for their medical and personal care needs — is at a crossroads. Soon, more people than ever will need it. According to the Census Bureau, elderly persons (aged 65 or older) currently represent 16.5% of the U.S. population, but by 2040, that number will rise to more than 22%.^{1,2} Significant reforms will be needed to prepare our nation's long-term care infrastructure for these demographic shifts — a tall order, given the system's current and historic inadequacies. Making these difficult decisions will require unparalleled collaboration between governments, industry participants, and, most especially, the people who need these services and their advocates.

Most long-term care is delivered at home by largely untrained and uncompensated spouses, family members, and friends. Despite this, facility-based settings, such as nursing homes and assisted living facilities, have come to define long-term care and have developed into a vast industry with tens of thousands of facilities and annual revenues in the hundreds of billions of dollars. Changes may be on the horizon, however. A first indication is popular opinion: A recent poll found that 88% of Americans would prefer to receive living assistance at home or with loved ones, citing concerns about independence, privacy, and personal health and safety.³ Policymakers at the state level have taken notice and have responded by investing more in home-based services. The Biden Administration took it a step further by pushing for an eight-year, \$400 billion investment in home- and community-based care as part of its domestic policy platform.⁴

The COVID-19 pandemic has been devastating to long-term care patients, staff, and facilities. The Centers for Medicare and Medicaid Services, a federal agency, reports that 163,231 residents and 2,948 staff members died from the illness (as of January 20, 2023).⁵ The disproportionate impact of COVID-19 on long-term care facilities is not surprising given

1 [U.S. Census Quick Facts: Texas](#), from the U.S. Census Bureau (July 2020).

2 [A Profile of Older Americans: 2014](#), from the Administration on Aging, U.S. Department of Health and Human Services (2014).

3 [Visualizing Long-Term Care in America: Americans Want to Age at Home](#), from Associated Press-NORC Center for Public Affairs Research (2021).

4 [What's in Biden's \\$400 Billion Plan To Support Families' Long-Term Health Needs](#). Graham, Judith, from *NPR* (April 9, 2021).

5 [COVID-19 Nursing Home Data](#), from Centers for Medicare and Medicaid Services.

the particular danger the virus poses to seniors and the close-quarters living common in facilities. Some critics have pointed out that poor enforcement of health and safety standards, combined with overwhelmed and underpaid staff, made it inevitable.⁶ What's more, given the relative success of smaller, alternative facilities in mitigating the virus, some have questioned whether the current long-term care paradigm is the best way forward.⁷

The future of long-term care is uncertain, but it is clear that changes must be made to ensure the health, independence, and dignity of a growing share of the population are protected. Accomplishing that goal will require significant changes, not only to how facilities and the long-term care industry as a whole operate, but also to state and federal laws that govern them. This guide answers common questions about the facility-based side of long-term care — how it is operated, regulated, and financed — to provide foundational knowledge that can be applied to future advocacy at any level.

QUESTIONS:

1. What is long-term care?

Long-term care is the spectrum of services by which we meet the medical and personal care needs for elderly individuals and people with disabilities. Long-term care generally strives to allow people to live as independently as possible. It is most commonly provided, both formally and informally, at home. It also can be offered in facilities.

2. What types of long-term care exist?

- Nursing home
- Skilled nursing facility
- Assisted living facility
- Home-based care
- Community-based care

6 [Reimagining the Nursing Home Industry After the Coronavirus](#), Eaton, Joe. AARP (June 8, 2020).

7 [The Green House Project COVID Study Report](#), from AARP (2020).

3. What is a nursing home?

Nursing homes are residential long-term care facilities that provide a wide range of services, with particular emphasis on medical care. This can include skilled nursing, constant supervision, and rehabilitative therapy, as needed. For this reason, the terms nursing home and skilled nursing facility are often used interchangeably — in many cases correctly.

4. What is a skilled nursing facility?

Skilled nursing facilities provide hospital-level nursing care, often to patients recovering from an illness or medical procedure, with the goal of ultimately returning the patient to his or her home. Many nursing homes also are skilled nursing facilities.

