

# Healthcare Impact Statement

Regarding the Proposed Purchase of California-Nevada  
Methodist Homes by Pacifica Companies, LLC

Prepared for the Office of the Attorney General  
California Department of Justice  
Healthcare Rights & Access Section

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## Table of Contents

	Pages
I. Background of this Healthcare Impact Statement	3
II. Background: California-Nevada Methodist Homes	4-7
III. Evaluation: Pacifica Companies, LLC	8-28
IV. Recommendations Related to Operations	29-36
V. Standard Recommendations	37-38
VI. Signature page	38
VII. Appendices	
Appendix A: Buena Vista SNF deficiencies	39
Appendix B: Christopher Cherney Qualifications	40-41

**I. Background of this Healthcare Impact Statement**

The California Attorney General is reviewing the proposed sale of California-Nevada Methodist Homes (CNMH), a California nonprofit public benefit corporation, to Pacifica Companies, LLC<sup>1</sup>. CNMH properties include Lake Park located at 1850 Alice Street, Oakland, CA 94612, and Forest Hill located at 551 Gibson Avenue, Pacific Grove, CA 93950 (Table 1).

**Table 1. Bed Count of CNMH Facilities.**

<b>Facility</b>	<b>Independent living beds</b>	<b>Assisted living beds</b>	<b>Skilled nursing beds</b>
Lake Park	143	37	35
Forest Hill	91	18	26
<b>TOTAL</b>	<b>234</b>	<b>55</b>	<b>61</b>

Per California Corporations Code §§ 5917 & 5917.5, the Attorney General shall consider any factors deemed relevant to the proposed sale, including whether the agreement or transaction may create a significant effect on the availability or accessibility of healthcare services to, or cultural interests of, the affected community.

Per California Code of Regulations, Title 11, § 999.5(e)(5)-(7), the Attorney General shall prepare an independent health care impact statement that includes (but is not limited to):

- ⇒ An assessment of the impact on MediCal patients, county indigent patients, and any other class of patients.
- ⇒ As assessment of the effect of the agreement on staffing for patient care areas as it may affect availability of care, on the likely retention of employee as it may affect continuity of care, and on the rights of employees to provide input on health quality and staffing issues.

This Healthcare Impact Statement evaluates relevant factors related to the proposed sale, including the performance history of Pacifica Companies, LLC, and related entities. It concludes with recommendations.

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<sup>1</sup> <https://www.cnmh.org/>

**II. Background: California-Nevada Methodist Homes**

***Mission and History of CNMH***

CNMH is a California nonprofit public benefit corporation and Section 501(c)(3) public charity formed in 1955 to serve seniors. CNMH has had financial difficulties for years and has been unable to turn around operating losses. On March 16, 2021, CNMH filed a voluntary Chapter 11 bankruptcy case in the United States Bankruptcy Court for the Northern District of California, Oakland Division. On December 17, 2021, CNMH entered into a Purchase and Sale Agreement with Pacifica. The purchase price is \$30,000,000.

***CNMH Regulatory Performance***

***Residential Care Facility for the Elderly (i.e., Assisted Living) Facility Regulatory Performance***

Between 2017 and May 31, 2022, Lake Park and Forest Hill were issued Type A and Type B regulatory citations at a total rate of 0.68 to 0.70 per 10,000 bed days (Table 2). This rate of citations is 2.5 times higher than the State average. Nevertheless, there have been no citations issued to either facility since 2019. For more than two years, regulatory performance by the CNMH RCFEs appears to have been exemplary.

**Type A** citations pose “an immediate health and safety risk of residents in care”  
**Type B** citations pose “a potential threat to the health and safety of residents in care”

**Table 2. Type A and Type B Citations, January 1, 2017 – May 31, 2022.**

Facility/facilities	Average beds per facility	Type A	Type B	Total Type A + Type B	Estimated Total Type A Citations per 10,000 resident days	Estimated Total Type B Citations per 10,000 resident days	Estimated Total Citations per 10,000 resident days
All California RCFEs	25	4,941	5,731	10,672	0.12	0.14	0.27
Lake Park	37	2	2	4	0.34	0.34	0.68
Forest Hill	18	2	0	2	0.00	0.70	0.70

Lake Park’s Type A citations were as follows:

1. Three residents had unlocked detergent, Clorox, scissors, knives and aspirin in apartments (2018).
2. Hot water temperature in one resident room was above 120 degrees (2019).

Forest Hill’s Type A citations were as follows:

1. Failure to ensure consistent hot water service for two days (2017).
2. Unsecured laundry pods in room of resident with dementia (2018).

*CNMH Skilled Nursing Facility Regulatory Performance*

Since 2017, from a regulatory perspective, the CNMH skilled nursing facilities have performed above average<sup>2</sup>.

**Current Medicare Ratings: Above Average (Lake Park) and Much Above Average (Forest Hill)**

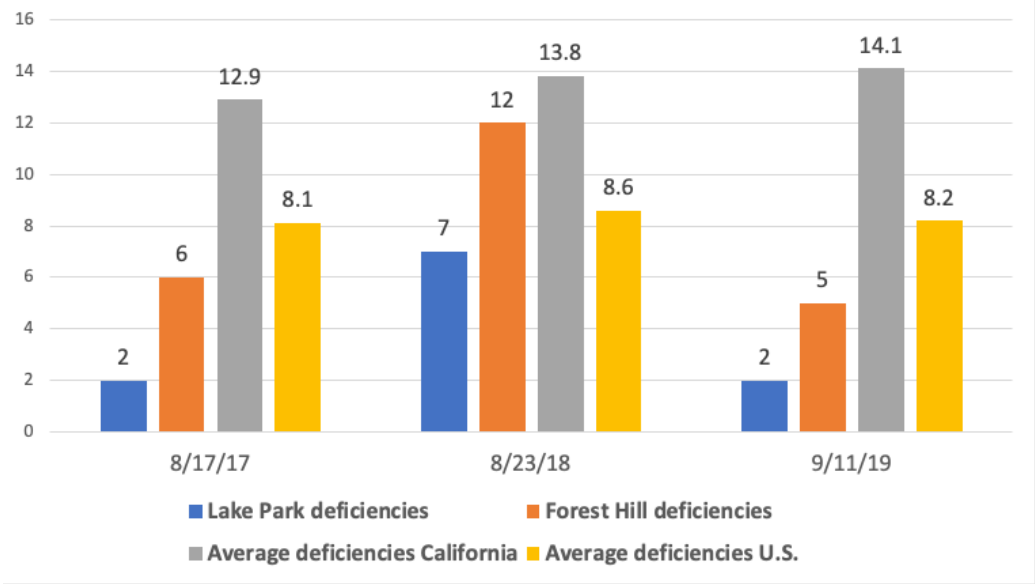
As of this writing, the Lake Park and Forest Hill skilled nursing facilities have an overall rating of 4 stars (above average) and 5 stars (much above average), respectively, on the Medicare Compare website<sup>3</sup>. The performance component star ratings for each facility are as follows:

<u>Performance Component</u>	<u>Lake Park</u>	<u>Forest Hill</u>
Overall rating	4 stars	5 stars
Health inspection	4 stars	4 stars
Staffing	1 stars	5 stars
Quality of care	not available	5 stars

**Annual Recertification Surveys: Fewer deficiencies than State and national averages on five out of the past six recertification surveys.**

Since 2017, Lake Park has recorded fewer deficiencies on annual recertification surveys than State and national averages (Figure 1). Forest Hill also has recorded fewer deficiencies than State averages (Figure 1). However, in 2018 Forest Hill recorded 12 deficiencies, higher than the national average. Lake Park has not been issued any “actual harm” deficiencies (Table 3). In November 2018, Forest Hill was issued one “actual harm” deficiency, related to a resident who fell and sustained a broken hip (Table 4). Since November 2018 (3.5 years ago), no further “actual harm” deficiencies have been issued to Forest Hill.

**Figure 1. CNMH Total Skilled Nursing Facility Recertification Survey Deficiencies vs. State and National Averages.**



<sup>2</sup> Note: Per federal regulatory mandate annual recertification surveys were suspended in early 2020 related to the COVID-19 pandemic. Recertification surveys did not recommence until late 2021.

<sup>3</sup> [Lake Park](#) and [Forest Hill](#).

**All CNMH Skilled Nursing Facility Deficiencies: Recertification Surveys, Complaint Visits, Facility Reported Incidents**

**Table 3. Lake Park: All Regulatory Deficiencies for Skilled Nursing Facility, 2017-2021 [Source: California Department of Public Health].**

Date of deficiency	ID tag	Scope and severity	Deficient practice
8/17/17	F431	E	Expired bottle of liquid Atenolol was found in the refrigerator in the medication room. The medication store for medications and biologicals had no thermometer or temperature monitoring.
	F456	E	Failed to ensure equipment and fixtures are maintained in safe operating condition when dishwasher had an air gap of less than one half inch from floor drain.
1/16/18	F333	E	Failed to ensure residents were free from significant medication error for one of three sampled residents when 12 doses of Resident 1's Citalopram (for depression) was not administered.
8/23/18	F550	D	Failed to provide an environment that promotes the dignity of two residents when staff stood while feeding.
	F637	D	Failed to perform an assesment in a timely manner for one resident when a "Significant Change in Status Assessment" was not performed after Resident 1 was admitted to hospice services.
	F638	D	Failed to ensure two residents' clinical condition was assessed on a quarterly basis.
	F641	E	Failed to accurately assess two residents on Minimum Data Set.
	F700	D	Failed to ensure appropriate use of bedrails for one resident; resident was in bed with bilateral side rails without a nursing assessment, physician orders, informed consent and care plan.
	F759	E	Failed to ensure that the medication error rate was not greater than 5% when there were eight errors out of 27 opportunities resulting in an error rate of 29.6%.
	F880	D	Failed to maintained standard infection control precautions for one of 11 residents when the OT assisted Resident 1 in feeding without hand washing or hand hygiene after touching resident's shoes.
4/30/19	A205	n/a	Failed to meet 2.4 direct care service hours per patient day (DHPPD).
7/17/19	F689	D	Failed to ensure 1 of 3 sampled residents was supervised to prevent falls and injuries when Resident 1 got on an elevator unsupervised and went down to the facility's parking lot and fell.
9/11/19	F695	D	Failed to ensure residents receive proper oxygen therapy for 1 of 8 sampled residents; Resident 1 was not given the amount of oxygen as ordered by physician.
	F880	D	Failed to follow infection control practices to prevent spread of infection; during resident dressing room change, RN did not change gloves nor perform hand hygiene after removing a soiled dressing.
9/18/19	C4770	n/a	Failed to maintain current complete and accurate personnel records for all employees.
	C4790	n/a	Failed to maintain current complete and accurate personnel records for all employees.
	C4905	n/a	Entries in patients' medical record were not authenticated with the title of the person making the entry.
10/11/21	C1240	n/a	Failed to document routine cleaning of the communal dining and activity rooms.

**Table 4. Forest Hill: All Regulatory Deficiencies for Skilled Nursing Facility, 2017-2021 [Source: California Department of Public Health].**

Date of deficiency	ID tag	Scope and severity	Deficient practice
2/3/17	B2015	n/a	Failed to properly label Vitamin C bottle for 1 resident.
	B2310	n/a	Failed to complete quarterly activity progress notes for 3 of 6 residents.
	B5050	n/a	Failed to document the clinical indication for Ativan.
2/3/17	F281	D	Applied a duoderm patch instead of dry dressing to 1 resident's wound.
	F371	E	Had expired food in walk-in refrigerator and temperature was out of range.
	F425	D	Licensed nurse gave powdered laxative without looking at the measure line of the medicine cup.
	F441	D	Licensed nurse did not wash his hands between residents.
12/13/17	F661	D	Failed to have discharge summaries for two residents.
	F759	D	Medication error rate of 13%.
	F812	F	Failed to keep ice machine clean.
	F849	D	Failed to ensure a communication process between the facility and the hospice provider for 2 residents.
	F865	D	The facility did not have a Quality Assurance and Process Improvement plan.
	F881	D	The facility did not have an antibiotic stewardship program implemented.
8/22/18	F610	D	Failed to protect 6 female residents from further potential sexual abuse by a physician.
11/21/18	F552	D	Failed to obtain informed consent for psychotropic medications for five residents.
	F583	D	Failed to ensure the confidential protected health information of discharged residents was in a secured area when the access key was on the kitchen wall.
	F656	G	Facility failed to do a fall risk assessment after two falls, failed to develop a fall intervention, and failed to implement the bowel and bladder care plan for one resident who fell and broke right hip, sustained a head abrasion and left elbow skin tear.
	F684	D	For one resident, the Centrum Silver tablet did not meet the physician's ordered dosage. For another resident who slid out of her wheelchair, staff did not implement neuro checks.
	F690	D	Failed to ensure one resident with a urinary catheter had an order for it.
	F691	D	Failed to ensure one resident with an ileostomy had an order for it.
	F758	D	Failed to ensure four residents were free from unnecessary psychotropic medications.
	F761	D	Failed to ensure the medication room refrigerator was checked twice daily for proper temperatures.
	F812	E	Walk-in refrigerator bag of fresh thyme and sage leaves were undated and unlabeled; an open bag of mint leaves was brown; a honeydew had brown spots; bins of sugar and panko crust had opened lids; open bag of pasta; open bag of graham; open bag of green peas; juice dispenser with gray particles on vent; dishwasher with no air gap.
	F880	D	Registered nurse did not wash her hands before applying and removing gloves.
	F881	D	Failed to follow antibiotic stewardship program for one resident.
12/18/19	F550	D	Failed to treat one resident with respect and dignity when staff removed the resident from the dining room during lunch time.
	F755	D	Failed to ensure medications from the emergency kit were replaced in a timely manner.
	F761	D	Failed to properly store the emergency medication kit and had one expired vial of tuberculin solution.
	F812	E	Stored a bag of pretzels and tub of ice cream on the floor of the freezer, had a rusty can opener and the ice machine was dirty with a frayed filter.
	F880	D	CNA did not perform hand hygiene in between assisting residents during lunch time.
5/27/20	F880	E	Staff responsible for screening visitors did not disinfect the reusable thermometer scanner.
2/2/21	C1265	n/a	Three staff did not wear recommended personal protective equipment in the COVID yellow zone.
	C4190	n/a	Two staff did not remove isolation gowns before exiting patient rooms.

