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COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES  
HOUSE AGING AND OLDER ADULT  
SERVICES COMMITTEE

EAST WING  
ROOM 60  
HARRISBURG, PENNSYLVANIA

WEDNESDAY, SEPTEMBER 24, 2008  
9:00 A.M.

PUBLIC HEARING  
FOLLOW-UP ON CARLYLE GROUP  
ACQUISITION OF HCR MANORCARE

BEFORE:

- HONORABLE PHYLLIS MUNDY, CHAIRMAN
- HONORABLE TIM HENNESSEY
- HONORABLE KAREN BOBACK
- HONORABLE LAWRENCE H. CURRY
- HONORABLE JIM COX
- HONORABLE GARTH D. EVERETT
- HONORABLE FLORINDO J. FABRIZIO
- HONORABLE JOHN GALLOWAY
- HONORABLE WILLIAM F. KELLER

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1 (CONT'D)

2 HONORABLE DAVID R. KESSLER  
3 HONORABLE DEBERAH KULA  
4 HONORABLE DUANE MILNE  
5 HONORABLE EDDIE DAY PASHINSKI  
6 HONORABLE STEVE SAMUELSON  
7 HONORABLE KEN SMITH  
8 HONORABLE ROSEMARIE SWANGER  
9 HONORABLE RANDY VULAKOVICH  
10 HONORABLE KATHARINE M. WATSON  
11 HONORABLE JEWELL WILLIAMS

7

8

ALSO PRESENT:

9 CHARLES QUINNAN, MAJORITY EXECUTIVE DIRECTOR  
10 SHARON SCHWARTZ, MINORITY EXECUTIVE DIRECTOR  
11 LOUISE STEPANIC, LEGISLATIVE ASSISTANT  
12 ALICIA RIEGEL-KAUTH, RESEARCH ANALYST

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BRENDA S. HAMILTON, RPR  
REPORTER - NOTARY PUBLIC

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	INDEX	
	NAME	PAGE
1		
2		
3	STACY MITCHELL, ACTING DEPUTY SECRETARY DEPARTMENT OF HEALTH	8
4		
5	WILLIAM BORDNER, DIRECTOR, DIVISION OF NURSING CARE FACILITIES	20
6		
7	DENNIS SHORT, SERVICE EMPLOYEES INTERNATIONAL UNION HEALTHCARE PENNSYLVANIA	28
8		
9	RUTH ROSARIO, CERTIFIED NURSE AIDE	38
10		
11	SUSAN MOREY, GENERAL MANAGER OF PENNSYLVANIA, EASTERN DIVISION, HCR MANORCARE	73
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
	STEPHEN L. GUILLARD, EXECUTIVE VICE PRESIDENT AND COO, HCR MANORCARE	78

## P R O C E E D I N G S

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CHAIRMAN MUNDY: Good morning, ladies and gentlemen. Welcome to the House Aging and Older Adult Services Committee follow-up hearing on the Carlyle Group's December 2007 acquisition of HCR ManorCare, Pennsylvania's largest nursing home provider.

As you will recall, when our last hearing occurred in, I believe it was, November of last year, concerns had been raised about the acquisition. Some charged that staffing levels would be reduced and there would be reduced quality of care.

At that meeting there were assurances made by the Department of Health, by ManorCare. We are pleased to have Stephen Guillard, the head CEO of ManorCare, with us. And assurances were made about quality of care.

And today we're here to follow-up on those assurances and see what's happening with regard to the acquisition of ManorCare by the Carlyle Group.

And today we will hear from

1 representatives of ManorCare, from Services  
2 Employees International Union, as well as the  
3 Department of Health.

4 Obviously, the Department of Health  
5 is the agency responsible for licensure and  
6 oversight of Pennsylvania's nursing home  
7 industry.

8 So welcome, and we look forward to  
9 hearing from these stakeholders in this  
10 process.

11 Chairman Hennessey, is there anything  
12 you'd like to say?

13 REPRESENTATIVE HENNESSEY: Thank you,  
14 Madam Chairman. Just -- I'm pleased to join  
15 you.

16 I think we're going to hear some  
17 competing views, viewpoints about what's  
18 happened over the last nine months in terms of  
19 the ManorCare acquisitions.

20 But, frankly, I think we're all here  
21 to listen to those viewpoints and make our own  
22 decisions on what's going on.

23 And thanks for being here, thanks for  
24 your testimony, and we're about to learn  
25 something.

1           CHAIRMAN MUNDY:  Would the members  
2           who are here please introduce themselves,  
3           starting with Representative Curry.

4           REPRESENTATIVE CURRY:  I'm Lawrence  
5           Curry from Montgomery County, Pennsylvania.

6           REPRESENTATIVE FABRIZIO:  Flo  
7           Fabrizio, Erie County.

8           REPRESENTATIVE SMITH:  Ken Smith,  
9           Lackawanna County.

10          MS. SCHWARTZ:  Sharon Schwartz,  
11          Republican Committee Director.

12          REPRESENTATIVE HENNESSEY:  Tim  
13          Hennessey from northern and western Chester  
14          County in the southeast.

15          CHAIRMAN MUNDY:  Phyllis Mundy from  
16          Luzerne County.

17          MR. QUINNAN:  Chuck Quinnan, Majority  
18          Committee Executive Director.

19          REPRESENTATIVE VULAKOVICH:  Randy  
20          Vulakovich, Allegheny County, 30th District.

21          REPRESENTATIVE EVERETT:  Garth  
22          Everett, 84th District, Lycoming County.

23          CHAIRMAN MUNDY:  And, Ms. Watson,  
24          would you care to introduce yourself for us?

25          REPRESENTATIVE WATSON:  I'm the

1 person who has to leave for another meeting,  
2 but I'm getting the testimony.

3 I'm Kathy Watson. I represent a  
4 portion of Bucks County. Apologies to all.

5 CHAIRMAN MUNDY: Thank you. Our  
6 first testifiers are from the Department of  
7 Health, Stacy Mitchell, Acting Deputy  
8 Secretary for Quality Assurance.

9 Ms. Mitchell, you can proceed  
10 whenever you're ready.

11 DEPUTY SECRETARY MITCHELL: Thank  
12 you. I'm assuming this is on because the  
13 green light's on.

14 REPRESENTATIVE EVERETT: Push the --  
15 pull it closer.

16 DEPUTY SECRETARY MITCHELL: Push?

17 CHAIRMAN MUNDY: You need to push it  
18 closer.

19 DEPUTY SECRETARY MITCHELL: Ohh, it's  
20 even greener.

21 REPRESENTATIVE EVERETT: Sometimes it  
22 works; sometimes it doesn't.

23 DEPUTY SECRETARY MITCHELL: There we  
24 go. Is that better?

25 CHAIRMAN MUNDY: Ms. Mitchell, if you

1       could just hold on a second. We had two  
2       members join us.

3                Would you introduce yourselves,  
4       please.

5                REPRESENTATIVE KULA: Representative  
6       Kula, Fayette County.

7                REPRESENTATIVE PASHINSKI:  
8       Representative Eddie Day Pashinski, Luzerne  
9       County. It is north.

10               CHAIRMAN MUNDY: Sorry,  
11       Ms. Mitchell. You can go ahead.

12               DEPUTY SECRETARY MITCHELL: No  
13       problem. Good morning. Chairman Mundy,  
14       Chairman Hennessey, committee members, and  
15       staff, my name is Stacy Mitchell and I'm the  
16       Acting Deputy Secretary for Quality Assurance  
17       for the Pennsylvania Department of Health.

18               On behalf of the Secretary of Health,  
19       Calvin B. Johnson, thank you for the  
20       opportunity to testify.

21               As the committee is aware, on  
22       December 21st, 2007, the Department of Health  
23       approved the acquisition of the 45 ManorCare  
24       nursing facilities by a new corporation  
25       financed by the Carlyle Group, a private



1 equity for-profit corporation.

2 This transaction was the largest  
3 nursing home acquisition in the history of the  
4 Commonwealth. As you are also aware the  
5 Department of Health holds the authority to  
6 license and regulate all nursing homes in  
7 Pennsylvania to ensure the safety and health  
8 of all nursing home residents.

9 The Department takes this  
10 responsibility very seriously, and my goal  
11 today is to demonstrate to you the oversight  
12 that has been afforded this acquisition and  
13 the results of that oversight.

14 From December 21st to July 31st, the  
15 Department has conducted 231 on-site  
16 inspections of the 45 ManorCare Carlyle  
17 facilities. These on-site visits included  
18 standard inspections, revisits to standard  
19 inspections to assess corrective actions,  
20 complaint investigations and change of  
21 ownership monitoring visits.

22 These visits generated 241 citations  
23 which have been addressed or are in the  
24 process of being addressed with the submission  
25 of Departmental-approved facility plans of

1 correction.

2 With the exception of one facility,  
3 all ManorCare facilities have demonstrated  
4 compliance levels which enable them to  
5 maintain a regular license since the change in  
6 ownership.

7 During the same period, the  
8 Department has received 171 consumer  
9 complaints concerning ManorCare facilities.  
10 93 percent were investigated on site.

11 Of the 171 complaints filed, 40, or  
12 23 percent, of the complaints were found to be  
13 substantiated. The complaints concerned  
14 quality of care, services, or environmental  
15 issues.

16 Of the total, 131, or 77 percent, of  
17 the complaints were found to be  
18 unsubstantiated. Complaints cannot be  
19 substantiated when there is no evidence that  
20 the allegations reported in the complaint  
21 occurred.

22 For example, a complaint may be  
23 received concerning lack of care for  
24 incontinence. When our inspectors go on site,  
25 they observe that continence care is delivered

1 promptly. Further review indicates that  
2 there's no problems with skin breakdowns  
3 associated with continence care and that there  
4 are not an inordinate amount of skin  
5 treatments related to continence care. Thus,  
6 the complaint cannot be substantiated.

7           There are also circumstances where  
8 DOH inspectors may not see noncompliance at  
9 the time of the on-site inspection. An  
10 example of this might be the timely answering  
11 of call bells. Upon on-site inspection, all  
12 call bells may be answered promptly. Thus,  
13 the condition cannot be confirmed.

14           Finally, complaints may be received  
15 concerning issues which are nonexistent at the  
16 time of the inspection. This might include  
17 physical plant issues, such as insufficient  
18 hot water, which has been corrected prior to  
19 the arrival of our inspectors.

20           However, where complaints have been  
21 substantiated, all deficiencies cited as a  
22 result of complaint investigations have been  
23 addressed with plans of correction that  
24 require DOH oversight and our confirmation of  
25 correction.

1                   From December 21st to July 31st a  
2                   total of 861 incidents were reported to the  
3                   Department from ManorCare facilities.  
4                   Incidents are facilities' self-reports of  
5                   events raising potential quality assurance or  
6                   patient safety concerns.

7                   Incidents are reviewed by the  
8                   Department upon receipt and if determination  
9                   is made that there exists immediate resident  
10                  care concerns an immediate on-site is  
11                  conducted. If no immediate resident care  
12                  concerns are noted, the reported incident is  
13                  reviewed during the next on-site visit to the  
14                  facility to determine if appropriate action  
15                  has been taken.

16                  Included in the reporting of  
17                  incidents is the reporting of alleged abuse.  
18                  Nursing homes are required to immediately  
19                  report any allegation of abuse to the  
20                  Department. The facility's investigation must  
21                  be completed within five days and the results  
22                  submitted to the Department.

23                  The Department has received 260  
24                  allegations of abuse from the ManorCare  
25                  facilities during the reported time period.

1 To date, 19 cases have been substantiated, 164  
2 have been unsubstantiated, 24 were not  
3 applicable -- applicable, and 53 are still  
4 under review or have not yet been determined.

5 Additionally, facilities must report  
6 abuse that is criminal in nature to local law  
7 enforcement.

8 If a resident is discovered to have  
9 scratches on an arm, the facility is to report  
10 that finding as potential abuse and to  
11 investigate how the resident got scratched.

12 If the facility determines the scratches were  
13 self-inflicted, the allegation of abuse was  
14 not substantiated. However, the Department  
15 could require the plan of care include  
16 measures to protect the resident from  
17 self-injurious behavior if the resident's  
18 condition warrants such protection.

19 Once the facility submits the results  
20 of the investigation to the Department, it is  
21 reviewed and a determination is made as to  
22 whether the Department must go on site,  
23 whether further action has to be taken  
24 involving other agencies or law enforcement if  
25 the facility has not already taken these

1 steps, or whether the investigation conducted  
2 by the facility is complete.

3 Since the change in ownership, the  
4 Department has imposed the following sanctions  
5 against ManorCare facilities.

6 On January 9th, 2008, monitoring  
7 visited -- visit -- excuse me -- and incident  
8 investigation was completed which identified  
9 that a ManorCare facility failed to provide  
10 timely care and services for one resident who  
11 expired following a fall and a significant  
12 head injury. The Department recommended a  
13 federal civil monetary penalty and ordered a  
14 state monetary provision and issued a  
15 Provisional 1 license.

16 A March 4th revisit to assess  
17 corrective action revealed the facility had  
18 taken corrective action to resolve the cited  
19 deficiency.

20 On May 22nd, 2008, an inspection of  
21 the same facility revealed that the facility  
22 failed to provide timely services for a  
23 resident who complained of chest pain. The  
24 resident had no cardiac history. The facility  
25 failed to notify the physician of the

1 resident's acute symptoms and was transferred  
2 to the hospital when found to be  
3 unresponsive. The resident subsequently  
4 expired at the hospital.