5. What is an assisted living facility?

Assisted living facilities, while still residential, generally provide less nursing care to their residents. They tend to serve people who need assistance with daily care — medications, meal preparation, dressing, bathing, and so on — but not regular treatment for medical conditions.

6. What are home-based or community-based services?

In contrast to residential long-term care providers, home- and community-based services refer to care that is delivered either in the person's own residence or in non-residential settings. These services can be targeted to individual needs and can include home-based skilled nursing, assistance to family caregivers, meal delivery, or daytime adult daycare centers, among many other options.

7. What home-based or community-based services are available in Texas?

Home- and community-based services can include a wide array of services:

- Residential services
- Group homes
- Host homes/companion care
- Respite services

- Day habilitation
- Employment services
- Nursing services
- Dental services
- Behavioral support
- Supported home living (e.g., transportation assistance)
- Social work
- Occupational/physical/speech therapy
- Dietary services
- Audiology services
- Cognitive rehabilitation (for persons with a brain injury)
- Minor home modifications
- Adaptive aids
- Transition assistance services⁸

8. How large is the long-term care industry in Texas?

The scope of the long-term care industry in Texas is staggering. Most recent reports estimate the state has 1,200 nursing homes housing 90,000 residents and approximately 2,000 assisted living facilities with at least 75,000 combined beds. When factoring in the costs of these facilities, it is clear that the industry's revenues would be estimated in the billions of dollars annually — and this fails to consider the unpaid care Texas families provide for their loved ones every day.

Given the importance of the work long-term care facilities do and the enormous sums of money involved, it is essential to understand how they are operated and the incentives of those who own them. It also is equally important to understand how they are regulated to ensure residents' health, wellbeing, and dignity are protected.

8 [Home and Community-Based Services](#), from Texas Health and Human Services Commission.

9. Who owns long-term care facilities?

There are three ownership models for long-term care facilities: for profit, nonprofit, and government owned.

For-Profit

Seventy-eight percent of Texas nursing facilities are for-profit, which exceeds the overall figure nationally (71%).⁹ The majority of these facilities are owned by corporate chains, some of which operate hundreds of facilities across the country. Perhaps unsurprisingly, these companies' profit motives and the individualized needs of long-term care can be at odds. Numerous studies have found, for example, that nursing homes operated by chains generally reported lower scores on quality of care and resident satisfaction.¹⁰ What's more, for-profit facilities generally reported lower staffing levels and more regulatory infractions than their alternatives.

Nonprofit

In contrast, nonprofit facilities, which represent 8% of nursing facilities in Texas (the lowest proportion of any state), tend to operate similarly to nonprofit hospitals regarding finances. There is no extraction of revenues to owners or shareholders, as there would be with a for-profit enterprise. This nonprofit model can lead to more resources for residents. This seems to track with the outcomes data: Nonprofit nursing homes in Texas report higher staffing levels and lower prevalence of pressure ulcers, use of restraints, or hospitalizations among residents. Nevertheless, nonprofit facilities can lack the funds to improve a facility over time and generally represent a small portion of the market.

Government

Little is fully understood about the final group: government-owned facilities, which represent approximately 15% of Texas nursing facilities. That label ("government-owned") also might be a little misleading: While these facilities are *owned* by government entities, they usually aren't *operated* by them. Rather, they tend to be operated by for-profit management companies.

9 [Distribution of Certified Nursing Facilities by Ownership Type](#), from Kaiser Family Foundation (2022).

10 [Do nursing home chain size and proprietary status affect experiences with care?](#), You, Kai, et. al. Published in *Med Care* (2017).

Government ownership of long-term care facilities creates some unusual situations. Riverside Nursing and Rehabilitation Center in Austin, for example, is owned by the Hamilton County Hospital District, a governmental body that operates a 25-bed hospital and a few clinics in rural Hamilton County (population 8,332), 120 miles north of Austin, but it is managed by a private company.¹¹ Little data is available regarding the quality of these government-owned facilities, but given how they are managed, it is reasonable to compare them more closely to for-profit facilities than their nonprofit counterparts.