**III. Evaluation: Pacifica Companies, LLC**

***Pacifica Companies, LLC***

Founded in 1978, San Diego, CA-based Pacifica Companies, LLC, is a privately owned real estate firm. According to the California Department of Social Services, there are data for 32 Pacifica-operated residential care facilities for the elderly (RCFEs) that do not have a “pending” license [See: [www.cdss.org](http://www.cdss.org)]. According to the *Notice of Sale of California-Nevada Methodist Homes – April 7, 2022*, Pacifica owns three skilled nursing facilities operated by Aspen Skilled Healthcare, Inc. It is expected that Aspen will operate the skilled nursing facility at Lake Park. In addition, Pacifica has contracted with Buena Vista Healthcare, LLC, to operate the skilled nursing facility at Forest Hill. Buena Vista currently operates eight skilled nursing facilities in California.

***Pacifica Regulatory Performance***

*Residential Care Facility for the Elderly (RCFE) Regulatory Performance*

**Rate of citations.** Between 2017-2022, 32 Pacifica residential care facilities for the elderly (RCFEs) for which data is publicly available in combination recorded a rate of 1.05 citations per 10,000 resident days (Tables 5 & 6, and Figures 2 & 3). Consider:

- Pacifica’s rate of citations is 3.9 times higher than the average rate for all RCFEs in California.
- Pacifica’s rate of citations is 5.0 times higher than the average rate for all RCFEs with a bed capacity equal to the span of bed capacities for Pacifica facilities (i.e., 36-252 beds).
- For 21 of 32 Pacifica facilities (66 percent), the rate of total citations (i.e., Type A plus Type B citations<sup>4</sup>) is higher than the California average.
- For three Pacifica RCFEs, the rate of total citations was 10-21 times higher than the State average:
  - Oakland 10 times higher than State average
  - Oxnard 16 times higher than State average
  - Modesto 21 times higher than State average
- For four Pacifica RCFEs, the rate of Type A citations was 17-41 times higher than the State average:
  - Merced 17 times higher than State average
  - Oakland 19 times higher than State average
  - Oxnard 31 times higher than State average
  - Modesto 41 times higher than State average

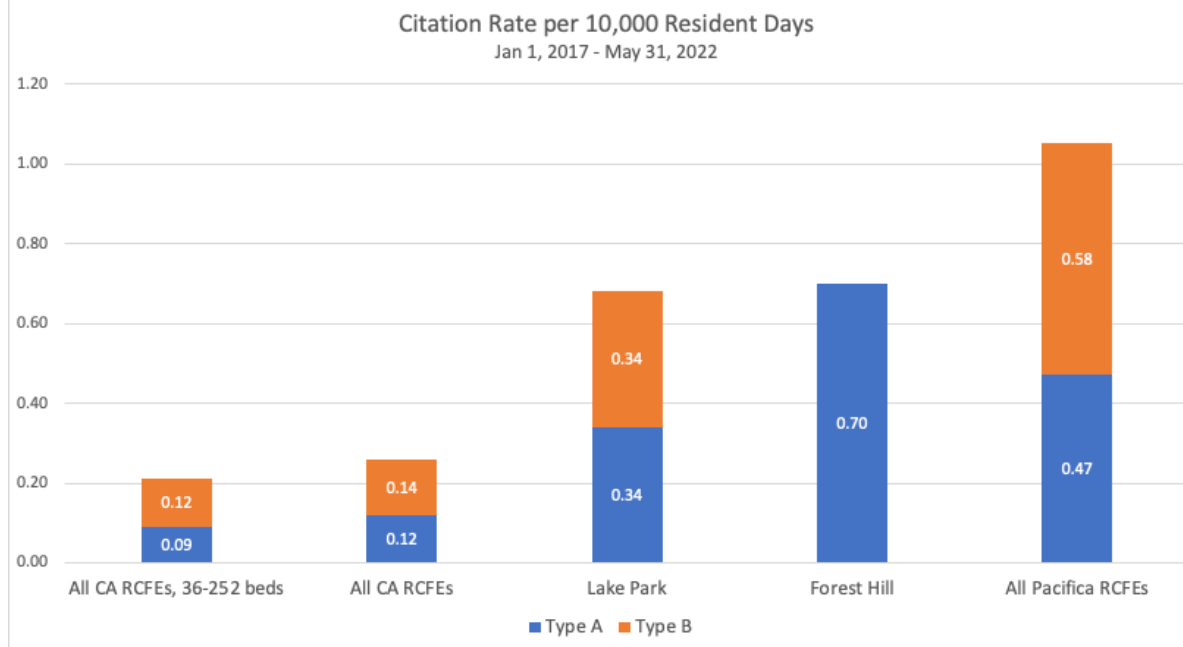
**Table 5. Type A and Type B Citation Rate, January 1, 2017 – May 31, 2022.**

Facility/facilities	Average beds per facility	Type A Citations	Type B Citations	Total Type A + Type B Citations	Estimated Total Type A Citations per 10,000 resident days	Estimated Total Type B Citations per 10,000 resident days	Estimated Total Citations per 10,000 resident days
CA RCFEs, 36-252 beds	110	2,389	3,007	5,396	0.09	0.12	0.21
All California RCFEs	25	4,941	5,731	10,672	0.12	0.14	0.27
Lake Park	37	2	2	4	0.34	0.34	0.68
Forest Hill	18	2	0	2	0.00	0.70	0.70
All Pacifica RCFEs	105	179	221	400	0.47	0.58	1.05

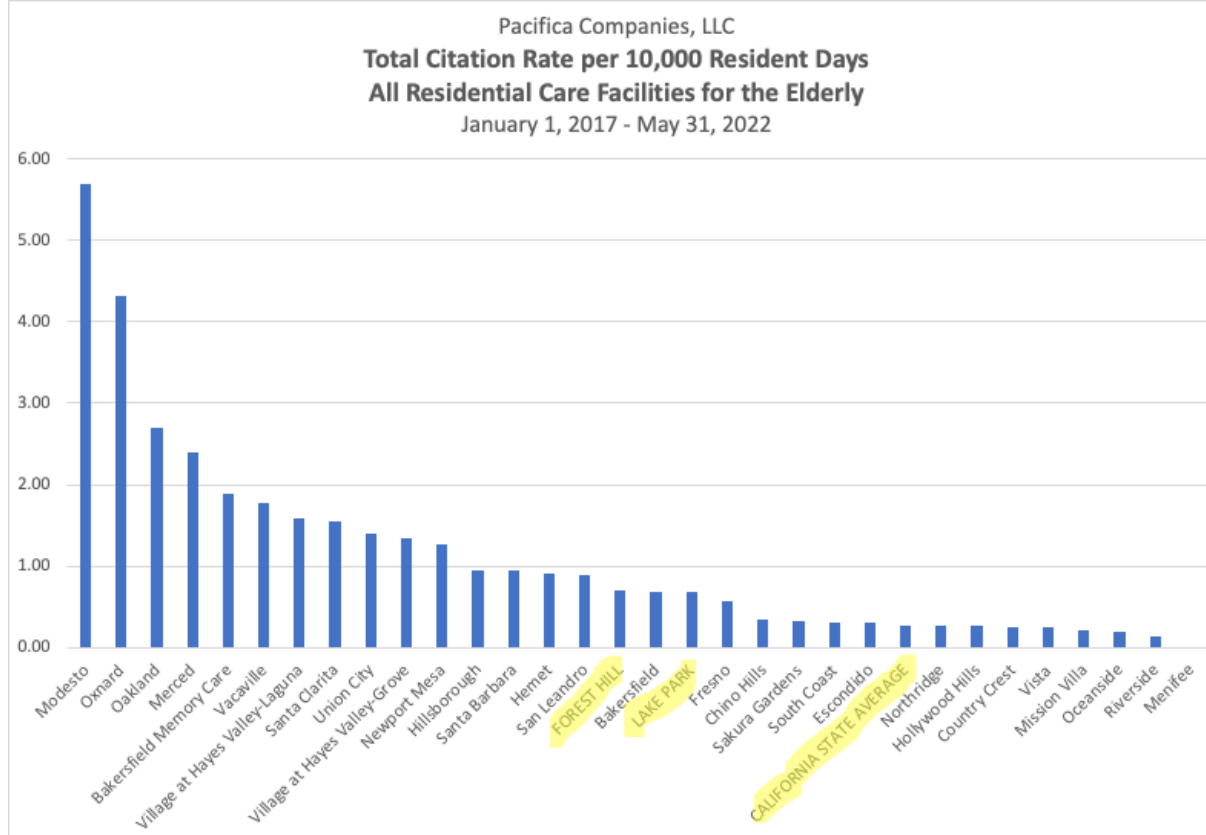
<sup>4</sup> **Type A** citations pose “an immediate health and safety risk of residents in care” and **Type B** citations pose “a potential threat to the health and safety of residents in care”



**Figure 2. RCFE Citation Rate per 10,000 Resident Days.**



**Figure 3. RCFE Citation Rate per 10,000 Resident Days by Facility.**

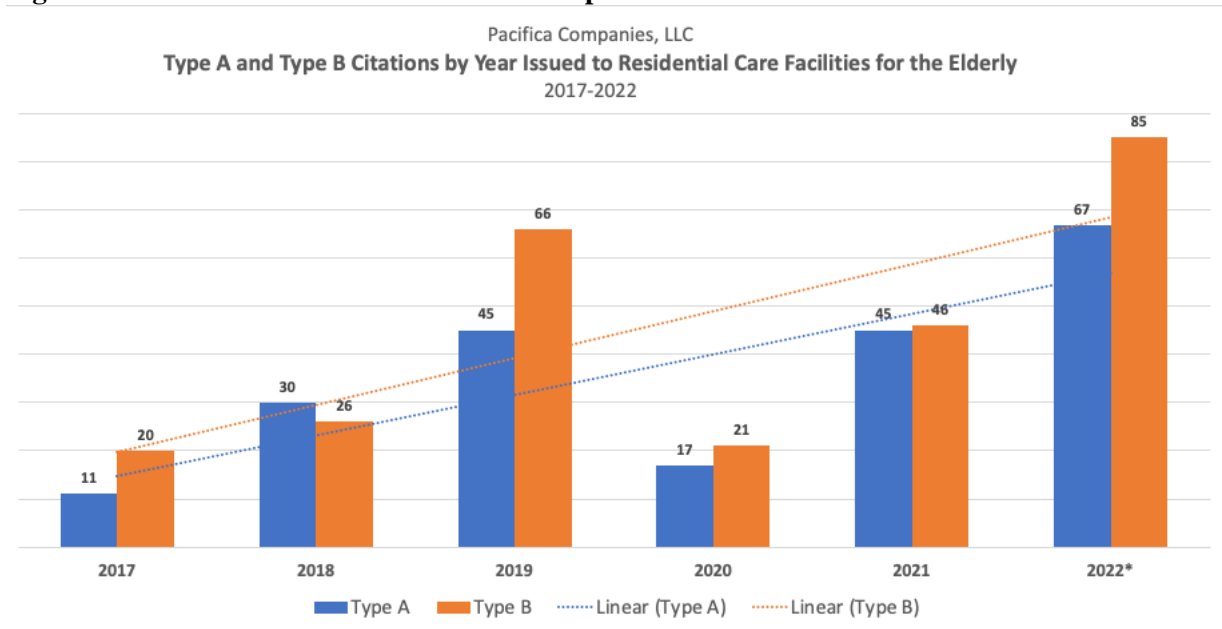


**Table 6. RCFE Citation Rate by Facility, January 1, 2017 - May 31, 2022.**

Facility	Total Citation Rate	A Citation Rate	B Citation Rate	Bed Count	Years to calculate	Total Citation
Modesto	5.69	3.16	2.53	73	5.42	81
Oxnard	4.31	1.83	2.48	100	4.15	47
Oakland	2.69	0.47	2.22	197	2.93	38
Merced	2.40	0.82	1.58	93	5.42	31
Bakersfield Memory Care	1.90	0.95	0.95	40	5.42	12
Vacaville	1.78	0.75	1.03	75	5.42	23
Village at Hayes Valley-Laguna	1.58	0.68	0.90	56	2.71	7
Santa Clarita	1.54	0.42	1.12	99	5.42	22
Union City	1.39	0.63	0.76	110	5.42	22
Village at Hayes Valley-Grove	1.35	0.54	0.81	47	2.71	5
Newport Mesa	1.26	0.87	0.39	40	5.42	13
Hillsborough	0.94	0.76	0.19	110	2.01	5
Santa Barbara	0.94	0.47	0.47	36	3.31	10
Hemet	0.91	0.52	0.39	110	4.80	14
San Leandro	0.88	0.32	0.57	90	5.42	14
FOREST HILL	0.70					
Bakersfield	0.69	0.23	0.46	55	5.42	6
LAKE PARK	0.68					
Fresno	0.57	0.32	0.25	100	5.42	9
Chino Hills	0.34	0.27	0.07	94	5.42	5
Sakura Gardens	0.32	0.08	0.24	177	4.90	8
South Coast	0.31	0.31	0.00	98	3.07	4
Escondido	0.31	0.04	0.27	143	5.42	7
<b>CALIFORNIA STATE AVERAGE</b>	0.27					
Northridge	0.27	0.13	0.13	110	1.81	2
Hollywood Hills	0.26	0.00	0.26	120	2.00	1
Country Crest	0.25	0.13	0.13	150	5.42	8
Vista	0.25	0.12	0.12	252	3.10	2
Mission Villa	0.21	0.21	0.00	60	2.90	2
Oceanside	0.19	0.00	0.19	165	1.65	1
Riverside	0.13	0.04	0.09	110	5.42	3
Menifee	0.00	0.00	0.00	220	1.00	0
Palm Springs	0.00	0.00	0.00	95	3.06	0
Sierra Vista	0.00	0.00	0.00	63	5.42	0
Valley Crest	0.00	0.00	0.00	65	5.42	0
		0.47	0.58	3353	4.15	402
				104.8	avg bed count	

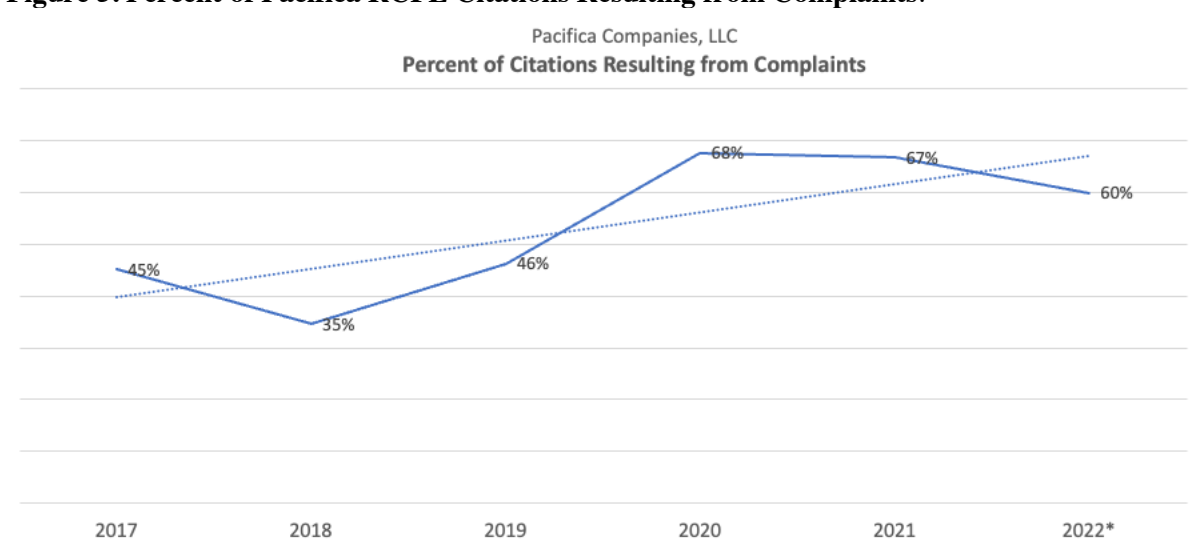
**There was an increasing number of citations issued to Pacifica RCFEs after a 2020 drop in on-site regulatory visits due to COVID-19.** While there was a drop in on-site regulatory visits in 2020 by the California Department of Social Services specifically related to the COVID-19 pandemic, the number of Type A and Type B citations issued to Pacifica RCFEs steadily increased between 2017-2019 as well as 2020-2022 (Figure 4).

