

Dear Senator Hoylman,

I am the founder of the Nursing Home Card Project <https://caringbycard.com/> for which I was named New Yorker of the week by NY1 News. My organization aims to alleviate the loneliness of people living in nursing homes. I am also a member of the Gray Panthers NYC where we are passionately trying to transform nursing homes. I was asked to testify before Congress in October and here were my remarks: <https://www.congress.gov/117/meeting/house/115148/documents/HHRG-117-VC00-20220921-SD013.pdf>

My mother got early onset Alzheimer's when she was 56. She entered nursing home care at 59. She died at 66. The lack of staffing at my mother's nursing home caused egregious harm to her.

I want to congratulate you and Governor Hochul for the 10 billion dollar budget you have allocated to improve New Yorker's health, particularly mental health issues and to increase staffing in nursing homes. Thank you.

As our state Senator and as Chairman of the State Senate Judiciary Committee, I'd like to talk to you about nursing homes.

We are aware that the N.Y. Public Health Law 2895-b has taken effect which set forth the minimum standard for staffing hours in nursing homes in NY State. The law approved by Governor Cuomo requires every facility to maintain daily staffing hours that equal to 3.5 hours of care per resident per day by a certified nurse aide, LPN or registered nurse.

Senator, the regulations that were promulgated to implement the minimum staffing legislation require that nursing home staff show they have met the minimum staffing requirements on a quarterly basis. But, to have any real meaning the nursing homes need to demonstrate that they have met the minimum staffing requirement **daily**, not based upon quarterly averages. These are human beings we're talking about, whose basic care needs are not being met.

Will you change it so that the minimum staffing requirements are required daily?

How will you enforce that this is done? Our most vulnerable New Yorkers are sitting in their own urine and feces, unable to get a drink of water. They're ringing the call bells, but no one is answering due to lack of staff.

Nursing homes are now being fined, if it is discovered that they are not implementing this 3.5 hour ratio of care per resident per day, but nursing home operators are protesting that they simply can't meet this protocol, because they say they don't have enough staff.

Many of these nursing home operators are private equity companies. Senator Hoylman, we'd like to see you call their bluff.

Longstanding weak oversight at the national level has allowed thousands of operators and their financial partners to operate facilities with dire shortage of staff, and to siphon off taxpayer funding for private gain. **Senator, will you remind the 118th Congress to stand strong for staffing standards and to hold the Department of Health and Human Services (DHHS) and**

nursing home operators around the country accountable, ensuring that each resident gets the time, attention and care that they need.

These nursing homes operators say that even when they do get certified nurse aides, they can't keep them. Sometimes 2 CNA's are responsible for an entire floor of bed-bound, human beings. Staff often breaks the 1987 Nursing Home Reform Law giving residents antipsychotic drugs so they will stop screaming, instead of compassionately tending to their needs, but this law states they must try all means necessary of restraining residents before drugs are used.

Mr Clyne, President of *Leading Age*, one of the largest nursing home lobbyist groups in the nation, says that lawmakers must raise Medicaid rates by 20% to help with competitive wages. That is preposterous. The money is there. They ARE getting adequate money, but many of these nursing home operators are private equity firms who are taking tax-payer Medicaid money and siphoning it into the other companies they own. They are *stealing the money* for their own gain while the people they purport to take care of are sitting in their own waste and are dying of neglect.

In November 2022, NYS Attorney General Letitia James sued the Villages of Orleans in Albion, New York for 18 MILLION dollars for years of financial fraud, which resulted in horrific resident neglect and harm. Championed by her head of the Medicaid Fraud Unit, Amy Held, they discovered that the owners and their financial partners took advantage of our state's Medicaid program to enrich themselves. They diverted millions of dollars in taxpayer funding that was meant for care.

In one instance, a woman admitted to The Villages in January 2021 with a Stage II bed sore received no treatment for weeks. Six months later, in June 2021, she had two Stage III bed sores, and an external wound care consultant ordered new treatments, which The Villages did not implement timely. By July, both wounds had advanced to the point of being "unstageable." Throughout this period, a friend of the woman told the OAG she received more than 1,000 texts asking for help with basic necessities like using the restroom or getting food and water. One text reported she had been "lying in a dirty diaper for hours." and another lamented, "I just need a glass of water." The Villages also gave her psychotropic medications, insisting they were for severe anxiety, though there was no such diagnosis in her medical record. The resident was reported to be unresponsive on July 13 and was sent to the hospital where she died.