10. How much does long-term care cost?

Long-term care is expensive for consumers: Private and semi-private (with at least one roommate) nursing home rooms in Texas on average cost \$6,388 and \$5,019 per month, respectively. Monthly costs for assisted living facilities are somewhat lower, at \$3,998 per month.¹² These amounts are often not attainable for persons with limited, fixed incomes, especially considering the average nursing home stay is 895 days (29.4 months).¹³

11. How do consumers pay for long-term care if they cannot afford it?

Medicaid is the most common option. Texans over 65 or with a disability must meet strict income and asset limits to qualify for Medicaid to cover either facility-based or home- and community-based long-term care. This is very frequently accomplished by spending down assets until the person qualifies for Medicaid. The American Council on Aging published [this guide](#) to help people better understand who qualifies for Medicaid.

12. How do long-term care facilities make money?

Long-term care is expensive for consumers because it's expensive to provide. Facility operators must balance the varied personal and medical needs of their residents; recruit, train, and retain staff; and maintain their facilities to government standards. From a business perspective, this is complicated by having very few revenue streams

11 [Obscure program sends big money to Texas nursing homes amid pandemic](#), Is it protecting residents? Barer, David, and Travis, Avery. *KXAN News* (March 2, 2021).

12 [Cost of Care Survey](#), from Genworth.

13 [About Nursing Homes](#), Day, Thomas, from National Care Planning Council.

other than residents (who already pay exorbitant prices), all while trying to turn a profit. Here's how most facilities try to cover those costs:

By far the most common means (approximately 70%, according to industry estimates) is Medicaid. Qualifying individuals find a placement in a facility that accepts Medicaid residents, and the state reimburses the facility at a daily rate that is calculated based on an assessment of each person's health needs. This amount, the base rate, can be supplemented further for a person's more specialized needs, such as regular ventilator use or a customized power wheelchair.

The Texas Health Care Association, a trade association representing long-term care facilities, estimates the state's average Medicaid reimbursement rate in 2018 was \$150.22 per patient per day. A concern, however, is that they also estimated the daily cost of caring for Medicaid patients to be \$186.22 per patient per day — a 19% shortfall.¹⁴

To balance the books and stay in business, most facilities attempt to focus on enrolling more profitable residents: private payers and Medicare patients. Private payers generally pay the full cost of their care out-of-pocket, though some do maintain long-term care insurance coverage. Some people eventually become Medicaid patients by spending down their assets to meet eligibility criteria.

Medicare patients are an entirely different story. Medicare does not cover long-term care, but it will cover stays in skilled nursing facilities for recovery from an acute illness or injury following a hospitalization. Specifically, the program will cover 100% of costs for 20 days and 80% of costs for the following 80 days.

Medicare patients typically require more intensive and complex care, but they also bring in considerably more revenue. A 2020 analysis conducted by AARP of Genesis HealthCare — the nation's largest chain of nursing homes — found that the company received \$535 per Medicare patient per day, more than 2.5 times the \$215 per day it received for Medicaid patients. From a broader perspective, although Medicare patients represented only 10.6% of Genesis' population, they accounted for 20.5% of its revenues — a clear sign nursing facilities view Medicare patients as necessary to offset losses from Medicaid.¹⁵

14 [Testimony Submitted by Kevin Warren, President and CEO, Texas Health Care Association, to House Human Services Committee](#), pp. 25-28 of compilation (September 25, 2020).

15 [Nursing Homes' Flawed Business Model Worsens COVID Crisis](#). Meyer, Harris, from AARP (December 7, 2020).

