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Trump administration rolls back fines against nursing homes as violations mount

The Trump administration is drastically cutting back fines against nursing home owners that have been cited for violations against elderly patients. The move, reported by the *New York Times* over the Christmas holiday weekend, comes as serious violations such as neglect and mistreatment against nursing home residents continue to rise unabated.

Donald Trump is responding to a direct request from the nursing home industry that the Medicare health insurance program's penalty protocols be changed. "It is critical that we have relief," wrote Mark Parkinson, president of the American Health Care Association, in a letter to then president-elect Trump in a letter in December 2016.

In keeping with the administration's slashing of rules and regulations which impinge on the profiteering of big business, under new rules Centers for Medicare and Medicaid Services (CMS) regulators are now being discouraged from giving nursing homes fines if a violation—even for the most serious cases of mistreatment—was a "one-time mistake," according to the *Times*.

Since 2013, nearly 6,500 nursing homes, or four of every 10, have been cited at least once for a serious violation, according to federal records. According to Kaiser Health News (KHN), basic steps to prevent infections—such as washing hands, isolation of contagious patients and keeping sick nurses and aides away from residents—are routinely ignored in nursing homes across the US.

A KHN analysis of four years of federal inspection records showed that while 74 percent of nursing homes have been cited for failing to properly control infections, disciplinary

action such as substantial fines are rare. Even before the Trump administration began quashing penalties over the course of 2017, only 1 in 75 homes found in violation has received a high-level citation.

CMS officials have made the blatantly false claim that the changes in penalizing nursing home owners are being made in patients' interests. "Rather than spending quality time with their patients, the providers are spending time complying with regulations that get in the way of caring for their patients and doesn't increase the quality of care they provide," Dr. Kate Goodrich, director of clinical standards and quality at CMS, told the *Times*.

According to federal records examined by KHN, infections cause a quarter of the medical injuries Medicare beneficiaries experience in nursing homes. By one government estimate, a staggering 380,000 deaths a year may be the result of health care-associated infections in facilities for the elderly.

It is under these scandalous conditions that nursing homes are being given less than a slap on the wrist for serious violations endangering patients' lives. The spread of antibiotic-resistant germs such as methicillin-resistant *Staphylococcus aureus* (MRSA) has become a major public health issue, but CMS claims that fines for most infection-control violations are not warranted because they do not pose a certain danger to patients.

According to the *Times*, CMS insists that if an inspector observed a nurse not washing his or her hands while caring for a resident, a lower-level citation was justified "unless there was an actual negative resident outcome, or there was likelihood of a serious resident outcome." How such a causal relationship between infection-control lapses and "negative" or "serious" resident outcome is to be determined is not explained.

A July memo from CMS discouraged directors of state agencies from issuing daily fines to nursing homes for violations that began before an inspection, advising a one-time fine be issued instead. This one change means that many nursing homes would be protected from accruing fines above the maximum per-instance fine of \$20,965, even for mistakes in care that could potentially result in infections and death.

The low wages, poor training and overwork of nursing home staff play a direct role in endangering patient safety. According to inspection records examined by KHN, nurses and aides are often not familiar with basic safety protocols, such as wearing protective clothing when coming into contact with a contagious patient. In a rush to care for a burdensome patient load, basic precautions such as hand washing are often not taken.

Staff who are not paid for sick days are under pressure to come to work sick, further jeopardizing patient health, leading to avoidable accidents and falls, mistreatment,

infections, neglect and bedsores. KHN reports on the case of Georgina Morris, a resident of Astoria Nursing & Rehabilitation Center in Sylmar, California in October 2015.

While at Astoria, Morris, 86, became infected with a virulent strain of *Clostridium difficile*, or C-diff, and was severely dehydrated. Her son James Morris noticed that “workers were coming in and out without washing their hands.” He insisted that she be sent to the hospital, where she was admitted for 10 days.

She has had other flare-ups of the infection requiring rehospitalization, as well as a fecal transplant, in which doctors transplant stool from a healthy patient into her intestines to introduce bacteria that counter the C-diff bacteria.

State inspectors waited for 18 months before investigating her case. Although inspectors found that Astoria workers had not cleaned their hands while treating Georgina Morris, “they could not definitively determine whether she contracted the infection there or before she arrived,” according to KHN.

Although it was the second year in a row that inspectors cited Astoria for substandard inspection control that could potentially harm residents, neither citation resulted in a financial penalty. As more and more seniors require long-term care, government changes to regulations governing nursing homes are part of a deliberate bipartisan policy that threatens the lives of elderly patients while enriching the owners of for-profit facilities.