



# NEWSLETTER

March, 2010

## FIRST THE BAD NEWS

As the end of the 2010 legislature comes to an end, it is sad to report again that our key legislative bills on staffing did not pass. These were House bills 156 and 157. In fact, they did not even get a hearing in the Health & Welfare committee. This time we discovered that the main culprit was money. We became aware that legislative leaders were buying into propoganda put out by the nursing home industry that there was not enough money to pay for hiring sufficient staff. The industry comes up with different sob stories almost every session. And the lack of money was a popular excuse in this session, along with the recession. And they spread this junk around legislative leaders by hanging around the Capitol every day and giving money to legislators' re-election campaigns which opens the doors for them everywhere.

The truth of the matter - and we wrote House Health & Welfare Committee chairman **Tom Burch** about this - is that in 2004 the nursing home industry had the provider tax on them increased which now serves as a \$64 million windfall of money to them from the state and federal government matching funds every year. That money was supposed to have been used to improve the quality of care, but of course it wasn't. The industry promised Rep. **Jimmie Lee**, who was the sponsor of the provider tax increase that they would use it for quality improvement. We were amazed that Rep. Lee, a wily lawmaker, apparently believed them.

Supporters of nursing home reform, on the other hand, should be appreciative to Rep. **Carl Rollins II**, D-Midway, who has sponsored the staffing bills for the past two years. If you get a chance, sit down and write him a brief "thank you" for trying to help us. His email address is [carl.rollins@lrc.ky.gov](mailto:carl.rollins@lrc.ky.gov)

## NOW THE GOOD NEWS

The good news did not come out of Frankfort, but rather the nation's capital Washington, D.C. and the Congress. ( Every time I report this, a few of our newsletter readers fuss at me for supporting the national health care reform act. The truth is we take no stand on the new law - letting our supporters decide for themselves.) Therefore it was ironic that some of the biggest improvements in nursing home care since the Nursing Home reform Act of 1987 - which we do strongly support -- were attached as amendments to this controversial health care reform act, and when it passed they passed.

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Here are just some of the good things for nursing home reform in the law:

- Developing a standardized form for reporting nursing services hours. *The weakness here could be whether they will report it like it is.*
- Developing a nurse staffing data system that provides adequate information about RNs, LPNs, and CNAs; **the ratio of nursing staff to residents; and turnover.**
- Training workers in care of residents with Alzheimer's disease. *The Kentucky Alzheimer's Association has worked hard to get this done in Kentucky but until now to no avail.*
- Assessing direct care worker compensation levels. *Will uncover the dirty little secret in many nursing homes about the poor wages paid nursing assistants.*
- Prohibiting retaliation against those who complain about poor care. *We hear this all the time, especially from family members who are afraid to complain or report abuse and neglect for fear of retribution by nursing home administrators.*
- Providing equal rights for Medicaid beneficiaries in community-based settings. *We think that this will be a biggie - releasing Medicaid money to be used to help people stay in their homes and out of nursing homes.*
- Developing a system to gather comprehensive ownership information and posting it on Nursing Home Compare. *We have asked state officials to do this but to no avail. They say it is too complicated and costly to do.*
- Creating national criminal background checks and screening all personnel involved in care of elderly and incapacitated persons. *We have such a law in Kentucky but it needs to apply to all employees of nursing homes, not just the direct caregivers, as it does now.*
- Incorporating deep culture change as an important component of quality of care in long term care settings.
- Safeguarding residents when nursing home ownership is transferred.

There will be much more to come out. But if you want to jump up and holler a big hurrah, now is the time to do it. WE FINALLY WON ONE!

## **WHERE WERE YOU, MITCH?**

The big nursing home reform gains passed with no thanks to our senior senator **Mitch McConnell**. He was too busy opposing the overall health care reform bill. And he got help in this opposition from **Sen. Jim Bunning** and all of the Kentucky delegation in the House, including **Rep. Ben Chandler** of Lexington (shocking!). Only **Rep. John Yarmuth** of Louisville supported the legislation.