**Figure 4. Number of Pacifica RCFE Citations per Year. 2022 Data Annualized.**



**At Pacifica RCFEs since 2018, there has been an increase in the percent of citations due to resident complaints.** Complaints to regulatory agencies often are a proxy for client dissatisfaction. On a trending basis since 2018, the percent of Pacifica citations due to complaints has increased (Figure 5). This trend suggests that since 2018 in the aggregate, Pacifica leaders have become less responsive to resident/family concerns.

**Figure 5. Percent of Pacifica RCFE Citations Resulting from Complaints.**



**Type A-only citations 2017-2022, Pacifica residential care facilities for the elderly (RCFEs) (Figures 6-1 & 6-2).** Since 2017, Pacifica RCFEs have been issued approximately 200 Type A citations for numerous issues related to resident health and safety. As noted above in Table 5, Pacifica’s rate of Type A citations since 2017 was 3.9 times higher than the California State average.

**Figure 6-1. Type A Citations Issued to Pacifica RCFEs: Jan 1, 2017 – May 31, 2022.**

Type A Citation issued related to:	2017	2018	2019	2020	2021	2022
Ants in resident mouth and eyes					Hillsborough	
Amputation or injury due to neglect	Union City			Vista		
Staff or resident hit or grabbed resident			Vacaville		Bakersfield Memory Care; Modesto; Vacaville	
Staff failed to report incidents	Newport Mesa		Modesto		South Coast	Oxnard
Staff yelled at or made inappropriate comment(s) to residents		Chino Hills	Modesto		South Coast	Chino Hills
Staff failed to call 911 when resident screaming and bleeding					South Coast	
Elopement with injuries		Bakersfield Memory Care			Country Crest; Merced	
Elopement/wandering		Modesto; Newport Mesa	Merced; Modesto; Oxnard; Union City	Modesto	Merced x 2; Modesto; Union City	Merced; Union City
Staff physically restricted resident		Oxnard x 2		Mission Villa		
Staff barricaded doorway/exit		Hemet	Modesto		South Coast	
Invasion of resident/guest privacy		Bakersfield Memory Care				
Resident falls with injury					Hemet; Hillsborough; Modesto	Modesto; San Leandro; Santa Clarita
Resident falls (injury not stated) or inadequate fall risk prevention		Oxnard x 2	Hemet		Hemet; Modesto x 7	Modesto x 2
Significant weight loss or failure to feed					Hemet; Modesto x 2; Village-Grove	
Stage 3/4 or other acquired pressure ulcer		Escondido	Santa Clarita	Modesto		Oxnard x 5
Medication errors	Fresno	Bakersfield Memory Care; Fresno x 2; Modesto; Newport Mesa x 2; Santa Clarita x 2; Vacaville	Fresno; Merced x 2; Modesto; Oxnard x 4; Vacaville x 2	Fresno; Merced; Modesto	Merced x 3; Modesto	Oxnard; Village-Laguna
Delay in call light response or call light inoperable		Country Crest; Newport Mesa	Vacaville x 2		Merced	
Facility understaffed or inadequate supervision			Hemet; Modesto x 3	Modesto	Hillsborough; Modesto x 3	Oxnard; Village-Laguna
Did not provide appropriate care	Santa Clarita	Bakersfield Memory; Newport Mesa; Vacaville x 2		Modesto x 3	Modesto; Northridge; San Leandro; Union City; Village-Laguna	Hillsborough; Oxnard; Santa Barbara x 2

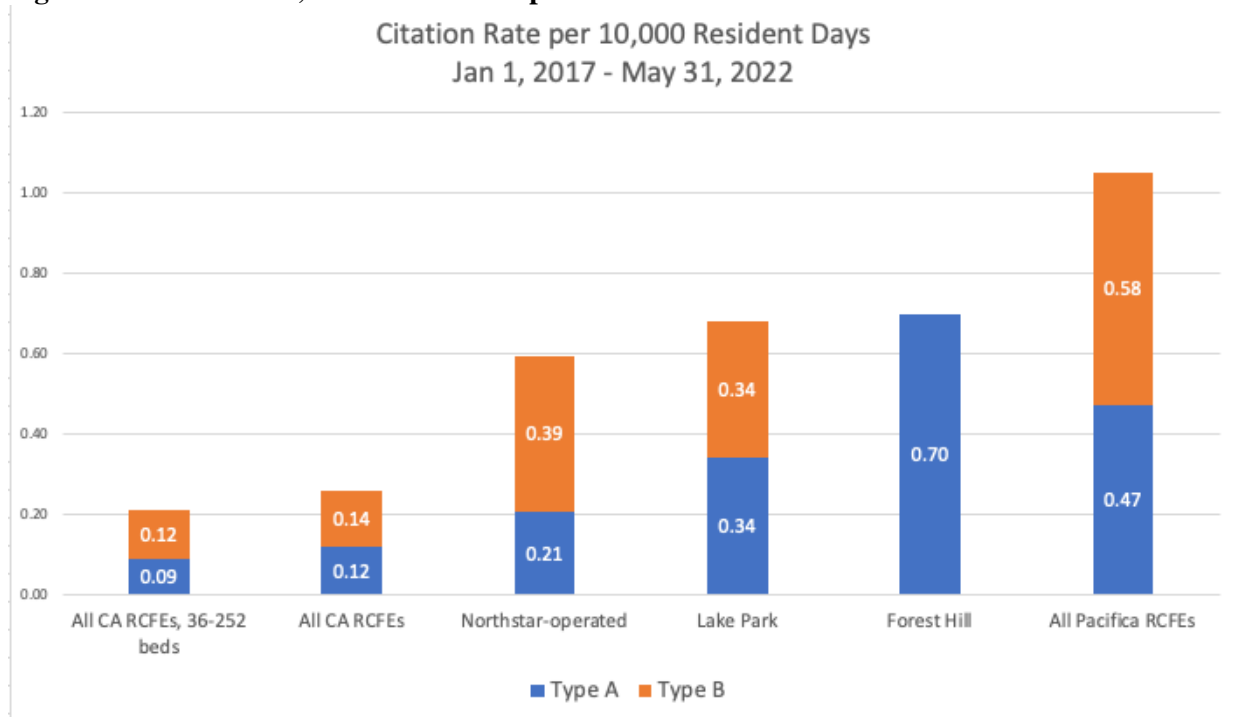
**Figure 6-2. Type A Citations Issued to Pacifica RCFEs: Jan 1, 2017 – May 31, 2022.**

Type A Citation issued related to:	2017	2018	2019	2020	2021	2022
Chemicals, toxic medications, or hazardous items or equipment accessible to residents	Bakersfield Memory Care; Modesto; Newport Mesa	Newport Mesa; Oxnard; San Leandro; Union City x 3	Bakersfield Memory Care; Modesto; Oxnard x 2; Santa Barbara; Santa Clarita; Union City x 2	Hemet; Mission Villa; Modesto		Merced
Carbon monoxide alarm not working			Modesto; Newport Mesa			
Cockroaches (live and dead)	Bakersfield					
Mouse droppings						Chino Hills x 2
Broken appliances/ stalled construction	Newport Mesa		Sakura Gardens			
Mold, grime, grease buildup in kitchen	Bakersfield					
Water temperatures out of range	Bakersfield Memory Care; Modesto; Riverside	Bakersfield, Memory; Sakura Gardens; Union City; Vacaville	Vacaville		Oakland x 3	South Coast
Egress doors/gates malfunctioning		Hemet	Modesto		Modesto; Oakland; Union City	
No criminal clearance of staff; staff operated without certification			Country Crest; Hemet x 2; Modesto x 2; Newport Mesa; Vacaville	Santa Barbara		Santa Barbara
Food storage						Chino Hills
Infection control					Vacaville	
Did not safeguard resident cash			Merced			
Facility not in good financial shape						Modesto
No training in first aid			Newport Mesa			
Failed to obtain permits/clearance					San Leandro x 2	
Administrator licensure			Modesto x 2			Village-Grove

**Regarding Five Northstar Senior Living-operated Pacifica RCFEs.**

Northstar Senior Living operates or manages five Pacifica-owned RCFEs. Those five RCFEs are Country Crest, Merced, Valley Crest, Sierra Vista and Sakura Gardens. Northstar has contracted with Pacifica to operate the Lake Park RCFE. On average since 2017, Northstar’s five Pacifica facilities have averaged 1.8 times fewer total citations than all Pacifica RCFEs (Figure 7).

**Figure 7. Citation Rate, Five Northstar-Operated Pacifica RCFEs.**



**Regarding Recent Adverse Findings Against Pacifica-Affiliated Senior Care Facilities**

- ⇒ **November 2021: Pacifica Modesto RCFE Potential License Revocation**
- ⇒ **December 2021: Federal Decertification of Pacifica Healdsburg Skilled Nursing Facility**
- ⇒ **March 2022: \$23 Million Jury Verdict Against Pacifica Bakersfield RCFE**

Since November 2021, there have been three high-profile adverse findings against elder care facilities owned and/or operated by Pacifica Companies, LLC, and/or affiliated entities. Within the context of this Healthcare Impact Statement, these adverse findings must be considered relevant factors that speak to Pacifica Companies, LLC's fitness as a provider of long-term care services in California communities including Oakland and Pacific Grove.

[Pacifica Modesto License Potential Revocation](#)

In November 2021, there were media reports regarding efforts by the California Department of Social Services (DSS) to: (i) revoke the Pacifica Modesto license, and (ii) revoke the administrator license of Deborah Lucas, a former facility administrator. The RCFE license revocation reportedly was due to serious lapses in resident care (Figure 8). As of this writing, it is this author's understanding that Pacifica has agreed to sell the Modesto facility to Northstar.

**Figure 8. Modesto Bee Article Regarding St. Paul's Way (Pacifica Modesto).**

<https://www.modbee.com/news/local/article255105712.html>

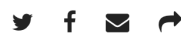


LOCAL

**Modesto memory care center cited for numerous violations. Facility may lose license.**

BY KEN CARLSON

UPDATED NOVEMBER 01, 2021 5:00 AM



[March 2022 Kern County Jury Verdict: Bettie Mosley vs. Pacifica Bakersfield, LP \(Table 7\)](#)

**\$8 million in non-economic damages.** On March 15, 2022, after a jury trial in the case *Mosley vs. Pacifica Bakersfield, LP, et. al.*, a Kern County jury awarded Plaintiff Bettie Mosley, the successor in interest to Robert Mosley, \$3 million in past non-economic damages and \$1 million in future non-economic damages. The jury also awarded \$4 million in past non-economic damages to Mr. Robert Mosely, Sr.

**\$15 million punitive damages award.** On March 17, 2022, the same jury awarded Plaintiff Bettie Mosley \$15,000,000 in punitive damages against Pacifica Bakersfield, LP, Pacifica Companies, LLC, and Pacifica Senior Living Management, LLC.

