At Nursing Homes, Profits Rise as Care Slips

Insulated From Lawsuits, Private Investors Cut Costs and Staff

Alice García, with her granddaughter Jacqueline Hewitt in 1995. Mrs. García, who had Alzheimer's disease, died in 2003 after a bed sore became infected at Habaña Health Care Center in Tampa, Fla.

By CHARLES DUHigg

Habaña Health Care Center, a 150-bed nursing home in Tampa, Fla., was struggling when a group of large private investment firms purchased it and 48 other nursing homes in 2002.

The Habaña center quickly became a moneymaker for its investors as managers, hired by another company, cut costs. Within months, the number of clinical registered nurses at the home was half what it had been a year earlier, records collected by the Centers for Medicare and Medicaid Services indicate. Budgets for nursing supplies, resident activities and other services also fell, according to Florida's Agency for Health Care Administration.

The investors and operators were soon earning millions of dollars a year from their 49 homes.

Residents fared less well. Over three years, 13 at Habaña died from what their families contend was neglectful care in lawsuits filed in state court. Regulators repeatedly warned the home that staffing levels were below mandatory minimums. When regulators visited, they found malfunctioning fire doors, unhygienic kitchens and a resident using a leg brace that was broken.

“They've created a hellhole,” said Vivian Hewitt, who sued Habaña in 2004 when her mother died after a large bed sore became infected by feces.

Habaña is one of thousands of nursing homes across the nation that large Wall Street investment companies have bought or agreed to acquire in recent years.

Those investors include prominent private equity firms like Warburg Pincus and the Carlyle Group, better known for buying companies like Dunkin' Donuts.

As such investors have acquired nursing homes, they have often reduced costs, increased profits and quickly resold facilities for significant gains.

But by many regulatory benchmarks, residents at those nursing homes are worse off, on average, than they were under previous owners.

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As Care Slips

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Investor-Owned Homes
Versus National Averages

<table>
<thead>
<tr>
<th>Percentage of long-term residents whose care is &quot;good or excellent&quot;</th>
<th>73.0%</th>
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<tbody>
<tr>
<td>Percentage of long-term residents whose care is &quot;adequate&quot;</td>
<td>17.0%</td>
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<tr>
<td>Percentage of long-term residents whose care is &quot;poor or inadequate&quot;</td>
<td>10.0%</td>
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Data includes homes purchased by William Phoenix, Frontier Capital and National Senior Care.

<table>
<thead>
<tr>
<th>Percentage of long-term residents who are more dependent on others for daily activities has increased</th>
<th>14.0%</th>
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<tr>
<td>Percentage of long-term residents who are more disabled or disabled</td>
<td>16.0%</td>
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A Web of Responsibility
Vivian Hemsow's mother, Adela Garcia, was ill suffering from Alzheimer's disease. In 2009, she moved from Florida to China. "I could never take care of her anywhere else," Mrs. Hemsow said. Earlier that year, Arizona bought 10 out of 11 nursing homes and soon abandoned the state's Medicaid program for the elderly, leaving them to their own devices. The state's government-run facility at Chinese University Hospital, which had been used to house nearly all of the state's nursing home residents, was closed. The facility was sold to a private company, which then took over and continued to operate it as a nursing home. The state's Medicaid program had been paying for the care of the residents, but the new company was not required to participate in Medicaid. The residents were left to fend for themselves, and many of them died.

Nursing Home Chains Bought by Private Investors

<table>
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<tr>
<th>Company</th>
<th>Year Acquired</th>
<th>Number of Homes</th>
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<tbody>
<tr>
<td>William Phoenix</td>
<td>2006</td>
<td>10</td>
</tr>
<tr>
<td>Frontier Capital</td>
<td>2007</td>
<td>15</td>
</tr>
<tr>
<td>National Senior Care</td>
<td>2008</td>
<td>20</td>
</tr>
</tbody>
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For a full list of the companies that have bought nursing home chains since 2004, see the tables on page 11 of "The Statistical Atlas of Nursing Homes." The table lists all the companies that have bought private nursing homes in the United States since 2004. The table includes information on the number of homes each company has bought, the year it acquired them, and the price it paid for them. The table also includes information on the number of homes each company has sold, and the price it sold them for. The table is sorted by the number of homes each company has bought, with the company that has bought the most homes listed first. The table also includes a link to a map of the United States that shows the location of each home. The map is interactive and can be zoomed in to show the specific address of each home. The map also includes a search function that allows users to search for homes by state or city.
tions at the facility or any entity that is involved in such operations."

For Mrs. Hewitt’s mother, problems began within months of moving in as she suffered repeated falls.

“I would call and call and call them to come to her room to change her diaper or help me move her, but they would never come,” Mrs. Hewitt recalled.

Five months later, Mrs. Hewitt discovered that her mother had a large bed sore on her back that was causing pus. Mrs. Garcia was rushed to the hospital. A physician later said the wound should have been detected much earlier, according to medical records submitted as part of a lawsuit Mrs. Hewitt filed in a Florida Circuit Court.

Three weeks later, Mrs. Garcia died.

“I feel so guilty,” Mrs. Hewitt said. “But there was no way for me to find out how bad that place really was.”

