An Investigation of Fraud, Waste, and Abuse in New Jersey's Lowest-Rated Nursing Home

MEDICAID FRAUD DIVISION REPORT

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I. Executive Summary

The Office of the State Comptroller (OSC) conducted an investigation of South Jersey Extended Care (SJEC), a for-profit nursing home located in Bridgeton, New Jersey. Covering a five-year period from April 1, 2018, to March 17, 2023, the investigation revealed a pattern of waste and abuse of public funds, financial mismanagement, disregard of federal and state oversight requirements, and substandard care. It also uncovered a scheme by those in control of SJEC to misrepresent their roles and involvement in the facility to avoid scrutiny and maximize their profits.

During the investigation period, SJEC was owned by Mordechay "Mark" Weisz and managed by Steven Krausman through his company, Comprehensive Health Care Management Services, LLC. Michael Konig, related by family ties to both Weisz (his cousin) and Krausman (his brother-in-law), helped operate SJEC as its Administrator and served as a key vendor, providing a range of goods and services to SJEC through his company, Broadway Health Care Management, LLC, and other entities he owned and/or controlled. Konig had previously owned the nursing home, until approximately 1997, but transferred ownership to Weisz (and thereby evaded scrutiny from New Jersey) after being forced out of multiple nursing homes he owned in Massachusetts and Connecticut.

This investigation revealed that Weisz was a straw owner of SJEC, with Krausman and Konig in full control of SJEC's operations, administration, and finances. They entered into multimillion-dollar, inflated-cost contracts with businesses they owned and controlled for goods and services their companies substantially failed to provide. Over the review period, SJEC received $35.6 million in Medicaid funds but spent $38.9 million on contracts with entities owned or controlled by Krausman and Konig. They failed to report any of these related-party transactions to the state and federal governments, as required. They concealed their roles in order to avoid scrutiny and hide their conflicts of interest.

They funneled tens of millions in profits, funded by a steady stream of taxpayer funds, into their network of for-profit and not-for-profit entities—to the detriment of SJEC's residents. Funds that could have been used to hire additional staff, improve facilities, or enhance resident programs were instead used for owner distributions, "consulting" fees, and charitable donations to organizations they controlled.

Meanwhile, for the five-year period of OSC's review, SJEC was the worst-rated facility in New Jersey by CMS standards, receiving a one-star rating in nearly every rating period since at least 2013. The facility failed to provide sufficient, qualified staff on every single day of the 75 days OSC reviewed. SJEC employed unqualified and unlicensed direct care staff and failed to consistently fill critical roles, such as a licensed Director of Nursing and a licensed social worker. Not surprisingly considering these glaring failures, SJEC's medical records were disorganized and missing crucial documents, including residents' care plans, medication administration records, and documentation of whether residents had received any assistance with activities of daily living like eating, walking, or going to the bathroom. Health inspection surveys also documented numerous deficiencies—more than double the state average in the last three inspection cycles—

including serious issues such as neglect, abuse, unsanitary conditions, and inadequate medical care.

Finally, due to the exploitative, profit-driven practices of Krausman and Konig, SJEC was in severe financial distress over this entire period, reporting significant losses year after year, with increasing debt and diminishing assets. From 2018 to 2022, SJEC reported a decrease in assets of 89 percent, an increase in liabilities of 43 percent, and losses over the five-year period of $4.8 million. By the end of 2022, SJEC was on the brink of insolvency – meaning, at that point and thereafter, the facility was at a foreseeable risk of shutting down.

While SJEC financially crumbled, its owner (Weisz) and controlling parties (Krausman and Konig) profited handsomely. Weisz took $1.3 million out of the nursing home in distributions, and Krausman's and Konig's businesses collectively **allocated $45.5 million in profits to themselves**. They accomplished this primarily by charging inflated prices for goods/services to SJEC and other similarly situated nursing homes, concealing their relationships and control of the nursing homes. They siphoned funds intended for resident care to their personal and business interests, reflecting a clear case of fraud, waste, and abuse of Medicaid funds.

The investigation found that, just as in SJEC, Krausman and Konig provided management and operational services to nine other low-rated Medicaid-funded nursing homes throughout New Jersey in which they concealed their roles. OSC did not analyze the financial condition of those facilities, but similar risk factors are present in them—the apparent conflicts of interest; the admitted overlap between Krausman's and Konig's businesses; the overall low CMS star-ratings of facilities they serviced; the low percentage of funds spent on goods as compared to other costs; the dollar amount of funds that went directly or indirectly to Krausman and Konig instead of paying for goods/services; and interviews that suggest that they handled operations in the other nine nursing homes in much the same way as SJEC. Those facilities included: Providence Nursing & Rehabilitation Center (Trenton), Royal Health Gate Nursing & Rehabilitation (Trenton), Manhattanview Nursing Home (Union City), Manahawkin Convalescent Center (Manahawkin), Amboy Care Center (Perth Amboy), Teaneck Nursing Center (Teaneck), Oceana Rehab and Nursing Center (Cape May Court House), Shore Meadows Rehab & Nursing Center (Toms River), and Sterling Manor (Maple Shade).

Similarly, OSC found that the financial schemes present here—in which those in charge of the nursing home enter into contracts with "vendors" they also control, at inflated costs, using taxpayer funds—are pervasive throughout nursing homes in New Jersey. The current system of government oversight is not adequate to identify and control these costs. OSC makes several recommendations to address these shortcomings and improve state oversight.

This investigation is ongoing. OSC may pursue recovery of overpayments, civil monetary penalties, and administrative sanctions against the responsible parties. OSC has taken action to suspend SJEC, Sterling Manor, Mark Weisz, Michael Konig, Esther Konig, Robert Konig, Steven Krausman, Lisa Cole, M&A/Comprehensive Health Care Management Systems LLC, Broadway Health Care Management LLC, Broadway Nutritional Services LLC, National Nutritional Food Company LLC, and Geriscript Supplies LLC from the Medicaid program. OSC has also made referrals to other agencies as appropriate.

II. Background

A. State and Federal Regulation of Nursing Homes

There are roughly 350 nursing homes operating in New Jersey. Nursing homes are residential facilities that offer around-the-clock supervision, health-related care, and a range of custodial and support services to residents. Based on their health needs, mobility limitations, fragility, and average age, nursing home residents are among the most vulnerable health care populations. The majority of nursing home residents rely on Medicaid and/or Medicare to fund their stay, with total spending reaching $191.3 billion nationally for long-term care services in 2022.[1]

Medicaid is a joint state and federal program funded by participating state governments and the federal government. States operate their own Medicaid programs in accordance with guidelines established by the federal government. The Centers for Medicare and Medicaid Services (CMS), within the U.S. Department of Health and Human Services (HHS), administers the Medicaid program and establishes the standards states must follow to receive federal funds.

In New Jersey, the Division of Medical Assistance and Health Services (DMAHS) within the Department of Human Services (DHS) administers the Medicaid program in accordance with a CMS-approved state plan. DMAHS contracts with managed care organizations (MCOs) to administer health coverage for New Jersey Medicaid beneficiaries. The Department of Health (DOH) is the contracted "State Survey Agency" responsible for certifying compliance with Medicaid participation requirements and ensuring that all nursing home providers, including those that receive Medicaid funds, follow applicable state and federal regulations related to, among other things, resident care and staffing. DOH is also responsible for licensing facilities, conducting regular inspections of facilities to evaluate compliance with the conditions of participation, taking enforcement actions against non-compliant facilities, and investigating complaints.[2]

In accordance with federal law, nursing facilities that participate in Medicaid must provide, or arrange for, nursing and related services necessary to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident. The extensive requirements that combine to address these various elements, covering all aspects of nursing home operation – from the required services, the quality and standard of care, and the reporting obligations, to documentation, staffing, and even the physical building – are established by state and federal regulations and statutes.[3]

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[1] CENTER FOR MEDICARE & MEDICAID SERVICES, NATIONAL HEALTH EXPENDITURES 2022 HIGHLIGHTS, 2 (Dec. 2023), https://www.cms.gov/files/document/highlights.pdf.

[2] Nursing home Administrators must be licensed, but management companies and other vendors are not licensed or certified by DOH.

[3] Federally, the Nursing Home Reform Act of 1987 (NHRA) established a minimum standard of care for nursing home residents that nursing facilities must provide to receive Medicare or Medicaid funding. 42

B. Risks of Related-Party Transactions

Nursing homes are responsible for providing a wide range of goods and services to residents under their care, including room and board, nursing services, therapy, medication, and social activities. Nursing home owners/operators often contract with vendors to provide these goods and services.[4] Increasingly, owners and operators are turning to related-party entities (i.e., subsidiaries, affiliates, or entities with common ownership or control) for these goods and services. A common related-party transaction is one in which an owner of a nursing home also owns an entity that contracts with the nursing home for staffing, administrative/management services, real estate, therapy services, or office support. But another example of a related-party transaction is one in which a manager or administrator who effectively controls the decision-making for the nursing home enters into a contract with a party owned/controlled by that manager or administrator. Related-party transactions create special risks because they are not negotiated through normal arm's-length business dealings. These transactions can lead to inflated costs to nursing homes, excessive profits for their owners, conflicts of interest, and potential fraud.[5]

Both state and federal law and regulations attempt to address the risks associated with related-party transactions by disallowing costs paid to related parties that exceed certain thresholds. Additionally, both state and federal law require that nursing homes file disclosures identifying and describing related-party transactions.

C. Transparency Requirements for Related-Party Transactions

In 2020, the New Jersey Legislature enacted a law that directed the DHS Commissioner to establish a "direct care ratio reporting and rebate requirement . . . , pursuant to which nursing homes shall be required to report total revenues collected, along with the portion of revenues that are expended on direct care staff wages, other staff wages, taxes, administrative costs, investments in improvements to the facility's equipment and physical plant, profits, and any other factors as the commissioner shall require." The law, which did not modify other legal requirements related to expenditures, directs the DHS Commissioner to establish a direct care

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U.S.C. 1396r, 42 U.S.C. 1395i-3. It also established the residents' Bill of Rights, which defines residents' basic rights. 42 C.F.R. 483.10. Federal regulations, at 42 C.F.R. 483, subpart B, set forth in detail the requirements that a nursing facility must meet in order to qualify to participate in the Medicaid program. The New Jersey Nursing Home Responsibilities and Rights of Residents Act, N.J.S.A. 30:13-1 to -19, is the primary statute governing nursing homes. Further, New Jersey requires compliance with N.J.A.C. 8:39 and N.J.A.C. 10:166. The federal regulations set forth the minimum standards, and New Jersey either adopts the federal requirements or supplements them when necessary.

[4] Nursing home owners must be licensed as an operator by DOH prior to being able to operate the facility. As such, the terms "owner" and "operator" may be used interchangeably throughout this report.

[5] See THE NATIONAL CONSUMER VOICE FOR QUALITY LONG-TERM CARE, WHERE DO THE BILLIONS OF DOLLARS GO? A LOOK AT NURSING HOME RELATED PARTY TRANSACTIONS (2023), https://theconsumervoice.org/wp-content/uploads/2024/05/2023-Related-Party-Report.pdf; NATIONAL BUREAU OF ECONOMIC RESEARCH, TUNNELING AND HIDDEN PROFITS IN HEALTH CARE (June 2024), https://www.nber.org/papers/w32258.

ratio reporting and rebate requirement "pursuant to which nursing homes shall be required to report total revenues collected, along with the portion of revenues that are expended on direct care staff wages, other staff wages, taxes, administrative costs, investments in improvements to the facility's equipment and physical plant, profits, and any other factors as the commissioner shall require."[6] If less than 90 percent of revenue is spent on direct care, according to the law, the facility is required to return funds to the State and others who paid the nursing home. Patient Care Ratio (PCR) rules were adopted by DHS to implement the law.[7] The rules require nursing homes to identify related-party transactions and provide a substantive analysis showing that the reported amounts paid to related parties do not exceed what would have been paid in an arm's-length transaction.[8] If the goods or services are fungible or available on a ready market, e.g. medical supplies, staffing, or food, the provider must report evidence of a competitive procurement or posted prices at the time of the transaction.

Similarly, state and federal law and regulations require the submission of "cost reports" that detail a nursing home's costs in various areas, with specific requirements for allowable or reimbursable costs and payments to related parties.[9] The CMS Provider Manual details that costs by related parties can be reported as allowable costs, so long as they are reported **at cost** to the related provider.[10] That cost cannot exceed the price of comparable services obtained through an arm's-length transaction. The intent is to treat the costs incurred by the related party as if incurred by the nursing home itself, so anything that would be unallowable if incurred by the nursing home directly would be an unallowable cost of the related party. State regulations incorporate the provisions of the CMS Provider Manual for state cost reports as well.

III. Methodology

OSC is conducting this investigation in accordance with the Medicaid Program Integrity and Protection Act, N.J.S.A. 30:4D-53 to -64. Among other things, OSC is responsible for the prevention, detection, and investigation of fraud and abuse and the recovery of improperly expended Medicaid funds. OSC began its investigation of South Jersey Extended Care (SJEC), a for-profit nursing home located in Bridgeton, Cumberland County after finding that SJEC

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[6] N.J.S.A. 30:4D-7cc(c).

[7] N.J.A.C. 10:49A-1.1-3.4 establishes the revenue and expense information that nursing facilities must report, including the information they must provide about related parties.

[8] N.J.A.C. 10:49A-2.1(e).

[9] CMS requires skilled nursing facilities to submit annual cost reports that include disclosure of related-party transactions. 42 U.S.C. 1395yy; 42 C.F.R. 413. While New Jersey law requires all nursing homes to submit cost reports, the State stopped collecting them for almost a decade. The New Jersey cost reports use the CMS guidelines to establish eligible costs, including related-party costs. N.J.A.C. 10:166-3.1. As of 2023, New Jersey resumed requiring all NJ nursing homes to submit cost reports. The first round of cost reports was due to DHS in 2023 for calendar year 2022.

[10] Centers for Medicare & Medicaid Services, The Provider Reimbursement Manual – Part 1, Chapter 10: Cost to Related Organizations, 10-3, https://www.cms.gov/regulations-and-guidance/guidance/manuals/paper-based-manuals-items/cms021929.

consistently received a one-star rating by CMS for over a decade while continuing to be paid millions of dollars annually in Medicaid funding. The investigation, which remains ongoing,[11] to date has reviewed SJEC's compliance with applicable law for the five-year period of April 1, 2018 to March 17, 2023.

OSC reviewed tens of thousands of pages of medical records, including complete patient charts for a random sample of 34 residents. OSC reviewed timesheets and staffing data, including staff licenses and certifications, for a random sample of 75 days within a two-year period. OSC also reviewed financial information, bank account records, tax returns, vendor contracts, general ledgers, invoices, incorporation documents, and expenditures by SJEC. In addition to SJEC's financial records, OSC reviewed financial and business records for contractors and vendors who performed work for or provided supplies to SJEC.

OSC visited SJEC and interviewed SJEC's owner, operator, manager, and several key employees.[12] OSC also consulted with various stakeholders and experts regarding aspects of this investigation, including the Office of the Long-Term Care Ombudsman, DOH, and DMAHS. In preparing this report, OSC analyzed data collected by CMS; PCR data collected by DMAHS; and health inspection and survey data maintained by DOH.

OSC sent drafts of this report to Weisz, Krausman, Konig and their various businesses, as well as the other entities mentioned herein, to provide them with an opportunity to comment on the facts and issues identified in this investigation. OSC considered the responses received and incorporated them into this report where appropriate.

IV. Findings

A. Overview

SJEC is certified to provide 167 nursing home beds. For the five-year period of OSC's review, on average, 110 residents resided at the facility. The resident population at SJEC skews younger, with many residents under 60 years old. Many residents housed at the facility have been diagnosed with mental illnesses.

SJEC has received a one-star rating in almost every rating period since at least 2013. One-star is the worst rating that a nursing home can receive based on CMS's five-star rating system. A nursing home with a persistent one-star rating means it consistently has more widespread, serious, and uncorrected deficiencies than nursing homes with higher star-ratings. According to CMS, "nursing homes with 1 star are considered to have quality much below average."

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[11] OSC is issuing this report based on available information because it determined that it is in the public's and the State's interest to have greater transparency now about SJEC. OSC may issue additional findings relating to this matter that may include administrative sanctions and/or civil monetary penalties. Any relief sought by OSC based on such findings may be subject to administrative and judicial review.

[12] OSC interviewed Weisz, who owned three of the nursing homes, but did not interview the owners of the other seven nursing homes mentioned in this report.

During these five years, SJEC was also in severe financial distress, reporting significant business losses year after year, compounding debt loads, and diminishing assets. By the end of 2022, if not sooner, the entity was on the brink of insolvency.

OSC's investigation revealed that almost all of SJEC's major vendors were related parties and that SJEC failed to report them as such on state and federal filings. The investigation found that the owners/operators of these related parties, in what appears to be a clear conflict of interest, led SJEC into financial disaster, approving $1.3 million in distributions at a time when SJEC was paying more money out than it was taking in. These individuals entered into inflated contracts with their own entities, and paid themselves and their businesses millions of dollars for goods and services that they failed to deliver. These funds could have instead been used to improve quality care by hiring more nurses or more CNAs, by offering additional therapy or social activities, or investing in facility improvements, but they were not. Through these actions, these individuals and entities violated their legal obligations to provide appropriate and necessary care to SJEC's residents, all while SJEC sought and obtained Medicaid payments to which it was not entitled. This conduct, taken as a whole, constitutes waste and abuse[13] of public funds and a fraud[14] against the Medicaid program.