## BIG BUT BAD

Signature HealthCARE, a big nursing home corporation, is moving its headquarters to Louisville, much to the delight of **Gov. Steve Beshear** and his economic development chief and closet adviser, **Larry Hayes**. But Gov. Beshear and **Louisville Mayor Jerry Abramson** obviously forgot to check out Signature Healthcare before they gave rave reviews to its moving the headquarters to Louisville from Florida. If they had done their homework, they would have found that Signature has 17 facilities in Kentucky, and more than half of them (9) are at the bottom of the federal Five-Star Quality Rankings of nursing homes with just one or two stars. Maybe, because of this deal in the works, the governor has been strangely silent of late on his support of nursing home reform.

## SHORT STUFF

- It's hard to believe, but a writer for a nursing home industry publication actually praised in one of his columns the new federal Five-Star Quality Rating System. He says the "beauty of the five-star system" is that "by pointing out facilities that merit only one star, regulators are letting customers and anyone else who cares to know who the really bad players are." We couldn't have said it any better than the writer, **John O'Connor** in *McKnight's Long-Term Care News*.
- The federal government has announced the availability of approximately \$10 million for Alzheimer's disease supportive services program projects. This might be a perfect fit for the Kentucky Alzheimer's Association leaders who have been trying for a number of years to get a program started to train caregivers in nursing homes. **Ellen Kershaw**, an association official, says they are working on this. And she says that the federal grant is a perfect fit because half of it must go to direct services which is what training dementia caregivers is.
- Looks like the federal Centers for Medicare and Medicaid Services (CMS) will finally get a permanent leader. After delaying for more than two years, the Obama administration will appoint **Dr. Donald Berwick** to lead CMS. He is a professor in the Harvard department of health policy and management and president of the Institute for Healthcare Improvement. He also is a clinical professor of pediatrics which makes one wonder if he knows anything about taking care of old people. He will have big shoes to fill after **Kerry Weems**, who was responsible for starting the Five-Star Quality Rating System.
- The new Healthcare Reform Law is changing two rules that experts say have been exploited by nursing homes to inflate Medicare billings. "Facilities have been able to bill the way they want, and they are billing for more services than they are providing to people, said **Toby S. Edelman** in a *Washington Post* investigative article. Nursing homes in almost half of Kentucky counties were in the group of facilities billing at the highest rates. In Fayette County 26 percent of the facilities; Jefferson 31 percent; and Ballard 61 percent were billing at the highest rates according to the newspaper study.
- Nursing home residents are caught in the middle as usual as a result of a fuss between the federal Drug Enforcement Administration (DEA) and nursing homes. The DEA has cracked down on nursing homes by enforcing a 40-year-old law that requires pharmacies to wait for prescriptions signed by physicians before dispensing potent painkillers in

nursing homes. Now, after a hearing on the issue in the U.S. Senate, the DEA will allow nurses to dispense controlled painkillers to nursing home residents if the patient's doctor electronically transmits the prescription to a pharmacist. Nursing home reform advocates suggested to **Sen. Herb Kohl** of Wisconsin that he ought to be having a hearing also on the misuse of anti-psychotics. This is where nursing homes can literally "knock out" residents like the ones with dementia with high powered drugs so they won't have to hire extra staff to take care of them.

- A friend of nursing home reform, **Bob Gray** of Frankfort, has been appointed to the membership of the Advisory Council for Medical Assistance, according to **Elizabeth Johnson**, commissioner of state Medicaid services. Gray also was an assistant to **Ben Chandler** when he was attorney general and the two of them did a lot to get nursing home reform started and noticed in Kentucky.
- A Louisville insurance company that is funding much-needed dental care for nursing home residents, Citizens Security Life Insurance Co., now has about 200 nursing home residents in Kentucky enrolled in about a dozen nursing homes, according to company executive **Jim Knox**. If you are interested in the care provided, call (502) 244-2471,

## **YOU HAVE THE RIGHT TO MAKE CHOICES.....**

Families are amazed to learn the following:

1. They have a choice as to whether to send their loved one to a for profit or not-for profit nursing home.
2. Once in the nursing home -- they have a choice of doctors and can continue to use their Primary Care Physician for care if he or she agrees to come to the facility.
3. Once in a nursing home, they have a choice in pharmacists -- it is only when you agree in writing to use their pharmacy that you waive that choice.
4. Families have a choice whether or not you as the responsible party will agree to pay for the care should the resident be unable.
5. You have a choice not to agree to arbitration Just don't sign a nursing home non-arbitration agreement when you check in. Read each form you are given to sign carefully and ask questions.
6. You have a choice to move your loved one from the facility.
7. You have a choice to call 911 when you deem emergency care is necessary (don't let the nurses talk you out of it).