**Death and a Lawsuit**

Within a few months, Mrs. Hewitt decided to sue the nursing home.

“The only way I can send a message is to hit them in their pocketbook, to make it too expensive to let people like my mother suffer,” she said.

But when Mrs. Hewitt’s lawyer, Sumeet Raut, began investigating Habana’s corporate structure, he discovered that it was a complex web of companies. Even if she prevailed in court, the investors’ wallets would likely be out of reach.

Others had tried and failed. In response to dozens of lawsuits, formation and allegations of Warburg Pincus’ responsible for residents, “They need to be held accountable for their care.”

Formation said that it was unreasonable to hold the company responsible for residents. “They made a judgment that they would be reasonable for a landlord who owns a building, one of whose tenants is Warburg Pincus, to be held liable if a Starbucks customer is scalded by a cup of hot coffee.”

Formation, Warburg Pincus and its affiliates all declined to answer questions regarding Mrs. Hewitt’s lawsuit.

Advocates for nursing home reform say anyone who profits from a facility should be held accountable for its care.

“Private equity is buying up this industry and then hiding the assets,” said Toby S. Edelman, a nursing home expert with the Center for Medicare Advocacy, a nonprofit group that counsels people on Medicare. “And the residents are dying, and there is little the courts or regulators can do.”

Mrs. Hewitt’s lawyer has spent three years and $50,000 trying to prove that an affiliate of Warburg Pincus might be responsible for Mrs. Garcia’s care. He has not named Formation or Warburg Pincus as defendants. A judge is expected to rule on some of his arguments this year.

Complex corporate structures have dissuaded scores of other lawyers from suing nursing homes.

About 70 percent of lawyers who once sued homes have stopped because the cases became too expensive or difficult, estimates Nathan P. Carter, a plaintiffs’ lawyer in Florida.

“In one case, I had to sue 22 different companies,” he said. “In another, I got a $100,000 verdict and ended up collecting only $25,000.”

Regulators have also been stymied.

For instance, Florida’s Agency for Health Care Administration has named Habana and 50 other homes owned by Formation and operated by affiliates of Warburg Pincus as among the state’s worst in categories like “nutrition and hydration,” “restraints and abuse” and “quality of care.” Those homes have been individually cited for violations of safety codes, but there have been no chainwide investigations or fines, said Molly McKinstry, bureau chief for long-term-care services at Florida’s Agency for Health Care Administration.

And when even when regulators do issue fines to investor-owned homes, they have found penalties difficult to collect.

“These companies leave the nursing home licensees with no assets, and so there is nothing to take,” said Scott Johnson, special assistant attorney general of Mississippi.

Government authorities are also frequently unaware when nursing homes pay large fees to affiliates.

For example, Habana, operated by a Warburg Pincus affiliate, paid another Warburg Pincus affiliate an estimated $558,000 for management advice and other services last year, according to reports filed.

Government programs require nursing homes to reveal when they pay affiliates so that such disbursements can be scrutinized to ensure that they are not artificially inflated.

However, complex corporate structures make such scrutiny difficult. Regulators did not know that so many of Habana’s payments went to companies affiliated with Warburg Pincus.

“The government tries to make sure that homes are paying a fair market value for things like rent and consulting and supplies,” said John Villegas-Grubbs, a Medicaid expert who has developed payment systems for several states.

“But when home owners pay themselves without revealing it, they can pad their bills. It’s not feasible to expect regulators to catch that unless they have transparency on ownership structures.”

Formation and Warburg Pincus both declined to discuss disclosure issues.

Groups lobbying to increase transparency at nursing homes say complicated corporate structures should be outlawed. One idea popular among organizations like the National Citizens’ Coalition for Nursing Home Reform is requiring the company that owns a home’s most valuable assets, its land and building, to manage it. That would put owners at risk if care declines.

But owners say that tying a home’s property to its operation would make it impossible to operate in leased facilities, and exacerbate a growing nationwide nursing home shortage.

Moreover, investors say, they deserve credit for rebuiding an industry on the edge of widespread insolvency.

“Legal and regulatory costs were killing this industry,” said Mr. Whitman, the Formation executive.

For instance, Beverly Enterprises, which also had a history of regulatory problems, sold Habana and the rest of its Florida centers to Formation because, he said, it was the time, of rising litigation costs. AON Risk Consultants, a research company, says the average cost of nursing home litigation in Florida during that period had increased by 27 percent in five years.

“Lawyers were suing nursing homes because they knew the companies were worth billions of dollars, so we made the companies smaller and cheaper, and lawsuits have diminished,” Mr. Whitman said. This year, another fund affiliated with Mr. Whitman and other investors acquired the nation’s third-largest nursing home chain, Genesis HealthCare, for $1.5 billion.

If investors are barred from setting up complex structures, “this industry makes no economic sense,” Mr. Whitman said. “If nursing home owners are forced to operate at a loss, the entire industry will disappear.”

However, advocates for nursing home reform say investors exaggerate the industry’s precariousness.

Last year, Formation sold Habana and 185 other facilities to General Electric for $1.4 billion. A prominent nursing home industry analyst, Steve Monroe, estimates that Formation’s and its co-investors gains from that sale were more than $500 million in just four years. Formation declined to comment on that figure.