5 As a result of the inspection, a  
6 federal civil monetary penalty was imposed as  
7 well as a state civil monetary penalty. The  
8 facility was issued a Provisional 2 license.

9 A July 31st, 2008 revisit inspection  
10 to assess corrective action was conducted, and  
11 the facility was found to have made  
12 corrections to the deficiency cited.

13 The Department has closely monitored  
14 staffing changes in key positions and staffing  
15 ratios within the facilities. A few changes  
16 in key positions have occurred but do not  
17 represent a significant turnover rate.

18 Retention rates for key personnel  
19 include 88 percent one-year retention rate for  
20 administrators compared to 86 the previous  
21 year and 85 percent one-year retention rate  
22 for directors of nursing compared to 84  
23 percent the previous year.

24 Additionally, expenditures for  
25 personnel and wage included a 4.4 increase in

1 nursing and a total 5.8 percent for general  
2 wage increases have been reported to the  
3 Department by ManorCare.

4 All facilities have maintained  
5 consistent staffing ratios with none dropping  
6 below the mandatory regulate -- mandated  
7 regulatory ratio of 2.7 nursing hours per  
8 resident per day.

9 The Department has also been  
10 monitoring capital improvement projects. The  
11 2008 capital expenditures total \$15,769,495.  
12 Expenditures were made for new construction,  
13 purchases of generators and roof repairs, and  
14 general durable equipment.

15 Overall, ManorCare accounts for eight  
16 percent of the total nursing home beds in  
17 Pennsylvania, totaling 7,188 out of a  
18 statewide total 89,118 nursing home beds.

19 Comparing the roughly six months  
20 prior to the sale with seven months since the  
21 sale, we know that prior to the sale ManorCare  
22 accounted for 13 percent of the complaints  
23 filed in the state and post-sale they  
24 accounted for 12 percent.

25 Prior to the sale, they accounted for



1 eight percent of the substantiated complaints  
2 filed in Pennsylvania, eight percent of the  
3 potential abuses -- reports filed statewide,  
4 and eight percent of the incidents filed  
5 statewide.

6 Post-sale, they accounted for eight  
7 percent of the potential abuse and incidents  
8 reported in Pennsylvania and ten percent of  
9 the substantiated complaints filed statewide  
10 post sale.

11 The number of complaints filed rose  
12 from 149 pre-sale to 171 post-sale. The  
13 Department increased the number of on-site  
14 investigations from 83 percent pre-sale to 87  
15 percent post-sale. The percentage of  
16 complaints substantiated also increased from  
17 16 percent to 23 percent post-sale.

18 Comparing this to the rest of the  
19 state, 20 -- 27 percent of the complaints at  
20 all other nursing homes were substantiated in  
21 the pre-sale time period and 29 were  
22 substantiated at all other nursing homes in  
23 the post-sale time period.

24 The Department has been diligent with  
25 its oversight of the facilities involved in

1 the ManorCare/Carlyle acquisition. Numbers  
2 and severity of deficiencies cited in  
3 ManorCare facilities during the time period  
4 covered by this testimony do not represent a  
5 statistically significant deviation from the  
6 industry standard.

7 Sanctions imposed, although severe  
8 for one facility, do not represent a  
9 significant level for a total of 45  
10 facilities. Additionally, the ManorCare  
11 response to the noncompliance and negative  
12 resident outcomes cited at the one ManorCare  
13 facility on which the Department has imposed  
14 sanctions has been swift and comprehensive.  
15 We will continue to monitor this facility as  
16 well as the rest of the ManorCare/Carlyle  
17 facilities.

18 Thank you for the opportunity to  
19 testify, and I would be happy to take any  
20 questions that you have.

21 CHAIRMAN MUNDY: Okay. Thank you  
22 very much, Ms. Mitchell. It certainly does  
23 appear that the Department has been very  
24 diligent with its oversight, and I know I  
25 speak for all the committee members in

1 expressing my appreciation for that.

2 I know it's your job, but we can pass  
3 all the laws and regulations we want and if  
4 they're not monitored and enforced, they mean  
5 very little.

6 So I do appreciate the fact the  
7 Department has been very diligent with their  
8 oversight.

9 When you conduct an inspection, is it  
10 announced or unannounced?

11 DEPUTY SECRETARY MITCHELL:

12 Inspections are unannounced.

13 CHAIRMAN MUNDY: Okay. And with  
14 regard to, for example, the -- you raised an  
15 incident of incontinence. How -- how do you  
16 conduct the inspection?

17 Do you actually go to the resident  
18 and the person who complained, which might  
19 have been a family member, and interview them  
20 or do you just look at how incontinence is  
21 handled generally throughout the facility?

22 If it is an inspection, when there's  
23 a complaint specific to a resident, is that  
24 resident interviewed without any staff or  
25 anybody around? How is that conducted?

1                   DIRECTOR BORDNER: Our inspectors  
2 typically go and interview the resident, if  
3 the resident is interviewable, or the family  
4 member -- excuse me -- who reported the  
5 incident or the incontinence.

6                   We also look at a representative  
7 sampling of the rest of the facility in  
8 reference to incontinence and how care is  
9 delivered to the individuals in general.

10                   So we kind of do both of what you're  
11 asking.

12                   CHAIRMAN MUNDY: Thank you.

13                   Other members have questions?

14                   Representative Pashinski.

15                   REPRESENTATIVE PASHINSKI: Thank you,  
16 Madam Chairman.

17                   Thank you very much for your  
18 testimony.

19                   Concerning that on-site -- on-site  
20 inspections, you said there might be some  
21 complaints about the on-call bells that may be  
22 answered improperly and that that the  
23 condition will not exist because you're  
24 there.

25                   Now, how do you -- how do you deal

1 with this problem if it doesn't exist while  
2 you're there but it may exist when you're not  
3 there?

4 DEPUTY SECRETARY MITCHELL: I  
5 think -- I think the question is not  
6 necessarily that they're better because we're  
7 there. Although I think sometimes that does  
8 happen.

9 We do go 24 hours a day. So we will  
10 go in the wee hours of the morning or we will  
11 go in the evening or we will go during the  
12 day. So I don't want you to think we're only  
13 there between 8:00 and 5:00 so everyone knows  
14 to behave during that particular shift.

15 We will do a general walk-around and  
16 an observation. If we continue to get  
17 complaints that we are not able to  
18 substantiate, we have to have another serious  
19 conversation with the administrator to find  
20 out do we have a -- do we have staffing  
21 issues, do we have a particular resident  
22 who -- who may be prone to repeated  
23 complaints, or do we have a lot of smoke and  
24 we have to look for fire.

25 So we will not give up if we continue

1 to receive the same complaints, even though  
2 we're not able to substantiate it on an  
3 on-site.

4 REPRESENTATIVE PASHINSKI: Okay. I  
5 appreciate that.

6 And I think it's -- it's pretty safe  
7 to say that you do have some patients that are  
8 uncooperative and if any of -- those of us who  
9 have been involved in those kind of situations  
10 know that they're almost childlike and do it  
11 out of spite and so on.

12 How do you keep track of -- let's  
13 say, for example, we have that particular  
14 patient. How do you keep -- do you have a  
15 special file? Is there a category that you  
16 put them in?

17 I'm trying to -- I'm trying to  
18 discern whether or not, you know, a complaint  
19 is -- is being lodged by someone that is being  
20 incurred.

21 DEPUTY SECRETARY MITCHELL: We enter  
22 all of our complaints into our licensing  
23 software tracking system and they're processed  
24 and triaged by a central unit.

25 So we're able to -- to identify

1 patterns through the intake of those  
2 complaints and through the software system.  
3 So if we have a repeat complainer, we're  
4 generally able to identify that.

5 That's not to say we don't take it  
6 seriously because, you know, even -- you know,  
7 even someone who complains chronically can  
8 have legitimate complaints.

9 REPRESENTATIVE PASHINSKI: Right.

10 DEPUTY SECRETARY MITCHELL: So we do  
11 evaluate them all as they come in. But if we  
12 have already been there for that complaint,  
13 the facility is implementing plans for  
14 correction, we may not go and do an on-site  
15 until we know the correction has been put in  
16 place, because obviously we're going to  
17 re-verify the condition exists until it's been  
18 corrected.

19 REPRESENTATIVE PASHINSKI: Okay. I  
20 thank you. Thank you for your comments.

21 CHAIRMAN MUNDY: Other members with  
22 questions?

23 REPRESENTATIVE HENNESSEY: Go ahead.

24 CHAIRMAN MUNDY: Representative  
25 Everett.

1                   REPRESENTATIVE EVERETT: Thank you.

2 Thank you for your testimony today.

3                   I have just -- on this -- the  
4 staffing issue, I think one of the allegations  
5 that I've heard is that the staffing levels at  
6 ManorCare were going to decrease as a result  
7 of Carlyle Group taking over.

8                   Can you -- are you able to comment on  
9 the staffing levels at ManorCare facilities  
10 relative to other care facilities in the  
11 state?

12                   DEPUTY SECRETARY MITCHELL:  
13 Unfortunately, I was not as far-thinking as to  
14 compare them to all the other facilities in  
15 the state in this regard. But I can tell you  
16 that all ManorCare facilities meet the minimum  
17 Pennsylvania Requirement of 2.7 hours and  
18 additionally most of them are staffed above 3.  
19 hours -- 3.0 hours.

20                   We do have some statistics on all the  
21 facilities that show on average the overall  
22 staffing has increased by .04 hours. And it's  
23 gone down in some facilities. Sixteen to be  
24 specific. But it's also gone up in 22 of  
25 their facilities.



1           We don't have data in some of the  
2           others because inspections will be forthcoming  
3           or are pending. But on the whole, the  
4           staffing has been appropriate and has exceeded  
5           the statewide minimum.

6           REPRESENTATIVE EVERETT: Thank you.

7           CHAIRMAN MUNDY: Would the members  
8           who have joined us since we introduced  
9           ourselves, please, introduce yourselves now?

10          REPRESENTATIVE KESSLER:

11          Representative Dave Kessler, Berks County.

12          REPRESENTATIVE BOBACK:

13          Representative Karen Boback, Luzerne, Columbia  
14          and Wyoming Counties.

15          REPRESENTATIVE WILLIAMS:

16          Representative Jewell Williams, Philadelphia  
17          County.

18          REPRESENTATIVE KELLER: Bill Keller,  
19          Philadelphia County.

20          CHAIRMAN MUNDY: Okay. Thank you.

21          Other questions? Representative  
22          Hennessey.

23          REPRESENTATIVE HENNESSEY: Thank you,  
24          Madam Chairman.

25          Stacy, with regard to the number of

1 complaints, there seems to be relative  
2 stability across -- when you compare the  
3 nursing homes of ManorCare across the entire  
4 spectrum and the spectrum of nursing homes  
5 across the country and the Commonwealth.

6 What about the levels of complaint?  
7 I mean you must break them down into more, you  
8 know, serious, less serious complaints.

9 Do we have -- do you have any  
10 information to give to us in terms of the  
11 nature of the complaints and how those -- how  
12 the serious complaints against ManorCare, if  
13 there are any, relate to serious complaints  
14 against other nursing homes?

15 DEPUTY SECRETARY MITCHELL: I don't  
16 have a breakdown at my fingertips on that, but  
17 I can work on that analysis and give it to you  
18 later.

19 REPRESENTATIVE HENNESSEY: Do you  
20 have a sense as to whether or not there's more  
21 of a problem with ManorCare, less of a  
22 problem, or whether it's typical of the  
23 nursing homes across the Commonwealth?

24 DEPUTY SECRETARY MITCHELL: I think  
25 any time that there is a high profile

1 transaction that has proponents and opponents  
2 that you expect a spike in complaints, and I  
3 think that holds true not just for the nursing  
4 home that's in question but for the nursing  
5 home in general, because -- the nursing home  
6 industry in general, excuse me, because people  
7 are sensitized to it. It's in the  
8 newspapers. You know, our toll free line gets  
9 published a lot more often.

10 So we expected a rise in complaints.  
11 I don't think it -- it was as large as we  
12 thought it was. Because, quite frankly, we  
13 were prepared for a whole lot more.

14 The number of substantiated  
15 complaints did go up at ManorCare facilities  
16 regardless of the type of the complaint, but  
17 they did in Pennsylvania overall in general.

18 And ManorCare has a lower percentage  
19 of substantiated complaints than everybody  
20 else did.

21 What those complaints involved I  
22 don't have at my fingertips, but I'll give you  
23 that information when we run some reports.

24 REPRESENTATIVE HENNESSEY: Okay.  
25 Thank you.

1 Thank you, Madam Chairman.

2 CHAIRMAN MUNDY: Representative  
3 Samuelson is joining us.

4 Any other questions from members?

5 All right. Thank you, Ms. Mitchell.  
6 Thank you very much.

7 Next to present to the committee is  
8 Dennis Short, research coordinator, Service  
9 Employees International Union Healthcare  
10 Pennsylvania and Ruth Rosario, certified nurse  
11 aide, ManorCare Health Services, Bethlehem,  
12 Pennsylvania.

13 Mr. Short, you can begin whenever  
14 you're ready.

15 MR. SHORT: Thank you. My -- my name  
16 is Dennis Short, and I'm the research and  
17 strategic campaign coordinator for the Service  
18 Employees International Union Healthcare  
19 Pennsylvania.

20 CHAIRMAN MUNDY: I think you're going  
21 to have to move that mike a little closer to  
22 your mouth, because it does not work very  
23 well.

24 MR. SHORT: Okay. Dear committee  
25 members, on behalf of myself and the 20,000

1 members of SEI Union Healthcare Pennsylvania,  
2 I want to thank you for the opportunity to  
3 share with you our concerns about the  
4 chronic -- quality of care at the Carlyle  
5 ManorCare nursing homes.