In response to these findings, Weisz, Krausman, and Konig, through counsel, made a number of arguments. They took issue with OSC's references to the CMS star-rating system and noted that SJEC had improved to a two in its latest overall rating. The response argued that Weisz, Krausman, and Konig were not related parties. It alleged that the contracts were actually market-rate, and that the profits they reaped were within acceptable profit margins. They argued that OSC's staffing analysis failed to consider temporary nurse assistants, failed to understand certain licensing requirements, failed to understand financial documents, and failed to understand applicable laws. It also alleged a number of other factual inaccuracies. OSC stands by its findings and has addressed these comments, as necessary, within this report. The response by Weisz, Krausman, and Konig also included hundreds of pages of exhibits, many of which undercut their own arguments, were internally inconsistent, or differed in significant ways from documents previously provided to OSC and other state and federal oversight bodies.

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[13] N.J.S.A. 30:4D-55 defines abuse as "provider practices that are inconsistent with sound fiscal, business, or medical practices and result in unnecessary costs to Medicaid or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care."

[14] N.J.S.A. 30:4D-55 defines fraud as "an intentional deception or misrepresentation made by any person with the knowledge that the deception could result in some unauthorized benefit to that person or another person, including any act that constitutes fraud under applicable federal or State law." In identifying fraudulent conduct throughout this report, OSC relies upon this definition. None of the findings in this report constitute a suggestion or a determination that any person or entity committed a criminal act.

B. SJEC's Ownership, Management, and Control

Mark Weisz

During the timeframe of this review, SJEC was owned by Mordechay "Mark" Weisz (Weisz), who held the license for the facility as "Operator."[15] Weisz purchased SJEC approximately 20 years ago, with no prior experience in the nursing home industry. According to Weisz, he was looking for other business opportunities and inquired with Steven Krausman (Krausman), whom he had known since Krausman was a child. Krausman was the manager of SJEC, and according to Weisz, Krausman "just offered it." According to Weisz, there was an understanding that Weisz would take over the ownership of the facility, but Krausman would continue to manage and operate the facility. Michael Konig (Konig) had previously owned the facility, but reportedly sold it in approximately 1997 after being barred from owning nursing homes in Massachusetts and Connecticut.[16] In a sworn interview with OSC, Weisz failed to mention that Konig is actually his cousin, stating in response to questioning that "we go back" and that "I know him for a very, very long time" but offering no information about their familial relationship.

According to Weisz, he did not have to invest any money when he purchased SJEC and two other New Jersey-based nursing homes, Sterling Manor and Oceana Rehab and Nursing Center (Oceana). When asked how much he paid for the three facilities, Weisz stated "I don't know, I don't remember. It was a long time ago. I think it was nothing, almost, it was not a big deal."[17] When asked whether he also owned the physical property, Weisz said he only owned the business. When asked who owned the physical property, Weisz stated, "I don't know, it's all Steve's [Krausman] things, he negotiates this stuff."

During his tenure as owner/operator of the facility, Weisz appears to have done little more than occasionally sign documents that were given to him by Krausman and Konig, including contracts with Krausman's and Konig's companies. Weisz reported that he "has no role whatsoever" with SJEC; has "absolutely no" involvement in the day-to-day operations of the facility; and is "not hands-on at all." Weisz reported that it had been "years, years" since he had visited the facility. He stated that he "absolutely" has no involvement in selecting any vendors, contractors, or service providers on behalf of SJEC, and never got involved with those decisions.[18]

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[15] According to Medicaid records, Mark Weisz is the 100 percent owner of H.W. Weidco/Ren LLC, which does business as South Jersey Extended Care. But some documents, including federal cost reports, use an older name for the facility, Renaissance Nursing Center.

[16] It should be noted that if Konig continued to own the New Jersey facilities, act as an Administrator, or be the primary management company for the facilities, he would have been required to disclose to New Jersey Medicaid the actions against him in Massachusetts and Connecticut on the provider application or recertification.

[17] In response to a draft of this report, counsel for Weisz, Konig, and Krausman stated that the consideration paid by Mr. Weisz for the purchase of the facility was not nothing it was "the legal assumption of its considerable debts and liabilities." This appears to contradict Weisz's own statement that it was "nothing" and "not a big deal."

[18] In response to a draft of this report, counsel for Weisz, Krausman, and Konig argued that Konig and Krausman were not related parties because Weisz "had ultimate decision-making power over the facility,

Weisz's testimony reveals that he was a straw owner of SJEC. His primary role seemed to be insulating Konig, his cousin, from scrutiny, while allowing Krausman and Konig to continue to run the business without interference. Weisz remained absent throughout his ownership, delegating any and all responsibilities to Krausman and Konig. Weisz reported that he did not receive a salary, but if there was money left at the end of the year, he would get a distribution or a "draw of some sort," depending on the year. When asked how much money he received on average annually, he stated, "That depends. Sometimes it's zero, and sometimes I get, we've had good years, we had some good years, we made some nice money."

Steven Krausman

Throughout the five-year period of OSC's investigation, SJEC was managed by Steven Krausman through an entity he owns, M&A/Comprehensive Health Care Management Services, LLC (Comprehensive). Konig was an original owner of Comprehensive, but Krausman told OSC he took over the business sometime around 2000. With respect to SJEC, Krausman explained that "[Weisz] is the owner, but he hired me to run the business for him," an explanation that although technically accurate, appears intended to mislead given that all indications are that Krausman and Konig effectively hired themselves.

Krausman explained that Comprehensive was responsible for the "entire oversight day-to-day operations of the nursing home" and Comprehensive's role was "pretty much the overall oversight of every single thing you're managing in a nursing home." He said he was responsible for negotiating contracts on behalf of SJEC and overseeing and approving all payments. He was responsible for ensuring appropriate staffing and making sure regulatory requirements were met. He was responsible for budgeting, reporting, and capital expenditures. The contracts Krausman and Comprehensive entered into with SJEC, especially in view of Weisz's passivity, provided Krausman with complete control of the facility's finances, operations, contracting, and administration.

Michael Konig

Michael Konig[19] previously owned The Renaissance Nursing Center in Bridgeton (the same nursing facility that began operating as SJEC during Weisz's ownership) but reportedly sold his

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as well as the power to terminate the contracts as he deemed appropriate." But Weisz told OSC in sworn testimony that he never exercised this authority.

> Q. Do you have any involvement in selecting external vendors or contractors or service providers?
> A. Absolutely not.
> Q. So do you have any involvement, as far as this contracting with, do you have ultimate authority on whether a contract is entered into between South Jersey?
> A. No, no. I may have, legally I may have the authority, but I never, I don't get involved.
> Q. There's not a time where you said, hey, this is an expensive contractor or --
> A. No.

[19] Michael Konig most often spells his last name without an "e." In tax returns obtained during OSC's investigation, however, Konig spells his last name "Koenig." OSC has verified that they are the same person.

interest in this nursing home, as well as eight other New Jersey-based nursing homes after being forced to close or sell nursing homes by state authorities in Massachusetts and Connecticut. Konig, in a sworn interview with OSC, never mentioned that Weisz was his cousin or that Krausman was his brother-in-law. Konig's former wife, Esther B. Konig (née Esther B. Krausman) is Krausman's sister and owned nominal interests in several of Konig's businesses. They divorced in 2021. During an interview with OSC, Konig distanced himself from Weisz, deferring all questions about Weisz to Comprehensive (owned by Krausman) to answer.

The Konigs' son, Robert Konig, is also involved in nursing homes, with a five-percent ownership in Comprehensive. That is, Robert Konig is employed by his uncle, Krausman, and owns an interest in Comprehensive.[20]

Konig testified that his company, Broadway Health Care Management, LLC (Broadway Management or Broadway) was responsible for managing certain departments at SJEC, stating that it "handled everything inside the door of the facility once you come in, all the services that are being provided there" and "[Comprehensive] handle[d] the administrative and financial" functions. Konig testified that he and his companies were responsible for the actual day-to-day operations of the facility. Collectively, through Broadway Management and the other businesses he owned or controlled—Broadway Nutritional Services LLC, National Nutritional Food Company LLC, and Geriscript Supplies LLC—Konig was responsible for providing staff to run the facility, including nursing staff; bookkeeping and administrative support; infection control; dietary services and food; and medical supplies. This means Konig's companies were responsible for, among other things, ensuring appropriate staff were on site for every shift; making sure supplies were ordered, delivered, and available; ensuring bills were paid; managing payroll; ensuring employees and contracted staff had required licenses; and providing nutritionally appropriate meals and the staff needed to serve them.

Konig served as the licensed Administrator for SJEC for about two years of OSC's five-year review period. As the Administrator, Konig's duties overlapped with many of the responsibilities noted above. The Administrator is responsible for, among other things, the administration of managerial, operational, fiscal, and reporting components of the facility.[21] Konig, individually as Administrator and through his related-party contracts, exercised substantial control over the nursing home.

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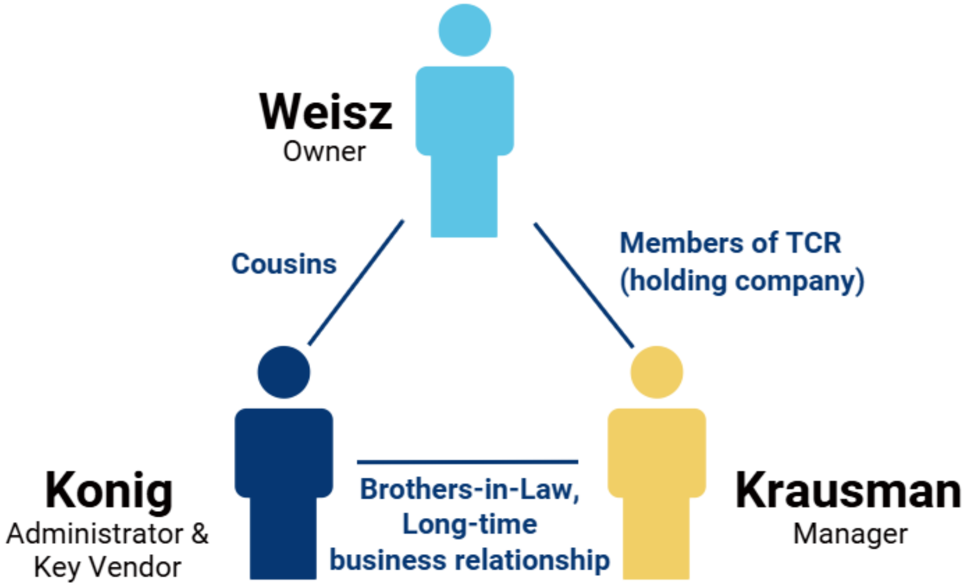
[20] In response to a draft of this report, counsel for Weisz, Konig, and Krausman disputed that Robert Konig was involved with nursing homes. But they appear to have refuted their own statement in financial documentation they submitted as part of that same response. The 2022 and 2023 financial analyses provided by counsel show that Robert Konig was in fact paid for work relating to SJEC (a nursing home), contrary to their claim that he was not involved with nursing homes.

[21] N.J.A.C. 8:39-9.2; 42 C.F.R. 483.70(d)(2).

Figure 1: SJEC's Ownership, Management, and Control



Together, Krausman and Konig were responsible for everything that happened at SJEC, and everything that did not. Collectively, they had authority to enter into contracts, control costs, pay vendors, hire and fire staff, and make or authorize facility improvements. They controlled all of the resources and possessed all of the authority necessary to improve the facility's star-rating and financial condition.

Krausman's and Konig's Overlapping Business Interests

Although Krausman's and Konig's nursing home businesses were technically separate entities, the two men were brothers-in-law, and their businesses functioned substantially like a single entity. Financial documents show that funds flowed back and forth between their various entities in ways that make it difficult or impossible to trace whether payments reflected contract amounts or the actual amounts due. And testimony corroborated that their businesses were intermingled. Krausman testified that he "used Broadway in all the facilities [he] managed." He stated that he hired Konig's company (Broadway) to handle the books for his company (Comprehensive) and that he had a Comprehensive employee embedded at Broadway. He employed Konig's son at Comprehensive. He claims he selected Michael Konig personally to be the Administrator for SJEC. But even though SJEC's contract with Comprehensive provided for a $90,000 salary for the Administrator, Krausman told OSC he never paid Konig for the role. Krausman remarked that, "[i]t's a special situation, he's not on payroll . . . We'll sit down and come up with some compensation for his role while he's been there."

Similarly, in describing his business relationship with Krausman, Konig testified that "there was no formality" and that "because we've known each other for so many years, we will offload some things on [Comprehensive], and they'll offload some things on us." He also explained that he and Krausman and their staff had "been together for a very many years and there was no line of demarcation, so to speak" between their businesses. And he clarified that he was not just speaking about Broadway and Comprehensive—there were other "entrenched" companies that they operated as a consolidated entity, both in New Jersey and elsewhere.

In addition to their nursing home-related businesses, Krausman and Konig, along with Weisz, in some instances, also had interests in other for-profit and not-for-profit entities, including TCR, a holding company; a commercial property in Pennsylvania; a meat-processing plant in Nebraska; and several non-profit organizations and foundations that collectively had hundreds of millions of dollars in assets.

Figure 2 below lists the primary Krausman- and Konig-owned/controlled entities discussed in this report.

Figure 2: Krausman- and Konig-Owned/Controlled For-Profit Entities

Entity	Ownership/Control	Relationship to SJEC
M&A/Comprehensive Health Care Management Systems, LLC (Comprehensive)	Steven Krausman (95%) Robert Konig (5%)	Management and Administrative Services Contract
Broadway Health Care Management, LLC (Broadway Management or Broadway)	Michael Konig (99%) Esther Konig (1%)*	Bookkeeping Support Services Contract Nursing and Infection Control Contract
Broadway Nutritional Services, LLC (Broadway Nutritional)	Michael Konig (99%) Esther Konig (1%)*	Dietary Services Contract
National Nutritional Food Company, LLC (National Nutritional)	Michael Konig (99%) Esther Konig (1%)*	Food Contract
Geriscript Supplies, LLC (Geriscript)	Lisa Cole (99%) Michael Konig (controlled entity)	Medical Supplies Contract[22]
Total Corporate Resources II (TCR)	Steven Krausman (President) Mark Weisz[23] (Member) Dr. David Lackner (Member) Other members	TCR is a holding company that owns shares in other businesses. Krausman is the President and controls the entities' bank accounts.
*Esther Konig owned 1% of capital in these entities. Michael Konig owned 99% of capital and 100% of profit and loss in these entities.		

Konig's Long, Troubled History in the Nursing Home Industry

This investigation also revealed that Konig has a long, troubled history in the nursing home industry that spans multiple states and several decades. According to news reports and legal documents, allegations and findings of poor-quality care and patient jeopardy have plagued his

[22] OSC was provided a 2010 contract that automatically renewed each year. No other contract was produced.

[23] Krausman was listed as a "member" of TCR on financial and government documents. Krausman testified during a sworn interview that he, Weisz, Dr. David Lackner, and others were the owners of TCR. During the timeframe of this review, Dr. David Lackner was an owner of three of the nine nursing homes identified in Appendix A.

facilities, with residents and employees reporting inadequate staffing and insufficient supplies and food.[24]

Many of the facilities owned and/or operated by Konig in the late 1990s in Massachusetts and Connecticut were either shut down by the state, taken over by the state, or forced to be sold after inspectors cited them with serious violations. In 1995, Konig was barred for ten years from operating nursing homes in Massachusetts; in 1994, Konig was barred for five years from operating nursing homes in Connecticut. Around that same time, in 1997, Konig reportedly sold his interests in nine New Jersey nursing homes that he had owned to Fishel Rispler and another individual.[25] Despite selling these facilities, he and Krausman continued to manage, operate, and control many of these facilities for decades.

One news article from that time stated:

> New Jersey businessman Michael C. Konig bought 11 troubled nursing homes in Massachusetts and Connecticut at fire sale prices in 1992 and arrived in a chauffeur-driven limousine with an entrepreneurial spirit that eventually proved his undoing. In less than three years, Konig has built a track record for poor patient care in both states. Some of his homes have earned the reputation of being a dumping ground for patients who were mentally impaired or suffering from dementia and had no relatives to search out a better place for them.[26]

News articles also reported multiple failures by Konig-owned nursing homes in Massachusetts to protect residents from sexual and physical abuse and/or provide them with even the most basic needs required under the law, including:

- Inspections that found rampant sexual abuse of patients, including:
    - A male patient who had sexually assaulted a female resident with schizophrenia five times in a matter of a few months.
    - Male patients who were seen by inspectors on several occasions fondling and exposing themselves to mentally disabled female residents, and attempting to force sex on female residents, even while they were eating in the dining room.
    - A male resident with Alzheimer's who was found fondling the breasts of a female patient.

[24] There are some indications that Krausman was also involved with Konig's facilities at this time. For example, Krausman was interviewed by a reporter in connection with a story about employees at one of the Connecticut facilities passing out leaflets criticizing Konig's new ownership. Krausman identified himself as an "associate" of Konig, blamed it on the employees, stating that "*we're* setting higher standards than the facility may be accustomed to, and some of the staff are just not willing to go along with the expectations."