13. Why is it important to understand the financial structure of long-term care facilities?

Even a cursory glance at the numbers could lead someone to question the industry's financial stability. Facilities themselves have reached the same conclusion: A 2019 report by consulting firm CLA found that the median nursing home nationally operated at a loss in 2018, meaning more than half of all facilities were not profitable that year.¹⁶ The COVID-19 pandemic seems to have accelerated this trend. A February 2021 joint press release by the American Health Care Association and the National Center for Assisted Living called upon Congress to provide \$100 billion in assistance, stating that "90 percent of nursing homes are currently operating at a loss, and two-thirds . . . will not be able to sustain operations for another year at the current cost."¹⁷ Should that trend continue, changes will need to be made.

Ultimately, the future of long-term care will be shaped by the financial health of nursing homes and assisted living facilities, which is decided largely by the actions of state and federal lawmakers. Consumers and their advocates historically have had little input in these decisions, especially relative to industry representatives. It is critical, then, to understand the near- and long-term challenges faced by the industry, including its various inputs and expenses — and the means by which they can be adjusted for future sustainability.

14. Who regulates long-term care facilities?

Federal agency **Centers for Medicare & Medicaid Services (CMS)**: Establishes criteria and minimum standards for nursing homes and home- and community-based service providers to receive funding via Medicaid.

State agency **Health and Human Services Commission (HHSC)**: Conducts regular inspections for compliance with state and federal laws, sets staffing and training requirements, and houses the Long Term Care Ombudsman, which advocates for consumer welfare.

16 [34th SNF Cost Comparison and Industry Trends Report: National Themes, Local Insights](#), Rutledge, Cory, et. al., from CLA Consulting (2019).

17 [As Pandemic Continues, Long Term Care Providers Need Additional Resources And Relief](#), American Health Care Association and National Center for Assisted Living joint press release (February 1, 2021).

15. How are long-term care facilities regulated?

Several entities are involved in the regulation of long-term care facilities. The U.S. Department of Health and Human Services, more specifically its Centers for Medicare & Medicaid Services, is the federal agency with jurisdiction. Most federal oversight pertains to eligibility of facilities for reimbursement under the Medicare and Medicaid programs.

In contrast to their federal counterparts, state agencies generally carry a much broader mandate for the regulation of long-term care facilities, including for quality of care, general upkeep, and infectious disease mitigation. The state agency charged with these responsibilities in Texas is the Health and Human Services Commission and its long-term care regulation division. Also within HHSC is the independent Long Term Care Ombudsman, who is charged with advocating for the wellbeing and proper treatment of nursing home and assisted living residents, including by receiving and raising resident concerns, informing residents of their rights, and providing testimony before the Legislature on long-term care issues, among others.¹⁸

HHSC inspects each facility every two years, on average, while also investigating specific complaints filed by residents, family members, visitors, or staff. The agency then can, based on its findings, levy a financial penalty against the facility. Depending on the severity of the infraction, the facility may have the opportunity to rectify the issue to avoid paying a fine, and fines are assessed based on the seriousness of the offense and the facility's previous track record. In some rare cases, the facility's license can be revoked. The facility can either accept the penalty or seek a hearing for an appeal, at which point the matter is typically resolved. The process often can take as long as a year to complete.

Many of the issues identified by complainants and regulators boil down to a lack of staffing. Caregiving for a group of residents with varying physical and cognitive abilities is challenging work, and without sufficient support, mistakes and other failures can happen. It could be surprising, then, that state standards regarding staffing levels and training requirements are quite limited. Nursing homes, for example, are only required to employ one licensed nurse per 20 residents in a 24-hour period. In other words, only three nurses working consecutive

18 [Office of the Long-Term Care Ombudsman](#), from Texas Health and Human Services Commission.

eight-hour shifts would be needed to staff a 60-resident facility.¹⁹ For unlicensed staff, such as certified nursing assistants and others who provide direct caregiving, the state requires only that the facility have sufficient staff to provide care to all its residents — hardly a specific standard. Requirements are even less stringent upon assisted living facilities.