The jury also concluded as follows:

**Table 7. Jury Special Verdicts, Mosley vs. Pacifica Bakersfield, LP, et. al.**

<b>Question posed to jury</b>	<b>Defendant Pacifica Bakersfield, LP</b>	<b>Defendant Pacifica Senior Living Management, LLC</b>
Was the defendant negligent?	Yes	Yes
Was negligence a substantial factor in causing harm to Robert Mosley, Sr.?	Yes	Yes
Was a wrongful act or neglect a substantial factor in causing the death of Robert Mosley, Sr.?	Yes	Yes
Do you find by clear and convincing evidence that Robert Mosley, Sr. was in the care and custody of the defendant between 07/22/18 – 08/01/18?	Yes	Yes
Do you find by clear and convincing evidence that the defendant neglected Robert Mosley, Sr.?	Yes	Yes
Do you find by clear and convincing evidence that the conduct of the defendant was a substantial factor in causing harm to Robert Mosely, Sr.?	Yes	Yes
Do you find by clear and convincing evidence that an employee, officer, director, or managing agent of the defendant acted with recklessness with regard to the care provided to Robert Mosley?	Yes	Yes
Do you find by clear and convincing evidence that an employee, officer, director, or managing agent of defendant acted with malice, oppression, or fraud toward Robert Mosley, Sr.?	Yes	Yes
Do you find by clear and convincing evidence that an officer, director, or managing agent of the defendant acted with malice, oppression, or fraud, or authorized, adopted, approved or ratified the wrongful conduct of its employees toward Robert Mosley, Sr.?	Yes	Yes

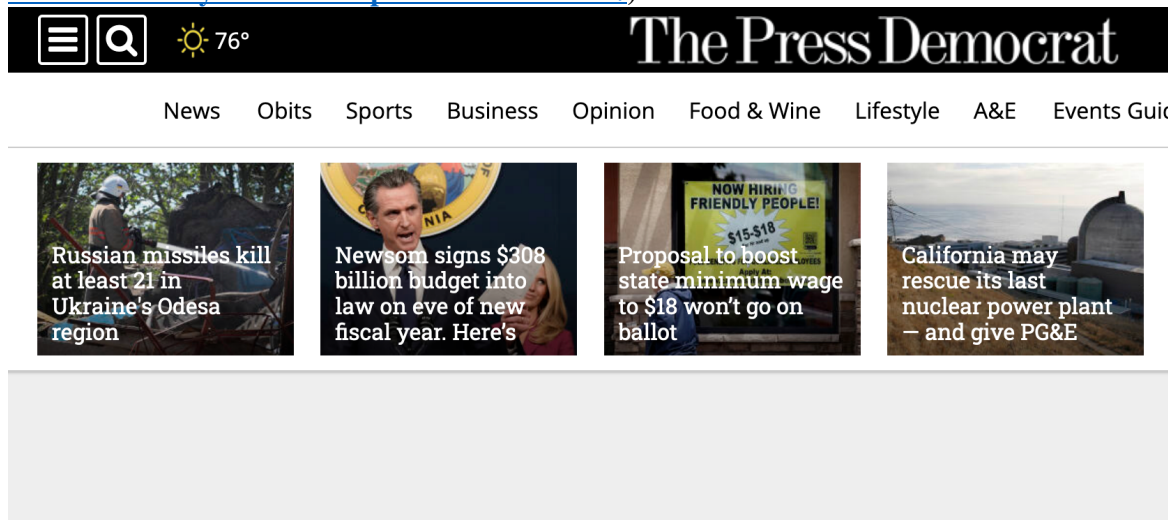
**SEE NEXT PAGE →**



[Decertification of Pacifica Healdsburg Skilled Nursing Facility \(Figure 9\)](#)

- ⇒ On November 23, 2021, the Centers for Medicare and Medicaid Services (CMS) issued a 180-page Statement of Deficiencies listing 30 deficiencies issued to Healdsburg Senior Living Community, a 38-bed skilled nursing facility. The Statement of Deficiencies included two findings of Immediate Jeopardy (IJ) related to sexual abuse and serious failures in facility administration. In addition, the facility was cited for not having a Director of Nursing for more than seven months, and for failing to designate a physician Medical Director.
- ⇒ On December 13, 2021, CMS fined Pacifica more than \$325,000 and stated it would no longer pay for skilled nursing care at Healdsburg Senior Living with Medicare/Medicaid funds, effectively closing the unit” (<https://dailygoldsilvernews.com/this-could-kill-my-mom-fear-uncertainty-follow-abrupt-closure-of-healdsburg-skilled-nursing-facility-santa-rosa-press-democrat/>). *SNF decertification for poor performance is highly uncommon. Therefore, there is a compelling public interest in ensuring that a decertified SNF provider (Pacifica Companies, LLC) seeking to operate additional skilled nursing facilities is carefully scrutinized to ensure adherence to professional standards.*

**Figure 9. Santa Rosa Press Democrat Article Headline Regarding Closure of Pacifica Healdsburg Skilled Nursing Facility (<https://www.pressdemocrat.com/article/news/this-could-kill-my-mom-fear-uncertainty-follow-abrupt-closure-of-healds/>).**



## Fear, uncertainty follow abrupt closure of Healdsburg skilled nursing facility

**Regulatory Performance of Aspen- and Buena Vista Healthcare-Operated Skilled Nursing Facilities**

**Aspen Skilled Healthcare<sup>5</sup>**

Between 2019-present, there has been favorable regulatory performance of the two Pacifica-affiliated skilled nursing facilities operated by Aspen Skilled Healthcare, Oakland Heights and Villa Valencia (Table 10).

1. *Medicare Five Star ratings: above average or much above average.* Each Aspen facility currently scores above average or well above average on all Medicare Five Star ratings.
2. *No actual harm or immediate jeopardy.* Since 2018, there has been no finding of actual harm or immediate jeopardy at either Aspen facility.
3. *No significant financial penalties for poor care.* Since 2019, Oakland Heights paid out less than \$5,000 in penalties/fines<sup>6</sup> and Villa Valencia has paid zero financial penalties (Table 11).
4. *Total deficiencies per Aspen skilled nursing facility per year are increasing.* However, the severity of deficiencies did not ever arise to a finding of actual resident harm, and the scope of deficiencies was not ever widespread. Nor has either Aspen facility been cited for immediate jeopardy to resident health/safety.

Moreover, as set forth below, a review of MediCal cost reports for each Aspen facility shows no concerning trends or patterns.

**Buena Vista Healthcare**

Buena Vista Healthcare operates eight skilled nursing facilities (SNFs) in California. Buena Vista’s involvement in those facilities has not been continuous since 2018 (Table 8). For purposes of this Healthcare Impact Statement, data from regulatory reports and cost reports was excluded prior to Buena Vista’s involvement in owning or operating its eight California SNFs.

**Table 8. Buena Vista Ownership Effective Dates.**

Buena Vista Facility	Buena Vista Ownership since	Cost report and regulatory data for these years was not included in this analysis
SoCal Post-Acute	01/01/21	2018, 2019, 2020
Pacific Grove	02/16/19	2018
River Bend	12/01/18	2018
Haven Post-Acute	05/01/21	2018, 2019, 2020
Double Tree	01/01/19	2018
Vista Post-Acute	01/01/19	2018
Casa Coloma	06/30/20	2018, 2019, Jan-Jun 2020
Riverside Village	09/04/19	2018, 2019

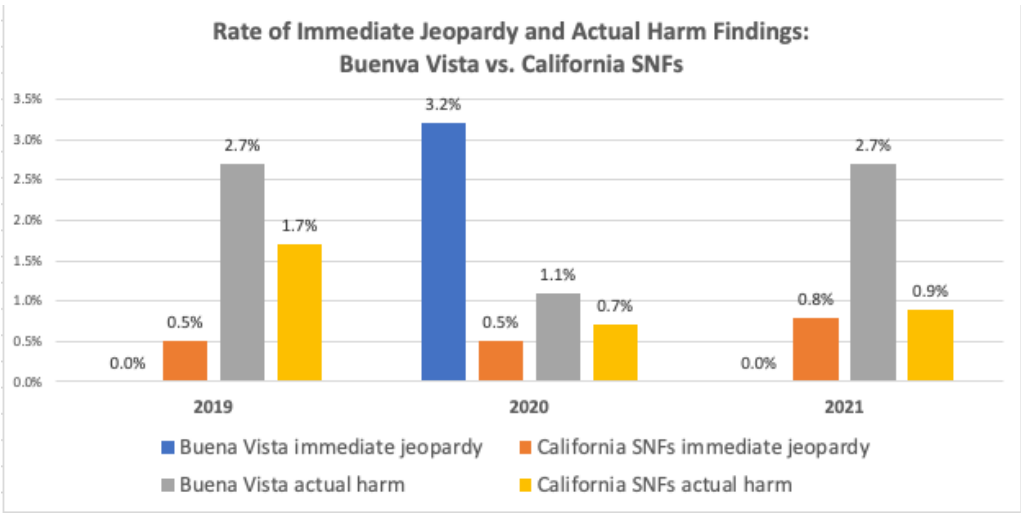
<sup>5</sup> Aspen principals did not have operational involvement at Villa Valencia until May 2019 and did not have a direct ownership interest until 02/18/20. Therefore, regulatory and cost report data was excluded for 2018 and 2019. In February 2022, Pacifica contracted with Aspen to operate Country Crest Post-Acute. Publicly available databases reflect the performance of Country Crest prior to Aspen’s 2022 involvement. Therefore, Country Crest data was not at all incorporated into this Healthcare Impact Statement.

<sup>6</sup> Public databases do not provide complete information as to the reason(s) for all financial penalties.

On June 23, 2022, the average performance of Buena Vista Healthcare skilled nursing facilities as scored by Medicare was below average (Table 10). In addition, between 2019-2021, Buena Vista was repeatedly fined and cited for deficiencies related to: (i) immediate jeopardy to resident health/safety, (ii) actual harm to one or more residents, and (iii) deficient practices with a “widespread” scope; that is, per the federal government, the deficient practice affected “the entire facility population?” (Table 9).

1. **Buena Vista Medicare Five Star ratings: below average to average.** The Buena Vista facilities have an average overall rating of 2.3 stars (below average) out of five stars. This rating incorporates regulatory findings for the prior three years. Therefore, some of Buena Vista’s overall Medicare Five Star rating reflects the performance of four facilities that were taken over by Buena Vista on or after September 4, 2019 (SoCal, Haven, Casa Coloma and Riverside Village). However, Buena Vista has controlled half its eight facilities since early 2019 or earlier. And, Buena Vista-controlled facilities have recorded a significant number of immediate jeopardy, actual harm, and widespread scope deficiencies, as well as citations and administrative penalties (see immediately below). Therefore, the Medicare Five Star ratings appear to be an accurate proxy for the current overall operational efficacy and care quality of Buena Vista skilled nursing facilities.
2. **Buena Vista’s rate of actual harm deficiencies between 2019-2021 was 1.6 to three times higher than California averages as reported by CMS<sup>8</sup>. In 2020, Buena Vista’s rate of immediate jeopardy deficiencies was 6.4 times higher than the California average.** These rates suggest that between 2019-2021 Buena Vista residents were at greater risk than average for actual harm or immediate jeopardy to their health and safety (Table 9 and Figure 10).

**Figure 10. Rates of Immediate Jeopardy and Actual Harm Findings. 2019-2021, as Percent of All Deficiencies Issued.**



<sup>7</sup> <https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R156SOMA.pdf>

<sup>8</sup>Source: [Quality, Certification & Oversight Reports](#)

Year	Buena Vista immediate jeopardy deficiencies	Buena Vista total deficiencies	Buena Vista percent immediate jeopardy	California immediate jeopardy deficiencies	California total deficiencies	California SNFs percent immediate jeopardy	Buena Vista actual harm deficiencies	Buena Vista percent actual harm	California actual harm deficiencies	California percent actual harm
2019	0	75	0.0%	72	15570	0.5%	2	2.7%	1.7%	1.7%
2020	3	93	3.2%	97	20033	0.5%	1	1.1%	0.7%	0.7%
2021	0	126	0.0%	157	20494	0.8%	4	3.2%	0.9%	0.9%

**Table 9. Buena Vista Deficiencies for Immediate Jeopardy, Actual Harm, Widespread Scope, and Citations and Administrative Penalties, 2019-2021.**

Year	Immediate jeopardy to resident health & safety	Severity= Actual harm	Scope = Widespread	State-issued Citation(s)	Administrative penalties for failure to provide minimum nursing staffing
2019		River Bend River Bend	Double Tree Pacific Grove Pacific Grove		
2020	River Bend Vista Vista	River Bend	Double Tree	Pacific Grove, \$2,000 Pacific Grove, \$2,000 Pacific Grove, \$2,000 Pacific Grove, \$2,000 River Bend, \$20,000 River Bend, \$20,000 River Bend, \$20,000	
2021		Haven Pacific Grove River Bend SoCal	Haven River Bend River Bend River Bend River Bend	SoCal, \$2,000	Pacific Grove (\$30,000) Riverside Village (\$15,000) Vista (\$15,000)

- Financial penalties issued to Buena Vista skilled nursing facilities equaled approximately \$200,000 in 2020 and 2021 (Table 11).* While public databases do not provide complete information regarding the timing and nature of all financial penalties issued to Buena Vista SNFs, it appears that the assessed penalties closely correlate with the relatively high number of immediate jeopardy, actual harm, and widespread scope deficiencies issued to Buena Vista-operated SNFs. Moreover, as of this writing there is no evidence that any of the financial penalties issued to Buena Vista were related to another licensee.
- The average annual number of regulatory deficiencies issued to each Buena Vista skilled nursing facility doubled from nine in 2019 to 18 in 2021. Nineteen of 236 (8.1 percent of) total deficiencies issued to Buena Vista SNFs in 2020 and 2021 were immediate jeopardy (3), actual harm (7), or widespread in scope (9).* The increase in deficiencies issued to Buena Vista-operated skilled nursing facilities was accompanied by a higher-than-average number of immediate jeopardy, actual harm, and widespread deficiencies. Too, Riverside Village—a 59-bed facility—in 2021 was issued 56 deficiencies. Fifty-six deficiencies in a year would be a high number for a 200-plus bed facility. It is an extraordinarily high number of deficiencies for a 59-bed facility. At the end of 2020, the average California nursing home was licensed for 99.5 beds (106,341 beds in 1,069 facilities [Source: HCAI]). Thus, in 2021 Riverside Village recorded approximately 7 times more deficiencies per licensed bed (0.95) than a typical California SNF (14 deficiencies per 99 beds = 0.14 deficiencies per licensed bed).
- Complaints per Buena Vista skilled nursing facility increased from zero in 2019 to 32 in 2021.* The spike was driven by 124 complaints against River Bend in 2021. River Bend is a 99-bed facility; its high number of 2021 complaints therefore is not partially explained by it being a large facility; it is not a large facility.