[25] In August 2002, the other individual was found guilty of paying a $350,000 bribe to replace unionized maintenance workers at the Vanderveer Estates housing development in Flatbush with cheaper employees and was subsequently sentenced to four years' probation and a $50,000 fine.

[26] Taylor, Holly, *Nursing home trouble traced*, BERKSHIRE EAGLE, June 18, 1995, A1, A6-A7.

- An 86-year-old woman who died when she fell while being moved from a chair to her bed by facility staff.
- A blind patient was found to have repeatedly fallen while going from her bed to the bathroom. She was found several times on the floor near the toilet after trying to sit on it. On one such occasion, she cut herself and, on another occasion, she broke her leg.
- Residents who did not need nursing services, including individuals from jails and homeless shelters, were improperly admitted to fill beds, and there was a lack of supervision once these individuals were admitted into the facility.
- Residents suffering bodily harm by other residents, including punching, hitting, pushing, and hitting with objects.

Not only was the patient care terrible at the facilities owned and operated by Konig, but, as OSC found in this investigation, investigations in other states and in New Jersey have also uncovered instances in which Konig and his entities inflated operational costs to siphon tax-funded Medicare and Medicaid payments.

See Exhibit 1 for a list of related news articles.[27]

Krausman and Konig Concealed their Related-Party Status

As noted in Background Sections B and C above, related-party transactions require special scrutiny due to the potential for inflated costs, conflicts of interest, and fraud, waste, and abuse. According to CMS definitions, a related-party relationship can stem from "common ownership" or can exist when an entity has "control" of the provider. Control is defined as when an individual or entity has the power, directly or indirectly, to significantly influence or direct the actions or policies of the provider.

In this case, if Krausman and Konig did not "control" SJEC, then no one did. The facts and testimony provided by Weisz, Krausman, and Konig all support that Krausman and Konig were fully in control of the facility. Weisz, although having authority to make decisions, admits he never did so and fully relied on others to run and manage the business. Moreover, Krausman and Konig were brothers-in-law. Despite facts indicating that Krausman and Konig were fully aware that they were in control of the facility and should have reported related-party transactions in state and federal filings, they failed to do so for years. These material omissions are especially egregious because SJEC relied almost exclusively on related-party vendors for all its primary contracts. As

[27] According to news articles, Konig's transgressions extended beyond findings of poor-quality care and patient jeopardy in his nursing facilities. A U.S. Department of Labor investigation found that Konig's staffing agency stiffed workers out of overtime pay at ten nursing homes in New Jersey, and a federal judge later ordered his company to pay $636,000 in back wages. He faced allegations that he was a slumlord in New York City, leaving tenants to suffer in deplorable conditions after receiving publicly-funded contracts to shelter homeless people in these buildings but never investing the funds to maintain these properties. Additionally, the Federal Trade Commission (FTC) charged that an internet company owned by Konig, Krausman, and another individual made false representations of rebates to consumers, and the three agreed to pay the FTC $600,000 and were barred from similar schemes.

will be described in detail below, that amounts to around $38 million during a five-year period alone that SJEC sent to related parties and failed to disclose.[28]

In fact, it appears that this was done intentionally to avoid scrutiny and extract additional profits for their businesses. As noted above, Konig was barred from owning nursing homes in Massachusetts and Connecticut in the mid-1990s. Around that same time he transferred ownership of his New Jersey nursing homes in an apparent attempt to avoid similar regulatory action in New Jersey. It is not clear whether Konig truly disassociated from these nursing homes during this time or simply veiled his involvement in the nursing homes. In fact, Konig told OSC that he has "been affiliated with South Jersey [Extended Care] in one capacity or another . . . since about 1985. That would be 38 years." Installing Weisz as a straw owner was a way to maintain control of the facility while claiming that the contracts SJEC had with Konig and Krausman were arm's-length.

In response to a draft of this report, Weisz, Krausman, and Konig, through counsel, contended that there were no related-party transactions at SJEC. They argued that the relevant inquiry is the relationship between Weisz (as owner) and Konig/Krausman (as vendors) and that a cousin is not included in CMS definitions. They argued that the concept of "control" is likewise inapplicable because in each contract, "SJEC (and thus Mr. Weisz) had ultimate decision-making power over the facility as well as the power to terminate the contracts as he deemed appropriate."

OSC disagrees. Konig and Krausman both effectively controlled SJEC operations as though they were the owners and entered into contracts with themselves. The facts show that these two individuals effectively stepped into Weisz's shoes as owner. The formality of having Weisz sign those contracts does not overcome the facts-- that Krausman had oversight of "every single thing you're managing in a nursing home" (his own words), Konig "handled everything inside the door of the facility once you come in" (his own words), and Weisz had "no role whatsoever" with SJEC (his own words). Beyond this, while "cousins" is not a relationship that automatically triggers a CMS presumption of relatedness, a brother-in-law relationship does. In analyzing related-party transactions, CMS has stated that the existence of an immediate family relationship creates "an irrebuttable presumption of relatedness" and includes brothers-in-law as immediate family members in the analysis.

C. Other New Jersey Nursing Homes

During the timeframe of this investigation, OSC found that Krausman, Konig, and their related entities managed, operated, and/or provided services to a total of ten New Jersey nursing homes.

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[28] Krausman was also evasive when it came to disclosing his ownership of certain property companies that owned that property for nursing homes he manages, as discussed in more detail in Findings Section J. When asked if any companies he owned (other than Comprehensive) did business with any nursing homes he managed or if any companies he owned provided services to or had contracts with any of the ten nursing homes, he said "I don't believe so." But later in the same interview, when asked specifically about the ownership of multiple property companies, he acknowledged he owned the companies, that Comprehensive managed the nursing homes, and that there were in fact rental agreements in place between property companies he owned and nursing homes he managed.

Three, SJEC, Sterling Manor in Maple Shade, and Oceana in Cape May Court House, were owned by Weisz. According to documents and testimony, three others were owned by Dr. David Lackner, and the remaining four were owned by Fishel Rispler.[29] All ten nursing homes received Medicaid funds. Nine of the ten sent money to, and received money from, a holding company, TCR, controlled by Krausman. See Findings Section K for more information on TCR.

Like SJEC, most of these nursing homes had CMS star-ratings that were far below the state average of 3.5. Two of the nursing homes seemed to be on par with the state average, but the other seven had average star-ratings between 1.1 and 2.2, with an average of 1.7. All three nursing homes owned by Weisz received a CMS star-rating of 1 in almost every single quarter of OSC's five-year review period.

Figure 3: Average Star-Rating, By Owner, of New Jersey Nursing Homes*

Mark Weisz	David Lackner	Fishel Rispler
South Jersey Extended Care	Manhattanview Nursing Home	Amboy Care Center
Sterling Manor	Royal Health Gate Nursing & Rehabilitation	Manahawkin Convalescent Center
Oceana Rehab and Nursing Center	Shore Meadows Rehab & Nursing Center	Teaneck Nursing Center
		Providence Nursing & Rehabilitation Center
Total Average Star-Rating: 1.1	*Total Average Star-Rating: 2.1*	*Total Average Star-Rating: 2.5*

* See Footnote 29.

Appendix A to this report identifies the ten nursing homes with additional detail. Appendix B includes detail related to the CMS Star-Ratings for the ten facilities.

D. SJEC's Substandard Quality

SJEC was the worst-rated of the three nursing homes owned by Weisz. SJEC had a prolonged history of providing substandard care as evidenced by, among other things, CMS's star-rating of the facility. According to CMS's star-rating system, going back over a decade, SJEC has received the most one-star ratings of any facility in New Jersey. A facility's star-rating is calculated based on ratings for health inspections, quality measures, and staffing. SJEC has been given an overall rating of one star in almost every rating period over the past decade, including during the five-year period of OSC's investigation, with no discernable, sustained period of improvement, which made it the worst nursing home in the State of New Jersey.[30]

[29] Eight of these nursing homes were sold during the course of this investigation. In a 16-month period between August 2021 and December 2022, the four entities owned by Rispler, the three owned by Lackner, and one owned by Weisz, Oceana, were transferred to new owners.

[30] In response, SJEC tried to distance itself from its one-star rating, pointing to a recent increase to a two-star rating in July 2024. Two stars is, of course, still considered "below average" by CMS standards and is

According to federal law, nursing facilities are required to care for residents "in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident."[31] They are supposed to provide services and activities that will "attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident in accordance with a written plan of care."[32] This fundamental principle – a resident's right to quality of life – requires nursing homes to ensure that residents are given the appropriate treatment and services to maintain or improve the ability to carry out activities of daily living (ADLs), and for residents unable to carry out ADLs, to ensure that they receive the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.[33]

Federal regulations also state that each resident has "a right to a dignified existence" in an environment that maintains or enhances his or her quality of life, recognizing each resident's individuality.[34] These rights include things like a right to "a safe, clean, comfortable and homelike environment," which includes "housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior" and a "clean bed and bath linens that are in good condition." Additionally, nursing facilities must ensure that residents receive rights with respect to the quality of the care provided. That is to say, residents must receive "treatment and care in accordance with professional standards of practice, the comprehensive person-centered care plan, and the resident's choices."[35]

Yet, DOH/CMS surveys and inspections, spanning almost the entire OSC review period, found that SJEC violated numerous state and federal requirements involving patient care, recordkeeping, staffing, and SJEC's physical property. SJEC had more than twice as many health inspection deficiencies compared to the State's average in the last three inspection cycles. And OSC's independent review of SJEC's staffing, documentation, medical records, and complaint files found similar issues. DOH surveys and inspections over the years paint a grim picture of a perpetually understaffed, dirty facility in which residents were mistreated or neglected with regularity. One surveyor found that a nurse's aide confined a resident with dementia to the resident's bedroom by tying the bedroom door handle with a plastic trash bag and attaching the other side of the trash bag to the door. Another surveyor documented alleged abuse. In 2020, a resident was allegedly roughly handled by a staff member, fell out of a wheelchair, and ended up in the hospital, with an abdominal injury.

Many inspections reported bleak, unhygienic conditions: a bedroom that reeked of urine, had a urine catheter bag lying on the floor, and had black flies buzzing around the room, on the bedding, and on the lunch tray; a toilet that had "brown debris and paper products" sitting with no water – it had been broken for days; rooms that had curtains and/or walls with brown/dark stains; a refrigerator that had a long strand of hair and "solid black particles"; and several tubs of food with no expiration or open date.

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also below the state average of 3.5. The nominal rating increase occurred after new individuals assumed control of SJEC on October 31, 2023. It remains a fact that SJEC consistently received one-star ratings without sustained improvement while Krausman, Konig, and Weisz were in control.

[31] 42 U.S.C. 1396r(b)(1)(A).

[32] 42 U.S.C. 1396r(b)(2).

[33] 42 C.F.R. 483.24.

[34] 42 C.F.R. 483.10.

[35] 42 C.F.R. 483.25.

The frequent shortage of staff meant that sometimes residents received their medications hours later than medically needed, including several instances when this failure made it impossible for a patient to leave the facility to receive dialysis. It also meant there was a general lack of attention given to documenting and tending to residents' medical needs. A resident with end stage renal disease and hyperkalemia (high potassium in blood), for instance, was provided potatoes – despite medical instructions that the resident should not receive potatoes. An inspector who visited the facility in June 2024 found a resident in bed, wearing a hospital gown, weeping. The resident explained that they wanted their belongings but was unable to contact the social worker – they had moved from another facility four months earlier.

OSC's investigation confirmed many of the same types of deficiencies identified by DOH surveys. OSC found that SJEC failed to provide adequate staff over a sustained period and failed to consistently provide qualified staff, including a licensed Director of Nursing and a licensed social worker, both of whom are required by law to operate a nursing home. OSC also found that SJEC's paper medical records were difficult to read, riddled with inconsistencies, and lacked basic information required by law.

Notably, throughout the entire review period when these deficiencies were found, SJEC was under the management and control of Krausman and Konig and their multiple related-party entities. These two individuals, who contractually were responsible for ensuring the facility met all applicable legal and regulatory standards, failed to address these issues in any meaningful or lasting way. Additionally, Weisz, as SJEC's owner, failed to ensure that his vendors and contractors were fulfilling the terms of their agreements for the benefit of Medicaid beneficiaries.

In response to this report, Weisz, Krausman, and Konig, through counsel, took issue with OSC's reference to the CMS star-rating system, stating that it is a "consumer-facing construct" that is "separate and apart" from regulatory compliance.[36] They argued that "equation of one-star status to Medicaid fraud is fundamentally unsound." Indeed, this report uses SJEC's decade plus of one star-ratings as but one of many data points to illustrate poor quality care at SJEC, including OSC's staffing and documentation analysis and DOH's survey and inspection reports.

E. SJEC's Deteriorating Financial Position

During the five-year review period, SJEC was also in severe financial distress. Between 2018 and 2022, SJEC's debts grew, its assets deteriorated, and its overall business losses piled up. While SJEC's losses were mounting, Krausman, Konig, and their related entities continued to pay themselves millions.

According to the facility's tax records, in 2018, SJEC had $1.5 million in assets; in 2022, SJEC reported just $171,913 in assets—an 89 percent decrease. Meanwhile, SJEC's liabilities significantly increased, from $10.4 million in 2018 to $14.8 million in 2022, a 43 percent increase.

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[36] See New Jersey Task Force on Long-Term Care Quality and Safety, Final Report (April 2024) at 38-39, https://www.nj.gov/health/ltc/documents/nj-task-force-ltc-quality-and-safety-report.pdf (stating that "both DOH and DHS have more State authority to take stronger action against perennial poor performing providers than they have historically used" and urging use of "the Five-Star Quality Rating System").

Tax records also show that SJEC operated with ordinary business losses every year from 2018 to 2022. In total, SJEC reported $4.8 million in losses over the timeframe.

SJEC's tax documents also revealed troubling financial ratios that indicate severe financial distress and possible insolvency. The figure below shows these negative trends in detail.

Figure 4: Financial Ratios

	2018	2019	2020	2021	2022
Owner Equity (Total Assets – Total Liabilities)	($8,862,857)	($9,929,161)	($11,297,451)	($12,509,796)	($14,638,970)
Debt-to-Capitalization Ratio[37] (Total Liabilities / Total Assets)	6.91	7.27	10.63	70.06	86.15
Debt-to-Equity Ratio (Total Liabilities / Owner Equity)	-117%	-116%	-110%	-101%	-101%

- **Negative owner equity**: Negative owner equity continued to grow during the timeframe of OSC's review. Negative owner equity means that a company's liabilities exceed its assets. Generally, if a company's owner equity remains negative, it is considered to be balance sheet insolvent and high-risk. SJEC had negative owner equity of over $14.6 million at the end of 2022.

- **Debt-to-capitalization ratio**: SJEC's debt-to-capitalization ratio increased dramatically from 2018 to 2022. The debt-to-capitalization ratio measures the extent of a company's leverage, meaning how much debt (liability) a business has in relation to its assets, which reflects whether a company has enough funds to meet its obligations. The higher the number, the greater the risk of default on loans and/or other business obligations. SJEC's debt-to-capitalization ratio ballooned from 2018 to 2022, with SJEC having liabilities of almost $7 for $1 of assets to $86 of liabilities for every $1 of assets. This extraordinarily high ratio meant that in 2022, for every $1 SJEC had in assets, it owed $86. By comparison, a 2019 study of Medicaid nursing home cost reports reflected that the average debt-to-capitalization ratio was 0.52, or $0.52 in debt for every $1 in assets, which means that SJEC's ratio was far worse than the average ratio for nursing homes.

- **Debt-to-equity ratio**: The debt-to-equity ratio measures the degree to which a company is financing its operations with debt rather than its own resources. A ratio of one or less typically indicates a company is in a safe financial position; a higher or increasing relative

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[37] In calculating the debt-to-capitalization ratio, OSC employed the approach used in a 2019 study of nursing home cost reports. Harrington, Mollot, Braun, & Williams, *United States' Nursing Home Finances: Spending, Profitability, and Capital Structurem*, INT J SOC DETERMINANTS HEALTH HEALTH SERV., Dec. 19, 2023, https://pubmed.ncbi.nlm.nih.gov/38115716/.

debt-to-equity ratio indicates relative difficulties in obtaining new debt or paying existing debt obligations. A negative debt-to-equity ratio indicates that a company is in financial distress because its assets are less than its liabilities, which means the company may be unable to meet its future debt obligations. During the entire period from 2018 to 2022, SJEC had a negative debt-to-equity ratio. By comparison, a 2019 study of Medicaid nursing home cost reports reflected that the average debt-to-equity ratio was 3.2 (or 320 percent), which stands in stark contrast to SJEC's negative debt-to-equity ratio, which ranged from negative 101 percent to negative 117 percent.

In short, SJEC was in severe financial distress during the entire period of OSC's review.

In response to these findings, counsel for Weisz, Krausman, and Konig noted that OSC's financial analysis was wrong, claiming that whenever the facility needed an influx of cash to meet its expenses, Weisz provided funds from his other nursing homes. To support this, Weisz, Krausman, and Konig presented an alternative set of internal financial information that painted a different picture than what these companies reported to the federal government in their IRS filings. According to these internal records, the reported assets and capital contributions varied by millions from what those companies declared in their IRS filings. These internal figures were presented without any accompanying backup documentation to substantiate them. Given the discrepancies between the internal figures and those filed with the IRS and the absence of supporting evidence, OSC has determined it is appropriate to rely on the companies' official tax filings rather than unsubstantiated internal documents.