6 Our organization represents  
7 nursing home workers across the state, and we  
8 know that poor care in these homes not only  
9 hurts residents and the workers there but  
10 reinforces low standards that can hurt seniors  
11 in all nursing homes. We thank you for  
12 holding this important follow-up hearing.

13 As you recall, last year when Carlyle  
14 came to buy ManorCare, this committee pressed  
15 them to make strong -- make a strong  
16 commitment to improving resident care.

17 In response, Carlyle -- Carlyle  
18 issued two documents, a national statement  
19 called their patients' first pledge and a more  
20 secretive Pennsylvania-only section of their  
21 supplemental license application called  
22 assurances and commitments.

23 They promised to, quote, continue to  
24 provide quality health care services for our  
25 patients and residents and they extended that

1 promise in their license application to  
2 include providing the state with weekly  
3 staffing schedules and notifying the state of  
4 any staffing reductions.

5 The question we raise today is  
6 whether Carlyle ManorCare has made the  
7 promised improvements.

8 Despite repeated attempts, including  
9 working with House Democratic leadership to  
10 collect this sort of data, our union has been  
11 unable to find any evidence that Carlyle  
12 ManorCare has complied with its own  
13 promises to Pennsylvania and we have collected  
14 data that shows that they could be failing to  
15 live up to their patients' first pledge.

16 Considering the fact that the state  
17 weighed these two promises heavily when  
18 considering this license transfer application,  
19 this is indeed bad news.

20 Today, we should be looking at a  
21 pattern of improvements as promised by the  
22 Carlyle ManorCare. Instead, we found more of  
23 the same below-average staffing and dangerous  
24 violations of patient care standards. Alleged  
25 violations of workers' rights and fraud make

1 the picture even more grim.

2 Our analysis of the data Carlyle  
3 ManorCare reported to the state shows that  
4 40 percent -- 46 percent of the companies --  
5 company's facilities surveyed since the buyout  
6 in this state had fewer hours of care since  
7 Carlyle took over.

8 Before the buyout, ManorCare's  
9 Pennsylvania homes were already staffed below  
10 levels recommended by experts to keep seniors  
11 safe -- safe. The chain reported 3.31 hours  
12 of patient care per day, which is 19 percent  
13 below the recommended levels -- the federal  
14 recommended levels. There has been no  
15 improvement.

16 Recent staffing data for facilities  
17 surveyed indicate that the staffing level  
18 continue -- continues at 3.3 hours of  
19 patient -- per patient day. Most of them --  
20 of their facilities that have been surveyed in  
21 Pennsylvania are below the statewide and  
22 nationwide average of 3.6 hours per patient  
23 day. 19 out of their 24 facilities were below  
24 the 3.6 state and national average, and each  
25 and every one of them staffs below the 4.07

1 hours of care per resident day recommended by  
2 experts to keep seniors safe.

3 Carlyle ManorCare pledged that they  
4 would notify the state when staffing levels  
5 went down, but did they do this for the 11  
6 facilities with the reduced level of  
7 staffing?

8 And they pledged they would staff  
9 based on patients' clinical needs. At 19  
10 percent below recommended thresholds, it seems  
11 they may be failing to fill -- fulfill this  
12 pledge.

13 None of the ManorCare nursing homes  
14 surveyed since the buyout in Pennsylvania were  
15 in full compliance with federal care standards  
16 on their most recent health inspections after  
17 the buyout.

18 Survey inspections of Pennsylvania  
19 facilities since the buyout have found a total  
20 230 health and fire safety violations, an 18  
21 percent increase over the number of violations  
22 found in those facilities the last survey  
23 before the buyout.

24 Investigation of complaints  
25 substantiated another 40 deficiencies. Health



1 deficiencies increased seven percent from 125  
2 to 134. Fire safety deficiencies increased 37  
3 percent, from 70 to 96 percent. Despite  
4 Carlyle ManorCare's promise to provide  
5 adequate care, residents are still being  
6 harmed.

7           And we've also seen a number of labor  
8 relations violations that have also affected  
9 patient care. Starting in October of 2007,  
10 workers at one ManorCare facility began  
11 participating in activities to improve  
12 conditions at the facility, including  
13 contacting our union.

14           In response, ManorCare spent  
15 significant resources on a campaign to coerce  
16 and intimidate workers and stop them from  
17 joining the union.

18           Workers filed charges based on these  
19 activities with the National Labor Relations  
20 Board which chose to file charges against  
21 ManorCare.

22           Despite repeated attempts to -- by  
23 the judge to settle this case, ManorCare  
24 refused to settle and a four-day court case  
25 costing, assumedly, tens of thousands of

1 taxpayers' dollars proceeded. The case has  
2 yet but -- has not yet been decided.

3 ManorCare's anti-union activities  
4 cost the company staff time and funding that  
5 should have gone to front line care and  
6 ostensibly some of these -- those funds are  
7 federal taxpayer dollars.

8 Compounding this is the tens of  
9 thousands of dollars the court case cost  
10 taxpayers. This is no way to put patients  
11 first.

12 Workers are reporting management is  
13 hiding dangerous short staffing from the  
14 state. The state of Pennsylvania is required  
15 to conduct yearly state inspections and the  
16 testimony of caregivers suggests that  
17 ManorCare may be preparing for inspections by  
18 cleaning up their act temporarily before  
19 returning to substandard operations.

20 Caregivers report that four to five  
21 days before an inspection there's more --  
22 there's more staffing. Quote, staff are  
23 tripping over each other. Per diem RNs, LPNs,  
24 and CNAs are brought on to fill out the  
25 staff.

1           Per diem housekeeping are in the  
2 building and housekeeping is asked to work  
3 overtime. Floors are stripped and waxed.  
4 Curtains are cleaned. Bathrooms are  
5 sanitized, and there are enough linens.

6           After the inspections, caregivers say  
7 that everything goes back to normal, short  
8 staffing and unwashed bathrooms.

9           Management instructs staff during  
10 inspections to wear back braces; use gait  
11 belts, which is a -- a belt to help residents  
12 walk; always to have two staff to lift  
13 residents, to wear name tags; chart; answer  
14 the bells within two to three minutes; and  
15 take gloves off before going into the  
16 hallway. After these inspections these  
17 requirements are no longer in effect.

18           Workers are also reporting to us  
19 short staffing. At one facility, because of  
20 routine short staffing, nurse aides on the  
21 3:00-to-11:00 shift at one facility report  
22 that they're barely able to complete their  
23 third round of care, which is changing and  
24 toileting and turning residents.

25           When this does not happen, normal

1 procedure is to alert staff on the next shift  
2 so they can begin their rounds early to make  
3 up for care not provided. However, staff on  
4 the 11:00-to-7:00 shift have complained when  
5 that has happened and as a result residents  
6 are routinely saturated in urine and feces for  
7 at least three hours.

8 According to caregivers ManorCare  
9 facilities engage in this sort of activity  
10 again and again because they're not meeting  
11 standards but do not want to get caught and  
12 risk losing funds.

13 It's clear that ManorCare/Carlyle  
14 failed to make the investments and  
15 improvements in front line care that they  
16 promised this committee nearly one year ago.

17 This is a valuable lesson for our  
18 state, that promises can't take the place of  
19 strong -- of a strong track record -- record  
20 when considering whether a company is fit to  
21 care for our fragile seniors.

22 Still seniors are relying on  
23 Carlyle/ManorCare right now to take care of  
24 them, and we must not disturb the  
25 continuity -- continuity of care.

1           The state must fully enforce all  
2 rules and regulations at ManorCare homes and  
3 patrol them, particularly for fraud.

4           We're recommending that the state  
5 require that ManorCare submit the disclosures  
6 as promised in their supplemental license  
7 application and allow the public access to  
8 these disclosures.

9           We'd like the state to ban ManorCare  
10 from using federal Medicare or Medicaid  
11 funding to pay for anti-union activities and  
12 require ManorCare to submit a copy of the  
13 report to prove -- to prove its compliance.

14           We're asking the state to not  
15 announce inspections in ManorCare homes and  
16 fully investigate allegations of  
17 inspection-related fraud.

18           We'd like the state to recommend  
19 creating a blue ribbon panel, including  
20 government, industry, and caregivers to audit  
21 closely these quality issues.

22           And, finally, in examining future  
23 license transfer applicants, we'd like the  
24 state to weigh the reputation and the ability  
25 to care for seniors only and disregard the

1 promises.

2           Again, I thank this committee for the  
3 opportunity to share our concerns, and I look  
4 forward to working with you to improve these  
5 nursing homes and protect Pennsylvania  
6 seniors.

7           CHAIRMAN MUNDY: Ms. Rosario.

8           MS. ROSARIO: Yes. Okay. Good  
9 morning, esteemed members of the committee.  
10 Thank you for the opportunity to share my  
11 experiences with you.

12           My name is Ruth Rosario, and I work  
13 as a certified nurse aide at ManorCare  
14 Bethlehem 2021. I've worked there for three  
15 years.

16           I'm glad to be here today to talk  
17 about what it's like to work in a ManorCare  
18 facility, in particular since the Carlyle  
19 Group took over in December.

20           My comments are based on my own  
21 experiences as well as talking with coworkers  
22 at Bethlehem and other ManorCare facilities in  
23 the Lehigh Valley.

24           I came to work at the nursing home  
25 because I have a passion to take care of

1 people. I like to make people happy,  
2 especially the residents who often have no  
3 other family of their own that come to see  
4 them.

5 It makes my job especially hard when  
6 we don't have the staffing and supplies we  
7 need to take good care of the residents. The  
8 only thing that keeps me here is my desire to  
9 make improvements and make residents' lives  
10 better.

11 Staffing is a big problem at my  
12 facility. We don't have enough aides to  
13 provide the best care for our residents.  
14 There are times when residents don't get  
15 changed when they should and they don't get  
16 turned enough or their food is served cold.  
17 And because we barely have time to meet their  
18 basic needs, we certainly don't have enough  
19 staff to spend time talking to residents in  
20 the way we should.

21 It's sad because it goes from  
22 caregiving to assembly-line taking care of  
23 people where we have to do the minimum and as  
24 fast as possible in order to get all -- to all  
25 the residents.

1           For my coworkers and me it makes our  
2 job more stressful and less fulfilling.  
3 Management told us that we should spend only  
4 15 minutes with each resident and usually we  
5 don't even have that much time.

6           This is devastating for the residents  
7 who then have nobody to talk to and have long  
8 waits for care.

9           At my facility, my estimate is that  
10 we are short-staffed on average three to four  
11 times a week and at least two to three times  
12 per week we're not able to make a second pass  
13 during AM care before lunch. That means the  
14 resident could be lying or sitting in their  
15 own urine or feces for three to four hours  
16 before we can change them after lunch.

17           On a daily basis we basically are  
18 faced with a choice of leaving residents to  
19 wait in soiled clothes or serve them cold  
20 food. When we complain to management, they  
21 told us -- they told us we have until  
22 3:00 p.m. to get our work done.

23           Getting the supplies we need to do  
24 our jobs has also been a problem since Carlyle  
25 took over. We are short wipes and soap about



1 three times a week.

2 Soap and wipes are very important,  
3 both for resident care and for workers. Some  
4 workers have spent their own money to get  
5 soap, but we shouldn't have to.

6 A caregiver at Easton was saying that  
7 management decided to stop providing the  
8 special soap that we use for the peri area.  
9 CNAs were told to use the regular disinfectant  
10 soap instead, but residents said it burned.  
11 The CNAs banded together to demand the  
12 management bring back the peri area -- area  
13 soap and eventually they won and now the peri  
14 soap is back. But caregivers shouldn't be  
15 fighting to get supplies.

16 What has made things worse since  
17 Carlyle took over is management's reaction to  
18 when me and my coworkers decided we needed a  
19 union to make improvements in our facility.

20 Every -- ever since we started  
21 talking to each and meeting with union  
22 organizers management has responded with  
23 harassment and intimidation which has affected  
24 morale at the facility.

25 There have been times when we have

1       been active with leafleting and meetings and  
2       management has responded by loading with  
3       staffing because I think they figure that if  
4       we have enough staff we won't talk about the  
5       union.

6               Unfortunately, it never lasts and  
7       we're back to where we were before. Unless,  
8       of course, there's a state inspection and then  
9       there's staff everywhere.

10              I also believe that management's  
11       union-busting campaign is affecting patient  
12       care because they're pulling us off the floor  
13       for anti-union meetings. One example -- one  
14       example is back in March when management met  
15       with employees one-on -- one for up to 30  
16       minutes to say bad things about the union.  
17       Management met with 20 to 30 nurse aides,  
18       all -- all of who should have been caring for  
19       residents instead of listening to anti-union  
20       propaganda.

21              This is happening everywhere workers  
22       are trying to come together to make  
23       improvements. I heard from one worker in the  
24       Lehigh Valley who told me that there was a  
25       nearly 100 percent staff turn -- turnover

1 since management started cracking down on  
2 union activity.

3 I wish I could come here this morning  
4 and tell you that ever since the buyout --  
5 buyout Carlyle has been -- made things better  
6 for workers and residents. Unfortunately, I  
7 cannot say that.

8 Many workers I know are so  
9 discouraged by the lack of adequate staff and  
10 anti-union atmosphere that they are looking  
11 for other jobs.

12 I'll be honest with you, I think  
13 about it all the time myself. But so far I'm  
14 staying because I always believe that the --  
15 that the only chance we have to make  
16 improvements is when we workers have a voice  
17 and management respects our opinions and  
18 provide -- about providing care.