Training requirements are only slightly more specific. For nursing homes, Texas law requires each facility to “develop, implement and maintain effective training programs of orientation, training, and continuing in-service education to develop the skills of its staff....”²⁰ Licensed staff must undergo at least eight hours of continuing education per year, while nurse aides and other staff must undergo 12 hours.²¹ Topics range from infectious disease transmission and restraint reduction to abuse and neglect prevention.²² Assisted living facilities are required to provide four hours of training to all staff members followed by 16 hours of supervised work, with additional requirements for managers.²³

16. Are long-term care facilities rated?

The Centers for Medicare & Medicaid Services publishes its Five-Star Quality Rating System to help consumers compare facilities more easily and know what questions to ask when considering one. Facilities are assigned an overall score of 1 to 5 stars based on three criteria (which also have separate star ratings): recent health inspections, staffing, and quality measures.²⁴ Quality measures are self-reported statistics related to resident health and wellbeing that are provided to the government each year.²⁵ The ratings also provide a useful basis of comparison between states and, in Texas’ case, reveal serious deficiencies. A 2015 analysis by the Kaiser Family Foundation found that just 30% of Texas nursing homes scored 4 or 5 stars — well below the national average

19 Texas Administrative Code, Title 26, Rule §554.1002

20 Texas Administrative Code, Title 26, Rule §554.1929

21 Id.

22 Id.

23 Texas Administrative Code, Title 26, Rule §553.253

24 Five-Star Quality Rating System, from Centers for Medicare and Medicaid Services (October 7, 2019).

25 Id.

(45%). Worryingly, the single largest group of Texas nursing homes were those that scored only 1 star (28%).²⁶ While some more recent studies have shown modest improvements, Texas still tends to lag behind those of most other states.

17. What are the most common consumer complaints against long-term care facilities?

In its 2015-16 report to state officials, the Texas Long Term Care Ombudsman listed these 15 items²⁷ as its most common complaints, ranked in order:

- Failure to respond to requests for help, including call lights
- Building cleanliness, pests, housekeeping, etc.
- Food service quality, quantity, variation, and choice
- Building or equipment in disrepair, hazards, fire safety
- Dignity, respect, poor staff attitudes
- Personal hygiene: bathing, nail and oral care, dressing, grooming
- Medication: administration or organization
- Unattended or unnoticed symptoms
- Involuntary discharge: inadequate planning or notice, did not follow procedure
- Odors
- Assistive devices or equipment
- Toileting, incontinent care
- Activities: availability, choice, appropriateness
- Personal property: lost, stolen, used by others, destroyed
- Resident unable to exercise choice, rights, preferences

26 Reading the Stars: Nursing Home Quality Star Ratings, Nationally and by State. Boccuti, Cristina et. al., from Kaiser Family Foundation (May 2015).

27 [Office of the State Long-term Care Ombudsman, Annual Report, State fiscal years 2015-2016](#), Office of the State Long-term Care Ombudsman, Texas Health and Human Services Commission (November 2016).

18. How do I report a problem at a long-term care facility?

Regulators necessarily rely on residents, visitors, and others to report potential violations at long-term care facilities. **If you are aware of a potential violation — large or small — report it to the [Health and Human Services Commission](#) via its reporting hotline: 800-458-9858.** Reporting potential abuse, neglect, or exploitation not only represents the best opportunity at improving on-the-ground conditions, but it also promotes a culture of accountability that can improve conditions statewide. More information regarding resident rights is available via the state Long Term Care Ombudsman's [website](#).

19. What are other ways I can get involved in improving long-term care in Texas?

Reporting potential violations is critical, but it is not a replacement for ongoing communication between residents and providers. Resident councils offer people living in long-term care facilities a venue to discuss their needs and other emergent issues with administrators in a more organized fashion. Federal regulations guarantee residents the right to organize councils and require facilities to provide a private meeting space.²⁸ The Office of the State Long Term Care Ombudsman has compiled a [Resident Council Toolkit](#) with suggestions about starting or reviving a council, best practices for governance, and suggestions for effective advocacy, as well as how non-resident friends and family can be helpful.²⁹

There also are options for people interested in advocacy at a systemic level. If you enjoy assisting others and actively solving problems, for example, consider becoming a volunteer long-term care ombudsman. These volunteers, trained by members of the state Long Term Care Ombudsman team, visit nursing homes and assisted living facilities, speak with residents, and help to resolve their concerns. More information is available via the Long Term Care Ombudsman's [website](#).