Choice is good. Know what choices you can make in care.

## **YOUR DOLLARS CAN HELP**

This Newsletter is published by Kentuckians for Nursing Home Reform, a non-profit

organization comprised of volunteers working to improve the lives of the 23,000 "Forgotten Kentuckians" destined to live out their lives at the mercy of nursing homes. If you would like to assist in our charitable work by helping underwrite expenses of conducting educational seminars, lobbying for residents' rights in the State Legislature, or publishing informative materials, you may send your contribution to Kentuckians for Nursing Home Reform, 1530 Nicholasville Rd., Lexington KY 40503. Contributions are tax deductible as allowed by law. To volunteer, write to the same address or e-mail [KyNursingHomeReform@yahoo.com](mailto:KyNursingHomeReform@yahoo.com). Thank you.

## **MEMORIALIZE YOUR LOVED ONES**

KENTUCKIANS FOR NURSING HOME REFORM is a non-profit organization. That means that any donations to the organization are tax deductible by the donor. With that in mind, we offer for your consideration the thought that memorials at the time of the passing of a loved one or friend could be in the form of donations to KENTUCKIANS FOR NURSING HOME REFORM, 1530 Nicholasville Road, Lexington, KY 40503.

## **THAT'S IT FOR THIS TIME, BUT DON'T FORGET....**

MORE THAN 23,000 PEOPLE IN NURSING HOMES IN KENTUCKY NEED US. THEY ARE KENTUCKY'S "FORGOTTEN PEOPLE."

KENTUCKIANS FOR NURSING HOME REFORM

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## **P.S.**

How the fight started.....

One year, a husband decided to buy his mother-in-law a cemetery plot as a Christmas gift...

The next year, he didn't buy her a gift.

When she asked him why, he replied,

"Well, you still haven't used the gift I bought you last year!"

And that's how the fight started...

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I asked my wife,

"Where do you want to go for our anniversary?"

It warmed my heart to see her face melt in sweet appreciation.

"Somewhere I haven't been in a long time,"

she said..  
So I suggested,  
"How about the kitchen?"  
**And that's how the fight started...**

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My wife and I are watching "Who Wants To Be A Millionaire?" while we were in bed.  
I turned to her and said,  
'Do you want to have sex?'  
"No,"  
she answered.  
I then said,  
"Is that your final answer?"  
She didn't even look at me this time, simply saying  
"Yes."  
So I said,  
"Then I'd like to phone a friend."  
**And that's how the fight started...**

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I took my wife to a restaurant.  
The waiter, for some reason, took my order first...  
"I'll have the strip steak, medium rare, please,"  
He said,  
"Aren't you worried about the mad cow?"  
"Nah, she can order for herself."  
**And that's how the fight started...**

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My wife sat down on the couch next to me as I was flipping the channels.  
She asked,  
"What's on TV?"  
I said,  
"Dust."  
**And that's how the fight started...**

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My wife was hinting about what she wanted for our upcoming anniversary.  
She said,  
"I want something shiny that goes from 0 to 200 in about 3 seconds."  
I bought her a scale.  
**And that's how the fight started...**

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My wife and I were sitting at a table at her high school reunion, and she kept staring at a drunken man  
swigging his drink as he sat alone at a nearby table.  
I asked her,  
"Do you know him?"  
"Yes,"

she sighed,  
"He's my old boyfriend... I understand he took to drinking right after we split up those many years ago, and I hear he hasn't been sober since."  
"My Goodness!"  
I said,  
"Who would think a person could go on celebrating that long?"  
And that's how the fight started...

**DON'T FORGET...**

**MORE THAN 23,000 PEOPLE IN NURSING HOMES IN KENTUCKY  
NEED US. THEY ARE KENTUCKY'S "FORGOTTEN PEOPLE."**