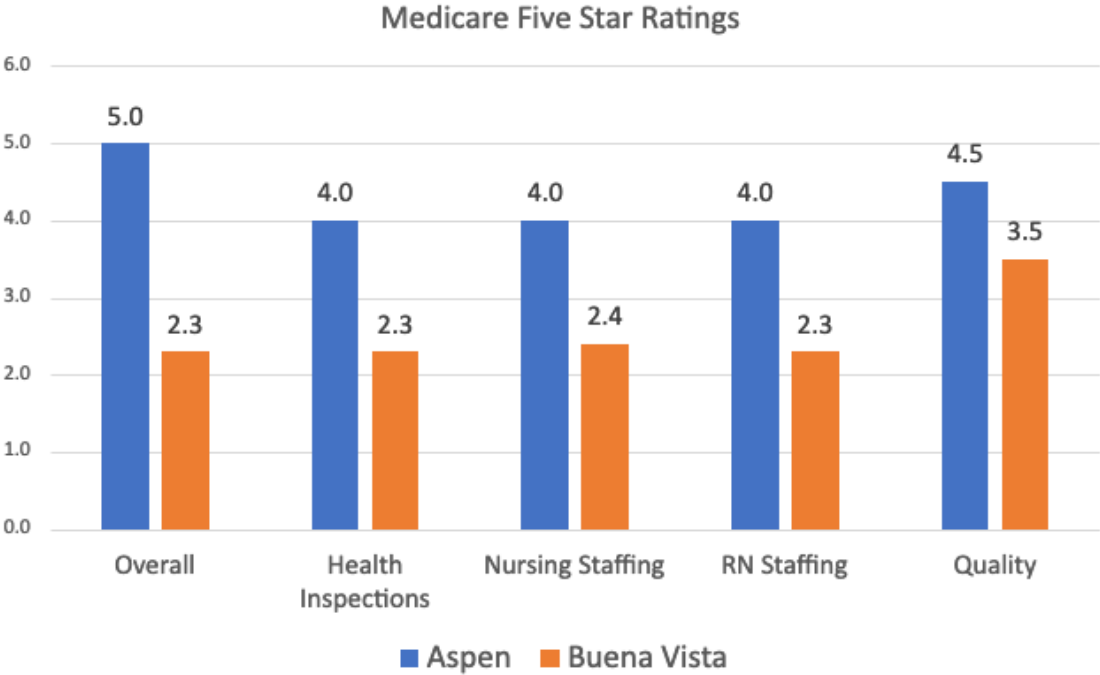
The following tables and figures (pages 21-28) capture specific data regarding the regulatory performance of Aspen- and Buena Vista-operated skilled nursing facilities:

**Table 10. Medicare Five Star Ratings, Accessed June 23, 2022** (<https://www.medicare.gov/care-compare/>).

Facility	Overall	Health Inspections	Nursing Staffing	RN Staffing	Quality of Care
<b>Aspen-operated</b>					
Oakland Heights	5 stars	5 stars	4 stars	4 stars	4 stars
Villa Valencia	5 stars	3 stars	4 stars	4 stars	5 stars
<b>Aspen average</b>	<b>5 stars</b>	<b>4 stars</b>	<b>4 stars</b>	<b>4 stars</b>	<b>4.5 stars</b>
<b>Buena Vista-operated</b>					
SoCal Post-Acute	4 stars	3 stars	3 stars	3 stars	5 stars
Pacific Grove	1 star	2 stars	1 star	1 star	2 stars
River Bend	2 stars	2 stars	3 stars	3 stars	3 stars
Haven	2 stars	2 stars	2 stars	2 stars	2 stars
Double Tree	2 stars	2 stars	2 stars	2 stars	4 stars
Vista	2 stars	2 stars	3 stars	2 stars	3 stars
Casa Coloma	3 stars	3 stars	2 stars	2 stars	4 stars
Riverside Village	2 stars	2 stars	3 stars	3 stars	5 stars
<b>Buena Vista average</b>	<b>2.3 stars</b>	<b>2.3 stars</b>	<b>2.4 stars</b>	<b>2.3 stars</b>	<b>3.5 stars</b>

- Key**  
 1 star = much below average  
 2 stars = below average  
 3 stars = average  
 4 stars = above average  
 5 stars = much above average

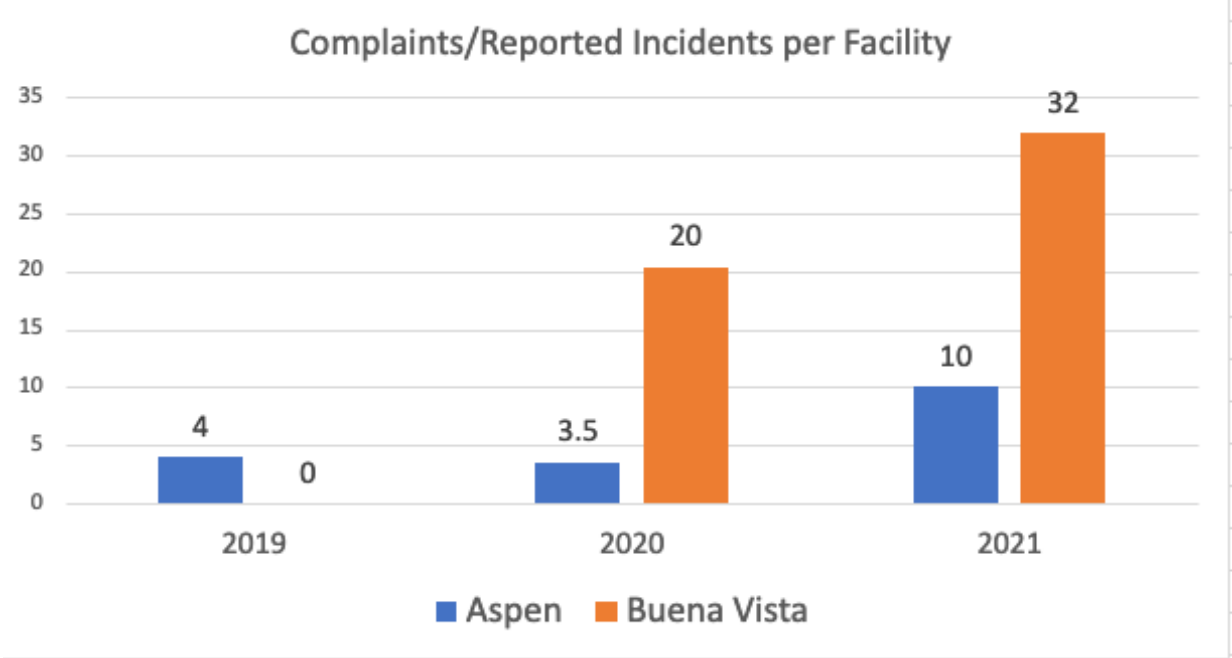
**Figure 11. Medicare Five Star Ratings, June 2022.**



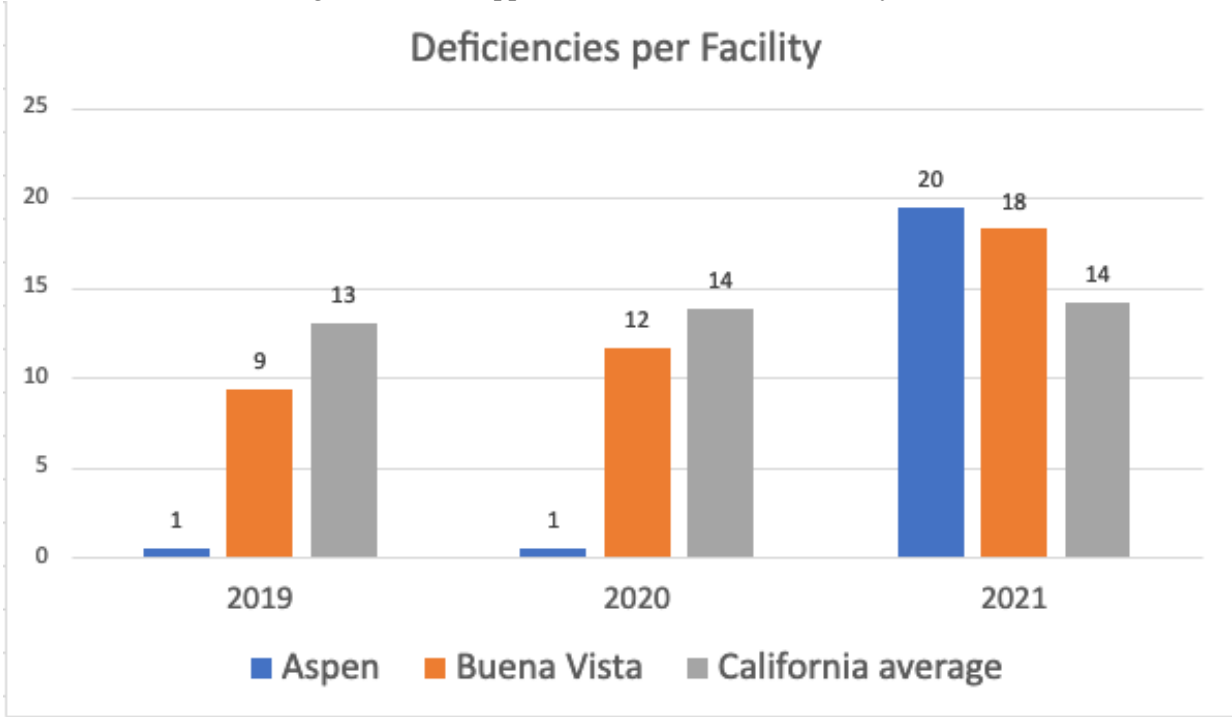
**Table 11. Federal Actual Harm Deficiencies, Federal Penalties, State citations, 2019-2022 [Source: CalHealthFind and Medicare Compare].** (As of this writing, there is no evidence that any of these penalties were issued to any licensee other than Buena Vista-affiliated entities.)

Facility	2019	2020	2021	2022
<b>Aspen-operated</b>				
Oakland Heights	None	None	\$655 \$983 \$1,300 \$1,625	None
Villa Valencia	None	None	None	None
<b>Aspen total fines</b>	<b>\$0</b>	<b>\$0</b>	<b>\$4,563</b>	<b>\$0</b>
<b>Buena Vista-operated</b>				
SoCal Post-Acute	None	None	\$650 \$10,650	None
Pacific Grove	None	\$16,588	\$650 \$975	\$1,316
River Bend	None	\$36,342 \$18,116	\$655 \$983 \$10,650 \$1,310 \$1,638 \$1,965 \$2,293 \$2,621 \$2,948 \$3,275	None
Haven	None	None	\$31,723 \$655 \$983 \$61,855 \$1,300	\$1,645 \$1,973 \$2,302 \$2,631
Double Tree	None	None	\$650	\$987
Vista	None	\$125,190	None	\$658
Casa Coloma	None	None	\$655 \$983 \$1,310 \$1,638 \$1,965 \$2,293 \$2,621 \$2,948 \$3,275	None
Riverside Village	None	None	\$655 \$983 \$1,310 \$1,638 \$1,965 \$2,293 \$2,261 \$2,948 \$3,276 \$3,603 \$3,931 \$4,258 \$4,258 \$4,258	\$4,225 \$4,225 \$4,225 \$4,225 \$4,225
<b>Buena Vista total fines</b>	<b>\$0</b>	<b>\$196,236</b>	<b>\$193,754</b>	<b>\$32,637</b>

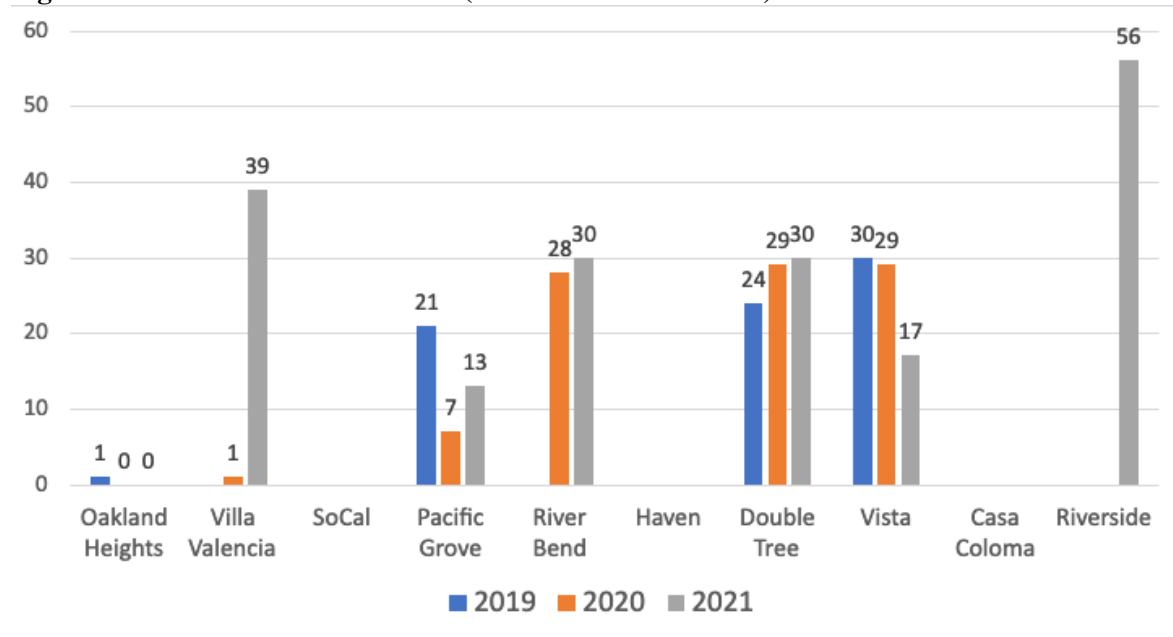
**Figure 12. Complaints + Reported Incidents per Facility by Chain (Source: CalHealthFind).**



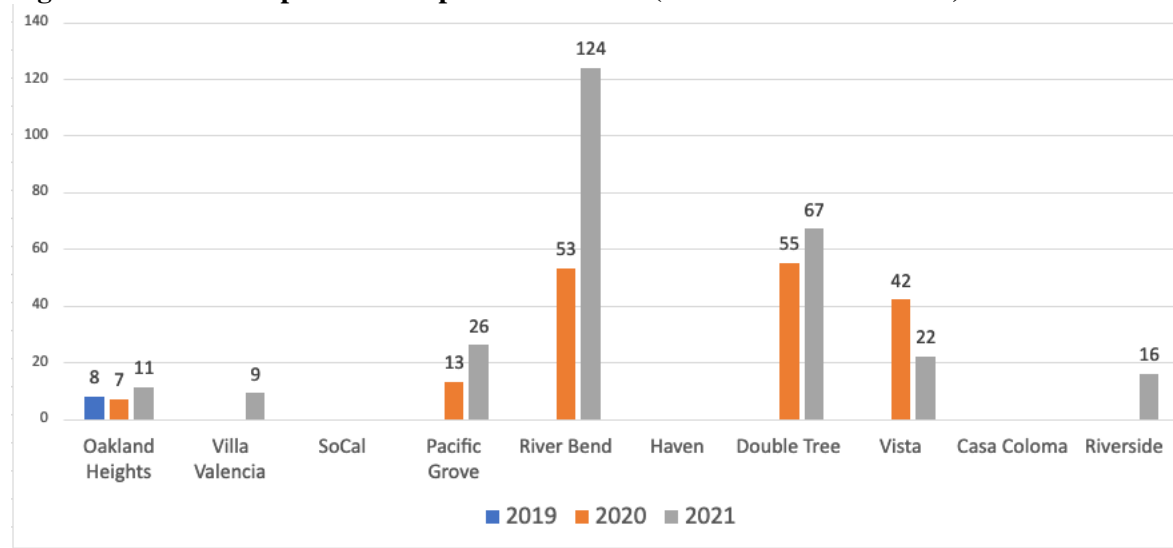
**Figure 13. Average Deficiencies per Facility by Chain (Source: CalHealthFind).** Note: In 2020, due to COVID-19, the federal government stopped annual recertification surveys.



