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# Overview of Nursing Homes

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# Capacity & Utilization

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## Beds:

- 38 Nursing Homes
- 35 homes accept Medicaid, includes Vet's Home
- 5 homes closed since 2007
- 5 homes closed between 1998-2006
- 2913 Medicaid beds currently
- 836 fewer beds in 2018 than in 1998
- Current average statewide occupancy **82.5%**

## Utilization:

62% Medicaid (long term care)

16% Medicare (short stay, post acute care)

13% Private Pay (long term care)



# Financial Considerations

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## **Provider Tax:**

- Assessed maximum allowable under federal law @ 6% revenues
- Assessed on a per bed basis @ \$4,919.53
- Medicaid, Medicare and private pay beds
- Total SFY'16 provider tax paid \$15.3 million
- Leverages FMAP for Vermont Medicaid program

## **Medicaid Shortfall in VT (most recent data):**

- Difference between actual cost of care and Medicaid reimbursement
- Estimated \$10.8 million in 2013
- Estimated difference in Medicaid rate v. Medicaid cost in 2015 \$17.76/day

[https://www.ahcancal.org/research\\_data/funding/Documents/2015%20Medicaid%20Underfunding%20for%20Nursing%20Center%20Care%20FINAL.pdf](https://www.ahcancal.org/research_data/funding/Documents/2015%20Medicaid%20Underfunding%20for%20Nursing%20Center%20Care%20FINAL.pdf)



# Medicaid Rate Setting

- \$232.85/day last quarter average Medicaid rate (does not include VVH)----- \$9.70/hour
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- Rates are cost based, set quarterly for “allowable costs” using a base year
    - Nursing care (i.e. RN, LPN, LNA)- acuity adjusted as incentive to take higher acuity
    - Director of Nursing
    - Resident care (i.e. food, activities)
    - Indirect care (i.e. administrative, plant operation & maintenance, housekeeping/laundry)
    - Property (i.e. depreciation, interest, insurance)
    - Ancillary (i.e. medical supplies, incontinence supplies, therapies)
  - Examples of penalties/disincentives within rate setting regulations:
    - Occupancy below 90% (current statewide occupancy 82.5%)
    - Median limits for resident care & indirect
    - Nursing at 90<sup>th</sup> percentile
    - Discourages admission of dementia/behavioral health issues
  - Base year- nursing 2015 all other costs 2013
  - Annual inflation adjustment to “catch up” for outdated base year costs- roughly 2%
  - <http://humanservices.vermont.gov/departments/office-of-the-secretary/ahs-drs/nursing-homes/adopted-rule-effective-6march2015.pdf>



# Regulatory: Federal

- Medicare & Medicaid only pay facilities if in compliance with federal CMS regulations, 42 CFR Part 483, Subpart B, *Requirements for Long Term Care Facilities*
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- *Resident rights*
- *Admission, transfer, discharge requirements*
- *Resident behavior and facility practices*
- *Quality of life*
- *Quality of care*
- *Resident assessment*
- *Nursing services*
- *Physician services*
- *Behavioral Health*
- *Dietary services*
- *Dental services*
- *Specialized rehabilitative services*
- *Pharmacy*
- *Infection control*
- *Physical environment*
- *Administration*
- *Compliance and Ethics*
- *Emergency Preparedness*
- *Training Requirements*



# Regulatory: Federal

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CMS has revised the federal Rules of Participation in the Medicaid and Medicare program for skilled nursing facilities

- Three phases: November 2016, November 2017, November 2019
- Requires new infrastructure, data collection, tracking
- New and additional staffing (in a time of extreme workforce shortage)
- Estimated cost of compliance \$2.3 m in VT first year, annual ongoing cost of compliance \$2 m

*See CMS Overview Checklist New Long Term Care Facility Rules of Participation*



# Regulatory: State

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DAIL Nursing Home Licensing and Operating Rules: governs requirements to obtain a license to operate consistent with the federal regulations:

<http://www.dail.vermont.gov/dail-statutes/statutes-dlp-documents/nursing-home-regulations>

VT Nursing Rules: promulgated by Board of Nursing and governs training, competence, standards of practice, and unprofessional conduct.