Furthermore, although Weisz may provide temporary relief and the appearance of stability, the nursing is still failing financially, and this financial lifeline is contingent upon Weisz's discretion. If he stops providing financial support, SJEC would be unable to meet its financial obligations and pay its debts. The reliance on Weisz to bail out SJEC underscores a fundamental vulnerability in the company's financial health.[38]

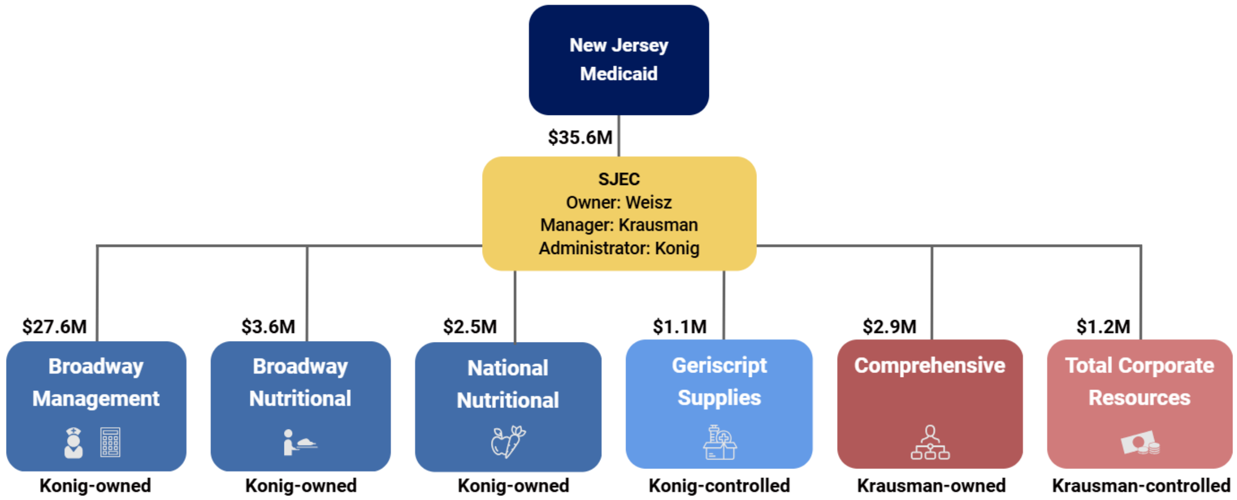
F. Financial Position of Other Entities Owned and Controlled by Krausman and Konig

The financial decisions that led to SJEC's deteriorating financial positions were made by Krausman and Konig, whose entities received almost all of SJEC's money. During OSC's five-year review period, SJEC received approximately $35.6 million in Medicaid funding. During that same period, SJEC paid Krausman- and Konig-owned/controlled entities approximately $38.9 million directly from SJEC's bank accounts, some of which came from non-Medicaid sources. Put another way, Krausman and Konig continued to authorize payment of all or almost all of SJEC's Medicaid funds to entities they owned/controlled, while SJEC failed to provide adequate quality health care to its residents and financially crumbled under the weight of these payments.

[38] OSC again notes that the figures in the response do not agree with the records provided to the IRS; therefore, OSC addressed the argument as a theoretical concept rather than as an established fact.

The chart below shows how much of the approximately $38.9 million each of the Krausman- and Konig-owned/controlled entities received from SJEC during OSC's review period.[39]

Figure 5: Over $38 Million from SJEC to Krausman- and Konig-Owned/Controlled Businesses



Tax returns for four of the six businesses also revealed that these entities profited while SJEC's finances deteriorated. Tax returns for 2018 through 2021 for Comprehensive, Broadway Management, Broadway Nutritional, and National Nutritional indicate that during this period those entities' profits increased by 586 percent, from $4 million in 2018 to $27.2 million in 2021.[40] During this same time period, the financial health of their businesses improved, as demonstrated by their assets growing by $5.3 million more than their liabilities. See Figure 6 below.

Figure 6: Assets, Liabilities, and Income of Comprehensive, Broadway Management, Broadway Nutritional, and National Nutritional

	2018	2021	$ change	% change
Total Assets	$19,845,189	$31,878,900	+$12,033,711	**61%**
Ordinary Business Income	$3,974,053	$27,247,990	+$23,273,937	**586%**
Total Liabilities	$19,429,369	$26,155,346	+$6,725,977	**35%**

When viewing the profitability of these businesses, as compared to SJEC's financial position, which on paper was insolvent, it is clear that the individuals in charge of the facility, who controlled all aspects of SJEC's management and operation, including managing the finances, negotiating

[39] The amount paid to Krausman- and Konig-owned/controlled entities ($38.9 million) may exceed the amount the facility received in Medicaid funding ($35.6 million) either because of delayed payments to these entities or because some of SJEC's revenue came from other sources.

[40] OSC was not provided 2022 tax returns for Comprehensive, Broadway Management, Broadway Nutritional or National Nutritional. OSC was provided with tax returns for Geriscript Supplies, but this entity was not included in the analysis because, although it was controlled by Konig, he did not technically own this entity. Nevertheless, Geriscipt Supplies also reported profits of $1,374,407 between 2018 and 2021.

contracts, writing checks, and budgeting, were more focused on garnering profits for their own business and personal interests than providing vital services to SJEC's residents.

G. Weisz, Krausman, and Konig Individually Profited

It was not just Krausman's and Konig's businesses that benefited from their control of SJEC; Weisz, Krausman, and Konig themselves all personally profited while SJEC's finances deteriorated. All three individuals had the authority and responsibility to provide an adequate level of services to SJEC's residents and could have reduced SJEC's expenses, chosen not to take distributions, renegotiated contracts, and taken other steps to meet the needs of SJEC's residents and avoid the growing losses at SJEC. But, except in extremely limited circumstances, they chose not to take those steps. Instead, they all chose to receive large payments from companies they owned/controlled.

As an example, SJEC, under Krausman's management, continued to approve distributions to Weisz,[41] using funds that SJEC critically needed for its operations. The most egregious example occurred in 2020, at the height of the COVID-19 pandemic, when Weisz received a distribution of more than $1.1 million despite SJEC reporting losses of nearly $255,020 that year. That is, at a time when the nursing home's expenses already exceeded its revenue, Krausman and Weisz determined it was appropriate to take over a million dollars out of the business during a global pandemic. In total, based on a review of bank records, Weisz extracted at least $1.3 million from SJEC during OSC's review period while, by his own acknowledgement having "absolutely no" involvement in running the business. This occurred all while the facility was reporting business losses every year of OSC's review, totaling $4.8 million in losses. (The majority of the funds Weisz received were notably deposited into TCR's account and not paid directly to Weisz.)

These distributions to Weisz, and SJEC's continued losses, increased Weisz's negative capital account in SJEC by approximately $7 million, or 78 percent. This is problematic as a consistently increasing negative capital account typically indicates financial instability, cash flow shortfalls, and a limited ability to reinvest in operations. Additionally, a negative trending capital account can indicate poor financial management and/or excessive distributions. Ultimately, a negative capital account jeopardizes a company's long-term viability and success. In short, Weisz was benefitting personally at the expense of SJEC's viability. As of December 2022, Weisz had a negative capital balance of approximately $15.8 million.[42]

Krausman and Konig also profited during this time. A review of all available tax returns for the four entities Krausman and Konig had controlling ownership of—Comprehensive, Broadway Management, Broadway Nutritional, and National Nutritional, which provided services to a total of ten New Jersey nursing homes—shows that between 2018 and 2021, the businesses collectively allocated $45.5 million in profits to Krausman and Konig.[43] These businesses are all

[41] Notably, Krausman also controlled the decision to make the distributions, as approval over expenditures were within his authority. Mr. Weisz did not even have signatory authority on SJEC's bank accounts.
[42] Generally, if a partnership (or an LLC taxed as a partnership) liquidates, any partners with negative capital balances are required to repay the amounts owed to the partnership.
[43] These related businesses generate revenue from multiple sources, so not all profits are attributable to SJEC. Notwithstanding, the majority of the revenue generated by the related parties came from SJEC and the nine New Jersey nursing homes identified in Appendix A.

pass-through limited liability corporations (LLCs). This means that when each LLC generates profits or losses, they flow through the business directly to the owners. The owners then report profits or losses on their individual tax returns and can choose to leave the money in the company for business purposes or move profits or other resources out of the entities. Between 2018 and 2021, Krausman's businesses reported profits of $7.4 million and Konig's businesses reported profits of $38.1 million. Based on the pass-through nature of these businesses, OSC reviewed distributions taken from these entities by Krausman and Konig and found that Krausman took distributions totaling $9.3 million and Konig took distributions totaling $34.4 million. A further review of tax returns found that in addition to taking distributions of $34.4 million, Konig also owes $14.2 million in loans to businesses he owns. According to counsel, no loan documentation existed between the related entities and any of the partners.

In sum, from 2018 to 2022, while entities controlled by Krausman and Konig received substantial sums to provide operational and administrative services to the residents of SJEC, they personally received payments of almost $44 million from companies they owned/controlled. At the same time, they starved SJEC of available cash, thereby advancing their corporate and personal self-interests over SJEC's financial interests and the well-being of the residents who lived at SJEC.[44]

H. Krausman- and Konig-Owned Companies Failed to Provide Contracted Services, Wasting Public Funds

OSC's investigation also revealed that Krausman and Konig and their related entities failed to provide critical goods and services that they were contractually obligated and paid to provide. Krausman and Konig sought to maximize profits by conducting their businesses in ways that minimized the services provided and minimized costs, in order to boost their profits. By serving in the dual role of customer (SJEC) and vendor, Krausman and Konig ensured that the customer never complained. They profited handsomely through this scheme, which led to fraud, waste, and abuse of public funds.

Pursuant to state and federal law, Medicaid providers are subject to paying restitution and penalties to the Medicaid program if they submit claims to the Medicaid program that are knowingly false. Moreover, N.J.A.C 10:49-9.8 states that all providers in the Medicaid program (including nursing homes) must certify that the information included in the claim for payment is true, accurate, and complete. Providers must keep records that "disclose fully the extent of services provided," to furnish information about such services as the Medicaid program may request, and if the documentation does not support that the services were rendered, Medicaid may recoup any improper payments. The regulations further state that when a provider, or nursing

[44] In response to OSC's findings, counsel for Krausman and Konig argued that the referenced distributions were a "return of capital" and not profits. This assertion contradicts federal tax filings by their related entities. The tax filings showed capital account balances of $3.3 million in 2018, comprised of prior contributions and accumulated profits and losses before 2018. Those balances were far less than the nearly $44 million in total distributions reported between 2018 and 2021 to Krausman and Konig. During this period, tax filings reported that there were no reported contributions to the businesses. Therefore, the difference between the account balances totaling $3.3 million and subsequent distributions to Krausman and Konig shows that for IRS tax filing purposes the distributions were primarily profits, not prior capital contributions.

home, contracts or subcontracts with a vendor for such services, the vendor is held to the same standards. The Medicaid program can recoup any improper payments from the provider or the vendor and impose penalties and sanctions as necessary.

OSC's investigation revealed that SJEC and its residents did not receive the full extent of services that Krausman and Konig were paid to provide. Yet, unsurprisingly, SJEC, by its submission of claims for payment and receipt of Medicaid funds, certified that it rendered the services billed and its claims for payment were true, accurate, and complete. In reality, Krausman's and Konig's businesses overbilled for goods/services, provided insufficient staffing, employed unqualified personnel, delivered poor management services, failed to monitor finances adequately, did not document critical medical information, and regularly failed to comply with applicable regulatory requirements.

Appendix C details contracts that SJEC entered into with Krausman- and Konig-owned entities, the services these entities were paid to provide, and the contract costs for the services.

1. Comprehensive Failed to Provide Adequate Management Services

Comprehensive entered into a series of management contracts with SJEC to provide operational, accounting, and financial oversight for the facility at a cost of seven percent of SJEC's gross revenues, plus $90,000 annually for the cost of an Administrator and $84,000 annually for the cost of an Assistant Administrator.

As the "operating manager of the Facility," Comprehensive was responsible for the day-to-day business activities, management, and operation of the facility. This included, among other things, overseeing the nursing care for residents, overseeing the facility's finances and administration, procuring necessary goods and services, ensuring compliance with statutes and regulations, ensuring proper staffing, negotiating contracts, preparing a budget, managing the facility's cash flow, and supervising disbursements from the facility's bank accounts.[45]

But OSC's investigation revealed that Comprehensive failed to provide many of the management services it was contracted to provide. Under Comprehensive's management, SJEC failed to meet basic minimum legal requirements for staffing, medical documentation, and patient care. Comprehensive also failed to provide sufficient financial and administrative support. In fact, as noted above, SJEC suffered significant losses, year after year, with a debt ratio so high that it was technically insolvent and in serious risk of default. Meanwhile, Krausman/Comprehensive continued to pay owner distributions to Weisz out of SJEC's accounts and continued to pay related parties amounts SJEC could not afford, for services it did not receive.

Although Comprehensive's management contract provided that all contracts for goods, services, and personnel "shall be for fair market value and entered into on an arm's-length basis," Krausman admitted that did not happen; none of the major contracts was competitively procured. He acknowledged that he "used Broadway in all the facilities [he] managed" and that once the

[45] See Appendix C for a more complete list of Comprehensive's contractual duties.

contracts were negotiated, the terms “pretty much stayed the same” year after year. Krausman and Comprehensive neglected to ensure that SJEC received even the minimum staffing and other services needed to operate SJEC in a legally compliant manner.[46]

In addition, as the facility’s manager and as the employer of the Administrator, Comprehensive was responsible for addressing and rectifying the many issues identified in this report, namely, adverse DOH inspection and survey findings, quality of care issues, staffing shortages, and documentation deficiencies, but it failed to do so.

2. Broadway Management Failed to Provide Services under Nursing and Infection Control Contract

Broadway Management entered into multiple contracts with SJEC to provide “Nursing and Infection Control” services. Pursuant to these contracts, Broadway was to provide nursing staff, including the Director of Nursing and all other nursing and ancillary staff (such as certified nurse aides/assistants (CNAs), registered nurses (RNs), and other direct care staff). In 2021, the contract provided that these services would cost SJEC $4,777,500 annually. In 2022 and 2023, the cost increased to $5,398,575 annually.[47] Under these contracts, Broadway Management was to provide and compensate all necessary nursing personnel, ensure all personnel were appropriately licensed, and ensure that nursing care was provided and documented in accordance with applicable standards.[48] These contract costs were fixed; they did not vary based on the number of staff Broadway provided. This meant that even if Broadway Management failed to supply sufficient staff for the facility in accordance with legal requirements, it would still receive the same amount of money from SJEC.

OSC found that Broadway Management knowingly failed to provide SJEC the services required under the Nursing and Infection Control contract, as demonstrated by the length, severity, and duration of its failures, all in an effort to increase profits. Specifically, Broadway Management (1) failed to provide a sufficient number of direct care staff to meet legal requirements; (2) failed to consistently provide an adequately licensed and qualified DON; (3) failed to provide a qualified person to coordinate resident assessments; and (4) failed to ensure that documentation and recordkeeping requirements were met.

a. Failure to Provide Sufficient Qualified Direct Care Staff

OSC found that Broadway Management failed to provide SJEC the services required under the Nursing and Infection Control contract by failing to provide a sufficient number of qualified direct care staff to meet legal requirements. N.J.S.A. 30:13-18a established the following minimum staffing ratios:

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[46] SJEC’s owner, Weisz, shares the blame for this failure. Pursuant to his agreement with Comprehensive, Weisz could have taken steps to address SJEC’s obvious failures to meet statutory and regulatory requirements by reviewing and obtaining SJEC’s operating budgets, financial reports, and upcoming capital expenditures. But there is no evidence suggesting that Weisz took even these basic steps to ensure that the facility he owned complied with legal requirements.

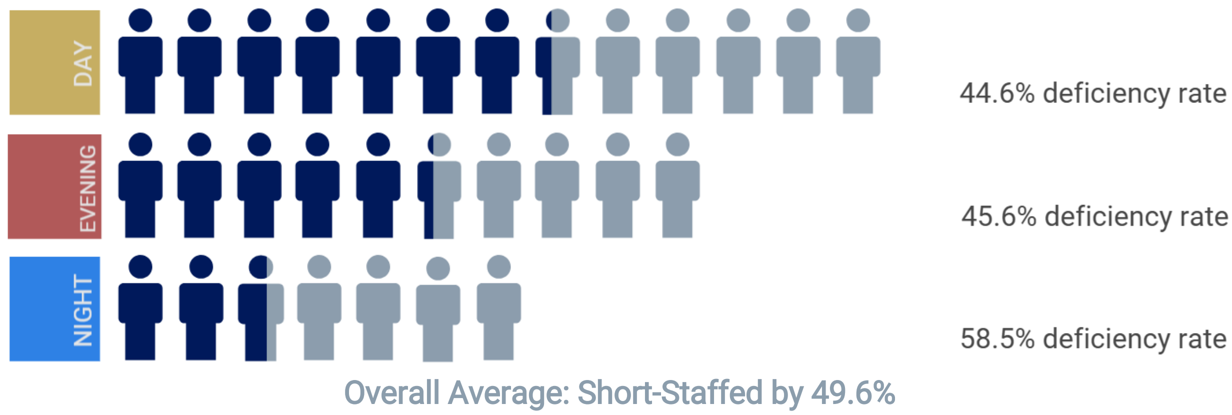
[47] SJEC did not have or could not provide its contracts with Broadway Management prior to 2021.