19 I hope this committee will do all it  
20 can to hold Carlyle and ManorCare accountable  
21 for the promises they made to provide quality  
22 care nearly one year ago.

23 Thank you.

24 CHAIRMAN MUNDY: Thank you,  
25 Ms. Rosario, Mr. Short.

1           Mr. Short, I have to ask you, you  
2           know, the Department of Health tells us that  
3           the inspections are unannounced and your  
4           testimony appears to be in direct conflict to  
5           what the Department of Health told us about  
6           what's happening at ManorCare.

7           How do you explain that?

8           MR. SHORT: The only thing I can tell  
9           you is what -- what the workers have  
10          repeatedly told us, is that before a -- the  
11          yearly inspection the facility knows when  
12          they're coming and they staff according to  
13          their -- people talk about staff tripping over  
14          each before the inspections.

15          One of the things that happens is the  
16          inspections are on a yearly basis and it's  
17          almost -- it's typically around the same time  
18          of the year and when a -- when the inspections  
19          are -- are in a certain region, you know,  
20          they're rolling through those inspections.

21          So although they may be unannounced,  
22          it's clear to everyone in the facility,  
23          including management, that the inspections  
24          are -- are coming.

25          I've also spoken to workers at a --

1 at a ManorCare pharmacy supplier who told me  
2 that they had a schedule of the inspections so  
3 that they knew on which day the state was  
4 going to be in the facility or the window they  
5 were going to be there. So they were  
6 instructed to make sure there were no mistakes  
7 with the pharmacy deliveries.

8 So clearly, although the state does  
9 not -- you know, they -- they do not announce  
10 their inspections, it's clear that they do  
11 know when this is happening.

12 And to be -- you know, frankly, it's  
13 not just with ManorCare. It's -- it's -- it's  
14 systematic.

15 CHAIRMAN MUNDY: How about when  
16 complaints are filed? Those are not announced  
17 either and they're not scheduled. So, again,  
18 you know, wouldn't the Department of Health be  
19 aware that there was short staffing if they  
20 went in to investigate a complaint?

21 MR. SHORT: Again, it's -- it's -- my  
22 experience is that -- you have to remember the  
23 state -- the state requirement is 2.7 hours of  
24 care. Right? It's -- it's almost impossible  
25 to get below that.

1           If you're at 2.7 hours of care,  
2       you're -- the recommended levels, you know,  
3       the federal recommended levels are over  
4       four -- four hours of care a day. If you're  
5       providing 2.7 hours of care today -- a day,  
6       you know, you're providing, you know -- you  
7       know, on paper, you know, they're providing,  
8       you know, 20-some hours of care -- or 20 hours  
9       a day that you're not providing care.

10           So the -- the two point -- it's very  
11       easy for a facility to meet that 2.7 hours of  
12       care on paper and -- and you can do that by  
13       loading up at certain times.

14           But, you know, I think it's --  
15       it's -- it's a problem for the state because  
16       it's a challenge for the state. When the --  
17       when the standard is 2.7, it's very easy for  
18       the facilities to meet that.

19           And, you know, I think it's --  
20       it's -- it's harder to -- you know, it's  
21       harder to -- to spend that time looking at --  
22       at facilities and talking to residents and  
23       talking to -- to caregivers to find out what  
24       the real -- real picture is.

25           If you walk in and investigate a

1 complaint and ask management how things are  
2 going, you're going to get a certain story.  
3 It's -- it's -- it's -- it's really a  
4 requirement for the state to spend time with  
5 those caregivers, the front line caregivers,  
6 who actually know what goes on in the  
7 facility.

8 CHAIRMAN MUNDY: You do reference in  
9 your testimony recommended levels of care and  
10 I see in your note that it's recommended by  
11 the centers for Medicare and Medicaid  
12 services.

13 But our state requirements or state  
14 regulations are 2.7, and according to the  
15 Department of Health ManorCare is providing  
16 staffing above those recommended levels.

17 So, again, you know, maybe we should  
18 be looking at the hours required through  
19 regulation. But if you -- if your allegation  
20 is that staffing -- and, again, I still don't  
21 understand how the Department of Health  
22 wouldn't notice that there is short staffing  
23 when they come in to investigate a complaint  
24 on an unannounced basis.

25 Because it certainly sounds as though

1 there have been complaints and they have been  
2 investigated.

3 I think what I would recommend as a  
4 committee is submit the testimony of Mr. Short  
5 and Ms. Rosario to the Department and ask them  
6 to comment from -- from their perspective on  
7 what's happening here.

8 Again, we have oversight over the  
9 Department of Health and its oversight of  
10 the -- of the regulations and the law here.  
11 It's important that we hear from the  
12 Department with regard to what you're saying.

13 Representative Williams.

14 REPRESENTATIVE WILLIAMS: Thank you.  
15 I have a couple questions.

16 In some of the testimony that  
17 Mr. Short has -- recently my mother was in a  
18 facility for eight years, and one of the  
19 things I find that he's correct, when there is  
20 a complaint made, there's a window that the  
21 Department of Health, they have a window, like  
22 a 7-day window to go in and investigate.

23 So if they have that seven-day  
24 window, you could enhance more employees to do  
25 more cleaning and things like that.



1           My concern is really, Mrs. Rosario,  
2           since you're making this testimony, are you in  
3           fear that you may lose your job?

4           MS. ROSARIO: No, I'm not. I believe  
5           that the residents are more important; and if  
6           I'm here to speak on behalf of residents and  
7           employees, I'm doing it for something better.

8           I mean I don't know what it is.  
9           Maybe it's just how much I love the residents  
10          and how much I love what I do. But I don't  
11          have a fear of losing my job.

12          REPRESENTATIVE WILLIAMS: Because if  
13          you're making a statement -- and some -- if  
14          some of these allegations that's on this, on  
15          your testimony, speaks directly about some of  
16          the deficiencies in these facilities, I would  
17          imagine the employer would be very angry if  
18          they're saying that these things doesn't  
19          happen.

20          And I note you have union  
21          representation here, and I'm a little  
22          concerned when people testify in committees  
23          and we have, you know, the union beside you,  
24          but I'm concerned really is if -- you may have  
25          some problems in the future as far as

1 employment at this facility.

2 MS. ROSARIO: I speak only what I see  
3 on a daily basis. It's the truth. I've  
4 voiced it a lot of times at my job to  
5 management, supervisors. So I only speak what  
6 I saw on a daily basis. I'm...

7 REPRESENTATIVE WILLIAMS: All right.  
8 I mean I applaud you. I thank you for your  
9 courage, you know, but I would strongly be  
10 concerned about my employment if I made a  
11 statement against my employer if some of these  
12 things are -- are not true.

13 I have a problem with your union in  
14 my opinion, my personal opinion, if they're  
15 putting you on the front line and don't have a  
16 back-up plan for you in the event that you may  
17 have some problem in the future. It might not  
18 be today. It might not be next week. It may  
19 be a couple years later and then if nobody has  
20 a backup plan for you and you testified, I'm a  
21 little concerned about you.

22 But thank you for your testimony

23 MS. ROSARIO: You're welcome.

24 CHAIRMAN MUNDY: Representative  
25 Pashinski.

1                   REPRESENTATIVE PASHINSKI: I  
2           apology -- apologize, Madam Chairman. I'm not  
3           quite sure all the questions that were asked,  
4           but I was going to ask if Stacy -- Stacy  
5           Mitchell was here. Because your -- their  
6           testimony is completely opposite of what we  
7           just heard from the Department of Health.

8                   And how can we be that far off?

9                   CHAIRMAN MUNDY: While you were out  
10          of the room, I think I said -- I don't know if  
11          you heard me say that we're going to submit  
12          the testimony of Mr. Short and Ms. Rosario to  
13          the Department of Health for their comments  
14          and their rebuttal, if they have any.

15                  I, too, am disappointed that the  
16          Department of Health did not stay to listen.  
17          You saw the Department of Public Welfare the  
18          other day at our assisted living hearing.

19                  I think it would have been very  
20          helpful had the Department stayed to listen to  
21          this. But unfortunately, it's --

22                  REPRESENTATIVE PASHINSKI: I would --  
23          I would like to have both of them at the same  
24          time so that we could have the opportunity to  
25          ask the same question of both groups.

1           And I was wondering, has your  
2 organization done any kind of financial review  
3 of the assets or profits of ManorCare, whether  
4 it be dividends or CEO salary or exec  
5 salaries?

6           MR. SHORT: Not our -- not our local  
7 union. And, again, one of the -- the company  
8 is now a private company. So what -- what  
9 used to be available as a -- as a publicly  
10 traded company is now -- we're now dealing  
11 with a privately held company.

12           So when you're dealing with a  
13 privately held company what is available to  
14 the public is -- is dramatically reduced.

15           REPRESENTATIVE PASHINSKI: Well, the  
16 fact of the matter is they have a tremendous  
17 responsibility and every aspect of that  
18 company should be investigated.

19           Thank you, Madam Chairman.

20           CHAIRMAN MUNDY: Representative  
21 Samuelson.

22           REPRESENTATIVE SAMUELSON: Thank  
23 you. I have a couple questions.

24           But, first, I just wanted to  
25 follow-up on Representative Williams'

1 concern. I want to reassure you that -- I  
2 hope that you don't have any kind of problem  
3 with -- with your employer. If you do, let me  
4 know. I'm your representative right in  
5 Bethlehem.

6 MS. ROSARIO: Okay.

7 REPRESENTATIVE SAMUELSON: And  
8 actually ManorCare Bethlehem is in my  
9 district. If they give you any kind of hassle  
10 for speaking out at a public committee meeting  
11 here in United States of America, you let me  
12 know and I'll let this committee know. That  
13 would be outrageous and we will -- we will  
14 speak up for you.

15 MS. ROSARIO: Well, thank you for  
16 your support.

17 REPRESENTATIVE SAMUELSON: I just  
18 wanted to reassure you.

19 My question for Mr. Short is one of  
20 your concerns is that you should ban ManorCare  
21 from using federal Medicare/Medicaid dollars  
22 to pay for anti-union activities. And my  
23 question is: Isn't that already prohibited by  
24 federal law, that you can't use tax dollars to  
25 pay for anti-union activities?

1           MR. SHORT: I think the challenge is  
2           that these are -- these are generally publicly  
3           funded facilities, Medicare/Medicaid. But,  
4           you know, funding is -- an accounting is  
5           fudgeable.

6           So how we determine whether it's  
7           happening, it's very, very difficult. It  
8           takes -- you know, when the Auditor General  
9           has looked at these kind of cases before, it's  
10          an extensive review that -- that is required  
11          to -- to determine whether or not, when you're  
12          looking at certain line items, where that  
13          money is being spent.

14          So I mean -- there is -- there is  
15          privately -- there is private-paid residents  
16          in a -- in a ManorCare facility. So its' --  
17          the challenge is -- it's -- it's an oversight  
18          issue honestly and it's -- it's -- it's a  
19          requirement for the facilities to -- to  
20          actually report that -- where -- where  
21          there -- where you have union busters in a  
22          facility where is that money coming from, when  
23          you're -- when you're hiring attorneys to  
24          represent you in -- in -- in labor board  
25          charges, where is that money coming from?

1           And so it's -- it's a challenge  
2           for -- you know, it's a reporting challenge  
3           and -- and it's an auditing challenge.

4           REPRESENTATIVE SAMUELSON: And in our  
5           packets here we have two articles from a  
6           publication, health care -- Health Affairs,  
7           about private equity investment and nursing  
8           home care and it talks about ten -- in the one  
9           article there's a list of ten acquisitions,  
10          including the one by Carlyle Group, since the  
11          year 2000 all across the country.

12          I guess my question is -- to  
13          Mr. Short, is there any new concerns in light  
14          of the recent turmoil on Wall Street with all  
15          of these nursing home changes that have been  
16          acquired by private equity firms?

17          MR. SHORT: I mean when -- when I  
18          think about this, is remember the -- the --  
19          you know, generally the business model for  
20          private equity is to acquire a company and  
21          then do something with it within three to five  
22          years to -- that's the -- that's the -- that's  
23          the understanding of the investors who invest  
24          in these funds.

25          And so my concern -- right now

1 this -- this -- this is the company that's  
2 owned by Carlyle and, you know, we've --  
3 we've -- after the -- you know, one year is  
4 up. You know, we're looking at two to -- two  
5 to four years when this company will likely  
6 be -- either becomes public again, it's sold  
7 off in part, and, you know, given the -- you  
8 know, given the pressures right now on  
9 investors, you know, it -- will they -- will  
10 they sort of quicken that timeline? I'm not  
11 sure.

12 You know, this is all happening in  
13 real time for us so it's hard to say.

14 But my concern is what -- what's  
15 going to happen? You know, it's like this  
16 committee, I think, has the -- the -- you  
17 know, has the charge to really take a quick  
18 look at this because this -- this company will  
19 be sold again within, you know, within a  
20 couple of years and I think our responsibility  
21 is to make sure that whatever -- whatever  
22 issues there are going on in the facility  
23 that -- that you're not selling -- you're not  
24 selling the assets off, you're not sort of  
25 splitting the real estate from -- from the



1 operation, et cetera. So...

2 CHAIRMAN MUNDY: Representative  
3 Hennessey.

4 REPRESENTATIVE HENNESSEY: Thank you,  
5 Madam Chairman.

6 Mr. Short, let me -- let me just  
7 check on your testimony here. You -- you say  
8 at the bottom of the first page that ManorCare  
9 has allowed staffing levels below those  
10 recommended by experts.