**Figure 14. Total Deficiencies Issued (Source: CalHealthFind).**



**Figure 15. Total Complaints & Reported Incidents (Source: CalHealthFind).**

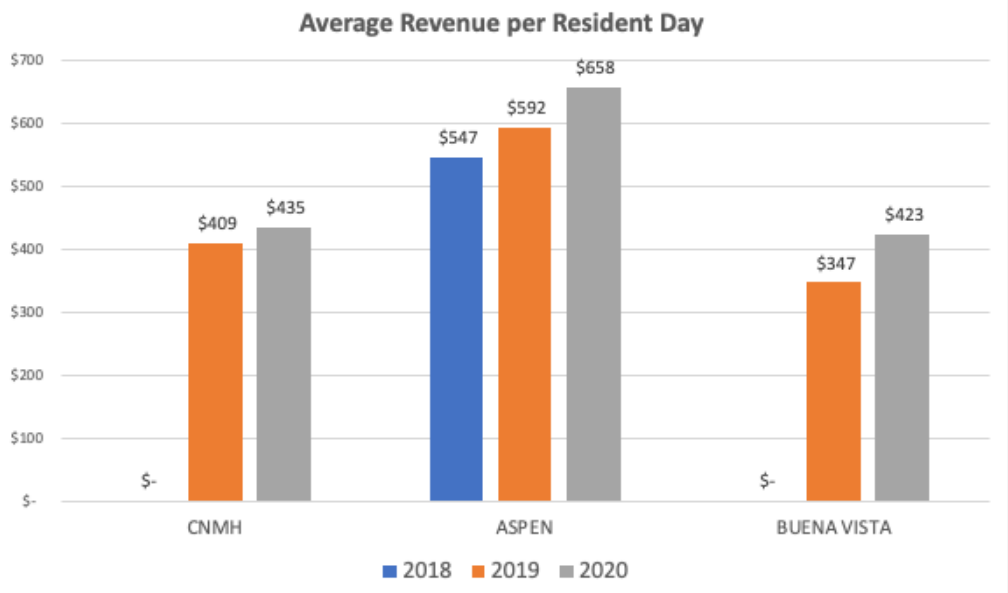




***Performance of Aspen- and Buena Vista Healthcare-Operated Skilled Nursing Facilities as Reported in MediCal Cost Reports, 2018-2020***

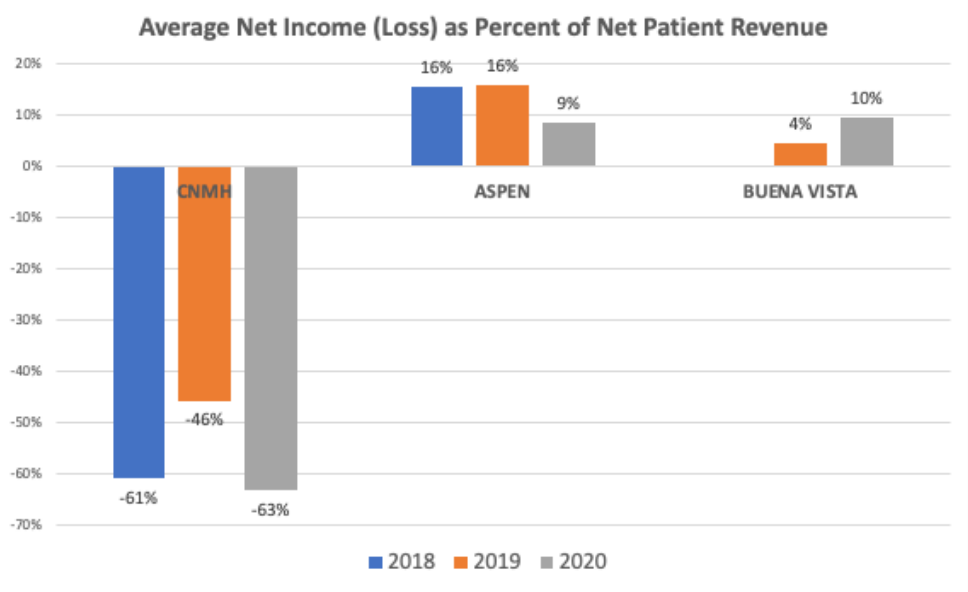
⇒ **Average revenue per patient per day.** For purposes of this Healthcare Impact Statement, there are no significant or concerning trends.

**Figure 16. Average Revenue per Patient per Day, 2018-2020 [Source: MediCal Cost Reports].**



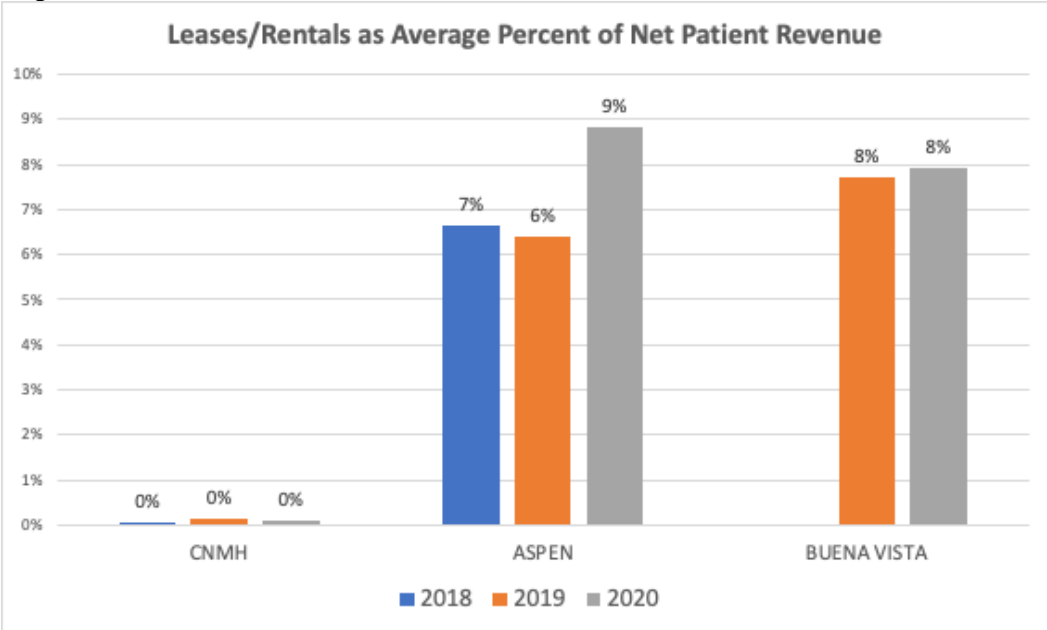
⇒ **Net income/loss.** For purposes of this Healthcare Impact Statement, there are no significant or concerning trends. The data clearly demonstrate that CNMH-operated SNFs lost money between 2018-2020.

**Figure 17. Net Income as Percent of Net Patient Revenue, 2018-2020 [Source: MediCal Cost Reports].**



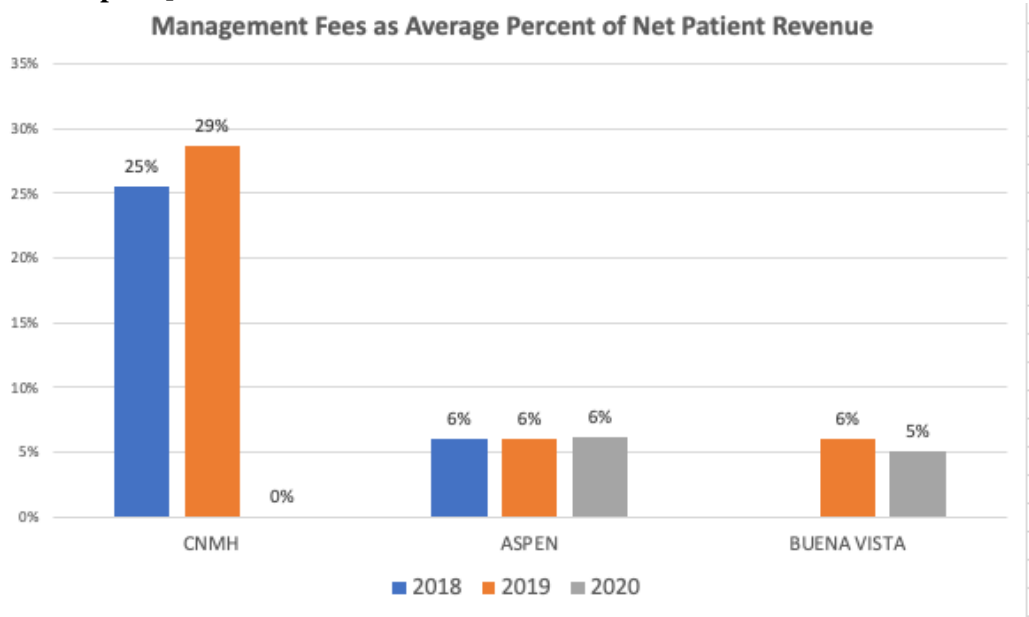
⇒ **Lease/rental expense.** For purposes of this Healthcare Impact Statement, there are no significant or concerning trends.

**Figure 18. Leases/Rentals as Percent of Net Patient Revenue, 2018-2020 [Source: MediCal Cost Reports].**



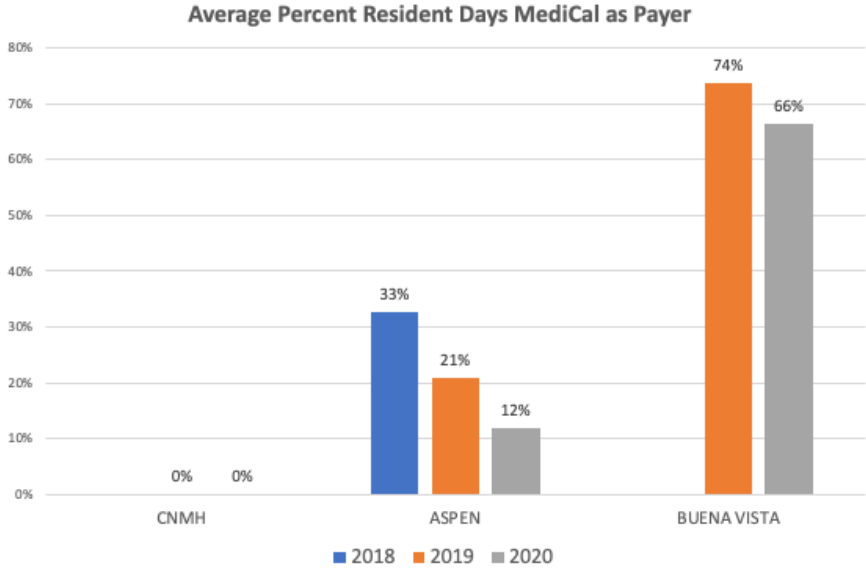
⇒ **Management fees.** For purposes of this Healthcare Impact Statement, there are no significant or concerning trends.

**Figure 19. Management Fees as Percent of Net Patient Revenue, 2018-2020 [Source: MediCal Cost Reports].**



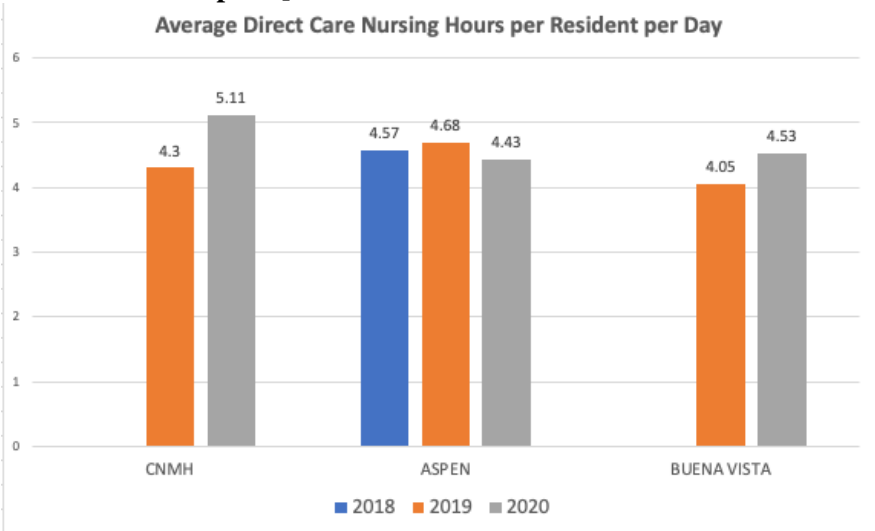
⇒ **Patient payer mix.** For purposes of this Healthcare Impact Statement, there are no significant or concerning trends. The decline in the proportion of MediCal patient days at Aspen between 2019-2020 is related largely to Villa Valencia not being factored into the calculation until 2020, when Villa Valencia recorded zero MediCal patient days. (Villa Valencia appears not to accept residents with MediCal as payer.)

**Figure 20. Percent Patient Days MediCal as Payer, 2018-2020 [Source: MediCal Cost Reports].**



⇒ **Direct care nursing hours.** For purposes of this Healthcare Impact Statement, there are no significant or concerning trends regarding average staffing values. However, there is concern that in 2021, Buena Vista was assessed administrative penalties of \$30,000 (Pacific Grove), \$15,000 (Riverside Village) and \$15,000 (Vista Post-Acute), for failing to attain the California mandated nursing staffing minimum on 100 percent of audited days.

