

NURSING HOME **SOS** **SAVE OUR SENIORS**

July 29th, 2020

In re: Steps to reduce mortality rate and infections in LTC facilities:

Dear Senators,

As that rarest of creatures- I am an **actual 'public stakeholder'** who has suffered my mother's impact from one NYC Nursing Home owner/operator's pretext of caregiving. Thank you for the opportunity to weigh in on your important hearing. Over the years, I've dug in a bit and hope to share my findings with you.

I'm 'here' -as the courageous John Lewis said-to make 'good trouble'.

When all is said and done, it really is all about following the money.

Before you dismiss me out of hand-bear with me...

I'll leave it to the caregiving 'pro's' to expound on the profound remediation needed to be implemented if we're really what we purport to be-an ethical 'Christian nation'-with concerned New York State legislators. Because hope always springs eternal, I'm counting on you as legislators to filter out the usual 'expert' nostrums opined by self-serving Lobbyists and incestuous campaign donors. They will not serve as the ultimate Covid-19 Long Term Care facility fix. **The NYS template to that fails to prevent unethical Long Term Care facility oversight has been governmental malfeasance for decades. It is systemic.**

What has happened in 2020 when the pandemic struck disproportionately in long term care facilities -was really not merely about lack of PPE-nor elders with underlying conditions. And while these are certainly true, it's far too glib and dismissive to ascribe a kind of genocidal ageist massacre to missing masks and high blood pressure.

Let me pinpoint what I feel is New York State government's abject failure and the reason a pandemic was able to fester and destroy so many old people as a consistent state of affairs. The real ground zero-namely the NYS Dept of Health and its Public Health and Health Planning Council (PHHPC) with its impossible low standard as stewards of licensure is where your forensic appraisal should begin.

The PHHPC as you'll know, is comprised of Dr Zucker and 24 Members. They have failed to prevent the proliferation of contemptible Nursing Home owner/operators as well as MLTC Agencies from being held accountable. This Agency is loaded with doctors and medical professionals 'picked' for the job of oversight -presumably obliged to follow their Hippocratic oath of "do no harm". Yet they've betrayed their responsibility. If you do not address this, you will, with all due respect, fail in your mission.

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PHHPC's formal standard of "Character and Competence reviews" which continue to give bad actors a pass to buy yet another facility or open yet another Agency to monetize-would be laughable were it not so dreadfully consequential to their resident/patients-our loved ones. Whether one chooses to call them 'mismanagers' or 'oblivious' or 'complicit' -the bottom line is that this Agency and its Council are allowing predatory operators to do harm. Failures of thorough vetting by the PHHPC for 'character and competency' allow shameless operators to be licensed. Those who then obtain a license too often continue their cavalier patterns and what follows is poor enforcement and tepid penalties, which serve to abet bad facilities. It's not complicated.

Kindly reference ProPublica's Oct 2015 investigative report in which the PHHPC's failures of oversight were clearly described. As it turned out, the reporters were subsequently sued -but happily won as victims of a nonsensical libel lawsuit by a chain of operators that the PHHPC always licenses-no matter what the infraction-no matter what the citation-no matter how many chump change fines are imposed. They continue their reprehensible business model today. They are only one consortia -there are plenty of other predatory groups-different owners-but same shameful modus operandi. All with the PHHPC 'stamp of approval'.

The link:

<https://www.propublica.org/article/new-york-for-profit-nursing-home-group-flourishes-despite-patient-harm>

Indeed, let's go back, as long as we're searching for remedy answers-back to June 2013 in a New York Times article in which the collusion of campaign donors and the Health Department's endorsement & licensing of pay to play Home Care Agencies-CHAAs and HMO certification were questionable. This is STILL going on-seven years later.

The link:

<https://www.nytimes.com/2013/06/24/nyregion/reinventing-long-term-care-and-endorsing-firms-accused-of-fraud.html>

The irony of the NYT's on-line link title (above) brings me to the well-intentioned but discouragingly pointless Bill S8633B/Assembly A10836 which Senator Biaggi and her co-sponsors have just put forward.

The Act's current title is **Reimagining Long Term Care Task Force**
In 2013 the verbiage was "**reinventing long term care**".

In 2020-who are some of **the 'task force'** who will be **'expert'** Representatives to **"reimagine"** Long Term Care in the new Bill seven years later?

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Who? **Many of the SAME lobbying groups whose donors are the SAME purveyors of Nursing Home malfeasance and who 'gave at the office'.** This is not acceptable and insults the intelligence and any pretext of credibility. The foxes continue to be invited into the henhouse.

Who are some of these people?

Some of the SAME 'experts' who write self-dealing proposed legislation...

Some of the SAME 'mavens' who fight facility aide ratio requirements...

Some of the SAME "institutional facility' organizations wanting to deny NYS "community" caregiving subsidies lest they be 'shortchanged'...

Some of the SAME 'stakeholders' who fought for and **won** an immunity shield for Covid-19 lawsuit immunity...

It challenges the imagination that these same folks are going to be the "Mother Teresa's" i.e. to 'reimagine' Long Term Care to protect the most frail and vulnerable? Really?

NO –they are protecting their bottom line and it will be per usual-on the backs of and at the expense of the disabled old. The Bill's "representative" list as proposed is imbalanced and reflects the inevitability of more of the same even as the pandemic will be with us going forward and congregate settings will continue to be 'found' by the Coronavirus where infections have run amok for years. Where there has never been enough staff to ethically manage these poor souls. Business as usual.

In conclusion and at the risk of appearing simplistic...NYS legislators must clean up the PHHPC – challenge the DOH and Dr Zucker...expose the conflicts of interest and New York State's de facto sponsorship of **harm to the elderly by the very 'stewards' of their alleged care**-and you will alter the playing field.

Governor Cuomo, because of his collusion with Long Term Care Lobbyists, with individual Nursing Home owner/operators, and with mega-Hospital donors -has sustained a third-world country level of 'oversight'-shameful in spirit and shameful in fact. Clean up his Dept of Health and the Public Health and Health Planning Council and it will actually make a difference.

Thank you for your time and effort going forward.

Sincerely yours,

Sandy Reiburn 718 625 1848 sandyr11217@yahoo.com

SOS-Save Our Seniors

100 South Elliott Place

Brooklyn, NY 11217