[48] See Appendix C for a more complete list of Broadway Management’s contractual duties.

- For the day shift (7:00 am to 3:00 pm): one CNA for every eight residents.
- For the evening shift (3:00 pm to 11:00 pm): one direct care staff member for every ten residents. No fewer than half of all staff members have to be CNAs and each staff member must be signed in as a CNA and performing CNA duties (feeding, turning, showering, etc.).
- For the night shift (11:00 pm to 7:00 am): one direct care staff member to every 14 residents provided that each direct care staff member shall sign in to work as a CNA and perform CNA duties.

OSC reviewed direct care staffing on a sample of 75 days within a two-year period from February 2021 to February 2023. OSC found that SJEC fell far short of required minimum direct care staffing levels every single day — 75 of 75 days — in OSC's sample review period. A significant reason for these shortages was SJEC's failure to use appropriately qualified staff. OSC only considered direct care staff **who were signed in as CNAs and appropriately qualified** in this analysis. OSC included temporary nursing assistants (TNAs) in its analysis, but did not include TNAs who did not meet applicable requirements. On average, SJEC was short-staffed by almost 15 full-time equivalent (FTE) people each day that OSC reviewed, a deficiency rate of almost 50 percent, ranging from 26.2 percent on SJEC's most well-staffed day to 75.9 percent on SJEC's worst-staffed day.[49] The shortages were so consistent throughout the 75 days OSC reviewed that they cannot be considered an anomaly—this was Broadway Management's normal level of service for the facility during OSC's two-year review period. This was not a short-term, unintentional failure to meet staffing requirements but an intentional and repeated misuse of public funds with the goal of maximizing corporate and personal profits. Konig maximized profit by failing to provide sufficient qualified staff, and Krausman, as the day-to-day operator of SJEC, allowed him to get away with doing so. Taken together, these efforts reveal wasteful and abusive spending for services SJEC did not receive and an intentional effort to defraud the Medicaid program.

Figure 7: Average Deficiency Rate per Shift from February 2021 to February 2023



[49] See Appendix D for a detailed analysis of the number of deficient staff per day.

The following examples illustrate specific, egregious instances of understaffing under N.J.S.A. 30:13-18a, but inadequate staffing persisted throughout the review period. As noted above, OSC only included direct care staff in the analysis who met the regulatory requirements.

- On July 4, 2021, SJEC had 106 residents, requiring 13 CNAs to staff the day shift and 8 direct care staff for the night shift. Instead, SJEC had only three CNAs from 7:00 am to 9:00 am, four CNAs from 9:00 am to 3:00 pm, zero direct care staff from 11:00 pm to 12:00 am, and two direct care staff from 12:00 am to 7:00 am. This means that SJEC only had 4 of 13 required CNAs for the day shift and 2 of 8 direct care staff for the night shift.
- On October 17, 2021, SJEC had 104 residents, requiring 13 CNAs to staff the day shift and 10 direct care staff employees to staff the evening shift. Instead, there were three CNAs from 7:00 am to 8:00 am, four CNAs from 8:00 am to 3:00 pm, and zero qualified employees staffing the evening shift. In total, including the night shift, 30 direct care staff were required this day, and only 8 were present, resulting in an average deficiency rate of 71 percent.
- On January 17, 2022, SJEC had 106 residents, requiring 8 direct care staff for the night shift. SJEC only had one direct care staff member from 12:00 am to 6:00 am and zero direct care staff from 6:00 am to 7:00 am. In total, including the day and evening shifts, for this day, SJEC had an average deficiency rate of 64 percent.

As detailed above, Broadway Management's contract for "Nursing and Infection Control" services required Broadway Management to provide all personnel necessary to provide nursing services for the facility, including "[a]dequate licensed nursing and certified ancillary nursing personnel to ensure the Facility's full compliance with all applicable federal and State licensure, certification and accreditation standards." Despite that unambiguous contract language and despite having been paid millions of dollars annually to provide these services, during OSC's review period, Broadway Management failed to meet these **minimum requirements**. Had SJEC spent an additional $1.1 million on staffing, instead of distributing it to Weisz, for example, SJEC could have easily satisfied staffing requirements by hiring more qualified CNAs.

In response to this report, SJEC claimed that OSC improperly omitted TNAs in its staffing analysis. This is incorrect; OSC counted TNAs who satisfied the DOH's April COVID-19 waivers criteria in its analysis. OSC excluded certain individuals because they failed to satisfy the conditions set forth in waivers; namely, they did not complete the Temporary Nurse Aide eight-hour training, or SJEC failed to complete the TNA Skills Competency Checklist for the TNAs at issue. OSC notes that some of those individuals also may not have qualified as TNAs due to what appear to be disqualifying convictions predating their employment such as shoplifting, assault, and endangering the welfare of a child.[50]

[50] SJEC also provided additional documents including timecards for seven individuals. Of the seven, only one individual met the requirements set forth in N.J.S.A. 30:13-18a for direct care staff. However, OSC did not include this person in its analysis because the documentation submitted to demonstrate she was working on a certain date was a handwritten insertion that was not corroborated by the payroll-based journal entries for the day in question.

b. Failure to Provide a Properly Licensed and Qualified Director of Nursing

SJEC's contract with Broadway Management also states that the company will provide a full-time Director of Nursing "who shall be responsible for supervising all nursing personnel and who shall be a New Jersey registered professional nurse (R.N.) who shall have had at least two (2) years of supervisory experience in providing care to long term care residents." These requirements mirror New Jersey law.[51]

Despite that contract language and the statutory requirement for this role, from April 1, 2020 through September 21, 2020, a nearly six-month period,[52] SJEC did not have a qualified person in that position. Instead, SJEC's Director of Nursing (DON) during this period was a licensed practical nurse (LPN), a lesser qualification than RN. As an LPN, the DON did not have two years of supervisory experience as an RN.

In response to this finding, SJEC submitted a list of employees, multiple DCA license verifications, and an illegible license, which purportedly established that SJEC had an RN as Director of Nursing for all of 2020. The documents submitted, however, do not establish that any of those individuals held the position of DON during the period of time identified by OSC. Nor were any of them listed as DON on SJEC's submissions to CMS, or on the timesheets SJEC submitted to OSC. SJEC did not submit credible documentation demonstrating that the DON referenced above held an RN license and was therefore qualified to serve as DON during the period in question.

In addition to failing to have a qualified DON for six months in 2020, OSC found that SJEC also failed to have a qualified DON from December 2021 through June 2022. SJEC records identified another individual as holding the DON position and working as an RN from December 2021 through June 2022, when, in actuality, that individual never held an RN license. This individual was, at one time, an LPN, but that license expired in 2007. The State Board of Nursing suspended this person's LPN license in the spring of 2010 after she failed to respond to Board requests for information triggered by her arrest on charges relating to forged prescriptions and allegations that she was practicing with an expired license. Despite the fact that she was unlicensed, SJEC's internal records falsely represented that she was an RN and DON. SJEC also improperly submitted applications to DOH with certifications by this individual attesting that applicants seeking to become CNAs had demonstrated adequate competency while working as Temporary Nurse Aides (TNAs) at the facility, an attestation that could only be lawfully provided by a DON who was an RN, which this person was not.

In an attempt to refute this finding, SJEC submitted a photocopy of an RN license purporting to establish this person's credentials. However, the RN license number appearing on the document is held by someone other than the identified employee, strongly suggesting that the document produced was fabricated. Additionally, DCA's license verification system indicates that the employee identified by OSC does not hold any license to practice nursing in New Jersey. When

[51] N.J.A.C. 8:39-25.1.

[52] The earliest payroll-based journal data available from CMS is Quarter 2 of 2020, so it could have been longer.

the seemingly fabricated RN license was brought to SJEC's attention, counsel for Konig, Weisz, and Krausman denied that SJEC had any "independent basis to confirm or deny" whether their former DON had a valid license in the State of New Jersey while working at SJEC. OSC notes that providers have an ongoing obligation to verify the license status of persons they employ or contract with and have been on notice of this obligation since at least 2016, including direction on which publicly available databases they should check on a monthly basis.[53]

c. Failure to Provide a Qualified Individual to Conduct or Coordinate Resident Assessments

The Minimum Data Set (MDS) is a highly technical assessment that the federal government requires nursing homes to complete for each new resident within a specified timeframe after admission, including quarterly updates and additional reassessments upon a resident's change in certain conditions. The MDS forms the basis of all care needs for each resident. By state and federal regulation, an RN must conduct or coordinate each assessment with the appropriate health professionals. Additionally, the RN must sign and certify that the assessment is completed, while each individual in the care team similarly signs and certifies to the accuracy of the portion each conducted.[54] The nursing home must transmit this assessment to CMS, which uses it to determine whether an individual is qualified for nursing home services.

During OSC's review period, SJEC's records identified three individuals who held the position of MDS Coordinator, each of whom appear to have conducted and/or coordinated assessments for residents at SJEC. Of the three, two were not RNs, despite the requirement that only RNs may coordinate and certify assessments. One of these individuals, an LPN, held that position beginning prior to OSC's review period through at least August 24, 2021. The other individual, also an LPN, held that position from at least January 8, 2019 through December 21, 2021.

The third individual identified by SJEC as the MDS Coordinator was appropriately licensed as an RN. Nevertheless, when OSC interviewed this individual, she revealed that she was attempting to effectively work in this role full-time at both SJEC and Sterling Manor in Maple Shade, another low-performing one-star facility owned by Weisz, managed by Comprehensive, and staffed by Broadway Management – because SJEC was late in completing these assessments. She revealed that she had been working at Sterling Manor since 2019, and, in October 2022, she was asked to "help out" at SJEC because SJEC was "very behind" on completing these assessments. While she was "helping out" at SJEC, the previous MDS Coordinator at SJEC purportedly left due to illness and did not return. As a result, according to this individual, she split time between the two facilities, working full-time at Sterling Manor, and spending only Sundays and occasionally Wednesday evenings at SJEC.

During this time period, DOH repeatedly cited SJEC for MDS-related deficiencies. DOH's citations for MDS deficiencies were similar to OSC's findings, including that there were unsigned assessments and inconsistencies between diagnoses and medical determinations in residents' plans of care and the corresponding MDS records.

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[53] DMAHS Newsletter Vol. 26, No. 14 and Vol. 33, No. 02.
[54] 42 CFR 483.20(h)–(i); N.J.A.C. 8:39-11.

In response to these findings, SJEC argues that it fully complied with applicable legal requirements because “every single MDS was reviewed, approved, and signed by a duly licensed RN.” Yet, SJEC admits that it used individuals without an RN to coordinate resident assessments because of SJEC’s apparent mistaken belief that RNs merely approve and submit the MDS. This is inaccurate, as per the plain language of the federal regulation: “A registered nurse must **conduct or coordinate** each assessment.” (Emphasis added.) SJEC, however, confirmed using individuals who did not hold an RN license in the coordination of these assessments, in direct violation of the law.

d. Failure to Ensure Nursing Staff Complied with Documentation and Quality of Care Standards

As discussed in more detail below, SJEC failed to comply with many documentation and quality of care requirements nursing homes must meet. Broadway, the Administrator, and the Director of Nursing all were responsible for ensuring these standards were met and that nurses, CNAs, and other nursing professionals provided the appropriate care, medication, and assistance. OSC’s findings and DOH’s inspection and survey results demonstrate that Broadway failed to provide this oversight.

Despite Broadway’s extensive and significant deficiencies in meeting contract deliverables, during the two-year timeframe of OSC’s staffing review, Broadway Management charged SJEC a total of nearly $10.2 million. In 2022, Krausman, on behalf of SJEC, agreed to increase the cost of the contract by an additional $621,075 even though SJEC had just reported overall losses of almost $1.2 million for the prior year. In other words, at a time when the facility was suffering financially, Krausman increased payments to a related party owned by Konig, his brother-in-law, even though that entity was already failing to provide the services it was required to provide. This decision reflects an egregious level of profiteering by Konig and Krausman.

3. Broadway Management Failed to Provide Adequate Bookkeeping and Administrative Support Services

Broadway Management also entered into a series of contracts with SJEC to provide Bookkeeping and Administrative Services. Under these contracts, Broadway Management agreed to provide administrative support services and personnel, as well as financial reports, cost control recommendations, compliance monitoring, accurate books and records, and oversight of procurement, payroll, and accounts payable, among other tasks.[55] In exchange, SJEC would pay Broadway Management $444,000 annually from 2021 to 2023. But OSC found that many of these key functions, which appear to presume an arm’s-length relationship, were compromised by Broadway’s conflicts of interest, which led to the clear waste of public funds.

For example, part of Broadway’s role was to provide SJEC with cost breakdowns, financial reports, and recommendations for cost savings. Broadway was also supposed to use “best efforts” to ensure that SJEC procured routine goods and services on the “most advantageous terms” to the facility. An entity performing this role might have recommended cutting ties with vendors who

[55] See Appendix C for a more complete list of Broadway Management’s contractual duties.

continuously failed to perform (such as Broadway Management under the nursing contract or Comprehensive under the management contract) or might have recommended renegotiating or re-procuring contracts with vendors whose services the facility could not afford. No doubt because doing so would have meant that Broadway would have reduced its own profits and control, these substandard vendors continued in their contracted roles for years, which led to waste of public funds. The people who were responsible for policing the vendors were the vendors; they were overseeing themselves. The clear self-interest here eliminated any incentive to control costs and created a conflict of interest for Krausman and Konig that any prudent business owner would have addressed, but Weisz failed to do so because he was not in control. And the people who were in control – Krausman and Konig – were profiting while failing to ensure residents received care that met required standards and was properly documented.

Comprehensive, Broadway Management, and Konig as Administrator all had the responsibility to ensure that SJEC met resident care standards and complied with all regulatory requirements, including documentation and licensure requirements. But OSC found serious documentation issues, troubling DOH survey and inspection reports, and a failure to provide properly licensed professionals in certain key roles.

a. Failure to Prevent, Detect, and Remediate Serious Documentation Issues

To test compliance with documentation standards, OSC selected a random sample of 34 residents from a nearly five-year period from April 2018 through March 2023.[56] OSC reviewed these residents' complete medical charts and found severe deficiencies in the medical documentation and recordkeeping for virtually every file reviewed.[57] See Appendix E for a summary of these deficiencies. OSC's investigation found Comprehensive, Broadway, and Konig as Administrator each failed to fulfill their respective responsibility to ensure the facility provided the necessary services to residents and properly documented those services – resulting in a waste of Medicaid funds.

OSC's documentation review found the following:

- <u>Electronic Health Records</u>: SJEC did not transition to electronic health records (EHR) in 2021, as required by N.J.S.A. 26:2H-12.95.[58] The lack of EHR, and SJEC's reliance solely on paper records and paper charts, was one of the most glaring, yet addressable,

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[56] The exact review period was April 1, 2018 to March 17, 2023.

[57] Of the 34 resident files reviewed, 20 residents were under the age of 60 during their time at SJEC. The age of residents in the sample ranged from 26 to 80 years old. Over 58 percent of residents were under the age of 60. The majority of the residents in the sample were short-term residents, with some staying at the facility for as little as one day. On average, most residents resided at SJEC for a few months. Only 7 of the 34 residents reviewed stayed for long terms, ranging from stays of 1 year and 9 months to 4 years and 10 months.

[58] The only medical documentation that was available in an electronic format at SJEC was the Minimum Data Set (MDS) assessment, a federally mandated assessment tool. The MDS is required by CMS to be maintained and submitted electronically.

shortcomings observed by OSC during the review. Not only does this present significant risks of records being misplaced, lost, or destroyed, it makes transmission to other providers of pertinent medical information difficult. Further, the hardcopy paper charts reviewed by OSC were woefully disorganized, challenging to read, and missing critical documents, in violation of N.J.A.C. 8:39-35.2(c) and (g) and 42 C.F.R. 483.70(h).

- Plans of Care: SJEC lacked required plans of care for about 35 percent (12 of 34) of the residents in OSC's sample.[59] 42 U.S.C. 1396r. OSC applied a lenient standard in determining whether a plan of care was present and considered and counted any plan of care, whether or not it had been properly updated.[60] A plan of care is required for every resident and contains key information related to each resident's medical history, conditions, treatments, medications, and therapies and should be used on a daily basis to guide what care is provided. A missing plan of care makes it extremely difficult to determine, for example, what kind of food a resident may eat; what services a person needs and what type of staff should provide those services; and whether a person has memory or mental health issues. SJEC's failure to create and retain care plans for residents presented serious risks to patient safety and care.[61]

- Medication Administration Records: In 23 percent of the claims OSC reviewed (102 of 438 claims), SJEC failed to maintain the medication administration record (MAR) in the resident's chart.[62] The MAR is the document that records each time a nursing home staff member administers medication to a resident. It contains information about a resident's prescription regimen, including type, dose, administration time, and any special instructions. It also documents whether staff administered medication as ordered and whether the resident suffered any adverse effects.

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[59] Nursing homes submit care plans to the resident's MCO when a resident is admitted to the nursing home. For those residents for whom SJEC did not maintain a plan of care, OSC reached out to the MCO to request any plan of care. In four cases, the MCO was able to provide these documents to OSC. When an MCO provided OSC with a plan of care, OSC gave SJEC "credit" for maintaining the document, even though SJEC itself did not meet its record retention and documentation obligation. For the 12 residents noted, neither SJEC nor the MCO could provide OSC with a plan of care.