Finally, there are regular opportunities for legislative advocacy. Decisions made by lawmakers and appropriators in the Texas Legislature will shape the future of long-term care in Texas.

28 42 CFR § 483.10

29 [Resident Council Toolkit: For residents of nursing homes and assisted living facilities](#), Office of the State Long-term Care Ombudsman, Texas Health and Human Services Commission (September 2017).

Fortunately, there are opportunities, both during legislative sessions and between them, for public input. During each session, which typically is held from January through May of odd-numbered years (2023, 2025, 2027, etc.), you can testify on legislation related to long-term care as it is considered by its jurisdictional committee (The Senate Committee on Health and Human Services and House Committee on Human Services, respectively). These committees also tend to meet at least once between sessions for informational hearings on long-term care and typically allow for public testimony during those meetings. Visit the [House](#) and [Senate](#) committees' websites for more information.

How each person gets involved obviously will differ based on their experiences, interests, and abilities. One thing is clear, however. Long-term care is technical and complicated, and, with hundreds of billions of dollars at stake and an extensive web of governmental and industry actors involved, the voices most likely to be lost are the most important: those of residents, whose health, safety, and dignity are at stake. Empowering and supporting them should be our foremost priority.

20. What are the major issues facing long-term care?

Facility-based long-term care faces challenges on virtually every front, many of which have been exacerbated by the pandemic. Shifting public opinion regarding home- and community-based care, financial instability, workforce shortages, and inadequate oversight threaten both the viability of and public confidence in the industry. Here are brief summaries of a few high-profile issues:

Unsustainable Medicaid Reimbursement Rates

Many of the issues in Texas' long-term care facilities can be attributed to understaffing, which is most commonly explained by a lack of funding. Inadequate funding, exacerbated by a drive for profitability for most providers, means fewer people providing direct care, like certified nursing assistants, are hired. This, in turn, means generally worse care for patients and too much work for the employees facilities can afford to hire, leading to high staff turnover and a spiraling reputation of poor care for providers. Unsurprisingly, the pandemic and broader economic trends have made these challenges worse. In 2021, Texas long-term care facilities reported a 12% drop in employment since the pandemic began, and 63% of facilities reported getting no applicants for open positions.³⁰

30 [Survey shows nearly every Texas nursing home is facing a severe workforce shortage](#), Ragas, Lindsey, from *CBS Austin* (September 30, 2021).

Perhaps the biggest part of this problem is Medicaid reimbursement rates, which have not been meaningfully increased in more than a decade and are not reflective of the on-the-ground realities of long-term care. While the rate structure does include add-ons for the physical needs of residents — heart disease constitutes an add-on, for example — it does not do so for residents' cognitive needs. Most experts estimate that 40-50% of nursing home residents have dementia. These patients require substantial attention and often highly individualized care, yet the rates do not reflect the additional cost to the facility. This can, in turn, lead to neglect of residents, with dire consequences. Texas Appleseed supports a complete review of the state's Medicaid rate structure, including changes to reflect the myriad health needs of long-term care residents.

Private Equity Ownership in Long-Term Care

Recent years have brought a marked increase in private equity ownership of long-term care facilities. In such transactions, a set of private investors acquire a facility — usually one that is struggling financially — primarily via debt financing. These debts are then transferred to the facility, making greater profitability crucial for survival, as the facility now needs revenue not only for its operations, but also to cover the debt repayment. From 2000 to 2018, private equity investment in nursing homes rose from \$5 billion to \$100 billion.³¹

Private equity ownership has been linked to significant issues with quality of care and resident health and safety. A recent study published by the National Bureau of Economic Research attributed private equity ownership to a 1.8% increase in mortality at nursing homes over a 12-year period. In other words, this business practice is attributed to *20,150 more deaths than expected* during that time frame. Why? The need for profitability appears to be key: The same study found that private equity ownership was linked to a 1.4% decrease in staffing and a 50% increase in use of antipsychotic medications, both of which pose significant risks to residents' health.³²

Inadequate Enforcement of Health and Safety Standards

A Texas Appleseed review of agency records found that, while the state has vigorous accountability standards, questions remain whether

31 [Private equity ownership is killing people at nursing homes](#), Scott, Dylan, from Vox (February 22, 2021).

