

Nursing Homes With Safety Problems Deploy Trump-Connected Lobbyists

Nursing homes, the center of the pandemic, are seeking tax breaks, federal cash infusions and protection against lawsuits.

By Jessica Silver-Greenberg and Jesse Drucker

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Some want direct government aid. Others want tax breaks. Many want protection against lawsuits.

Nursing homes have been the center of America's coronavirus pandemic, with more than 62,000 residents and staff dying from Covid-19 at nursing homes and other long-term care facilities, about 40 percent of the country's virus fatalities. Now the lightly regulated industry is campaigning in Washington for federal help that could increase its profits.

Some of the country's largest nursing-home companies — including those with long histories of safety violations and misusing public funds — have assembled a fleet of lobbyists, many with close ties to the Trump administration.

Eliezer Scheiner, a nursing-home owner and major donor to President Trump, recently retained Brian Ballard, a friend of the president who used to lobby on behalf of Mr. Trump's business. Genesis Healthcare, the largest nursing-home chain in the United States, hired two former top White House aides, including Jim Schultz, a former special assistant to Mr. Trump. LifeCare Centers of America, whose Kirkland, Wash., facility had the country's first coronavirus outbreak in March, brought on four former Republican Senate aides. The industry's main trade group enlisted Haley Barbour, a former chairman of the Republican National Committee.



Brian Ballard in 2018. He was hired as a lobbyist by a nursing-home operator who is a major donor to President Trump. M. Scott Mahaskey, via Politico

It is hardly unusual for embattled industries to seek help from Washington. But the fact that individual nursing-home companies are hiring lobbyists, not just relying on trade associations, reflects the ambitious nature of the industry's mobilization.

Nursing homes are not only seeking assistance in surviving a pandemic. They are also capitalizing on the public health crisis to pursue a long-sought wish list that, until now, has remained mostly out of reach.

The industry has already notched one potentially lucrative victory. LifeCare Centers and others successfully pushed the Trump administration in July to exempt nursing-home companies from a 2017 law that curtailed how much interest big companies can deduct from their taxes. The change could effectively lower the federal tax bills for many nursing-home operators.

Nursing homes — many of which were in deep financial trouble even before the pandemic — are also on the hunt for government cash infusions through the federal economic rescue that became law in March, as well as any future stimulus bills.

The industry has received about \$7.6 billion in federal grants through the federal economic stimulus package, according to the American Health Care Association, an industry group, and will soon get another \$5 billion. Nursing homes have also received an estimated \$11 billion more in government loans and advance Medicare payments, according to an analysis of federal data by Good Jobs First, a progressive research group. Executives at Genesis, which has reported 1,500 deaths at its homes nationwide, told investors last week that the company had received nearly \$190 million in federal grants and was looking for more.

On Saturday, Mr. Trump seemed to indicate that more aid was on its way. “We will announce additional measures to protect nursing home residents in the coming days,” he said at a news conference at his golf club in Bedminster, N.J. “We’ve worked very hard with nursing home companies.”

Among the industry’s biggest goals is for the federal government to block residents and their families from suing nursing homes for wrongful deaths and other malpractice claims — even those that have nothing to do with Covid-19.

Senate Republicans introduced legislation last month that would make it virtually impossible for families whose relatives died from neglect or the coronavirus to hold nursing homes accountable in court. The legislation would apply retroactively to 2019 and extend through 2024.

The Senate majority leader, Mitch McConnell, has said the liability-protection law — which would also apply to a range of other industries worried about being sued if they reopen during the pandemic — must be included in any new economic stimulus package.



The Senate majority leader Mitch McConnell's former chief of staff is among the lobbyists who have championed the liability-protection bill. Anna Money maker for The New York Times

Mr. McConnell’s former chief of staff Kyle Simmons was recently hired by the American Health Care Association, the powerful trade group representing for-profit nursing-home companies, to work on legislative issues related to the virus, according to federal lobbying records. He is among the lobbyists who have championed the bill in the Senate, according to three people with direct knowledge of the matter.

Nursing-home operators have argued that they should not be held responsible for the deaths of residents, including many who were already uniquely vulnerable to the virus, because they were hit by a pandemic that no one could have anticipated. Many homes have argued that they struggled to get testing kits and other essential protective gear that might have helped them contain the spread.

“Without legal protections, many nursing homes and assisted-living communities could shut down completely, threatening access to long-term care for thousands of individuals and precious jobs for caregivers,” said Beth Martino, a spokeswoman for the American Health Care Association.

But even before the coronavirus, many nursing homes had poor records when it came to safety and staffing. A report this spring from the Government Accountability Office found that the industry failed to maintain basic infection-control standards like quarantining sick residents or requiring frequent hand washing.

Some of the nursing homes with high death tolls from the virus have been cited by regulators for safety and other problems. LifeCare Centers, for example, paid \$145 million in 2016 to resolve allegations, without admitting wrongdoing, that its nursing homes had bilked Medicare. After the virus spread among LifeCare patients and staff in Kirkland, government inspectors faulted the home for failing to properly notify the state authorities.

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Davis Lundy, a spokesman for LifeCare Centers, said the company is “fully compliant with any requirements of the settlement” with the Justice Department. He said that staff at the Kirkland home “deserve high praise, not criticism,” and that the company was appealing the decision by the state health department.