11 Do they let them fall below the  
12 staffing levels that are required by -- by  
13 Pennsylvania regulations?

14 MR. SHORT: No.

15 REPRESENTATIVE HENNESSEY: They do  
16 not?

17 MR. SHORT: Huh-uh.

18 REPRESENTATIVE HENNESSEY: So they  
19 meet the regulations, but they don't meet some  
20 higher standard recommended by other experts  
21 in the field?

22 MR. SHORT: Right.

23 REPRESENTATIVE HENNESSEY: How does  
24 their staffing levels, if you know, compare to  
25 other nursing homes outside the ManorCare

1 umbrella?

2 MR. SHORT: I think the testimony  
3 states that --

4 REPRESENTATIVE HENNESSEY: Whose  
5 testimony?

6 MR. SHORT: My testimony. I think --  
7 I believe the state average right now is about  
8 3.6.

9 REPRESENTATIVE HENNESSEY: Okay.

10 MR. SHORT: And -- and I think  
11 ManorCare -- of the -- of the facilities  
12 surveyed since the buyout, we're at 3.3. So  
13 they're below state averages.

14 REPRESENTATIVE HENNESSEY: Who did  
15 this survey? Your union?

16 MR. SHORT: No. This is -- these  
17 are -- this is federally available data. This  
18 is -- this is -- it's data reported to the  
19 states that is then passed on to the Feds.

20 REPRESENTATIVE HENNESSEY: Okay. Let  
21 me address this question about the use of  
22 federal monies for anti-union activities. I  
23 heard you --

24 CHAIRMAN MUNDY: Excuse me. I'm very  
25 sorry.

1                   REPRESENTATIVE HENNESSEY: I heard  
2                   you say the question is where is the money  
3                   coming from, and I'm gathering that you're not  
4                   making it a claim or an allegation that  
5                   ManorCare is using federal money but that they  
6                   are spending some money, which may be their  
7                   own or investors or whoever, but you think  
8                   it's a bad idea for them to do that?

9                   MR. SHORT: I think it's a bad idea  
10                  and I think that because -- again, these  
11                  are -- the majority of these residents are  
12                  Medicaid and Medicare residents paid for by  
13                  state and federal funds that -- that is the --  
14                  that is the -- that is the majority source of  
15                  income.

16                  And so it's essentially taxpayer  
17                  money going to union-busting activities.

18                  REPRESENTATIVE HENNESSEY: It seems  
19                  to me that you just said there's a majority  
20                  that are Medicaid and Medicare recipients but  
21                  not all of them.

22                  MR. SHORT: No. That's right.

23                  REPRESENTATIVE HENNESSEY: And you're  
24                  not saying that ManorCare is using the  
25                  majority of its money to pay for anti-union

1 activities, are you?

2 MR. SHORT: That's not what I said,  
3 no.

4 REPRESENTATIVE HENNESSEY: Okay. The  
5 one -- the one management -- or the one  
6 accusation you do make is that management  
7 instructs staffing during the inspections to  
8 wear braces and after the inspection the  
9 requirements are no longer in effect.

10 Tell me in detail about that. You --  
11 are you saying that when they hear of an  
12 inspection the management says, we're about to  
13 be inspected, we're going to comply by the  
14 regs and the -- the rules that we have to  
15 follow, and that after the inspection they  
16 expressly say, okay, we're back to normal,  
17 we're not going to follow any of the regs?

18 Is that the allegation that you  
19 make? Because that's what it seems like as I  
20 read your testimony again.

21 MR. SHORT: What workers have told me  
22 is that before inspection is scheduled there's  
23 a number of changes that are -- that happen  
24 throughout the facility, including wearing  
25 badges, not to walk onto the floor with --

1 with gloves on that you've been using, things  
2 that are -- that normally don't happen. And  
3 then when -- when the inspection is over,  
4 those -- those instructions are no longer  
5 enforced.

6           Whether it's -- whether -- again,  
7 these are, you know, workers -- management --  
8 it's like workers know how to respond to  
9 management and so if management -- if -- if on  
10 a daily basis these -- these regulations and  
11 these practices are not in effect, workers  
12 know that once the inspection is over, it's  
13 not -- it's no longer a requirement.

14           Whether it's -- whether it's a  
15 specific instruction or not, it's -- it is de  
16 facto.

17           REPRESENTATIVE HENNESSEY: I'm being  
18 asked whether or not these are statements --  
19 are you testifying from your own knowledge or  
20 as a result of what other people have told  
21 you?

22           MR. SHORT: This -- this is based  
23 upon -- on interviews with workers.

24           REPRESENTATIVE HENNESSEY: And just  
25 so I'm clear, if management reasserts a

1 regulation and then doesn't reassert it for a  
2 month or two or three, are you saying that  
3 that's the same thing as management telling  
4 people that they don't have to follow that  
5 regulation or is it simply something that they  
6 don't -- they're not necessarily asserting  
7 each and every day or each and every hour,  
8 each and every week?

9 MR. SHORT: I don't -- I don't know  
10 what -- you know, I don't know what management  
11 is doing to -- to -- to make these changes.

12 It is -- it is -- it is the practice  
13 that we've been told about. Whether it's  
14 explicit or implicit, it is -- but it is a  
15 reality.

16 REPRESENTATIVE HENNESSEY: Okay.  
17 Thank you.

18 Representative Smith, do you have  
19 some questions?

20 REPRESENTATIVE SMITH: I'm going to  
21 waive. My questions were answered. I waive.

22 REPRESENTATIVE KESSLER: I have some  
23 questions.

24 REPRESENTATIVE HENNESSEY: Oh,  
25 Representative Kessler, you have a question.

1 REPRESENTATIVE KESSLER: Thank you.

2 Mr. Short, in your testimony under  
3 the section the same below standard staffing,  
4 I read the word recommended four or five  
5 times.

6 What is the state requirement per  
7 patient per day?

8 MR. SHORT: The state requirement is  
9 2.7 hours of patient care per day.

10 REPRESENTATIVE KESSLER: Okay. And  
11 also it says -- in the second paragraph on the  
12 second page it says recommended by experts,  
13 the 4.07.

14 Who are the recommended experts?

15 MR. SHORT: These are -- these are --  
16 it's both -- as the -- as the chair mentioned,  
17 it's -- it's the Center for Medicaid and  
18 Medicare services and other sort of patient  
19 advocates. So these are -- these are federal  
20 recommendations.

21 REPRESENTATIVE KESSLER: Okay. And  
22 do you know of any other states that are above  
23 that 2.7 that Pennsylvania is?

24 MR. SHORT: I -- honestly I don't.  
25 Different states have different standards.

1 Some states have staffing ratios.

2 So it's -- I -- honestly, off the top  
3 of my head, I don't know what the other state  
4 standards are.

5 REPRESENTATIVE KESSLER: I'd be  
6 interested to see what the other 50 states  
7 require. Because if we're at 2.7 and the  
8 federal recommendation is 4.07, I think we  
9 seriously need to consider increasing that  
10 2.7.

11 MR. SHORT: And just to be -- again,  
12 the state average is 3.6. So most -- it's  
13 very rare you will ever find a facility at  
14 2.7. If you're at 2.7, you know, you will --  
15 you will see problems. It's -- it's -- it's  
16 rare or never -- and I think that's one of the  
17 things that -- that companies will hide behind  
18 is they'll say, you know, we staff at 2.7.  
19 It's -- nobody staffs at 2.7. Only rarely  
20 does that ever happen.

21 And I think that -- again, the  
22 federal recommendations are 4.07. So I think  
23 that it's -- it's disingenuous when people  
24 hide behind that 2.7.

25 REPRESENTATIVE KESSLER: Well, if you



1 could possibly get your hands on that type of  
2 information, as far as the other states, I --  
3 I would be and I'm sure everybody else would  
4 be interested in seeing that.

5 Thank you.

6 REPRESENTATIVE HENNESSEY: Thank  
7 you. Representative -- are you finished?

8 REPRESENTATIVE KESSLER: Yes.

9 REPRESENTATIVE HENNESSEY: Okay.  
10 Representative Kula.

11 REPRESENTATIVE KULA: Yes. I have a  
12 couple questions for Ms. Rosario so that I  
13 understand maybe what your actual duties are  
14 in a given day.

15 Now, I would assume you're assigned  
16 to a certain -- whether it's a -- a unit or so  
17 many patients that you are assigned to per  
18 shift. And how many would that be?

19 MS. ROSARIO: It -- it varies  
20 depending on staffing. On a -- on a good day  
21 it would be ten residents. On a -- on a short  
22 day, it would be about 16.

23 REPRESENTATIVE KULA: Okay. And of  
24 those, say, on a good day, ten patients, how  
25 many -- if you're -- and are you always

1 assigned to those ten?

2 MS. ROSARIO: Not the same ten.

3 REPRESENTATIVE KULA: Not the same  
4 ten. So you're -- you may change to different  
5 areas depending upon where you are assigned  
6 for the day?

7 MS. ROSARIO: Yes.

8 REPRESENTATIVE KULA: And are some of  
9 those ambulatory?

10 MS. ROSARIO: No. Most of them are  
11 not.

12 REPRESENTATIVE KULA: Most are not?

13 MS. ROSARIO: (Nods head up and  
14 down.)

15 REPRESENTATIVE KULA: Which means  
16 you're -- they require --

17 MS. ROSARIO: Total care.

18 REPRESENTATIVE KULA: -- basically  
19 constant care?

20 MS. ROSARIO: Yes.

21 REPRESENTATIVE KULA: Now, when --  
22 and you're responsible when it comes time for  
23 their breakfast or lunch, depending on what  
24 shift you're on. Correct?

25 MS. ROSARIO: Yes.

1           REPRESENTATIVE KULA:  So I -- I've  
2       been involved in nursing homes with my mother  
3       and mother-in-law and I have the good fortune  
4       of living very close by.  Which meant I was  
5       able to be there on a daily basis and watch  
6       what went on and what was required of the --  
7       the staff in most nursing homes, and I would  
8       assume it's pretty much the same everywhere.

9           Now, when the trays come around for  
10      breakfast or lunch or dinner and they're  
11      brought into the rooms, can the majority of  
12      those ten people you take care of that day  
13      feed themselves?

14           MS. ROSARIO:  The majority can.

15           REPRESENTATIVE KULA:  The majority  
16      can?

17           MS. ROSARIO:  Yes.

18           REPRESENTATIVE KULA:  And what about  
19      the ones who can't?

20           MS. ROSARIO:  We have to wait until  
21      we pass all the trays out and then we have to  
22      sit and feed them.

23           REPRESENTATIVE KULA:  Okay.  And how  
24      much time would you have -- would you say you  
25      have allotted to you?  Say out of ten

1 patients, how many would you have to feed?

2 MS. ROSARIO: About -- out of ten,  
3 one.

4 REPRESENTATIVE KULA: One? Okay. So  
5 how much time would you say -- because I know  
6 feeding is not a -- a real easy task in most  
7 instances?

8 MS. ROSARIO: No.

9 REPRESENTATIVE KULA: How much time  
10 are you afforded to feed that patient?

11 MS. ROSARIO: If we take longer than  
12 15 minutes, we might be behind on some things.

13 REPRESENTATIVE KULA: And in most  
14 instances, how much -- and you have to report  
15 how much they eat?

16 MS. ROSARIO: Yes.

17 REPRESENTATIVE KULA: Correct?

18 MS. ROSARIO: Yes.

19 REPRESENTATIVE KULA: So what would  
20 you say the percentage of that would be?

21 MS. ROSARIO: Usually it's a hundred.

22 REPRESENTATIVE KULA: Really?

23 MS. ROSARIO: They eat everything.

24 REPRESENTATIVE KULA: That's truly  
25 amazing from what I've seen in most

1 instances.

2 MS. ROSARIO: There's certain  
3 residents who don't. But it's my -- where I  
4 work -- where I'm used to working and what the  
5 -- the patients that I'm used to taking care  
6 of, they're usually eating everything.

7 REPRESENTATIVE KULA: Okay.

8 MS. ROSARIO: Yeah.

9 REPRESENTATIVE KULA: Now, when it  
10 comes to -- we talked about the gloves and the  
11 braces and things such as that. Now, do you  
12 have requirements when you're hired at these  
13 places as far as wearing those?

14 MS. ROSARIO: Yes. They give us one  
15 as soon as we're working, the back brace, the  
16 gait belt, and our name badges, and they tell  
17 us we have to wear them every day.

18 REPRESENTATIVE KULA: Okay.

19 MS. ROSARIO: But it's not as  
20 enforced as when the state is there.

21 REPRESENTATIVE KULA: Okay. But why  
22 does it have to be enforced for you as an  
23 employee? That -- I would think that would be  
24 an extreme safety measure for you, wearing  
25 gloves, wearing braces.

1           I mean I would think that that is  
2           instituted in order to protect you. So why  
3           should -- I guess I'm failing to understand  
4           why management needs to enforce something that  
5           is so critical to your safety.

6           MS. ROSARIO: You're right. It's  
7           just that because the residents -- the staff  
8           don't use them on a daily basis and then when  
9           staff -- when the state comes they are so hard  
10          on it, it feels like such a big difference  
11          when we're on a daily basis not using them and  
12          then when the state comes that they're  
13          enforcing it to -- you know, to the point  
14          where we -- if we don't have a name badge, we  
15          take tape and put our name on it, put it on  
16          ourselves.

17          I think it's just a big difference  
18          there that -- but you're right. It shouldn't  
19          have to be enforced. We should as workers  
20          wear our -- but the reality is they don't.