[60] Issues with SJEC's plans of care were also noted in DOH surveys of the facility. These surveys confirmed issues at the facility with either staff not following or failing to update residents' plans of care. For example, during a survey conducted on June 8, 2020, DOH determined that facility staff failed to update or revise a resident's plan of care after reviewing medical records and other pertinent facility documents. As a result, SJEC's records failed to address the needs of the resident to include mood and behavior problems and implement appropriate interventions for safety. DOH noted that the facility failed to follow their policy titled "Using the Care Plan."

[61] SJEC subsequently produced eight additional care plans associated with seven residents. Four of the residents were not in OSC's sample and, therefore, would not alter OSC's findings. Two care plans were duplicates that OSC had previously reviewed and credited. However, claims associated with these residents were still deficient because the records lacked other pertinent information, including MARs and ADL logs. For the final resident, SJEC submitted a care plan not previously provided. OSC adjusted its finding above to account for this additional documentation. However, claims associated with this resident remain deficient because the records still lacked MARs and ADL logs.

[62] These claims account for 20 of the 34 residents in OSC's sample.

- Activities of Daily Living Logs: SJEC also failed to document any assistance provided with ADL. ADLs are basic and essential life activities such as eating, dressing, getting into or out of a bed or chair, taking a bath or shower, and using the toilet. N.J.A.C. 10:166-2.1. Of the 34 residents in OSC's sample, all 34 needed some form of assistance with an ADL. To ensure that these residents received the assistance they needed, SJEC staff (CNAs) should have documented the ADL services they performed. OSC did not find a log in any of the residents' charts showing CNA assistance with ADLs. SJEC informed OSC that it did not maintain these logs. Without this documentation, there is no way to know what type of ADL assistance SJEC staff provided, when staff provided assistance, which staff provided assistance, and whether staff provided assistance at all. SJEC's failure to document ADLs necessarily lowered the quality of care provided to residents because without this critical information SJEC staff did not have information it needed to perform its job duties appropriately.

b. DOH Surveys and Inspections Identified Severe and Recurring Failures

OSC also reviewed DOH surveys and inspection reports from 2019 to 2024 and found persistent troubling issues. DOH's surveys and inspections provide snapshots but are not designed to and do not identify all problems that occur in a facility. DOH's findings at SJEC paint a picture of a poorly run facility that regularly failed to meet minimum standards. These deficiencies include consistently failing to properly document what care was needed and what care was given – or not providing care at all – and failing to maintain the facility in a clean or safe manner. This endangered residents, resulted in substandard quality of care, and showed the nursing home failed to prioritize the well-being of residents in accordance with state and federal requirements. DOH's surveys found severe and recurring problems that negatively affected the care of SJEC residents. These included multiple findings of immediate jeopardy, repeated citations for improper administration of medication, several violations that involved abuse and neglect of residents, repeated citations for failure to properly document resident care and ensure proper care, various citations related to food safety, and citations for failing to maintain a safe and clean facility. A more detailed summary of these citations is included in Appendix F.

c. Failure to Adequately Staff Facility with Properly Licensed Individuals in Key Roles

In addition to failing to consistently provide a qualified DON and a qualified person to coordinate resident assessments, SJEC also failed to employ a licensed social worker during the timeframe of OSC's review. Pursuant to N.J.A.C. 10:166-2.6(d) and 8:39-39.3(a), a nursing home must provide a minimum of one full-time social worker for every 120 residents, with an average of at least 20 minutes of social work services per week for each resident. The social worker must be certified or licensed by the New Jersey State Board of Social Work Examiners.

Under state law, "[s]ocial work services shall have as their fundamental purpose the enhancement of a resident's sense of well-being and control over [the resident's] life to the fullest extent possible." Among a long list of duties, social workers are supposed to help residents with "emotional reactions to pain and functional loss, interpersonal conflicts, fear of death, and other issues impacting on the quality of life." Social workers are required to "assist residents in discharge to community living" and are required to "serve as primary advocates for the resident" in the nursing home.

During OSC's review period, SJEC's records identified five individuals as working in the Social Services Department, including as the Director of Social Services and other "Qualified Social Workers." In fact, none of these five individuals was a qualified social worker, as none held any certifications or licenses in social work.[63] Moreover, SJEC's records indicate that no one, qualified or not, was providing these services for nearly the entire month of January 2022.[64]

OSC interviewed a prior SJEC Director of Social Services who also was acting as SJEC's sole social worker at the time. According to this individual, SJEC neglected to fill the key role of Director of Social Services for some time and did not even have any social worker on staff "for a while before [she] got there." During the interview, this individual also confirmed that she did not have any professional licenses or certifications, nor did she have any vocational training.

It was during this individual's employment that DOH cited SJEC with a deficiency for failing to employ a qualified social worker. DOH's survey revealed that this individual did not have "much of an orientation" when she first started, that she shadowed another social worker at a different facility for one day, and that she "learned as [she] went along." DOH also confirmed that when she was hired "the facility had not had a [social worker] for months." Instead, another unqualified individual (an uncertified CNA) was also inappropriately providing social work services.[65] DOH's survey team also interviewed SJEC's Administrator, who was Michael Konig at the time of the survey, who admitted that he would have been responsible for hiring the Social Worker and ensuring the credentials were adequate.

In fact, Konig testified that SJEC "absolutely" had a licensed social worker on staff. But in response to this finding, counsel for Weisz, Krausman and Konig argued essentially that they were close enough to satisfying the regulation, offering the resume of an unlicensed person with a Bachelor's degree, and also claiming they sometimes used an unidentified person with a Master's degree as an "outside consultant." SJEC did not submit any proof showing it had a licensed social worker on staff, as plainly required by N.J.A.C. 8:39-39.2.

As with the other services SJEC contracted for but did not receive, Comprehensive, Broadway, and Konig as Administrator were all responsible for ensuring that properly qualified individuals filled these key roles in accordance with standards.

The documentation and quality of care deficiencies noted above could have and should have been detected at various levels of management and corrective action imposed to rectify these issues. Konig, as the Administrator, had responsibility to ensure that necessary care was being provided and properly documented. Broadway Management, as part of the nursing contract, had responsibility to ensure that nurses and direct care staff were properly trained and performing and documenting all necessary tasks. Comprehensive, as manager of the facility, had the ultimate

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[63] SJEC's lack of a qualified social worker predates OSC's review period, as SJEC was cited by DOH for failing to employ a qualified social worker in December 2015.

[64] Although SJEC's payroll-based journal data indicates that one individual worked as a "qualified social worker" within those periods, SJEC's timecard records reflect she was only "clocked in" as a CNA, not as a social worker, despite her CNA certification expiring in 2015.

[65] This same employee was also "clocked in" as a CNA, at the same time she was purportedly providing "social work services." She was not qualified to perform either of these duties.

responsibility to make sure that these basic and critical functions were being performed and documented. And, Weisz, as SJEC's owner, had legal responsibility, as the licensed operator, over all facility operations and compliance. All of these individuals and entities bear responsibility for these failures and the resulting waste of public funds ostensibly paid to provide these services.

I. SJEC Paid Inflated Costs for Supplies and Services, Resulting in Waste of Medicaid Funds

1. Contract Amounts were Fixed and Not Based on Actual Cost of the Goods or Services

Federal regulations have made clear that costs to related parties "are includable in the allowable cost of the provider **at the cost to the related organization.** However, such cost must not exceed the price of comparable services, facilities, or supplies that could be purchased elsewhere." (emphasis added). The CMS Provider Manual echoes this, noting that the "purpose of this principle is two-fold: (1) to avoid the payment of a profit factor to the provider through the related organization (whether related by common ownership or control), and (2) to avoid payment of artificially inflated costs which may be generated from less than arm's-length bargaining." Yet, this investigation showed that SJEC, year after year, paid fees to related entities that clearly exceeded the related parties' costs for the goods or services. And SJEC's nearly exclusive reliance on related-party contracts resulted in the artificially inflated costs that CMS does not allow.

A review of SJEC's contracts and associated invoices reflect that the price terms and payments were not based on the actual cost of goods and/or services to the related party. This was true for all of the Konig-owned- and controlled entities identified in this report.[66] When asked about this payment structure, Konig confirmed that contract payments were not based on the cost to his company and that if the actual cost of the goods or services was less than the contract amount, his company would retain that excess amount as profit. These inflated costs clearly are prohibited by CMS as allowable costs, a fact that Konig should have been aware given that his company, Broadway Nutritional, was the subject of 2011 litigation involving "fictitious dollar amounts" reported for raw food dietary supplies that were not based on actual costs.[67.]

OSC's investigation revealed that this flat fee payment resulted in what appears to be extremely high profits to Konig-owned or -controlled entities, for things such as food, medical supplies, and staffing, with comparatively little spent on the actual goods or services provided to SJEC. This

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[66] All contracts with Konig-owned or controlled entities were not based on actual costs, including Broadway Management's Bookkeeping and Administrative Support Services contract, Nursing and Infection Control contract, Broadway Nutritional's Dietary Services contract, and National Nutritional's Food contract.
[67] The 2011 litigation was a consolidated administrative matter involving six nursing homes contracting with Broadway, including Oceana Rehab and Nursing Ctr. See Royal Health Gate Nursing and Rehab. v. Dept. of Health and Senior Servcs. The facilities whose costs were reclassified as a result of the audit in this case were six of the nursing homes mentioned in this report: Royal Health Gate Nursing & Rehabilitation, Sterling Manor, Shore Meadows Rehab & Nursing Center, Manahawkin Convalescent Center, Teaneck Nursing Center, and Oceana.

arrangement obviously benefitted Konig but resulted in waste of public funds and harmed SJEC's residents.

In response to the findings in this section, counsel for Weisz, Krausman, and Konig argued in various ways that the "internal profitability of these vendors is a wholly irrelevant inquiry" and quoted the CMS Provider Manual to argue that what matters is whether the subject contracts were "less than, or equal to, the competitive price of comparable services, facilities, or supplies purchased elsewhere." They provided unsupported, redacted information from their accountant that purported to show that their costs in certain categories were lower than the costs the accountant's other nursing home clients charged.

These documents are unpersuasive, and the sole reliance on fair market value is misplaced. While fair market value is one piece of the analysis, it does not constitute the entire analysis. Weisz, Krausman, and Konig seem to be arguing that as long as other vendors (who may also be related parties) also mark up their costs to nursing homes by a similar 25 to 75 percent, those costs are reasonable. But this fails to consider the purpose of regulating related-party transactions, which is to avoid inflated costs that can result when entities contract with themselves.

As additional support for the reasonableness of their charges, Weisz, Krausman, and Konig also provided examples from 2022 and 2023 in which they acknowledged that even though the costs their entities charged the nursing home were inflated—sometimes by as much as 75 percent--they still fell within the 90/10 ratio permitted by New Jersey's PCR law.

Below is a summary chart showing what Konig and Krausman stated were their actual expenses, versus what they charged to SJEC in 2022 and 2023. OSC notes that these figures have not been independently verified as accurate, nor was backup documentation provided. But if the actual expenses noted here were accurate, this shows that, on average, for related-party transactions, an overall 50 percent gain was derived in 2022 and an approximately 58 percent gain was derived in 2023.[68]

[68] This excludes the Broadway Nutritional numbers for 2023 which appears to be in error.

Figure 8: Breakout of Expenses Charged to SJEC and Actual Expenses in 2022 and 2023

	2022 Expenses Charged to SJEC	2022 Actual Expenses	% Gain	2023 Expenses Charged to SJEC	2023 Actual Expenses*	% Gain
Broadway Management - Nursing Staff	$5,658,122	$3,740,336	34%	$ 4,498,813	$1,833,556	59%
Broadway Nutritional - Dietary & Supplies	$ 811,912	$ 432,796	47%	$ 676,594	$2,393,947	-254%
Comprehensive - Management Payroll	$ 777,449	$ 249,090	68%	$ 695,000	$ 370,103	47%
National Nutritional - Food	$ 661,745	$ 278,133	58%	$ 551,152	$ 232,240	58%
Broadway Management - Office/Bookkeeping	$ 444,000	$ 136,125	69%	$ 370,000	$ 90,803	75%
Geriscript - Medical Supplies	$ 79,798	$ 61,002	24%	$ 78,615	$ 37,717	52%
Average Gain			**50%**			**58%**

* For 2023, SJEC provided actual expense information for a partial year (January 1, 2023 through October 31, 2023).

Konig and Krausman submitted these numbers, along with a PCR cost analysis for 2022 and 2023 to show that even with these inflated costs, SJEC readily satisfied the standard that 90 percent of Medicaid revenue in a reporting year be expended on the direct care of residents. But the analysis provided differs in almost every reporting category from the analysis that SJEC actually submitted to DHS in its PCR reports for 2022 and 2023. See Appendix G, which shows the difference between the submissions sent to DHS and OSC. The changing numbers suggest that the actual PCR reports and the resulting analyses are unreliable. Moreover, if these numbers are accurate, they show that the PCR process can be manipulated.

If SJEC's PCR reporting does not result in a required rebate, the Legislature and DHS should reevaluate the law and regulations implementing it. The PCR requirements are supposed to ensure that taxpayer funds are being used ***overwhelmingly*** (90 percent) for the direct care of nursing home residents. But if SJEC's numbers are reliable and do not result in a rebate, a nursing home can pay related parties inflated costs of over 50 percent on all services, overwhelmingly using Medicaid funds, and still technically meet the 90/10 ratio. This results in part from the expansiveness of the categories that are designated as "direct care costs," which includes things like rent, administrative fees, administrative salaries, taxes, and insurance. But it also results in part due to the calculation set forth in N.J.A.C. 10:49A-3.1 itself. OSC recommends that DHS review this calculation to ensure that the rules as applied comply with the intent of the law and DHS's regulations. Alternatively, OSC recommends that the Legislature change the law to better protect against excessive profits that reduce funds intended for patient care.

2. Food Costs Provided by a Konig-Owned Business were Inflated

SJEC's contract with National Nutritional, a Konig-owned company, provides a good example of how these contracts were used to benefit Konig at the expense of SJEC's residents and the Medicaid program. National Nutritional's contract with SJEC was for "raw food and related supplies." The contract stated that SJEC would pay a flat fee to National Nutritional on a monthly basis.

Over the timeframe of this review, based on OSC's review of bank records, National Nutritional received $13.9 million – $2.5 million from SJEC and $11.4 million from nine other New Jersey-based nursing homes controlled by Krausman and Konig.[69]

According to tax documents and National Nutritional's bank records, the company spent at most $8.9 million on food and supplies for all ten New Jersey-based nursing homes.[70] Of the remaining almost $5 million that National Nutritional received during this timeframe, $2.8 million went directly to Konig's bank account; some was swept to Broadway Management's bank account and not returned; and the remainder was spent on a combination of what appear to be administrative workers and dieticians.[71] According to SJEC's contract, however, dieticians were supposed to be provided as part of a separate contract with Broadway Nutritional, another Konig-owned entity. Bank records indicate that just 64 percent of the total amount National Nutritional received from the ten New Jersey nursing homes (including SJEC) was spent on food and related supplies.

These facts demonstrate that National Nutritional significantly inflated the costs it charged to SJEC for food pursuant to this contract, which resulted in higher profits for Konig and his related entities and the waste of public funds.

3. Medical Supply Costs Provided by a Konig-Controlled Company were Inflated

Another Konig-controlled entity, Geriscript Supplies, also charged SJEC inflated amounts for medical supplies through another flat rate contract that was not based on the goods actually provided. According to interviews with Konig, Geriscript Supplies is a medical supply business

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[69] OSC did not review the contracts for the other nine facilities, but Krausman explained to OSC that most of the contracts that Comprehensive entered into with Konig-owned entities were the same.

[70] This report utilizes the term "supplies" rather than "cost of goods sold" for consistency when referencing goods provided under the Contract. Cost of goods sold includes all costs and expenses directly related to the production of goods.

[71] It should be noted that the National Nutritional account was a zero-balancing account (ZBA). A ZBA is a bank account kept with a balance of zero by transferring money to and from a main account, which in this case, was a bank account held by Broadway Management. Each day, all of the money in National Nutritional's bank accounts was swept to Broadway Management and was restored to the account when a purchase was to be made. Outgoing payments from the ten nursing homes show that National Nutritional received $13.9 million. Outgoing payments from National Nutritional show payments of approximately $12.5 million in total. It seems that the remaining $1.4 million had been swept into Broadway's accounts, but it did not appear to be put back in National Nutritional's accounts as of the end of OSC's review.

that Konig, through Broadway, has controlled and managed for at least the past five years. Here, again, by contracting with Geriscript Supplies rather than a third-party entity, Krausman and Konig were considering their own interests above those of the facility.

OSC was provided a 2010 contract between Geriscript Supplies and SJEC that, by its terms, automatically renewed every year unless terminated. According to the contract, Geriscript Supplies was the sole supplier of "medical supplies" for the facility. Geriscript Supplies charged SJEC $6.13 for each resident in-house at the facility (per diem charge). The contract specified that the per-diem charge was a flat rate and was not dependent upon the quantity or quality of supplies required by the facility. Nor was it dependent on any changes in the acuities and provision of care to residents. The contract did not specify what supplies were required, nor did invoices show what supplies were actually provided. In 2018 and 2019, SJEC was charged an average annual cost of about $218,617, but the invoices provided no detail as to what supplies SJEC actually received.[72]

Geriscript Supplies' financial documents, however, show that the company spent very little on actual supplies. Between 2018 and 2021, Geriscript Supplies reported on tax documents that it spent an average of 34 percent of its revenue on supplies for the ten nursing homes for which it apparently provided supplies. See Figure 9 below.

