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## MED-MAL MATTERS

**A** crisis can bring out the best and the worst in human behavior. The same is true for institutions and nowhere has that been more evident than in the nursing home industry during the COVID-19 crisis. The heroism and sacrifice of individual health-care providers in many facilities stands in stark contrast to the institutional failures of their cost-cutting employers. A perfect example is the Soldiers' Home in Holyoke, Mass.

As Ellen Barry of the New York Times reported, almost 75% of the veterans living at the facility have been infected with the novel coronavirus, and of the 210 veterans who were living in the facility in late March, 96 are now dead — one of the highest death rates in the country. Contrary to the long-term-care industry's lobbying narrative, however, most of those deaths were preventable.

According to Ms. Barry's investigation, the Soldiers' Home was plagued with persistent staffing shortfalls, forcing individual health-care providers to do more with less. The staffing shortages were so bad that union officials complained workers were frequently pressed into duty for unplanned double shifts. In 2015, the facility's superintendent resigned and publicly stated that the home could not be operated safely on its existing budget. Though the facility passed three successive yearly inspections, purportedly meeting or exceeding Veterans Affairs standards, the union representing the caregivers complained repeatedly that the facility routinely operated with only 80% of the staff necessary to keep patients safe.

And then came COVID-19. By the middle of March, writes Ms. Barry, a man in a dementia unit began showing symptoms and rapidly declined. According to the vice chair of the local union chapter, the home's first COVID-19 patient was not isolated from other patients, and the providers taking care of him were rotated to different units within the facility without adequate personal protective equipment: "What they had us doing, we were spreading it around."

By the third week of March, conditions were so bad that a quarter of the staff was simply not showing up to work. In response, the facility poured fuel on the proverbial fire and consolidated two units, knowingly mixing together infected patients with uninfected patients.

In response, a spokesperson for the Massachusetts Executive Office of Health and Human Services called the deaths of veterans of World War II, Korea and Vietnam "a reminder of the insidious nature of COVID-19," as if no one could



## NURSING HOME FLAWS ARE FATAL Virus' spread shows the serious toll of cost-cutting measures

By **THOMAS A. DEMETRIO** and **KENNETH T. LUMB**

have predicted that a respiratory virus would spread like wildfire in a facility lacking appropriate resources and infection control measures.

The death toll in Holyoke has generated multiple investigations and public outrage, but not everyone is surprised. Erin O'Brien, a political science professor at the University of Massachusetts Boston, notes that all of the conditions for this disaster have been in place long before COVID-19. "All these regular Massachusetts folks that are now outraged, I don't disagree," O'Brien states in the Times, "but veterans programs require funding. When you vote to shrink government, it has ramifications."

According to reporting in USA Today, more than 40,000 of the Americans who have died from COVID-19 infection were long-term care facility patients, and the health-care providers taking care of them and the lack of appropriate resources to keep these patients safe is certainly not limited to government-run facilities. Instead of stepping up and taking proper care of its patients and its health-care providers, however, the response of the for-profit industry has been a massive lobbying campaign to immunize itself from responsibility for its institutional negligence.

According to reporting in Politico, the industry has spent tens of millions of dollars on lobbyists to persuade state governments and the federal gov-

ernment to grant them immunity from liability for any COVID-19 death.

The industry's arguments have a certain appeal on the surface. How can we allow these brave nurses and CNAs to be sued when they are risking their own lives in a chaotic and dangerous environment? But the real question is why was that environment dangerous and chaotic in the first place? Why were the facilities so understaffed and lacking proper and effective personal protective equipment? Why were well-known and proven infection control techniques not implemented?

The answers may very well lead to administrators and owners seeking to wring every penny of profit out of their patients. Failing to answer these questions and hold these institutions accountable dishonors not only the veterans at Holyoke and the tens of thousands of other nursing home patients who have died, but also the individual health care providers who died trying to protect them. CL

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