<https://www.sec.state.vt.us/media/656823/Adopted-Clean-Rules-Dec-23-2014.pdf>

VT Nursing Home Administrator Rules: promulgated by Office of Professional Regulation and governs competence, training and unprofessional conduct.

[https://www.sec.state.vt.us/media/166616/NHA\\_Rules.pdf](https://www.sec.state.vt.us/media/166616/NHA_Rules.pdf)



# Regulatory

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- DAIL Division of Licensing & Protection conducts unannounced compliance surveys on an annual basis to determine compliance with federal and state regulations
- Federal surveyors often attend with state staff
- CMS may conduct its own survey
- Surveys are conducted in accordance with the *CMS State Operations Manual- 548 pages* that provides interpretive guidance to surveyors on regulatory requirements
- CMS also has a *State Operations Manual for Survey and Enforcement*, an additional 167 pages that lays out the process





# Regulatory- Ownership

Federal Rules- 42 CFR Part 483, Subpart B- CMS requires disclosure of ownership, or financial or controlling interest, to Medicaid and Medicare:

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- Upon submission of provider application
- Upon execution of provider agreement
- Upon change of ownership
- At time of survey (compliance)

Failure to comply with federal rule- don't get paid

State licensure requirements also govern disclosure of ownership, Rule 17.2:

- Upon application for licensure, which is required to operate- a license is required to receive a provider and billing number for Medicaid and Medicaid
- Ongoing obligations to disclose at time of any change, if a change occurs in:
  - Person with an ownership or controlling interest of 5% or more, or convicted of Medicaid Fraud
  - Officers, directors, agents, managing employees
  - Corporation, association, or other company responsible for management
  - Administrator or director of nursing



# Regulatory: CON

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## GMCB Rule

### 4.203 Change in Ownership for Health Care Facilities Other Than Hospitals

1. If a health care facility other than a hospital undergoes a change in ownership, corporate structure or other organizational modification such that a new license from the appropriate state or federal licensing entity is required, such action shall be a new health care project.
2. The transfer or conveyance of an ownership interest in a health care facility other than a hospital that fundamentally changes the financial stability or legal liability of the facility shall be a new health care project.

18 V.S.A. § 9434(a): a new health care project includes

(3) The offering of any home health service, **or the transfer or conveyance of more than a 50 percent ownership interest in a health care facility other than a hospital.**



# Regulatory: CON

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Robust financial review by GMCB

*See:*

Initial CON Questions from GMCB

Required Personal Financial Statements

Challenge: role of GMCB in quality review given extensive regulatory/quality oversight by CMS/DLP.



Regulatory: CON Challenges

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Predictability

Clear Process/Protocols

Timeframes



# 5 Star Quality Rating System

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CMS web-based tool, *Nursing Home Compare*, to assist public in comparing facilities

Rating is based on health and safety inspections, staffing, and quality metrics (*long stay*: falls, UTI, pain, pressure ulcer, incontinence, catheters, restraints) (*short stay*: pain, pressure ulcers, vaccines, antipsychotic use)

Some structural challenges with the system:

- Grade on a forced curve- meaning 20% of facilities in every state will always receive 1 star on the survey component which accounts for more than 75% of final overall rating

July 2016 changes – added new quality metrics (*long stay*: ability to move, weight, depression, anti-anxiety/hypnotic meds, antipsychotic meds, flu/pneumo vaccine) (*short stay*: movement, re-hospitalization, ER visits, discharges to community)



# Quality: Vermont Initiatives

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The State of Vermont and Nursing Facilities have partnered in recent years to improve the quality of care and quality of life for residents. Some examples:

- Companion aid pilot project for residents with dementia
- Oasis- staff training program designed to implement non-pharmacological interventions for behavior management to reduce use of antipsychotic meds
- Music and memory
- Oral Health



# Challenges

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## WORKFORCE

- Primary care
- RNs/LPNs
- LNAs
- Lack of mental health practitioners and resources

## HEALTH CARE REFORM