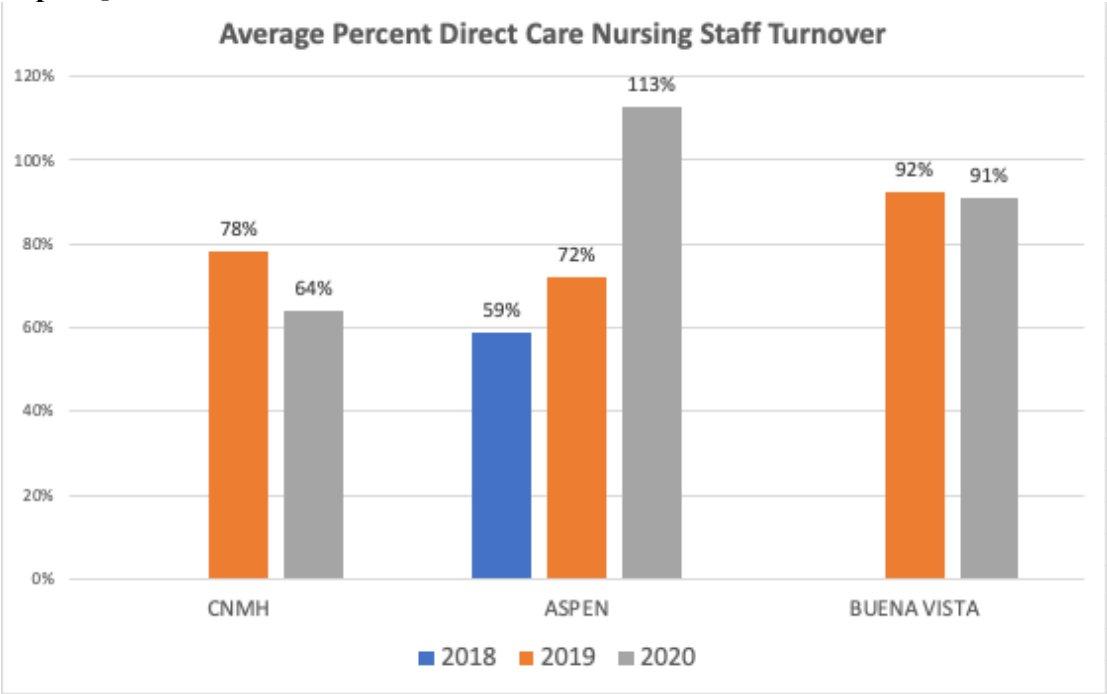
**Figure 21. Direct Care Nursing Hours per Patient per Day (HPPD), 2018-2020 [Source: MediCal Cost Reports].**



⇒ **Turnover, direct nursing employees.** There is some concern that Buena Vista’s average nursing staff turnover of 91-92 percent in 2019-2020, respectively, may correlate to the higher-than-average number of actual harm and immediate jeopardy deficiencies issued to Buena Vista facilities. Three Buena Vista facilities had direct nursing staff turnover greater than 100 percent per year as follows:

<u>Facility, Year</u>	<u>Nursing Turnover</u>
Vista, 2020	105%
Vista, 2021	109%
River Bend, 2021	125%
Riverside Village, 2021	134%

**Figure 22. Percent Turnover, Direct Nursing Employees, 2018-2020 [Source: MediCal Cost Reports].**



#### IV. Recommendations Related to Operations

The recommendation in this section is made within the context of:

- California Corporations Code §§ 5917 & 5917.5, and California Code of Regulations, Title 11, §999.5(e)(5)-(7);
- Pacifica’s, Northstar’s, Aspen’s, Buena Vista Healthcare’s operational, regulatory, and financial performance between 2018-2022, as applicable; and
- The April 7, 2022, *Notice to California Attorney General of Sale of California-Nevada-Methodist Homes Pursuant to 11 C.C.R. §999.5(d), Sections (1)(A)-(B)*. This document includes the *Purchase and Sale Agreement* dated December 17, 2021.

Recommended conditions set forth below also are based on the following:

##### Regarding Residential Care Facilities for the Elderly (RCFEs)

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1. Especially since 2019, CNMH has operated its residential care facilities for the elderly (RCFE) largely in compliance with State and federal regulations.
2. There is a public interest in ensuring that the quality of care provided to residents at the Lake Park and Forest Hill RCFEs does not decline or degrade as a result of the sale of CNMH to Pacifica Companies, LLC.
3. Between 2017-2022:
  - a. RCFEs operated by Pacifica Companies, LLC, had a rate of regulatory citations 3.9 times higher than the California State average. Pacifica RCFEs operated by Northstar recorded a citation rate equal to 2.3 times higher than the State average.
  - b. Three Pacifica RCFEs (Oakland, Oxnard, Modesto) recorded total citation rates 10, 16 and 21 times higher than the State average.
  - c. Pacifica Modesto has performed so poorly that the California Department of Social Services initiated steps to potentially revoke the facility’s license. As of this writing, it appears that Pacifica Companies, LLC has agreed to sell its Modesto facility to Northstar.
  - d. A Kern County jury in March 2022 levied remedies equal to \$23 million related to neglect, wrongful death, recklessness, malice, oppression, and fraud by Pacifica Bakersfield, LP, and Pacifica Senior Living Management, LLC.
  - e. Four Pacifica RCFEs (Merced, Oakland, Oxnard, Modesto) recorded Type A citation rates 17, 19, 31, and 41 times higher than the State average.
  - f. Six Pacifica RCFEs had a rate of Type A citations equal to 0.70 per 10,000 resident days, **and** a total citation rate equal to at least 1.40, twice the rate of CNMH’s two RCFEs.

Note: **Type A** citations pose “an immediate health and safety risk of residents in care”

- g. There has been no abatement in the number of Type A citations issued to Pacifica facilities between 2017-2022. In 2021 and 2022 alone, Type A citations were issued to Pacifica facilities, for among other issues:
  - i. Ants in a resident's mouth and eyes for two days.
  - ii. Staff or residents hitting residents.
  - iii. Staff yelling at residents.
  - iv. Staffing barricading a resident in a room.
  - v. Resident elopements (i.e., escapes) with injury and without injury.
  - vi. Resident falls with injury and without injury.
  - vii. Medication errors.
  - viii. Inadequate staffing.
  - ix. Inappropriate resident care.
  - x. Mouse droppings.
  - xi. Inappropriate water temperatures.
  - xii. Malfunctioning exit doors.
  - xiii. Staff failure to report incidents as required.
- h. Adjusting for the COVID pandemic, the number of citations issued to Pacifica RCFEs has steadily increased on a year-over-year basis.
- i. The percent of citations issued to Pacifica RCFEs as a result of resident/family complaints has increased since 2018, suggesting that Pacifica leaders have become less responsive to resident/family concerns.

Regarding Skilled Nursing Facilities (SNFs)

---

1. Especially since November 2018, CNMH has operated its skilled nursing facilities (SNFs) largely in compliance with State and federal regulations.
2. There is a public interest in ensuring that the level of care provided to residents at the Lake Park and Forest Hill SNFs does not decline or degrade as a result of the sale of CNMH to Pacifica Companies, LLC.
3. Between 2019-present:
  - a. In December 2021, Pacifica's 38-bed skilled nursing facility in Healdsburg was decertified from the Medicare/Medicaid program, due to serious violations of regulations.
  - b. Pacifica-owned SNFs operated by Aspen Skilled Healthcare, Inc. (which is expected to operate the Lake Park SNF):
    - i. Currently record above average or much above ratings at Medicare Compare.
    - ii. Have not been issued any actual harm, immediate jeopardy or widespread scope deficiencies.
    - iii. Have not been issued significant fines or penalties for poor care.

- iv. Have not reported any patterns or trends in their operational performance that suggest any improper purpose.
- c. SNFs operated by Buena Vista Healthcare (which is expected to operate the Forest Hill SNF):
  - i. Currently record average to below average ratings at Medicare Compare.
  - ii. Were issued actual harm and/or immediate jeopardy deficiencies at rates higher than California averages.
  - iii. Were issued financial penalties of \$200,00 in 2020 and \$200,000 in 2021.
  - iv. Recorded a doubling of regulatory deficiencies per facility between 2019 and 2021. One 59-bed facility (Riverside Village) in 2021 was issued 56 deficiencies.
  - v. Recorded a spike in average complaints per facility from zero in 2019 to 32 in 2021. One 99-bed facility (River Bend) in 2021 recorded 124 total complaints and facility reported incidents.

***Overall Recommendation: Conditional Approval***

Approval of the proposed transaction is recommended, subject to the understanding the following parties will act as day-to-day managers of the facilities as noted in the Purchase and Sale Agreement:

⇒ **Lake Park**

- RCFE: Northstar Senior Living
- SNF: AOAS, LLC, a subsidiary of Aspen Skilled Healthcare

⇒ **Forest Hill**

- RCFE: California Senior Living Management, LLC
- SNF: 551 Gibson Ave SNF, LLC, a subsidiary of Buena Vista Healthcare, LLC.

***Recommendations Are Performance-Based***

All recommendations except for the first recommendation are performance-based (Table 12). To the extent that Pacifica operates the CNMH RCFEs and SNFs largely in compliance with regulations, to the satisfaction of residents and their legal agents, and within the bounds of metrics set forth herein, Pacifica will require no on-going monitoring of the CNMH RCFEs or SNFs. The strong regulatory performance of the Pacifica skilled nursing facilities currently operated by Aspen Skilled Healthcare, Inc. drove the recommendation to require no monitoring of the Lake Park SNF, which will be operated by Aspen.

**Table 12. Summary of Proposed Recommendations Related to Operations.**

<b>Recommendation Related to Operations</b>	<b>Required action(s) by Pacifica Companies, LLC</b>
<p><b>1. Limitations on transfer/discharge of RCFE residents</b> from Lake Park and Forest Hill, namely no eviction of any RCFE resident who transitions to Supplemental Security Income (SSI).</p>	<p>Pacifica will abide these limitations as set forth in this condition below.</p>
<p><b>2. Reporting requirements by Pacifica regarding Lake Park and Forest Hill RCFEs.</b> For three years from the first day of the month after the finalized Sale, Pacifica will report the following data every six months to the Attorney General for the RCFE at Lake Park and the RCFE at Forest Hill:</p> <ul style="list-style-type: none"> <li>a. Total number of resident days.</li> <li>b. Total number of Type B citations issued, and copies of any/all Type B citations.</li> <li>c. Total number of Type A citations issued, and copies of any/all Type A citations.</li> <li>d. Status of citations at time of reporting.</li> </ul>	<p>Reports will be submitted to the Attorney General.</p>
<p><b>3. Performance-based triggering of RCFE Monitor.</b> If the rate of Type A citations at either Lake Park or Forest Hill exceeds 0.70 per 10,000 resident days (as measured every six months), and/or if the rate of total citations exceeds 1.40 per 10,000 resident days (as measured every six months), then the Attorney General will have the discretion to select and appoint a Monitor within 120 days to conduct on-site and/or remote reviews until the Monitor concludes that any outstanding deficient practices have been remedied and that the facility complies with professional standards of care, at which point the 6-month measurement cycle will be reset.</p>	<p>Monitor will be at Pacifica’s expense.</p>
<p><b>4. No limitations on Aspen Skilled Healthcare, Inc.</b> Aspen has demonstrated the quality of its performance in operating SNFs, including two SNFs for Pacifica.</p>	<p>No action required by Pacifica.</p>
<p><b>5. Reporting requirements by Pacifica/Buena Vista Healthcare regarding Forest Hill SNF.</b> For three years from the first day of the month after the finalized Sale, Pacifica/Buena Vista Healthcare will report the following data and/or information every six months to the Attorney General for the SNF at Forest Hill:</p> <ul style="list-style-type: none"> <li>a. Total number of resident days.</li> <li>b. Total number of regulatory deficiencies issued, and copies of any/all Statements of Deficiency, related to recertification survey, complaint, and/or facility reported incident visits.</li> <li>c. Total number of State citations issued, and copies of any/all Citations.</li> <li>d. Copies of any/all correspondence from any regulatory agency regarding the imposition of financial penalties, fines, or imposition of remedies including but not limited to denial of payment for new admissions.</li> <li>e. Status of citations at the time of reporting.</li> </ul>	<p>Reports will be submitted by Pacifica/Buena Vista to the Attorney General.</p>



**Table 12 (continued). Summary of Proposed Recommendations Related to Operations.**

Recommendation Related to Operations	Required action(s) by Pacifica Companies, LLC
<p><b>6. Performance-based triggering of SNF Monitor for Buena Vista Healthcare-operated SNF (i.e., Forest Hill).</b> If the Forest Hill SNF operated by Buena Vista records any of the following triggers, then the Attorney General will have the discretion to select and appoint a Monitor within 120 days to conduct on-site and/or remote reviews until the Monitor concludes that any outstanding deficiencies have been remedied and that the facility complies with professional standards of care:</p> <ul style="list-style-type: none"> <li>a. Any finding of immediate jeopardy.</li> <li>b. Any finding of actual harm.</li> <li>c. Any finding of “widespread” scope.</li> <li>d. Any denial of payment by Medicare and/or Medicaid for new admissions.</li> <li>e. A Medicare Compare overall rating of 1 star or 2 stars.</li> <li>f. A Medicare Compare nursing staffing rating of 1 star or 2 stars.</li> </ul>	<p>Monitor will be at Pacifica’s expense.</p>

**Recommendation 1. RCFE Residents' status**

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The *Purchase and Sale Agreement* does not explicitly address the residency rights of current CNMH residents. This recommendation is made to explicitly affirm the rights of existing CNMH residents.

It is recommended that Pacifica commit in writing to abide these limitations on resident transfer/discharge:

1. *Limitations on discharge or transfer of current RCFE residents.* Residents living in the RCFE portion of Lake Park or Forest Hill shall not be required to transfer to another facility (or be evicted): (1) until their death, (2) until they voluntarily submit a written notice of intent to transfer to another facility, (3) until the facility closes, or (4) unless residents fail to comply with the terms and conditions of their Admission Agreement [CCR, Title 22 §87507] and are issued written notice of their failure to so comply, consistent with facility policy and State regulations [CCR, Title 22, §§ 87224 & 87455].
2. *No eviction of any residents (current or future) from RCFE qualified for transition to SSI status.* Per California Code of Regulations, title 22, §§87464(e) and 87224(a)(1), Pacifica Companies, LLC, and any successors or assigns shall not evict any Lake Park or Forest Hill RCFE resident for non-payment when, due to declining resources, the resident is qualified to or becomes an SSI recipient and reduces his/her payment to the SSI monthly rate.

**Recommendation 2. Every Six Months Reporting Requirements for RCFEs**

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For three years from the first day of the month after the finalized Sale, Pacifica will report the following data every six months to the Attorney General for the RCFE at Lake Park and the RCFE at Forest Hill:

- a. Total number of resident days.
- b. Total number of Type B citations issued, and copies of any/all Type B citations.
- c. Total number of Type A citations issued, and copies of any/all Type B citations.
- d. Status of citations at the time of reporting.

This information will form the basis for Recommendation 3.

**Recommendation 3. Performance-Based Triggering of RCFE Monitor**

If the rate of Type A citations at either Lake Park or Forest Hill exceeds 0.70 per 10,000 resident days (as measured every six months), and/or if the rate of total citations exceeds 1.40 per 10,000 resident days (as measured every six months), then the Attorney General will have the discretion to select and appoint a Monitor within 120 days of reporting to conduct on-site and/or remote visits/reviews until the Monitor concludes via written report issued to Pacifica and the Attorney General that any triggering outstanding citations have been remedied and that the facility complies with professional standards of care, at which point the six-month measurement cycle will be reset. The cost to Pacifica to review each triggering event will be paid for by Pacifica.

Calculation of Number of Citations Required to Trigger a Monitor On-site Visit/Review

Based on the size of Lake Park and Forest Hill, a single unresolved citation of any type in any six-month period could, at the Attorney General’s discretion, trigger the potential monitor requirement (Table 13, Table 14).