The industry has successfully lobbied at least 20 states to gain immunity from lawsuits in state courts. But the federal Safe to Work Act would go further than anything on the state level because it would cover lawsuits that had nothing to do with the coronavirus and apply to deaths that occurred months before the virus began spreading.

“The industry is using this epidemic to win a get-out-of-jail-free card,” said Toby Edelman, a senior lawyer at the Center for Medicare Advocacy, a nonprofit legal assistance group for the elderly.



A resident being removed in April from the Southeast Nursing and Rehabilitation Center in San Antonio, where 18 residents have died during the pandemic. Eric Gay/Associated Press

With Mr. Trump in the White House, nursing-home companies have won numerous victories. In 2017, the Trump administration, under pressure from industry groups, adjusted how nursing homes were fined for violating federal rules. Under the new guidance, the average fine dropped more than 30 percent, according to an analysis last year of federal data by Kaiser Health News.

The Trump administration also proposed weakening infection-control rules, imposed under President Barack Obama, that required all nursing homes to employ at least one person who specialized in preventing infections.

In November, a group of nursing-home operators gathered in a ballroom at the InterContinental hotel in Midtown Manhattan to raise more than \$3 million for Mr. Trump’s re-election campaign. Mr. Trump stood onstage and thanked Mr. Scheiner, who donated \$750,000, the most of any attendee, “for doing such an incredible job.” Mr. Scheiner, who owns more than 20 nursing homes, received a thunderous round of applause, according to video of the event.

Mr. Scheiner and his company, TL Management, have faced serious problems. This year, he settled allegations, made by a federally appointed bankruptcy court trustee, that he and his partner fraudulently transferred more than \$1 million in assets out of a nursing-home operator before it filed for bankruptcy. (Mr. Scheiner denied wrongdoing.) This year, 43 residents have died at homes owned by Mr. Scheiner, according to state records reviewed by The New York Times.

In May, Mr. Scheiner donated an additional \$50,000 to a different political action committee bankrolling Mr. Trump’s campaign, federal records show.

TL Management has hired four lobbyists. One is Mr. Trump's friend Mr. Ballard. Another is Emily Hargan, whose husband is a top official at the Department of Health and Human Services, which oversees the nation's nursing homes.

The lobbyists' mandate was to help win legal immunity for the industry and to secure financial aid from the federal government, records show. Since the pandemic began, Mr. Scheiner's homes have received roughly \$26 million in federal grants and loans, according to Good Jobs First.

Mr. Ballard's lobbying firm had an additional goal: to help cut TL Management's tax bill, according to two people familiar with the matter. The 2017 overhaul of the federal tax code limited how much interest companies can deduct from their taxes.

TL Management, along with LifeCare Centers and other large nursing-home companies, asked the Treasury Department to exempt the industry from some of those limits.

On July 28, they got what they wanted: Treasury proposed allowing companies that operate a "qualified residential living facility" to be able to deduct a larger amount of interest from their taxes.

But the protection against lawsuits may be a higher-stakes issue for Mr. Scheiner's network of nursing homes.



The Southeast facility, owned by the Trump donor Eliezer Scheiner, has been sued by families of some of the residents who died. Matthew Busch for The New York Times

At Mr. Scheiner's Southeast Nursing and Rehabilitation Center in San Antonio, which has been cited by regulators for failing to control infections three years in a row, 18 residents have died during the pandemic. That is the most deaths at any nursing home in the city, according to The Times analysis of state records.

The families of some of those residents have sued. In a lawsuit last month, the family of Jose Velasquez, who died after contracting the coronavirus, said Southeast staff repeatedly minimized the gravity of his illness. An hour before he died, employees told the family that Mr. Velasquez was "doing fine and showed no symptoms of the disease," according to the lawsuit.

Texas is not among the 20 states that have shielded nursing homes from pandemic-related lawsuits. But if the federal liability bill passes, the families' lawsuits would most likely be derailed.

At the November fund-raiser in New York, Mr. Trump also paid tribute to a longtime friend, Ruby Schron, who in 2003 agreed to pay more than \$700 million to buy dozens of properties from Mr. Trump. "Ruby, I want to thank you," Mr. Trump said at the event. "You're a great guy."

In 2010, Mr. Schron and SavaSeniorCare, one of the country's largest nursing-home chains, agreed to pay \$14 million to settle Justice Department allegations that they solicited kickbacks from a pharmacy to provide drugs to nursing-home patients. In a separate 2015 case, the Justice Department accused Sava of routinely submitting bogus claims to Medicare. The case is ongoing.

The Justice Department said in a 2010 court filing that Mr. Schron "controlled" Sava. In a 2016 report prepared with the input of Sava's financial advisers, the bond-rating firm S&P Global said Mr. Schron "effectively owns most of the equity in Sava."

Annaliese Impink, a spokeswoman for Sava, said Mr. Schron "is not involved in the operations" of the company. "He is the landlord of several of the centers."

This year, the Trump administration has provided Sava with roughly \$74 million in loans and grants through the economic stimulus package, according to Good Jobs First.

In June, the Democratic-controlled House committee overseeing the federal response to the coronavirus said it would be examining the records of the five largest for-profit nursing-home chains, including Sava, Genesis and LifeCare. It is looking at how the companies are spending the federal stimulus money they have already received.

As it looks for victories on Capitol Hill, the industry is trying to soften its image.

Mark Parkinson, who runs the American Health Care Association, told members this summer that the group was preparing a \$15 million ad campaign in Washington. "We hope to shape the national conversation," he wrote.

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