## LEGAL BRIEFS

## Not Your Grandmother's Nursing Home





## Boomers and Obamacare spur a transformation of the growing long-term care industry.

he modern nursing home was born from the Social Security Act, which conditioned payments in a way meant to eliminate state-run "almshouses" serving the elderly poor. Over the following decades, the long-term care sector was radically transformed: The welfare model of almshouses gave way to highly regulated skilled nursing facilities modeled on hospitals, providing a higher standard of care to a far broader population.

Today, long-term care faces another historic transition as approximately 10,000 baby boomers turn 65 each day for the next 15 years. According to U.S. Census projections, Washington's population of seniors age 65 and older is expected to grow by more than half a million, from 13.6 percent of the state's population last year to more than 18 percent by 2030.

As the long-term care market has grown, it has also diversified to include a wide menu of support options. In-home personal caregivers assist with daily tasks like bathing and toileting for those who can otherwise live independently. Home health agencies

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provide home visits for skilled nursing, therapy and other services that were traditionally provided only in hospitals, nursing homes or outpatient facilities. Assisted-living providers often allow those whose disabilities or medical conditions require less than 24-hour care to receive services in a community setting.

Such home- and community-based care models are popular with aging Americans who increasingly wish to remain independent in their own homes or in home-like settings. These models are also popular with both private managed care and government health care providers because they can avoid the higher cost of institutionalized care for those whose needs are stable and predictable. Medicare, for instance, steers patients toward these newer alternatives by limiting coverage in nursing homes to 100 days following a hospital stay. Federal law even treats community-integrated services as a civil rights concern: The Americans with Disabilities Act requires states to offer services to individuals with disabilities in the least restrictive, most integrated setting possible. Skilled nursing facilities, commonly referred to as nursing homes, continue to evolve with an emphasis on rehabilitation. As individuals with moderate care needs turn to alternatives like home health or assisted living, nursing homes increasingly specialize in serving those who need intensive or 24-hour care, many of whom previously would have faced long hospitalizations. Nursing homes are now part of a spectrum of post-acute care that also includes transitional hospital care, home health, palliative care and hospice. Simultaneously, nursing homes are often integrated with community care settings, either through coordination among providers or through "age-in-place" models such as continuing care retirement communities.

Going forward, health care reform poses big questions and big opportunities for the industry. The Affordable Care Act (ACA) places new demands on long-term care providers, including a mandate for formal compliance programs, new training requirements and public reporting of staffing, expenditures and financial relationships. At the same time, historic Medicaid shortfalls and cuts to Medicare reimbursements have placed financial pressure on providers. But in some ways, the ACA has also made room for innovation. For instance, a provision penalizing hospitals for readmission of patients has spurred new integration of post-acute services as providers seek to create seamless transitions across health care venues, improving patient care and reducing costs. The law also funds a number of demonstration projects such as "Accountable Care Organizations" to explore alternatives to the traditional fee-for-service payment model. At the same time, states are increasingly turning to a privatized "managed care" model of public benefits in an attempt to hedge against the growing cost of providing high-quality care to seniors.

A growing market, changing consumer demands and major regulatory changes have made for a dynamic and competitive longterm care industry. Innovative and nimble providers who can please both consumers and regulators will find themselves well positioned to serve an aging America.

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