21          REPRESENTATIVE KULA: Okay. But I --  
22          I would hope the employees and now maybe with  
23          the union representation that maybe that would  
24          be stressed, that I would think ManorCare or  
25          any nursing facility has the responsibility of

1       assuring that those rules are followed and I  
2       think it would be the employees', also,  
3       function to make sure that those rules are  
4       followed.

5               So if we're -- if we're permitted --  
6       to break this rule without -- because we don't  
7       get reprimanded for it, what other rules? I  
8       think that's the perception that maybe is  
9       being instilled by picking and choosing what  
10       rules you want to follow.

11              I -- I just think it's something that  
12       should be required and -- and enforced only  
13       because, like I said, in spending many, many,  
14       many hours in nursing facilities, I -- I know  
15       what goes on and -- and how important those  
16       safety issues are.

17              But I thank you for appearing here  
18       today and offering this testimony.

19              MS. ROSARIO: My pleasure.

20              CHAIRMAN MUNDY: A point of  
21       clarification. Mr. Short, it's my  
22       understanding that SEI does not currently  
23       represent ManorCare employees.

24              MR. SHORT: We represent one facility  
25       in the state.

1                   CHAIRMAN MUNDY:  One facility.  Which  
2                   one is that?

3                   MR. SHORT:  It's Hampton House up in  
4                   Northeast, PA.

5                   CHAIRMAN MUNDY:  So -- so he doesn't  
6                   have the Bethlehem facility.

7                   REPRESENTATIVE KULA:  I didn't know.

8                   CHAIRMAN MUNDY:  That's quite all  
9                   right.  I just wanted to make that clear.

10                  Any other questions from the  
11                  members?

12                  Thank you, Mr. Short and Ms. Rosario,  
13                  for your --

14                  MR. SHORT:  And thank you, Madam  
15                  Chairman.  The one thing I wanted to -- to  
16                  submit to -- to you is a letter from -- signed  
17                  by a number of ManorCare workers throughout  
18                  the Lehigh Valley supporting the efforts of  
19                  this committee and so I'll submit it to Chuck  
20                  for the committee.

21                  CHAIRMAN MUNDY:  Thank you very  
22                  much.  I'll also share that with  
23                  Representative Samuelson.

24                  Next we have Mr. Stephen Guillard,  
25                  executive vice president and CEO of HCR



1 ManorCare, and Susan Morey, general manager of  
2 Pennsylvania, Eastern Division, HCR  
3 ManorCare.

4 Thank you very much, Mr. Guillard and  
5 Ms. Morey, for coming today, for -- for  
6 sharing your testimony with us. You can begin  
7 whenever you're ready.

8 MS. MOREY: Thank you, Chairman Mundy  
9 and also Chairman Hennessey, committee  
10 members, and staff.

11 My name is Sue Morey. I'm the vice  
12 president and general manager for the state of  
13 Pennsylvania, which means that I manage the 46  
14 skilled nursing and rehab facilities in this  
15 Commonwealth.

16 As the person responsible for the  
17 operations in the skilled nursing and rehab  
18 facilities, I want to begin by relating some  
19 of the data supporting our commitment to  
20 quality of care in Pennsylvania and across the  
21 company (sic).

22 By way of background, we have 46  
23 skilled nursing facilities with three attached  
24 assisted living. We also have nine  
25 freestanding assisted living, thirteen hospice

1 agencies and eight home health agencies.

2 In total, in Pennsylvania, we employ  
3 approximately 16,000 of the 60,000 employees  
4 of the company. Our gross annual payroll and  
5 benefits in Pennsylvania are approximately  
6 \$335 million.

7 Looking at just our skilled nursing  
8 and rehab centers in the Commonwealth, we are  
9 currently serving about 6,800 patients a day  
10 across the state of Pennsylvania. That  
11 equates to approximately 204,000 patient days  
12 in a month and 2.5 million patient days in one  
13 year.

14 Approximately 62 percent of our  
15 patients are funded through the Medical  
16 Assistance reimbursement structure. Our  
17 occupancy is approximately 92 percent. And we  
18 discharge approximately 21,000 patients over  
19 the course of the year, over 10,000 back to  
20 their homes and lesser restrictive  
21 facilities.

22 We have continued to make good on our  
23 commitments back to the committee since  
24 November of 2007. 2007, we invested more than  
25 15 million back into capital structures in our

1 facilities. This year annualizing we will,  
2 again, commit to over \$15 million of roofs,  
3 generators, minor equipment, back into our  
4 buildings' renovations.

5 One hundred percent of our regional  
6 directors of operation that are employed in  
7 2008 were in place in 2007. Ninety percent of  
8 our administrators are still in place from  
9 2007 to 2008. Eighty-five percent of our  
10 DON's are in place 2007 to 2008. Those  
11 numbers are far -- well below any published  
12 study on administrator and DON turnover  
13 statistics that could be researched.

14 Overall our total employee turnover  
15 is less than 50 percent. Again, below any  
16 national statistics.

17 Throughout 2008 staffing at our  
18 Pennsylvania facilities has remained above  
19 2007 levels. There was a 2.7 minimum  
20 referenced to Pennsylvania standards. Our  
21 facilities run at approximately 3.30. That's  
22 via OSCAR data which is publicly -- can be  
23 publicly observed on the website.

24 And, again, when you look at that,  
25 that's approximately 15 employees above the

1 state minimum recommendations in  
2 Pennsylvania.

3 A 4.07 recommendation by Mr. Short  
4 was referenced. Our facilities run at a 4.87,  
5 again pulled off OSCAR data, and that does not  
6 include housekeeping, laundry, dietary, which  
7 are vended services in 41 of our buildings.

8 That also does not include the 26  
9 nurse practitioners that we have added to  
10 support our quality of care commitment.

11 Since becoming a private company  
12 and -- and -- from '07 to '08, we have added  
13 38 additional hands-on CNA or nurses into our  
14 facilities.

15 Again, we've referenced the close  
16 scrutiny by the Department of Health over this  
17 past year. Year to date -- and, again, my  
18 statistics go through the end of August, we  
19 have had 280 unannounced visits.  
20 Unannounced. Nights, weekends, you name it,  
21 they've been in the buildings. All  
22 unannounced.

23 Yes, there is a window of time when  
24 you know when your license is up and you  
25 haven't had a survey and you're down to your

1 last 30 days. They will be there in those 30  
2 days because your license will expire.

3 But, again, 280 unannounced visits  
4 since January 1st.

5 There were no deficiencies on any of  
6 the monitoring visits. We have had 100  
7 percent of our facilities monitored by the  
8 Department of Health. 83 percent of those  
9 facilities were monitored multiple times.  
10 Again, unannounced.

11 We have had no substandards. We have  
12 no immediate jeopardies. Our number of Gs,  
13 which is a severe citation, has decreased year  
14 after year. And as stated by the Department  
15 of Health the percentage of substantiated  
16 complaints has reduced year over year.

17 I'd like to share with you the  
18 commitment that we have to our employees. We  
19 have three programs that we encourage our  
20 employees to take advantage of.

21 In 2007 we had 714 employees take  
22 advantage of our Tuition Loan program, our  
23 loan payback program, and our full  
24 scholarships for every level of nursing and  
25 also every type of therapist, that's physical,

1 occupational, and speech and also including  
2 assistants to those professions.

3 A. We anticipate in 2008 well over 1,000  
4 employees will take advantage of those  
5 programs. That's a 41 percent increase in one  
6 year, supporting our employees' own  
7 self-growth and promotion.

8 As you can see we have not and will  
9 not rest on our laurels with this company. We  
10 have pushed forward on many fronts to improve  
11 the quality of care not only for our  
12 residents, our patients, but also our  
13 employees.

14 If you have not taken Steven Guillard  
15 up last year on his invitation to visit a  
16 building, if you did not have a building in  
17 our district, we have several that are very  
18 close by the Capitol. You are welcome,  
19 invited at any time, announced or unannounced,  
20 to visit our facilities.

21 And, again, thank you for your  
22 attention.

23 CHAIRMAN MUNDY: Mr. Guillard, do you  
24 have something to add?

25 MR. GUILLARD: Thank you very much,

1 Madam Chairman, and thank you members of the  
2 committee. And we're very pleased to be here  
3 again.

4 I think it's about a year later since  
5 I last had the opportunity to testify before  
6 the committee.

7 Sue has given you many of the  
8 specifics about our commitment to quality  
9 health care in the Commonwealth of  
10 Pennsylvania. And as I said to you last year,  
11 we continue with our same vision, our same  
12 business model, that we had prior to the  
13 transaction that has been referenced here  
14 today.

15 We are dedicated to providing quality  
16 care. We have been. We continue with that  
17 dedication and commitment.

18 We have been recognized nationally.  
19 We are one of the few -- we were actually the  
20 one -- the only health care services company  
21 to be named as most admired health care  
22 services company in the United States two  
23 years in a row by Fortune Magazine.

24 We don't -- we earn that distinction,  
25 because we do pride ourselves in the quality

1 work that we do.

2 Sue noted our staffing throughout  
3 Pennsylvania has not changed. In fact, I mean  
4 it's -- it's higher than what it was in the  
5 prior year. We base that staffing on a very  
6 intensive assessment of what happens with the  
7 acuity of our patients. We want to make sure  
8 that our patients are properly cared for.

9 As people talk about our levels of  
10 staffing, I want you to know that our board  
11 very closely looks at this issue. We have had  
12 independent groups come in and look at our  
13 staffing relative to other peer companies,  
14 large companies, all the for-profit chains,  
15 and what goes on in the nation.

16 And these independent studies have  
17 presented to our board analyses that show that  
18 our licensed staffing is above virtually every  
19 other classification in the entire country.  
20 Whether it's our peer group, our for-profit  
21 chains, or other nursing homes throughout the  
22 country.

23 Our CNA staffing is consistent with  
24 what we see in those groups as well, and our  
25 total staffing is higher than what we see in



1 comparison from these groups, looking at the  
2 entire country.

3 You have to understand that, as Sue  
4 alluded to here, in addition to the higher  
5 numbers of staffing, we at ManorCare also  
6 imply -- employ more therapists and more  
7 certified nurse practitioners than any other  
8 chain in the United States.

9 These individuals are involved with  
10 the daily care of our patients. So that as  
11 this committee and many others look at the  
12 number of hours, it does not include all the  
13 caregivers that are involved in the -- in the  
14 treatment of patients within our system.

15 It's also important -- I'd like to --  
16 to just quickly reference, you know, there's  
17 been a lot of talk about this CMS standard.  
18 There is no CMS standard. I assure you of  
19 this. And I can -- be happy to give you the  
20 names of all the officials at CMS in terms of  
21 that study by Jack Schnelle that has been  
22 referenced here on multiple occasions.

23 I've seen this referenced throughout  
24 the entire country at numerous hearings like  
25 this.

1           Jack Schnelle is an individual. He's  
2           a researcher at the University of Van -- at  
3           Vanderbilt University. And, again, feel free  
4           to contact him.

5           His study did not look at a  
6           recommended level. Nor did CMS ever adopt a  
7           recommended level. I think it's important to  
8           note that what Jack Schnelle did in his study  
9           is identify the point at which there is no  
10          benefit accrued to patients.

11          His study involved the ten percent  
12          worst nursing homes in the United States. So  
13          that study has been, you know, grossly --  
14          poorly reported on and incorrect in virtually  
15          every instance that I've heard a reference to  
16          it.

17          And I'm happy to provide you with  
18          copies of that study if you would like it.

19          I'd like to point out very quickly  
20          our Quality Committee of the Board. The board  
21          has continued to maintain a quality  
22          committee. It has met three times. It meets  
23          in our buildings. It tours the facilities.  
24          It talks directly to the employees. It  
25          reviews the metrics that are involved with the

1 quality of care, and it recog -- and it acts  
2 in a very independent way to assess on their  
3 own what is the status of our quality.

4 In addition, as we committed to in my  
5 comments last November, the Carlyle  
6 organization has appointed, and our board, an  
7 independent advisory committee composed of  
8 three preeminent individuals, Vince Moore,  
9 Robin Stone, and Gail Wilensky. Gail Wilensky  
10 being a former CMS administrator.

11 That committee has met several  
12 times. We have a meeting coming up in the  
13 Philadelphia area in the next several weeks,  
14 and that committee is involved in really  
15 looking at our systems and processes and  
16 helping us to evaluate what ways can we do  
17 better as an organization.

18 We're very pleased as well. We made  
19 a significant investment. Sue talks about the  
20 investment in our physical plants and the  
21 capital investment that we make. We also make  
22 significant investments in clinical  
23 technologies. We have advanced our electronic  
24 medical record. We -- we are integrating that  
25 with all the components of our care, our MVS

1 system, nurse -- nursing notes, physicians'  
2 orders, and our pharmaceutical system as  
3 well.

4 We are ahead of the curve on this.  
5 We're one of the most advanced nursing home  
6 companies in terms of using this system, and  
7 we have some systems that are very unique in  
8 the long-term care industry that help us  
9 evaluate and identify which patients are at  
10 risk, which patients have the potential to go  
11 back into the hospital, and we're able to use  
12 this new technology to help avert sending  
13 these individuals back to the hospital.

14 We have been very involved with our  
15 employees. As I mentioned, as Sue mentioned,  
16 we are very focused on a number of key  
17 programs.

18 We initiated a We Are HCR ManorCare  
19 newsletter focusing on best practices  
20 because -- because we want our employees to  
21 understand and see what our employees are  
22 doing throughout our entire 32 states where we  
23 operate and among all of our 60,000  
24 employees. We've provided a copy of that  
25 newsletter to you.