My Nursing Home Card Project sends these residents cards. But they need more than a greeting card. They need YOU and the **power of the government to stand up for them and make laws that will better protect them.**

The staffing crisis is real. **I would like to offer a solution.**

Nursing homes can't find staff. Immigrants can't find jobs.

Can you create for the state of New York a program where we train immigrants to work as Certified Nurse Aides? We have many Mexican and Spanish-speaking people needing jobs. Can we place those people in nursing homes that have a high rate of Spanish speaking residents?

The Federal Government is dragging their feet on granting work visas. This backlog has interrupted the lives of thousands of people hoping for work and at the very same time, nursing

home residents are suffering neglect because there is not adequate staff. This is plain lack of oversight and stupid. We have a solution here! **Can you push the Federal Government to expedite work visas?**

Can you cultivate a plan using some of Hochul's budget to create a robust and practical training plan for immigrants to become hired as Certified Nurse Aides? Can you make sure that some of that 10 billion Dollars increases CNA's pay? Can you push for CNA's to receive good benefits and career opportunities so that they don't quit every two weeks, which is the norm?

The White House signaled that it wanted to turn the page and end the ugly era of ignoring the nursing home sector, with initiatives that were announced on February 28, 2022. In part the Administrations statement declared that:

- "Every nursing home provides a sufficient number of staff who are adequately trained to provide high-quality care.
- "Poorly performing nursing homes are held accountable for improper and unsafe care and immediately improve their services or are cut off from taxpayer dollars; and
- The public has better information about nursing home conditions so that they can find the best available options."

Will you push Congress to support these goals? Failing to direct HHS to back safe staffing standards constitutes a breach of duty to our country's most vulnerable.

As required by Sections 6101 and 6104 of the Affordable Care Act, will you remind Senators and Representatives to hold nursing homeowners accountable for their performance and insist on greater accountability and transparency of ownership and cost reporting?

Will you push Congress to fund programs to create excellent, comprehensive training for certified nurse aides to be able to care for complex elders and disabled people, which can be taken from job to job?

Will you direct DHHS and the Department of Labor to ensure that career advancement becomes the norm for CNA's?

Will you insist that the "Residents Bills of Rights" established under the authority of the 1987 Nursing Home Reform Act be codified into a new standard that federally funded state surveyors examine, which are the following:

Be Treated with Respect

Participate in Activity

Be Free from Discrimination

Be Free from Abuse and Neglect

Be Free from Restraints

Get Proper Medical Care

Make Complaints

Have Your Representative Notified

Get Information on Services and Fees

Manage Your Money
Get Proper Privacy, Property, and Living Arrangements
Spend Time with Visitors
Get Social Services
Leave the Nursing Home
Have Protection Against Unfair Transfer or Discharge
Form or Participate in Resident Groups
Have Your Family and Friends Involved

Will you support the following:

Stop Wall Street Looting Act to prevent Wall Street from taking over hospitals, nursing homes and hospices: <https://www.warren.senate.gov/newsroom/press-releases/warren-baldwin-brown-pocan-jayapal-colleagues-unveil-bold-legislation-to-fundamentally-reform-the-private-equity-industry>

Will you support

The Healthcare Ownership Transparency Act: <https://jayapal.house.gov/2022/03/01/jayapal-introduces-legislation-to-protect-seniors-in-nursing-homes-from-corporate-greed/>

Will you support:

The Nursing Home Accountability and Improvement Act:
<https://www.congress.gov/bill/117th-congress/senate-bill/2694>

Will you support more funding going to the Ombudsman Program, so that people can get paid to go into nursing homes and advocate for nursing home residents who have no voice:

<https://states.arp.org/new-york/nearly-80-of-nycs-nursing-homes-and-over-half-of-ny-states-got-zero-visits-from-oversight-program-report>

<https://www.lohud.com/story/news/2022/11/14/ny-nursing-homes-go-months-without-elder-care-oversight-program-visit/69640930007/>

Will you push for the 118th Congress to make sure that private equity owners of nursing homes don't pay above market rate for rent and medical supplies to then siphon off the money for their own gain. Senator Hoylman how can you at the state legislative level keep tabs or create a system where you hold accountable their accounting? Will you expose these conflicts of interest?

Thank you, Senator Hoylman, for your tireless dedication in making this state and nation better. You hold a place of power and that is terribly exciting because it means with your voice, things CAN CHANGE.

Sincerely,
Rachel Darden Bennett