When asked about these costs, Krausman informed OSC that sometime in 2020 he decided that the price of this contract should be reduced, from more than $6 per resident to $2, a 66 percent decrease. The reduction came about because Krausman was "looking to try to cut costs any which way [he] could," and was considering taking it "in-house to try to find a way to save a few dollars." Of course, given that his brother-in-law and business partner Konig admitted that he effectively controlled this entity, they had already arguably taken it "in-house." Krausman told OSC that the changes were made verbally, and he did not think they were confirmed in writing. The 2020 invoices do appear to reflect this reduction, but OSC could not verify that the price actually decreased, because invoices for Geriscript were not paid for years after they were due. This drastic price reduction is further evidence that the charges to SJEC were inflated and not in any way related to the actual cost of supplies.

While spending surprisingly little on supplies, Geriscript Supplies paid a shockingly large amount for "consulting and management" to Broadway Management (Konig's business). In fact, in 2019, 2020, and 2021, Geriscript Supplies paid more in "consulting and management fees" than it did for supplies.[73, 74] OSC requested a copy of the management or consulting agreement associated with these payments multiple times, but it was never provided.

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[72] OSC was not provided Geriscript Supplies' invoices for July, August, and September 2019.
[73] In 2018, the expenses were classified as "Consulting"; in 2019, 2020, and 2021, they were classified as "Consulting & Management."
[74] Bank records also appear to show the company also made an auto payment to Acura for Comprehensive and another auto payment to Infiniti for Krausman.

Additionally, based on tax documents for 2018 to 2021, the owner of Geriscript Supplies, Lisa Cole, received distributions of over $1.3 million during this period. But Konig told OSC that Broadway, which he owns, was managing Geriscript Supplies "to a great extent" and Cole had not worked with the company since 2018 or 2019 and was on medical leave for the entire five-year time period under review.[75]

Figure 9: Geriscript Supplies Expenses by Type

Year	Revenue	Supplies	Percent Spent on Supplies	Consulting and Management Fee to Related Party	Percent Paid for Consulting and Management	Owner Distribution	Owner Distributions as Percent of Revenue
2018	$2,064,953	$866,861	**42%**	$650,000	**31%**	$363,000	**18%**
2019	$2,487,166	$818,623	**33%**	$1,386,279	**56%**	$290,000	**12%**
2020	$2,720,808	$1,062,351	**39%**	$1,200,000	**44%**	$318,500	**12%**
2021	$4,371,040	$897,925	**21%**	$2,805,000	**64%**	$349,500	**8%**
Totals	$11,643,967	$3,645,760		$6,041,279		$1,321,000	

The fact that Geriscript Supplies was a medical supply business that spent more on consulting and management fees to related parties ($6 million) and owner distributions ($1.3 million) than it did on supplies ($3.6 million) demonstrates that Geriscript Supplies significantly inflated its charges to SJEC. SJEC would have received better value by contracting with a third party for these supplies or purchasing them directly, rather than through a company controlled by Konig. These payments were wasteful and so plainly excessive that they reveal an intent by Konig to defraud SJEC and Medicaid.

In addition to using funds for consulting and management and owner distributions, financial records and interviews also revealed that Geriscript Supplies, in 2022, used $800,000 in funds from nursing homes to make charitable contributions to a Nebraska 501(c)(3) religious charitable organization controlled by Konig.[76] There is no indication that the organization provided any supplies or services to Geriscript Supplies or any New Jersey nursing homes. This shows another way in which Konig used the entities he controlled to funnel money to his business and non-profit interests.

[75] Geriscript Supplies is based out of the same address as Konig's businesses and is owned by Lisa Cole (Cole), a former health care facility administrator who worked with Konig. OSC attempted to contact Cole multiple times to interview her in connection with this investigation, but she did not respond to OSC's requests. Cole currently lives in Colorado. Counsel for Krausman and Konig reported that Cole was aware of OSC's requests and was not interested in speaking with OSC.

[76] According to documents filed with the IRS, Konig was the President and Treasurer of the organization. Corporate documents show that Weisz was a Director. The organization was formed for the purpose of establishing a religious congregation.

In response to this report, counsel for Weisz, Krausman, and Konig stated that Geriscript Supplies' charges, particularly after "slashing" costs by two-thirds, were the result of a deal struck long ago and resulted in one of the lowest contracted-for medical supplies rates in the region. Geriscript stated that "[o]f course there were no invoices" because that was not the deal the parties struck and that "[m]aintaining the stockroom was handled and documented by other means." Notably, based on figures provided by counsel, even after slashing payments to Geriscript Supplies by 66 percent, the company reported a 24 percent profit margin in 2022 and a 52 percent profit margin in 2023—an average 38 percent profit over the two-year period.

4. Staffing Costs were Inflated

Findings Section H, Subsection 2 above has addressed in detail the various ways in which Broadway Management failed to provide sufficient direct care and key role staff to SJEC. Just as with the other contracts discussed above, SJEC paid Broadway Management according to a fixed rate contract for its services, without any regard for how much Broadway actually paid to obtain staff for SJEC. As a result, while Broadway Management failed to meet its contractual obligations to provide sufficient direct care and key role staff for SJEC, SJEC continued to pay Broadway Management a set fee, which resulted in substantial profits for Broadway Management. As noted above, this was an intentional and repeated misuse of public funds with the goal of maximizing corporate and personal profits. Taken together, SJEC's staffing practices, which were overseen and implemented by Krausman and Konig, were wasteful and part of an effort to divert Medicaid funds away from resident care to their own benefit, which constitutes abuse of public funds and a fraud on the Medicaid program.

In response to this report, counsel for Weisz, Krausman, and Konig argued that rates charged to SJEC were the "going rates" and "Comprehensive only increased . . . rates [to Broadway for staffing] after the COVID-19 pandemic due to skyrocketing costs and inflation, - a massive 36% hike in the minimum wage over twelve months, and new legislation mandating increased direct care staffing." But in the same response, they provided internal documentation that undercut this argument.

Their figures, shown in Figure 8 above, showed that in 2022, Broadway charged SJEC $5.7 million for nursing staff, but only actually paid $3.7 million for staff, a $2 million markup. And just a year later, in 2023, Broadway charged SJEC $4.5 million, but by the end of October had only paid $1.8 million for staff, an even bigger $2.7 million markup. That is, despite the "skyrocketing costs and inflation," Broadway slashed costs considerably in those ten months, and significantly increased its gains.[77]

[77] OSC notes that the figures supplied by counsel in its response are unsubstantiated by supporting documentation and appear to be for differing and incomplete time periods. For 2023, the figures provided only covered a ten-month period in 2023.

J. Five Nursing Homes Managed by Krausman Paid Rent to Property Companies Krausman Owned

In addition to inflating costs for management services, food, and other goods and services, Krausman also benefited from rent payments made to property companies Krausman owned. SJEC's property was not owned by Krausman or a related party, but this issue is addressed here because of how this arrangement impacts costs at other New Jersey nursing homes referenced in this report and shows the risks present with related entities.

For five of the ten New Jersey nursing homes identified in this report, Krausman owned the properties through limited liability corporations for many years. For two of the nursing homes, it appears that a Krausman associate owned the property. In two others, including SJEC, the property appears to be owned by a third party with no business connections to Krausman. The last of the ten nursing homes was initially owned by an unaffiliated party but later bought by a Krausman associate. None of the five nursing homes in which Krausman owned the properly reported to the federal government that it was paying rent to a company owned by Krausman, whose company also managed the nursing home.

Figure 10: Krausman's Ownership of Nursing Home Properties

Nursing Home	Ownership of Property Company
Providence Nursing & Rehabilitation Center – Trenton	Krausman
Royal Health Gate Nursing & Rehabilitation – Trenton	Krausman
Manahawkin Convalescent Center – Manahawkin	Krausman
Amboy Care Center - Perth Amboy	Krausman
Shore Meadows Rehab & Nursing Center – Toms River	Krausman
Teaneck Nursing Center – Teaneck	Associate
Manhattanview Nursing Home – Union City	Associate
Sterling Manor – Maple Shade	Unaffiliated party
South Jersey Extended Care – Bridgeton	Unaffiliated party
Oceana Rehab and Nursing Center - Cape May Court House	Unaffiliated party, then sold to Associate[78]

In New Jersey, nursing homes reported, on average, spending around 12 percent of total expenses on rent and related building costs, such as property taxes.[79] But here, the five nursing

[78] This property was then sold by the associate to another unaffiliated party. This is discussed in more detail below.

[79] This number reflects the average amount nursing homes reported on federal cost reports in 2018 to 2021 for "Operating Costs - Buildings and Fixtures." This category includes leases for the use of facility, interest incurred in acquiring land, and taxes on land. This category does not include costs incurred for the repair or maintenance of facilities, amounts included in rentals or lease payments for repair or maintenance agreements, or taxes other than property taxes.

homes for which Krausman owned the property reported that they spent nearly *double,* or 23 percent, on rent and related costs from 2018 to 2021. In two nursing homes that Krausman managed, in which he appeared to have no connection to the property owner, including SJEC, the nursing homes spent less than the state average on rent, reporting an average of seven percent, with one paying as little as five percent.

How much a nursing home pays for rent and related costs is a major factor in how much funding is available for patient care. If Krausman's five nursing homes had instead paid the state average of 12 percent, they would have spent $23 million less in those four years—or $1.15 million per facility, per year. At seven percent, the arm's-length rate, the five nursing homes would have spent $33.4 million less ($1.67 million per facility per year). An extra $1.15 to $1.67 million available to increase staffing and improve access to therapy and better food can make a major difference in the quality of care that residents receive.

Krausman contended in response to a draft of this report that the comparison shared above does not show that rental costs were unreasonable but simply reflected market realities. He argued that the percent of expenses spent on rent was higher because the percent of expenses spent on management was lower. He contended that he calculated the rent that should be paid by the nursing homes he managed based on the mortgages for those properties and the mortgages are based on multiple factors. Through his counsel, Krausman argued:

> [C]ommercial leases in the nursing home industry are typically negotiated as a percentage of the price that the owner paid to buy the property. Thus when a new owner buys the property and negotiates a lease with the tenant, the annual base rent amount (i.e., rent to the landlord exclusive of real estate taxes or property insurance) is typically between 10% and 12% of the total purchase price. This covers the owner's cost of financing the purchase price and adds in a reasonable rate of return for the owner in light of the risk of ownership. There are myriad factors that could impact the purchase price (and thus the resultant base rent) demanded for a given property. They include, but are not limited to, (i) the location of the property, (ii) the number of beds in the facility, (iii) the age of the building, (iv) the amount of capital expenditure needed to repair and maintain the building, (v) the mix of nursing units to the beds and how efficiently it can be staffed, (vi) the makeup of single- versus multiple-occupancy rooms, (vii) operating costs, (viii) occupancy rates and payor mix, (ix) any competition in the surrounding area, (x) proximity to feeder hospitals, (xi) whether a facility is unionized, (xii) what union represents which employees, and (xiii) whether the building is single story or multistory. The age of the lease also factors in heavily to the rent calculation. Extant leases negotiated many years ago are typically lower and have not kept up with ever-increasing operating expenses, and thus are less expensive in raw dollars as compared to newer leases. Because

> overall facility expenses have increased dramatically in recent years, of course the sorts of ratios used by the Office would skew in favor of older leases.

Krausman further asserted through counsel that he "compared his cost to purchase the home against the annual base rent amount. The average for all five homes was 11.64% [of Krausman's costs], well within industry norm."

The reasonableness of the rents paid to Krausman's property companies by the nursing homes he managed requires further investigation. But, apparently based on the 13 factors outlined above, Krausman determined that five of the nursing homes he managed should pay his companies $47.9 million in rent (inclusive of property taxes) from 2018 to 2021 alone. Those funds consisted substantially of public funds and were paid by Krausman without disclosing his interest in the property companies and without having to receive approval from the State. The risk to the Medicaid program of related parties negotiating with nursing homes they own or control in order to maximize profit is very high.

Krausman did not benefit just from the rents he negotiated. When Krausman sold the five properties in 2021, according to public records, he was paid $99.2 million, an average sale price of nearly $20 million per property.

The sale of nursing home properties is another opportunity for profit that reduces funds available to care for residents. The sale of Oceana, in Cape May Courthouse, raises red flags. There, the sale of the property at a significant increase caused rental costs charged to the nursing home to skyrocket. In 2018, the Oceana property was owned by PropCo A, an unaffiliated company, and Oceana reported paying just $453,000 annually in rent and related costs. In February 2019, the property was sold to PropCo B, an entity owned by an associate of Krausman, for $4 million. Less than three years later, in October 2021, the associate sold the property to PropCo C, another unaffiliated company, for $17.5 million. The associate reported on the 2021 deed that the address for the seller, PropCo B, is Krausman's corporate address in Teaneck. The sale of the property, at a price that was more than four times the original purchase price in less than three years, netted millions in profit for the associate—and possibly Krausman.

In response to these facts, Krausman, through counsel, contends the $13.5 million increase "was justified by a third-party appraiser to support bank financing" and that "[t]hat is not fraudulent—it is simply how economics work. Property values increase or decrease over time; annual rent is typically tied to a percentage of the purchase price; and newer leases are often more expensive than older leases." But these multiple sales do not appear to have benefited the residents of the nursing home that Krausman managed, whereas they may have benefited him. Regulators should better understand the impact of transactions, such as this one, on residents and the Medicaid program.

Moreover, the profit realized in the Oceana deal, which was not reviewed by the State, is ultimately paid for by taxpayers through increased rents. Oceana, in 2018, reported paying $453,000 annually in rent – six percent of its total expenses. After the 2021 sale, property-related expenses ballooned to up to almost $2 million annually, which was 20 percent of its annual expenses (Oceana paid $1,884,172 in 2022 and $1,999,529 in 2023). In one of the worst nursing homes in the State, these increased rental expenses are funds that could otherwise have been spent on resident care in the form of additional nurses, CNAs, therapies, social activities, etc.

Krausman and his associate are not the only ones who benefitted from the sale of the nursing home properties. OSC has not traced all of the funds paid to them, but a substantial part of the funds made their way back to Konig. In 2021 and 2022, seven property companies tied to Krausman and the associate transferred $22.5 million to a Nebraska 501(c)(3) religious charitable organization controlled by Konig.

K. Krausman and Konig Oversaw a Network of For- and Non-Profit Entities that Benefitted from Poor Quality Care of Nursing Home Residents

During the timeframe of this investigation, Krausman, Konig, and the three nursing home owners identified herein also shared business interests in other for-profit and not-for-profit entities that were controlled by Krausman and Konig. These entities intermingled funds in ways that make it difficult to trace how the Medicaid funds were used and to quantify the degree to which Medicaid figured into Krausman's and Konig's broader business interests. But certain observations can be made that are relevant to this investigation.

To begin, all of the nursing homes, their owners, and their related entities are connected in multiple ways and work under the direction and control of Krausman and Konig. In addition to the management and goods/services contracts (e.g. Broadway, National Nutritional, etc.), the nursing homes also had other business dealings with Krausman- and Konig-controlled entities. For example, nine of the ten nursing homes owned by the three owners, including Weisz, all sent and received money to and from TCR, a holding company that Krausman controlled. According to financial documents, Weisz and the other owners sent over $20 million to TCR during OSC's timeframe.[80] In interviews, Krausman explained that these payments to TCR were the owners' distributions from the nursing homes that they directed be sent to TCR.

It appears that TCR used those "owners' distributions," and other money, to funnel money back to Krausman, Konig, and their entities.[81] During the period of OSC's investigation, Krausman received $12 million from TCR directly. Comprehensive (Krausman's company) received $4.3 million. Broadway (Konig's company) received almost $5 million. A Konig-controlled religious organization, a Nebraska 501(c)(3) tax-exempt corporation, received over $37 million. (As described in Findings Section I, Subsection 3, this same entity also received $800,000 from Geriscript Supplies, a Konig-controlled business, in 2022. And as described in Section J, that religious organization also received $22.5 million from seven property companies tied to Krausman and his associate.) Another Konig entity, a 501(c)(3) tax-exempt private foundation, of

[80] Krausman controlled the bank accounts for TCR. Broadway and Comprehensive also collectively contributed several million dollars to TCR.

[81] TCR received funds from other sources in addition to the three NJ nursing home owners. OSC cannot directly trace the funds TCR received from these owners as they were comingled with other sources.

which Konig is the sole officer and Trustee, received over $5 million from TCR. A third Konig-controlled non-profit entity, with nearly $174 million in assets as of 2022, received $6.5 million from TCR.

OSC did not analyze the financial condition of all ten nursing homes serviced by Krausman and Konig, but it is worth noting that many of the risk factors present at SJEC are also present in the other facilities Krausman and Konig managed and controlled— the apparent conflicts of interest; the admitted overlap between Krausman's and Konig's businesses; the overall low CMS star-ratings of facilities they serviced;[82] the remarkably low percentage of funds spent on goods as compared to other costs; the dollar amount of funds that went directly or indirectly to Krausman and Konig instead of paying for goods/services; and interviews that suggest that they handled operations in the other nine nursing homes in much the same way as SJEC.