1           Second example is the community grant  
2 program. We've just started this community  
3 grant program, and we're piloting that in the  
4 Lehigh Valley.

5           We've identified community groups  
6 that our employees work with, and we've  
7 provided grants through our foundation that  
8 helps support those community activities,  
9 encourages our employees to get involved, and  
10 we're very proud that in -- over the past two  
11 years 13 of our employees in Pennsylvania were  
12 awarded grants for their respective  
13 organizations.

14           We also have a Hug Fund. Our  
15 employees band together, raise money to help  
16 others that are in need and that have gone  
17 through some unfortunate circumstance in their  
18 lives.

19           Since 19 -- 2006 80 of our employees  
20 in Pennsylvania have received charitable  
21 assistance from our Hug Fund to help  
22 financially meet their urgent needs.

23           I'd also like to put to bed once and  
24 for all the concerns you have had about an  
25 investment firm being the major shareholder of

1 nursing home assets.

2 One year ago yesterday the article  
3 appeared in the New York Times that painted a  
4 very negative picture of private equity  
5 ownership in nursing homes. It was quickly  
6 learned that the research for that was  
7 categorically, unequivocally, horribly  
8 performed and terribly flawed.

9 First, the Agency for Health Care  
10 Administration in the state of Florida came  
11 out with a research document that said the  
12 exact same thing, the New York Times article  
13 was incorrect.

14 Second, LTCQ, a company that has  
15 changed its name now to PointRight, and it's  
16 one of the major research groups in United  
17 States with access to virtually, you know, the  
18 predominant portion of MDS documents, the  
19 evaluation that is done on every single  
20 patient that comes into our facilities,  
21 repeated that same analysis and came out with  
22 the same conclusions that the New York Times  
23 article was incorrect.

24 Now, this month -- and we provided  
25 you with copies of the article -- the Harvard

1 Medical School, Department of Health Care  
2 Policy has published a study with the author  
3 saying that they did not find lower quality of  
4 care following private equity deals in the  
5 form of survey deficiencies or resident  
6 outcomes.

7 In fact, they said they found  
8 improved resident outcomes across several  
9 areas, including weight loss and pressure  
10 ulcers.

11 It's interesting to note that that  
12 New York Times article spawned congressional  
13 hearings in the United States House of  
14 Representatives, United States Senate,  
15 hearings across the entire country, and now,  
16 one year later, three independent groups,  
17 looking at the same data that the New York  
18 Times allegedly looked at, have found that  
19 their conclusions were categorically  
20 erroneous.

21 In closing, I want to reiterate, I  
22 have before me the commitment that we made  
23 last year to you, to make our -- our  
24 acquisition transparent to our employees and  
25 to our families and residents. We have done

1 that.

2 We said we would keep the same  
3 management team. I remain in place, Paul  
4 Ormond, the chief executive officer, Sue  
5 Morey, my senior management team.

6 We've had very few changes in our  
7 entire organization, and we're proud of the  
8 fact that the people that ran this company  
9 before run this company today, and we run it  
10 well.

11 We said we would not reduce staffing  
12 in any of our nursing centers. I can tell you  
13 we have increased staffing across the country  
14 in many of our centers.

15 And we continue to provide and have  
16 done very well in terms of a number of  
17 metrics, and I'd be happy to respond to those  
18 in the question-and-answer session if you  
19 would like.

20 We have provided higher levels of  
21 staffing than virtually, again, many of the  
22 long-term care companies in the United  
23 States.

24 We continue to invest in our assets.  
25 We are a major employer in the state of



1 Pennsylvania. We have 16,000 employees in the  
2 state. We are a major taxpayer in this state  
3 as well. And we continue to invest in the  
4 state. We would continue to like to find  
5 opportunities where we could grow not only our  
6 skilled nursing facilities, also our assisted  
7 living, home health, hospice.

8 And it's important to note, again,  
9 that the vast majority of our patients that  
10 come into our buildings for care go back to  
11 the community.

12 And we endorse that. We want  
13 people. We tell them, come to us, get good  
14 care, and go home. And we believe in that and  
15 we will continue to believe in that.

16 We worked with the administration on  
17 their projects and efforts. And, finally, we  
18 have operated our company in a very sound and  
19 very financially responsible manner. We are a  
20 private company. We do not disclose our  
21 finances. We have no requirements to do so.

22 But I can assure you we are operating  
23 in a very strong financial position and we are  
24 meeting every level of the commitment that we  
25 have made at every level of whether -- whether

1 it's dealing with -- on a federal level or  
2 state level in any of our states.

3 And I'm very proud of the  
4 organization that we have. I'm very proud of  
5 the role we play in this Commonwealth in terms  
6 of acting responsibly as a major component of  
7 the health care system.

8 Again, I want to thank you very much  
9 for giving us this opportunity to come here.  
10 I've enjoyed the opportunity to answer the  
11 many questions that have been posed to us.  
12 And we'd be very happy today to answer any  
13 additional questions that you may have.

14 CHAIRMAN MUNDY: Thank you,  
15 Mr. Guillard and Ms. Morey.

16 Representative Williams.

17 REPRESENTATIVE WILLIAMS: Thank you.  
18 Good morning. I have a simple question.

19 First, the issue of employees who  
20 make complaints. We heard testimony from  
21 Ms. Rosario. There's some concerns she has as  
22 an employee and as, I guess, a citizen in the  
23 community in the Bethlehem area. Is that  
24 correct?

25 REPRESENTATIVE SAMUELSON: Yes.

1           REPRESENTATIVE WILLIAMS: I want to  
2           make sure that we're assured that she's not  
3           going to have any future problems with her  
4           employment as long as she continues to --

5           MR. GUILLARD: I'm -- oh, I'm sorry.

6           REPRESENTATIVE WILLIAMS: You can  
7           begin.

8           MR. GUILLARD: Okay. No, I can  
9           assure you, I mean we certainly don't act in  
10          that kind of capricious manner to pune --  
11          punish an employee for coming before a  
12          committee like that. We would never do that.  
13          You have my assurances on that.

14          REPRESENTATIVE WILLIAMS: Okay.

15          MR. GUILLARD: She has a  
16          responsibility to act appropriately as an  
17          employee, and to the extent that she abides by  
18          every standard we hold every employee to, then  
19          her employment will continue.

20          And it's -- you know, her employment  
21          is contingent on her performance as an  
22          individual. It has nothing to do with coming  
23          before this committee. And you have my word  
24          on that.

25          REPRESENTATIVE WILLIAMS: Thank you.

1           The other question that I have, do  
2           you guys manage or have Evangelical Manor in  
3           Philadelphia?

4           MS. MOREY:   No.

5           MR. GUILLARD:  No.

6           REPRESENTATIVE WILLIAMS:  You don't  
7           have that?

8           MR. GUILLARD:  No.

9           REPRESENTATIVE WILLIAMS:  There was a  
10          commitment made to give the Department of  
11          Health and Revenue a weekly report or a  
12          monthly report on the staffing and a  
13          description of reduction of staffing.  Are you  
14          familiar with that?

15          MS. MOREY:  Yes.  I routinely give  
16          the Department of Health updates on weekly  
17          staffing in every of the -- every one of the  
18          skilled nursing rehab facilities and also the  
19          assisted livings.

20          MR. GUILLARD:  It's important to note  
21          on that front that if indeed we were moving  
22          staffing in relation to surveys, which the  
23          federal government requires that these surveys  
24          be unannounced.

25          Let me make sure.  I -- I assure you

1 of this. We have no idea when these surveys  
2 are coming. They do occur on some annual  
3 basis.

4 If we were changing staffing to  
5 reflect in a survey, if somehow we knew a  
6 senior survey was happening, the Department of  
7 Health would see that in the staffing records  
8 that we're providing to them.

9 So that the intimation here that we  
10 are moving staffing before a survey is -- is  
11 categorically false. It's just -- it's just  
12 wrong.

13 I don't know how we would have -- be  
14 that prescient to understand exactly when that  
15 would occur or how it -- we -- we would get  
16 away with not reporting this to the state  
17 Department of Health.

18 MS. MOREY: And just another point of  
19 fact. Thirty of our forty-six facilities in  
20 the Commonwealth have staffing levels higher  
21 than the OSCAR data shows.

22 The OSCAR data is composed when you  
23 compile at state -- at the time of your annual  
24 survey, it's a form called the 671. You give  
25 a two-week snapshot of our staffing. Thirty

1 of our buildings run higher than the snapshot,  
2 which was the staffing at the time of the  
3 survey.

4 REPRESENTATIVE WILLIAMS: Is there a  
5 possibility that we can get some copies of  
6 that data to our committee?

7 MR. GUILLARD: We -- when we entered  
8 into that agreement, we were very concerned.  
9 Simply because, if the state wants to require  
10 every single operator in this state to comply  
11 in that regard, then we're happy to abide by  
12 that.

13 We don't understand why HCR ManorCare  
14 has been singled out, to be quite honest with  
15 you. And if you want to hold every operator  
16 to that same standard, we'll be held to that  
17 standard. If you want to hold us to a  
18 separate standard, you know, we -- we don't  
19 understand that. And we would not comply with  
20 that, quite frankly.

21 REPRESENTATIVE WILLIAMS: The federal  
22 government recently charged ManorCare with  
23 anti-union activity. Would you have words on  
24 that? In your eastern facility.

25 MS. MOREY: Yes. There were --

1 unfair labor practices charges were filed.  
2 There was a hearing that began 9/10, last  
3 week. And right now there has been no --  
4 there have been no findings made. It is with  
5 an administrative law judge.

6 CHAIRMAN MUNDY: The findings are  
7 pending?

8 MS. MOREY: Excuse me?

9 CHAIRMAN MUNDY: The findings are  
10 pending?

11 MS. MOREY: Yes.

12 MR. GUILLARD: You know, again, you  
13 know, people can file. We have unfair labor  
14 practices that periodically may be filed  
15 against the company in -- in other states. I  
16 mean that just is again not with -- outside  
17 the realm of business. Someone can  
18 unilaterally file one of those claims.

19 If we believe we have acted  
20 incorrectly, we will modify our behavior. If  
21 we believe we had -- have acted in accordance  
22 with the rules and regulations of the National  
23 Labor Relations Board, which we adhere to  
24 strictly, then we will defend our position.

25 I mean, again, you know, we believe

1       it's in -- we have an inherent ethical  
2       obligation to act as an appropriate employer.  
3       You know, to act in conformance with the rules  
4       and regulations. We believe we do.

5                If we are found that we have not, we  
6       will correct any situation that has occurred  
7       where any group that has proper jurisdiction  
8       finds that we have not complied with the rules  
9       and regulations.

10               REPRESENTATIVE WILLIAMS: Thank you,  
11       Madam Chairman.

12               CHAIRMAN MUNDY: Thank you.  
13       Representative Smith.

14               REPRESENTATIVE SMITH: Thank you,  
15       Madam Chair.

16               Mr. Guillard, it was referenced in  
17       earlier testimony that there would be a strong  
18       possibility that there would be a sell-off of  
19       the nursing homes of the group in two to three  
20       years.

21               Is there any relevance to that?

22               MR. GUILLARD: No, there really  
23       isn't. You know, it's an interesting  
24       question, and I appreciate it.

25               And I have had experience with



1 private equity ownership of my former company,  
2 and they owned that company over an eight-year  
3 period, quite frankly, not three to five.

4 A three to five is a general kind of  
5 nomenclature. It -- you know, people will say  
6 that. But there's really no foundation.

7 It really depends on what goes on in  
8 the world, what happens in capital markets,  
9 what happens with the particular company, and  
10 what's in the best interests of the  
11 shareholders who have put capital forward to  
12 make sure that the company is adequately and  
13 appropriately capitalized.

14 You're seeing a situation now across  
15 the United States that's interesting where  
16 there's a severe liquidity crisis. And so --  
17 and it's precipitating major problems with  
18 companies.

19 And you may see this with companies  
20 and nursing home companies throughout the  
21 state or across the country. It's yet to be  
22 seen.

23 It's important to note that private  
24 equity does have a very sound financial  
25 capital base. And so within us, you know, the

1 fact that we're owned by a private equity  
2 group, gives us, I believe, a stronger  
3 financial foundation to weather these kinds of  
4 disruptions that you're seeing.

5 In terms of their -- I can't speak  
6 for the Carlyle or the shareholder group in  
7 terms of what their specific interests are  
8 down the road.

9 Whatever happens in terms of their --  
10 you know, their future decisions with regard  
11 to the company, I can only tell you that I've  
12 been through these transactions and I have --  
13 I had a company that was private, went public,  
14 I -- I remained through that phase, was  
15 acquired by a private equity group, I remained  
16 through that phase, and I think what's  
17 important here is not, quote/unquote, the  
18 ownership. I think what's important is who is  
19 running the business, you know, who is making  
20 the day-to-day decisions, who is providing the  
21 care, is the company properly capitalized, are  
22 they investing in their physical plants?

23 And we did that as a private  
24 company. We did that as a public company.  
25 And now we're doing it as a private equity

1 company. The ownership issue is actually, to  
2 me, almost irrelevant.

3 REPRESENTATIVE SMITH: Okay.

4 CHAIRMAN MUNDY: Representative  
5 Pashinski.

6 REPRESENTATIVE PASHINSKI: Thank you,  
7 Madam Chairman.

8 And thank you very much for your  
9 testimony.

10 I have just -- I have a comment and a  
11 couple questions. First of all, concerning  
12 our -- your staff, I know that your company  
13 has facilities throughout the country.

14 The staff that we have here in  
15 Pennsylvania, how do they match up with the  
16 staff throughout the United States relative to  
17 qualifications and abilities to provide care?