**Table 13. Resident Days Calculation.**

Facility	Licensed capacity	Annual resident days, 90% capacity	Annual resident days, 80% capacity	Annual resident days, 70% capacity
Lake Park	37	12,155	10,804	9,453
Forest Hill	18	5,913	5,256	4,599

**Table 14. Calculation of Citations Every 6 Months.**

Facility	Number of Type A citations per 6 months equal to 0.7 per 10,000 resident days			Number of Total citations per 6 months equal to 1.40 per 10,000 resident days		
	90%	80%	70%	90%	80%	70%
Percent occupancy						
Lake Park	0.43	0.38	0.33	0.85	0.76	0.66
Forest Hill	0.21	0.18	0.16	0.41	0.37	0.32

**Recommendation 4: No Limitations on or Requirements for Aspen Skilled Healthcare, Inc.**

Aspen has demonstrated the quality of its performance in operating SNFs, including two SNFs for Pacifica. Therefore, there will be no recommendation for limitations upon or requirements for Aspen Skilled Healthcare.

**Recommendation 5: Every Six Months Reporting Regarding Forest Hill SNF**

For three years from the first day of the month after the finalized Sale, Pacifica/Buena Vista Healthcare will report the following data and/or information every six months to the Attorney General for the SNF at Forest Hill:

- a. Total number of resident days.
- b. Total number of regulatory deficiencies issued, and copies of any/all Statements of Deficiency, related to recertification survey, complaint, and/or facility reported incident visits.
- c. Total number of State citations issued, and copies of any/all Citations.
- d. Copies of any/all correspondence from any regulatory agency regarding the imposition of financial penalties, fines, or imposition of remedies including but not limited to denial of payment for new admissions.
- e. Status of citations at the time of reporting.

This information will form the basis for Recommendation 6.

**Recommendation 6. Performance-Based Triggering of Monitor at Forest Hill SNF**

If the Forest Hill SNF records any of the following triggers in any six-month reporting period, the Attorney General will have the discretion to select and appoint a Monitor within 120 days of reporting to conduct on-site and/or remote visits/reviews until the Monitor concludes that any outstanding citations have been remedied and that the facility complies with professional standards of care.

- a. Any finding of immediate jeopardy.
- b. Any finding of actual harm.
- c. Any finding of “widespread” scope.
- d. Any denial of payment by Medicare and/or Medicaid for new admissions.
- e. A Medicare Compare overall rating of 1 star or 2 stars.
- f. A Medicare Compare nursing staffing rating of 1 star or 2 stars.

The cost for a Monitor to review each triggering even will be paid by Pacifica.

## V. Standard Recommendations

### Participation in Medicare

For five years from the closing date of the Asset Purchase and Sale Agreement, the operator and/or licensee of the Lake Park and Forest Hill skilled nursing facilities shall be certified to participate in the Medicare program and have a Medicare Provider Number (or provider number for any successor program to Medicare) to provide the same types and levels of skilled nursing services to Medicare beneficiaries (both Traditional and Managed Care) at the Lake Park and Forest Hill skilled nursing facilities as required in these Conditions.

### Notification of Changes

- ⇒ For five years from the closing date of the Affiliation Agreement, Pacifica Companies, LLC, and all owners, managers, lessees, or operators of Lake Park or Forest Hill or any portion thereof shall be required to provide written notice to the Attorney General sixty days prior to entering into any agreement or transaction to do any of the following:
- a) Sell, transfer, lease, exchange, option, convey, manage, or otherwise dispose of Lake Park or Forest Hill or any portion thereof;
  - b) Transfer control, responsibility, management, or governance of Lake Park or Forest Hill or any portion thereof.
- ⇒ The substitution, merger or addition of a new member of the governing body, general partner, or limited partner of Pacifica Companies, LLC, that transfers the control of, responsibility for or governance of Lake Park or Forest Hill or any portion thereof shall be deemed a transfer for purposes of this Condition.
- ⇒ The substitution or addition of one or more members of the governing body, general partner, or limited partners of Pacifica Companies, LLC, or any arrangement, written or oral, that would transfer voting control of the members of the governing body, general partner, or limited partners of Pacifica Companies, LLC, shall also be deemed a transfer for purposes of this Condition.

### Continuous operation of skilled nursing facilities

- **Lake Park.** For five years from the Sale date, the Lake Park Health Center shall be operated and maintained as a skilled nursing facility with 35 skilled nursing beds and shall maintain the same licensure, types, and or levels of services being provided as of the date of the notice to the Attorney General, including, but not limited to, audiology, occupational therapy, outpatient services, physical therapy, and speech therapy. The operator or licensee of the Lake Park Health Center shall not place all or any portion of the Lake Park Health Center's skilled nursing licensed-bed capacity or services in voluntary suspension or surrender its license for any beds or services.
- **Forest Hill.** For five years from the Sale date, the Forest Hill Health Center shall be operated and maintained as a skilled nursing facility with 26 skilled nursing beds and shall maintain the same licensure, types, and or levels of services being provided as of the date of the notice to the Attorney General, including, but not limited to, audiology, occupational therapy, outpatient services, physical therapy, and speech therapy. The operator or licensee of the Forest Hill Health Center shall not place all or any portion of the Forest Hill Health Center's skilled nursing licensed-bed capacity or services in voluntary suspension or surrender its license for any beds or services.

August 2, 2022

**Prohibition of discrimination**

For five (5) years from the sale, Pacifica Companies, LLC shall prohibit discrimination on the basis of any protected personal characteristic identified in state and federal civil rights laws, including section 51 of the California Civil Code and title 42, section 18116 of the United States Code. Categories of protected personal characteristics include:

- a. Gender, including sex, gender, gender identity, and gender expression;
- b. Intimate relationships, including sexual orientation and marital status;
- c. Ethnicity, including race, color, ancestry, national origin, citizenship, primary language, and immigration status;
- d. Religion;
- e. Age; and
- f. Disability, including disability, protected medical condition, and protected genetic information.

Submitted August 2, 2022:

*Christopher Cherney*

**Christopher P. Cherney**

Principal

Skilled Review Consulting, LLC

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**APPENDIX A. 2019-present. Actual Harm/Widespread Scope/Citations/Administrative Penalties  
Issued when Buena Vista Had Ownership/Operational Control.**

Buena Vista Facility	Buena Vista Ownership since	F-tag or other	F-tag or other issued date	Scope or severity or citation type	Issue(s)	Does finding apply to Buena Vista?
SoCal Post-Acute	01/01/21	F660	2021	Actual harm	Discharge planning	Yes
		Citation	2021	Type B, \$2,000	Unsafe discharge	Yes
Pacific Grove	02/16/19	F801	2019	Widespread	Dietary staff qualifications	Yes
		F812	2019	Widespread	Food service safety	Yes
		Citation	2020	Type B, \$2,000	Orientation for transfer	Yes
		Citation	2020	Type B, \$2,000	Orientation for transfer	Yes
		Citation	2020	Type B, \$2,000	Informed consent, psychotropic meds	Yes
		Citation	2020	Type B, \$2,000	Head injury	Yes
		F624	2021	Actual harm	Elopement	Yes
River Bend	12/01/18	Admin penalty	2021	\$30,000	Failure to provide minimum staffing	Yes
		F684	2019	Actual harm	Changes of condition	Yes
		F686	2019	Actual harm	Pressure ulcer	Yes
		F880	2020	Immediate jeopardy	Infection control	Yes
		F686	2020	Actual harm	Pressure ulcer	Yes
		Citation	02/25/20	Type A, \$20,000	Change in condition	Yes
		Citation	02/25/20	Type A, \$20,000	Change in condition	Yes
		Citation	02/25/20	Type A, \$20,000	Change in condition	Yes
		F880	2021	Widespread	Infection control	Yes
		F882	2021	Widespread	Infection control	Yes
		F886	2021	Widespread	Infection control	Yes
		F814	2021	Widespread	Garbage disposal	Yes
		F686	2021	Actual harm	Pressure ulcer	Yes
		Haven Post-Acute	05/01/21	F684	2021	Actual harm
F880	2021			Widespread	Infection control	Yes
F921	04/07/21			Immediate jeopardy	Leaking ceiling	No
Double Tree	01/01/19	F726	2019	Widespread	Staffing competency	Yes
		Citation	2019	Type B, \$2,000	Improper discharge	No
		Admin penalty	2019	\$15,000	Failure to provide minimum staffing	No
		F880	2020	Widespread	Infection control	Yes
Vista Post-Acute	01/01/19	F610	2020	Immediate jeopardy	Abuse investigation	Yes
		F880	2020	Immediate jeopardy	Infection control	Yes
		Admin penalty	2021	\$15,000	Failure to provide minimum staffing	Yes
Riverside Village	09/04/19	F812	2019	Widespread	Food service safety	No
		Admin penalty	2021	\$15,000	Failure to provide minimum staffing	Yes

## APPENDIX B. Christopher Cherney Qualifications

### Education and Work Experience (See: [Cherney LinkedIn](#))

- ⇒ Bachelor's degree, 1988, Biochemical Sciences, Harvard University.
- ⇒ Master's degree, 2012, Gerontology, San Francisco State University.
- ⇒ California licensed nursing home administrator since 1997.
- ⇒ Administrator of skilled nursing facilities in seven organizations between 1997-2019: 5 for-profit, 2 non profit. One facility (Mercy Retirement & Care Center, Oakland, CA) included a residential care facility for the elderly.
- ⇒ First employee of Kaiser Permanente's first- and only-ever freestanding skilled nursing facility, and Assistant Administrator for 14 consecutive years (2001-2015).
- ⇒ University lecturer at San Jose State University since 2013 and San Francisco State University since 2015. Mr. Cherney has taught eight separate courses to more than 1,000 undergraduates and more than 100 graduate students. His overall teaching effectiveness is 4.8 out of 5.0 (See: [Cherney Rate My Professors](#))
- ⇒ Testifying expert witness since 2003. Mr. Cherney has consulted on 250 cases in 17 states and as of June 2022 has provided sworn testimony as an expert 33 times.

### Trial and Arbitration Testimony

- ⇒ *Ledesma et al v. Mariner Health Central, Inc., et al (2021, California)*. In July 2021, Mr. Cherney was qualified by Judge Evelio M. Grillo to testify in the six-month long trial of *Ledesma, et al. v. Mariner Health Central, Inc., et al.*, where he testified regarding skilled nursing facility standard of care on behalf of ten individual residents. Specifically, he testified about the management of clinical issues including pressure ulcers, weight loss, hygiene, tube feeding, falls, physician orders, and nursing staffing, among other issues related to the care and services provided by a skilled nursing facility. Mr. Cherney was the Plaintiffs' principal expert regarding the standard of care in skilled nursing facilities and subsequent to his testimony on corporate control, clinical issues, administrative issues and their interplay, the jury awarded \$13.5 million (\$4.6 million in compensatory damages and \$8.9 million in punitive damages).
- ⇒ *Tovar v. Mariner (2018, California)*. Mr. Cherney was qualified to testify as a standard of care expert regarding clinical issues in *Tovar v. Mariner*, a 2019 two-week long JAMS Arbitration as Plaintiffs' counsel's expert, in front of Judge Richard Silver, (Ret.) who sat on the bench in Monterey County for 25 years. Primary clinical issues included falls prevention, care planning, and nursing staffing. Judge Silver issued a confidential award to the plaintiff.
- ⇒ *Nguyen vs. Windsor Fullerton (2018, California)*. In this arbitration, in which plaintiffs were issued a confidential award by judge Thomas Dillard, Mr. Cherney provided expert testimony on accidents, nursing staffing, and clinical competency.
- ⇒ *Lewis v. Brown Nursing Home (2019, Alabama)*. In this arbitration, in which plaintiffs were issued a confidential award, Mr. Cherney provided expert testimony regarding falls prevention, nursing assessments, care plans, nursing staffing, and policies and procedures.

### Court Appointed Skilled Nursing Facility Monitor

Since May of 2020, Mr. Cherney has served as a Court-appointed Monitor of three skilled nursing facilities in California. In this role, he evaluates the facilities' compliance with their policies/procedures and standards regarding the following clinical issues (among other issues): pressure ulcer development, weight loss, accidents/incidents, medication administration, medication storage, physician orders, clinical documentation, nursing staff competencies, infection control, and nursing staffing sufficiency. In his role as a Court-appointed Monitor since May 2020 in Santa Cruz continuing today, since December 2020 in



Los Angeles, continuing today, and since March 2022 in Bakersfield, continuing today, Mr. Cherney has been empowered by the courts in each jurisdiction to ensure each facility complies with professional standards including those standards directly related to the provision of care to facility residents from disciplines including nursing, physicians, pharmacists, registered dietitians, and rehabilitation staff. In Santa Cruz and Bakersfield, the Court has ordered 24/7/365 access by Mr. Cherney to the facility's electronic medical record. In Los Angeles, Mr. Cherney has been granted 24/7/365 access to the facility's medical record. In all three facilities, Mr. Cherney reviews clinical records as often as is necessary to fulfill his duties as set forth in respective injunctions/final judgments.

### **Work for the California Department of Justice and California District Attorneys**

*California Department of Justice/Attorney General.* Mr. Cherney is contracted with the California Department of Justice/Attorney General. As of this writing, he is working on four current projects:

1. ***Investigation of seven skilled nursing facilities.*** Mr. Cherney leads a team of three skilled nursing facility professionals who are evaluating the regulatory and clinical compliance of seven California skilled nursing facilities.
2. ***Review of asset purchases.*** The focus of this Healthcare Impact Statement. In December 2021, Mr. Cherney was contracted to review another asset purchase.
3. ***Operation Guardians.*** Mr. Cherney is a contracted member of an interdisciplinary team that evaluates the regulatory compliance of long-term care facilities statewide.
4. ***COVID criminal investigations.*** Mr. Cherney is a subject matter expert in criminal cases involving long-term care facility responses to the COVID pandemic.

- ⇒ *Alameda County.* Mr. Cherney is contracted with Alameda County as a subject matter expert on skilled nursing facility administration. He is currently involved in a criminal case regarding, in part, nursing staffing sufficiency at a Northern California skilled nursing facility in the COVID era.
- ⇒ *Kern County.* For several years, Mr. Cherney has been contracted with Kern County as a subject matter expert who advises on issues related to long term care administration and service quality.
- ⇒ *Santa Cruz County.* For several years, Mr. Cherney has been contracted with Santa Cruz County as a subject matter expert who advises on issues related to long term care administration and service quality.

### **Work for a Confidential State Attorney General**

Effective April 1, 2022, Mr. Cherney has been contracted by a State Attorney General as a confidential consultant regarding long term care facility administration.