32 [Does Private Equity Investment in Healthcare Benefit Patients? Evidence From Nursing Homes](#), Gupta, Atul, et. al. National Bureau of Economic Research Working Paper 28474 (February 2021).

the application of those standards is enough to protect long-term care residents' health and wellbeing. Although HHSC assessed \$5.3 million in civil penalties during Fiscal Year 2019, it collected only \$1 million, leaving approximately 80% unpaid. The agency also collected only \$1,500 of the \$249,200 in administrative penalties assessed during the same year — less than 1%.³³ While some of these discrepancies can be explained by fines being waived in response to facilities correcting their behavior, it also seems that HHSC is not following through with meaningful enforcement efforts. Failing to do so sends a clear message to industry participants that noncompliance with state and federal laws will not necessarily lead to consequences.

21. How did the COVID-19 pandemic impact the quality of life and care within Texas' long-term care facilities?

The COVID-19 pandemic has been particularly devastating in the long-term care industry. Residents' existing medical vulnerabilities, close-quarters living, and lack of effectively managed infection control protocols made nursing homes and assisted living facilities particularly susceptible to the virus. Long-term care residents have comprised approximately 15% of all COVID-19 deaths in the United States, according to CDC data.³⁴

Unfortunately, facility staff members also were vulnerable and contracted the virus at high rates. This exacerbated the existing staffing crisis in many facilities, leaving residents without regular assistance for daily living activities like eating, hygiene, and recreation. Policies meant to halt spread of COVID-19 also greatly limited or even completely halted visitation, leaving residents isolated from family outside the facility, all while staffing shortages often left them isolated and confined within.

It will take some time to fully understand the impact of the pandemic on residents of long-term care facilities. In collaboration with the Long Term Care Ombudsman, Texas Applesseed conducted an initial review of information from the Minimum Data Set, a compilation of various health indicators collected by CMS. We found that, across virtually

33 [HHSC Long-term Care Regulatory Annual Report for Fiscal Year 2019](#), from Texas Health and Human Services Commission. Appendix F, F-7 - F-15.

34 [COVID-19 Nursing Home Data](#), from Centers for Medicare and Medicaid Services.

every indicator, quality of life and care decreased precipitously from April 2020 through June 2021, with modest recovery in most metrics thereafter (likely due to the availability of vaccines).

Most troubling, however, were the findings regarding the mental health of residents. Overall levels of serious mental illness; anxiety disorder; and feelings of despair, depression, and helplessness all increased dramatically during the initial year of the pandemic, and many of them have not recovered since. These findings are coupled with the overall lack (essentially zero) of psychotherapy and other mental health services available to most long-term care residents. Texas Appleseed and its partners are currently investigating these findings more deeply and will release policy recommendations to address them in the near future.

22. Why has Texas Appleseed prioritized long-term care reforms?

No matter the preferences of most Americans, facility-based long-term care isn't going anywhere. There will always be a population of people who require a level of specialized care and attention that simply cannot be managed in a home- or community-based setting, especially for those without significant financial resources.

Those people deserve care that preserves their health and wellbeing, keeps them safe, and treats them with dignity. Too often, such basic humanity is out of reach. The reasons are varied, but all of them stem from the inability or unwillingness of policymakers to create an environment with the resources to provide proper care and the regulatory capacity to hold bad actors accountable.

Texas Appleseed is a nonpartisan nonprofit working toward policies that are fair, just, and equitable for all Texans. Especially now, after a global pandemic that exacerbated long-term care's longstanding issues, inaction would be tantamount to injustice, and we will continue to advocate for much-needed change in this critical industry.