18 MR. GUILLARD: If -- if you took our  
19 staff and you took and broke them down into  
20 different layers, the registered nurses are  
21 equivalent.

22 Are you talking numbers or are you  
23 talking talent or competencies?

24 REPRESENTATIVE PASHINSKI: Ability.

25 MR. GUILLARD: Ability.

1 REPRESENTATIVE PASHINSKI:

2 Dedication.

3 MR. GUILLARD: Registered nurses are  
4 registered nurses, quite frankly. We see  
5 little variation across the country in terms  
6 of, you know, their skill sets, their  
7 competencies, and we as a company are trying  
8 to make sure that we can evaluate them on --  
9 in terms of their core competencies so that we  
10 know that they can take care of IV's or trachs  
11 or take care of the kind of complex patients  
12 that we see, and that's what's important to  
13 us.

14 So that we're -- we're trying to  
15 evaluate everyone to the same essential levels  
16 of skills and competencies.

17 If you look at nursing aides, for  
18 example, our nursing aides all must pass and  
19 move through a series of training steps to  
20 make sure that we, again, believe that they  
21 all have the same core competencies in taking  
22 care of our patients.

23 And one of the things that we do, and  
24 are required to do, is provide them with a  
25 routine series of what we call in-service

1 training to make sure that their skills are  
2 constantly refreshed and that we can ensure  
3 that they're up-to-date with what we're trying  
4 to do as a company.

5 So 32 states, you line them up,  
6 there's no difference in terms of competency.  
7 There is differences in terms of staffing  
8 requirements, quite frankly, and that goes all  
9 over the board.

10 But, again, there are those -- most  
11 of those are minimum staffing levels. There  
12 are some states that have staffing levels --  
13 minimum levels as low as 2.3, and there are  
14 some that have staffing levels that are as  
15 high as 3.9. And so you see that all over the  
16 board.

17 We staff irrelevant to those staffing  
18 levels. We don't really pay attention to the  
19 minimums. We staff to meet the needs of  
20 our -- of our patients.

21 REPRESENTATIVE PASHINSKI: I  
22 appreciate that. Do you -- do you have -- do  
23 you have difficulty finding enough qualified  
24 staff?

25 MR. GUILLARD: No question. It's --

1 you know, it is an area that we constant --  
2 we're working that night and day.

3 I have a team of seven recruiters in  
4 Toledo, Ohio that supports Sue and our other  
5 divisions. Many of the divisions that we have  
6 have their own recruiters and -- to help us  
7 find and recruit and keep talent within the  
8 organization.

9 And it's a constant struggle. It's a  
10 constant struggle throughout all of health  
11 care. And not -- and not enough is being done  
12 to help companies like ours look at ways in  
13 which we can improve the pool of personnel and  
14 to help compensate individuals.

15 You know, it begs the question of --  
16 sometimes the Medicaid payment system, which  
17 has been inadequate across the country, and is  
18 a factor in terms of our ability to compensate  
19 our personnel.

20 And, you know, we lose money on every  
21 single Medicaid patient that we take care of  
22 throughout the entire company, and we have to  
23 offset that by other individuals. But it is a  
24 crisis.

25 There is also a crisis in

1 therapists. We do not have enough physical  
2 and occupational and speech therapists, and  
3 that's another problem we face as a country  
4 because they -- everyone is aging. Everyone  
5 is going to -- you know, a number of people  
6 are going to rely on our services and we're  
7 going to have to find a way to get enough  
8 personnel to make sure we care for them.

9 REPRESENTATIVE PASHINSKI: I was --  
10 the reason I was asking that is because I  
11 think, you know, the quality of care is -- is  
12 directly related to the quality of your  
13 staff.

14 For the record, Madam Chair, I would  
15 like to make it known that I'm familiar with  
16 Hampton House, which is not in my district but  
17 my neighboring district, and I was familiar  
18 with Hampton House prior to the takeover, and  
19 I have visited health care at Hampton on two  
20 occasions, and I have to say that there is  
21 physical improvement. It appears as though  
22 your staff is -- is happy in conducting  
23 their -- in conducting their jobs.

24 And I realize it was an open house  
25 and everybody is spit and polished and, you

1 know, everything was just like when the  
2 general would come and, you know, check the  
3 barracks out.

4 But I do have to say that I -- I have  
5 seen a dramatic difference in the positive,  
6 and I would assume that the rest of your  
7 facilities are the same.

8 I'd like to have the opportunity to  
9 visit some of your other facilities, not in  
10 northeastern Pennsylvania.

11 MR. GUILLARD: You may come  
12 unannounced if you wish.

13 REPRESENTATIVE PASHINSKI: Thank  
14 you. I'm up late. Maybe two o'clock in the  
15 morning is okay?

16 CHAIRMAN MUNDY: After one of us --

17 REPRESENTATIVE PASHINSKI: Thank you  
18 very much.

19 CHAIRMAN MUNDY: After one of his  
20 band gigs, he will join you.

21 REPRESENTATIVE PASHINSKI: Thank you.

22 CHAIRMAN MUNDY: Representative  
23 Samuelson.

24 REPRESENTATIVE SAMUELSON: Or you can  
25 sign up Representative Pashinski as an



1 entertainer at the facility.

2 REPRESENTATIVE PASHINSKI: I've done  
3 that. I've done that.

4 REPRESENTATIVE SMITH: Don't inflict  
5 that.

6 REPRESENTATIVE SAMUELSON: Thanks for  
7 being here. Two questions.

8 One, you mentioned the community  
9 grant program being piloted up in the Lehigh  
10 Valley. I know you have an annual health fair  
11 that's outside the two Bethlehem facilities  
12 that work with some of the community  
13 organizations.

14 How is that community grant program  
15 going to work? Are the -- is Carlyle putting  
16 the money in that will then be available to  
17 these outside agencies and only if they're  
18 actually interacting with the residents or is  
19 it for the greater -- like maybe the PTA down  
20 the street or what's the --

21 MS. MOREY: They still have to meet  
22 the requirement of the nonprofit, but they do  
23 have to have a correlation back to our  
24 residents. So they have to have some benefits  
25 to the residents.

1           We're anticipating -- and the grants  
2           are just coming in now. The advertisements  
3           have gone out. We have a facility employee  
4           representative from every one of the Lehigh  
5           Valley facilities to judge which grants they  
6           feel contribute back to the welfare of our  
7           residents most directly.

8           We anticipate organizations like the  
9           Alzheimers Association where we really go back  
10          and educate our families and many times the  
11          spouse of our residents as to what the  
12          anticipated behaviors will be as the dementia  
13          progresses.

14          Things like the pet therapy. There  
15          are several groups that have authorized  
16          therapy dogs that come to visit us. Possibly  
17          the American Heart Association, again, with  
18          more information back to our residents and  
19          families

20          Those are the kind of grants that we  
21          will anticipate back through the community  
22          grants.

23          But in addition if we have volunteer  
24          grants, which if our employees are volunteers  
25          for certain organizations, I'll give you some

1 examples.

2           We have an administrator who is a  
3 counselor, volunteer counselor at Olivia's  
4 House. It's a grief house for children who  
5 are going through loss of probably a very  
6 close -- either a parent or sibling. He is a  
7 volunteer counselor and helps Olivia's House  
8 in grant writing.

9           We have our maintenance director at  
10 our Kingston East facility who volunteers his  
11 time coaching Little League. Those are the  
12 volunteer grant -- grant programs, which are  
13 different, in addition to, as Steven  
14 referenced, the Hug Fund, which we just had a  
15 catastrophic -- one of our receptionists in  
16 the York market, her house suddenly burned  
17 down. They suspect arson.

18           Again, she has applied for the Hug  
19 Fund for some emergency funding for a couple  
20 months to just get her through the next couple  
21 of months until she can just get back on her  
22 feet.

23           So three really important programs,  
24 but you, sir, have the pilot for the community  
25 grant program.

1 MR. GUILLARD. And there's one other  
2 program that's worth noting, and we -- we also  
3 have a foundation, a separate foundation and  
4 fund, that spends \$1 million a year,  
5 principally to provide funding to patients --  
6 families of patients who are dying and that  
7 are involved in our hospice program.

8 So that if someone is dying and they  
9 have relatives in California that can't afford  
10 to fly back to Pennsylvania, we provide  
11 funding to buy airplane tickets and provide  
12 them with monies to come back and see their --  
13 their family member who may be dying.

14 And we -- we spend at this current  
15 time about \$1 million a year in support of  
16 those activities in our hospice program.

17 REPRESENTATIVE SAMUELSON: Okay.  
18 Thanks.

19 And my second question is about --  
20 well, I guess it ties into your quality  
21 committee that you referred to, and I'm just  
22 trying to compare the different testimony  
23 we're getting today.

24 In your testimony you said the  
25 staffing levels are up. In other testimony we

1 heard some concerns about the staffing  
2 levels.

3 And how would an employee -- what  
4 process is in place for an employee to raise  
5 concerns about patient care and get those  
6 concerns addressed?

7 I mean I'm sure, as you heard the  
8 testimony of not enough soap, not enough  
9 wipes, maybe the person is not getting changed  
10 often enough. If a employee has a concern  
11 about that, if that quality committee meets  
12 three times a year, is there some ongoing  
13 mechanism for them get results so that they  
14 can address those concerns about patient  
15 care?

16 MS. MOREY: There are multiple levels  
17 that an employee can raise a concern. I  
18 myself keep myself on 24 hours a day. My --  
19 my number is published in every single  
20 facility. My RDOs, my regional directors of  
21 operation, who have responsibilities for  
22 approximately eight to nine facilities, have  
23 their cell phones on and may be contacted 24  
24 hours a day.

25 There are posters in our lobby that

1 not only have our regional directors business  
2 cards on them with their cell phone, but also  
3 the administrator's cell phone and contact  
4 information is right in the lobby on a  
5 business card.

6 So hopefully in this scenario it  
7 would have not just gone to a supervisor or  
8 not just gone to the director of nursing, it  
9 would have gone to the administrator, then it  
10 would have gone to the regional director of  
11 operations, and I myself field many employee  
12 calls when they don't feel there has been  
13 resolution at a building level.

14 I welcome Ms. Rosario's testimony and  
15 I will make sure, you know, as soon as I turn  
16 my cell phone back on that I will immediately  
17 just make sure that we've got enough supplies  
18 and enough staff to make sure that we take  
19 care of residents.

20 MR. GUILLARD: We -- we -- we also  
21 have an 800 toll free care line number. And  
22 the way that that system works, we have  
23 specific staff that monitor this number 24  
24 hours a day. And every call that comes in  
25 there, anonymous or otherwise, is logged

1 electronically.

2           That call then goes to every person  
3 who is in the chain of command, if you will.  
4 So that if it's a complaint at Allentown, it  
5 will go to the regional -- it will go to the  
6 administrator, the regional director, Sue  
7 Morey will get a copy, and even I will get a  
8 copy of every one of these calls that come  
9 through if there's a complaint.

10           And so that call cannot be dismissed,  
11 taken off the log, until it is responded to.  
12 And so we have to respond to every one of  
13 these complaints or concerns.

14           REPRESENTATIVE SAMUELSON: And the  
15 folks calling into that number could be  
16 employees or family members --

17           MR. GUILLARD: Correct.

18           REPRESENTATIVE SAMUELSON: -- or  
19 family members?

20           MR. GUILLARD: That's correct.

21           REPRESENTATIVE SAMUELSON: That  
22 quality committee, is that a statewide thing  
23 or is there a quality committee in each of the  
24 46 facilities?

25           MR. GUILLARD: Well, no. There --

1 there are multiple -- again, different  
2 layers. We have a quality committee of the  
3 board, and that committee meets probably  
4 about -- doesn't meet three times a year.  
5 Probably meets about five times a year.  
6 Then -- and they report directly to the  
7 board.

8 There is an independent group that is  
9 non -- unaffiliated with the board, separate  
10 individuals. That group has just begun to  
11 meet. We have had several meetings, a  
12 conference call, is meeting again in  
13 Philadelphia, as I mentioned. That's the  
14 independent group that the board indicated  
15 they would appoint to make sure they get a  
16 third-party separate perspective. And that  
17 group, again, meets probably four times each  
18 year and is chaired by Vince Moore of Brown  
19 University at this point in time.

20 In addition, there are -- within  
21 Sue's regions and divisions, each of them have  
22 quality control mechanisms so that they'll  
23 have quality assurance and assess -- quality  
24 assessment and assurance processes so that  
25 each building is looking at complaints or



1 concerns that are raised. They look at it on  
2 a regional level, and they look on it as --  
3 as -- on a divisional level and then that  
4 reports up into our clinical structure in  
5 Toledo, Ohio.

6 CHAIRMAN MUNDY: That concludes the  
7 questions that we have. Thank you,  
8 Mr. Guillard, Ms. Morey, Mr. Short,  
9 Ms. Rosario, and Stacy Mitchell from the  
10 Department of Health for your testimony here  
11 today.

12 May I remind the members that we have  
13 a public hearing on Representative Casorio's  
14 House Bill 732, the senior alert system.  
15 That's Tuesday, September 28th at 10:00 a.m.  
16 in this room.

17 We appreciate your testimony. Thank  
18 you, ladies and gentlemen. We're adjourned.

19 (The hearing was adjourned at  
20 10:48 a.m.)

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I hereby certify that the proceedings  
and evidence are contained fully and  
accurately in the notes taken by me on the  
within proceedings and that this is a correct  
transcript of the same.

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Brenda S. Hamilton, RPR  
Reporter - Notary Public