Krausman and Konig thus were at the center of both the nursing home businesses conducted by the ten nursing homes and at the center of the businesses substantially funded directly or indirectly by the nursing homes. This investigation shows that Krausman and Konig's broader business model was to funnel as much money as possible to themselves – from a dedicated, taxpayer-funded funding stream – to support their other business interests, while providing low-quality nursing home care. They accomplished this in part by concealing their related-party status. This deception allowed them to charge inflated rates without reporting these profits to the state and federal governments. The six Krausman- and Konig-owned/controlled businesses (Comprehensive, Broadway, Broadway Nutritional, National Nutritional, Geriscript Supplies, and TCR) received a **total of $253 million** from the ten nursing homes during the five-year period of OSC's review. That represents **76 percent** of the $331 million in Medicaid dollars the ten nursing homes received over that timeframe.[83] And Krausman and Konig, as detailed in this report, took an enormous share of that for themselves, all by concealing their related-party status.

V. Further Action

To date, this investigation has found that SJEC, Weisz, Krausman, Konig, and parties owned/controlled by Krausman and Konig, individually and collectively, were responsible for SJEC having violated a multitude of state and federal laws and rules, including but not limited to violations of staffing, documentation, and claim certification submission requirements. Based on these findings, OSC may seek to recover overpayments and civil monetary penalties and impose administrative sanctions against these individuals and entities, as appropriate.

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[82] Eight of the ten nursing homes that utilized Krausman's and Konig's services had CMS star-ratings that were far below the state average and many received dismal one-star CMS ratings for much of OSC's review period. All three of the nursing homes owned by Weisz were perpetually among the worst performing in the State.

[83] This figure may be both somewhat over inclusive and somewhat under inclusive. The $331 million reflects the total amount paid by Medicaid during the review period to the ten nursing homes identified in Appendices A and B, but it should be noted that some of those nursing homes changed ownership during OSC's review period. At the same time, the $253 million paid to the Krausman- and Konig-owned entities might be higher, as it does not include any rent payments made to several Krausman-owned/controlled entities that owned the facilities and land for eight of the ten nursing homes.

In addition, OSC has taken action to suspend SJEC, Sterling Manor, Mark Weisz, Michael Konig, Esther Konig, Robert Konig, Steven Krausman, Lisa Cole, M&A/Comprehensive Health Care Management Systems LLC, Broadway Health Care Management LLC, Broadway Nutritional Services LLC, National Nutritional Food Company LLC, and Geriscript Supplies LLC from the Medicaid program.

This is an ongoing investigation. OSC has made referrals to other agencies as appropriate.

VI. Recommendations

This investigation of SJEC and its vendors revealed multiple ways in which less scrupulous nursing home owners and operators funnel money that is intended to be used for patient care to themselves. This is a known problem in the nursing home industry. What occurred at SJEC is explicitly what various state and federal laws are designed to deter and detect. But it took a complex investigation involving substantial state resources to uncover the fraud, waste, and abuse that Krausman and Konig engaged in. Because it is very likely that the issues identified here are occurring in other nursing homes that use related entities to hide profits, state government should learn from this investigation and adjust its systems to prevent poor quality care and the waste of public funds.

In addition to investigating Medicaid providers, OSC is responsible for overseeing and coordinating statewide efforts to prevent and detect fraud, waste, and abuse within the Medicaid program. In view of the facts uncovered through this investigation and other ongoing oversight efforts, and in accordance with its oversight powers, OSC makes the following recommendations:

1) **State policies and practices should be adjusted to address and mitigate the risks that accompany the corporate structures used by for-profit nursing homes.**

Krausman and Konig avoided detection while siphoning Medicaid funds because they used corporate structures to mask their involvement and control. New Jersey’s approach to regulating nursing homes should recognize that those who own and control nursing homes often use intentionally complex legal structures to funnel Medicaid money to themselves, posing serious risks to both quality of care and the integrity of the Medicaid program, as costs escalate higher and higher to maximize profits.

For-profit nursing home owners and operators frequently rely on multiple layers of limited liability companies (LLCs), trusts, and partnerships. These entities are often created so that one LLC that owns the building, another manages the facility, and additional LLCs are created for staffing, services, and supplies. These inter-connected entities may be owned by individuals, their families, or close business associates, often masking the true owners, decision-makers, and profit-takers. This web of ownership makes it difficult to identify who controls operations and finances, allowing inflated costs, hidden affiliate relationships, and conflicts of interest to thrive. Such structures obscure accountability, increase the risk of fraud, and divert funds away from resident care into excessive profits, while also evading legal scrutiny, transparency, and liability.

Requiring disclosures and transparency is an essential first step—but it is not enough. To identify and avoid conflicts of interest, it is necessary to understand who is actually benefitting and where the money flows by looking beneath and behind the corporate structures designed to conceal this information. This requires more than simply directing nursing homes to self-report spending by category, self-identify their related parties, and provide an organizational chart to show how various trusts and corporations divvy up shares of nursing homes.

Instead, the State and its agencies need a strategy to comprehensively analyze the ownership, management, and control of these facilities, dig deeper into related-party costs and transactions and probe for risk and red flags – and then adjust all aspects of the regulation and oversight of nursing homes to address what is found from these efforts.

Enhanced state oversight efforts should start with the lowest-rated nursing homes. For all such nursing homes, transactions that involve contracts with family members should be closely scrutinized. Similarly, "gifts" of ownership interests to family members or business associates should raise red flags—as should unusual loan transactions. The State should be wary when managers or operators with no relevant experience are exercising substantial control over facilities; they may well be fronts for owners and operators who seek to avoid scrutiny. State agencies responsible for overseeing nursing homes should also fully understand and have full discretion to take into account the long-term track records of those involved in nursing home management and operations including key vendors—both in New Jersey and elsewhere.

And beyond all of this, when problematic contracts, financial arrangements, or relationships are found, the State needs an effective and efficient mechanism to address quickly and decisively the issue (e.g. through penalties, sanctions, debarment, and other means), control costs, and recoup funds. None of those elements are currently in place in state government either at all, or at the scale needed to address the scope of the problem.

OSC will continue to audit and investigate nursing homes, but retrospective evaluations alone are not sufficient to effectively address these issues, which should be addressed as close to real time as possible.

OSC thus recommends that:

A. DOH exercise its broad discretion over licensing and monitoring nursing homes to adopt new regulations or amend its policies and practices to minimize the risks associated with the complex corporate structures used by for-profit nursing homes.[84] The current survey

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[84] In an April 2024 report of the New Jersey Task Force on Long–Term Care Quality and Safety, the Task Force, which included representatives of the nursing home industry, called for improving or closing perennial low quality nursing homes. New Jersey Task Force on Long-Term Care Quality and Safety, Final Report (April 2024) at 38-39, https://www.nj.gov/health/ltc/documents/nj-task-force-ltc-quality-and-safety-report.pdf. Citing OSC's findings on nursing homes, the Task Force report discussed "the chronic poor performance of a small group of facilities that persistently provide low quality care, how this impacts

and inspection process employed by DOH is not designed for this purpose and does not delve deeply deep enough to understand the cause of the issues. To better understand the cause, DOH should modify its approach to better incorporate data analysis, legal review, auditing and/or financial analysis into or alongside its traditional survey functions. To the extent that current law or existing resources limit DOH's ability to perform these tasks, the agency should request needed statutory authorization and staff or other resources.

B. DHS develop and adjust its policies to better protect the Medicaid program and ensure Medicaid funds are not siphoned. Like DOH, DHS and OSC have authority to determine whether a provider has the requisite qualifications and responsibility to be (or remain) a Medicaid provider by determining who is allowed into the program and determining when a provider should be excluded from the program. Providers that are denied admission to the program or excluded from the program are not permitted to serve Medicaid beneficiaries or receive Medicaid funding. DHS and OSC should use this power more readily to prevent irresponsible providers from entering or remaining in the program and siphoning Medicaid funds.

In performing this oversight, state agencies must take into account that fraud, waste and abuse, and poor-quality care go hand-in-hand. When funds are diverted from residents to owners and related parties' pockets, care suffers—there is less money available for staff, for therapy, for facility upgrades and maintenance, for social activities, for nutritious food, for medical supplies, for ensuring high-quality care.

2) **The Legislature should enact reforms to guard against fraud, waste, and abuse in nursing homes.**

Several of the findings from this investigation reveal weaknesses in the State's regulation of nursing homes that should be addressed by the Legislature. OSC recommends that the Legislature enact laws addressing six issues to address these findings.

First, the Legislature should prevent owners/operators from delegating substantial management control to management companies or other consultants or vendors who have not been vetted. This can be done by prohibiting owners/operators from delegating management control at all, or

residents, and how the State should stop this from happening." The Task Force recognized that "both DOH and DHS have more State authority to take stronger action against perennial poor performing providers than they have historically used." The Task Force recommended that "DHS and DOH should continue to work together to use existing State authority to take more powerful and coordinated action against consistently low-quality nursing homes, including punitive actions against a facility's license and Medicaid participation" and stated that "[c]urrently, these tools are rarely used."

by requiring that, prior to such delegation/control, management companies must be vetted and approved/rejected by regulators, pursuant to stringent quality and training standards.[85]

Second, nursing home owners/operators should be prohibited from withdrawing equity from nursing homes without satisfying strict criteria, including the approval of DOH and/or DHS. Moreover, they should not be permitted to create or increase a facility's negative net worth by paying distributions or entering into contracts with related entities.[86] The Legislature should also make explicit that all loans between and among nursing homes must be appropriately documented in writing.

Third, DOH and DHS should be authorized and required to review and approve or reject all leases and all transfers of ownership, mortgages, and other interests involving nursing home properties. Heavily leveraging and stripping nursing home properties of equity appears to be a common approach to maximizing profits for property owners. By doing so, property owners can profit from inflated monthly payments that are justified by the mortgage, and then, after they have paid off the artificially high mortgage, profit again by selling the property at an inflated cost that is seemingly justified by the artificially high rent payments. This creates a cycle of perpetual and increasing rent payments, which benefits property owners and reduces funds available for resident care.

Existing law does not authorize or require leases to be reviewed and approved and does not protect the Medicaid program from excessive mortgaging and equity stripping involving nursing home properties. A 2021 law that requires nursing homes to provide notice to DOH "[p]rior to selling or transferring ownership of the land or other real property on which a nursing home is located"[87] is inadequate because it does not explicitly authorize DOH to reject a sale or transfer and does not require notice of encumbrances such as mortgages and security interests. The Legislature should provide DOH and DHS with authority and resources to address this weakness.

Fourth, the Legislature should empower and require DOH to conduct more stringent reviews of nursing home transfer of ownership applications. At present, the statutorily established vetting process for owners[88] contains significant loopholes that are exploited.

DOH, in consultation with DHS and OSC, should ensure that it performs thorough evaluations of proposed nursing home ownership transfers. The Commissioner of DOH should have explicit authority to reject applications as needed to protect residents and taxpayer funds. A robust system would verify that new owners are not acting as straw owners for excluded individuals, thoroughly assess financial arrangements behind ownership transfers, and evaluate the character and track record of prospective owners. It should include a review of CMS star ratings,

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[85] See Marissa Espinoza, Shadow Nursing Home Ownership: How A Failure in Government Oversight of for-Profit Nursing Homes in New York Has Allowed Profits to Balloon and Standards of Care to Plummet, 28 Cardozo J. Equal Rts. & Soc. Just. 467, 478-80 (2022).
[86] Id. at 484.
[87] N.J.S.A. 26:2H-7.27.
[88] N.J.S.A. 26:2H-7.25.

inspection reports, compliance records, litigation history, fingerprint-based background checks, individual and corporate financial assessments, vendor and real estate relationships, staff or client complaints, compliance issues in other states, and other relevant issues, without being restricted to a 12-month lookback period. For individuals lacking a track record in New Jersey, stricter standards should be applied during the evaluation process to ensure their qualifications and integrity. Additionally, ethics training and adherence to a code of ethics should be mandated. The Legislature could also require that DOH perform ongoing reviews at a specified interval, to ensure that existing owners remain in good standing.

Fifth, DOH should be required to actively monitor nursing homes for financial distress or potential insolvency. In the 2021 law, the Legislature authorized DOH to "identify nursing homes that may be in acute financial distress or at risk of filing for bankruptcy protection by requiring each nursing home to report, within five business days, any default in the punctual payment when due of any: debt service payment where the debt is secured by real estate or assets of the nursing home; rent payment; payroll; or payroll tax obligation."[89] These narrow conditions seem likely to be triggered in only the direst circumstances and rely on a nursing home to self-report, within 5 days, that it failed to pay the rent or its employees. OSC recommends that DOH be authorized and required to proactively monitor the financial status of nursing homes using available data and documents, including state and federal tax returns of nursing homes and related entities, in order to identify nursing homes that are at risk of closure and that may be taking excessive profits through related entities.

Sixth, DOH and DHS should further be authorized by law to ensure that if an individual or entity is being excluded from the Medicaid program and thus can no longer own a nursing home that receives Medicaid funds, any resulting sale or transfer of ownership must be handled by an independent third party. Although those powers arguably are present in the receivership laws, they should be made explicit. The State should not allow individuals who have been involved in dishonesty and fraud to hand-select their successors.

3) **The patient care ratio law and regulations should be evaluated and amended as needed to better identify excessive profits, including by applying a stricter standard to higher risk nursing homes.**

One effort by the Legislature to ensure that funds are not diverted is the 2020 patient care ratio (PCR) law, which, as discussed above in Background Section C, is administered by DHS. DHS has adopted regulations that implement the law as to Medicaid funding (but not other sources of funding), and nursing homes have submitted reports for 2022 and 2023. Based on the reports received thus far, it appears that these reports and the required calculations are unlikely to result in significant changes to how nursing homes spend public funds and that either statutory or regulatory amendments, or clarification of how the rules apply, are needed.

[89] N.J.S.A. 26:2H-42.1.

For example, SJEC claims that it complied with the PCR rules despite Krausman's and Konig's companies making what appears to be a 50 percent profit in 2022 and an approximately 58 percent profit in 2023.[90] This may be due to some of the specific problematic issues in this case, but it also may suggest an issue with the calculation itself. If such high profits do not result in a required rebate, the Legislature and DHS should reevaluate the law and regulations implementing it. OSC recommends:

A. The Legislature and DHS, in consultation with DOH and the Office of Long-Term Care Ombudsman, evaluate and adjust the PCR calculation and amend the rules and implementation as needed to increase the likelihood that funds intended for residents actually are used for direct care and to better distinguish between profits and other costs. The Legislature and/or DHS should consider establishing a cap on rates permitted to be charged by related parties for certain types of transactions, based on a market rate analysis. The review of the PCR can and should consider the calculation in tandem with state cost reporting requirements and the forthcoming process for rate-setting. Together these tools have the potential to address excessive profits, if applied properly and consistently monitored.

B. OSC further recommends applying a more stringent standard for certain nursing homes, a concept that is contemplated by the current PCR law. The law states that "[t[he commissioner may adjust the components of the ratio as appropriate based on current financial information reported by nursing homes and overall performance by the nursing home related to patient safety and quality of care."[91] A more stringent standard could be applied to nursing homes based on certain factors, such as: nursing homes that are perpetually poor-performers based on CMS standards; nursing homes that have indications of financial distress; nursing homes whose reports include red flags or indications of fraud, misrepresentations or omissions; nursing homes that fail to provide complete, timely or accurate reports; nursing homes whose related party disclosures indicate significantly inflated costs; nursing homes whose reports include outlier costs; or otherwise at the discretion of DHS. This would permit DHS to require greater transparency and accountability for those nursing homes by, for instance, requiring them to submit independently audited PCR filings (by an auditor selected or approved by DHS and paid by the nursing home).

Finally, the PCR rules should be adjusted to obtain and use all available information involving profits. The Legislature directed DHS in the 2020 law to require nursing homes to report their profits and authorized recoveries focused on "any payments that exceed the allowed cost ratio for administrative costs and profits." This information, which should include both profits from Medicaid and other payors, should be made public because it would assist the public and the Legislature in evaluating the regular requests made for more funding through the annual budget process.

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[90] This excludes the Broadway Nutritional numbers for 2023 which appear to be in error.
[91] N.J.S.A. 30:4D-7cc(c)(2).

New Jersey Nursing Homes Contracting with Krausman- and Konig-Owned/Controlled Entities

April 2018 to March 2023

Name	Owner	Corporate Name	Address
South Jersey Extended Care	Mark Weisz	H.W. Weidco/Ren LLC	99 Manheim Ave, Bridgeton, NJ
Providence Nursing & Rehabilitation Center	Fishel Rispler*	M.R. of Trenton LLC	439 Bellevue Avenue, Trenton, NJ
Royal Health Gate Nursing & Rehabilitation	David Lackner*	Royal Operations LLC	1314 Brunswick Avenue, Trenton, NJ
Manhattanview Nursing Home	David Lackner*	Manhattanview Operations LLC	3200 Hudson Avenue, Union City, NJ
Manahawkin Convalescent Center	Fishel Rispler*	M.R. of Manahawkin LLC	1211 Route 72 West, Manahawkin, NJ
Amboy Care Center (Formerly Amboy Nursing and Rehabilitation Center)	Fishel Rispler*	M.R. of Amboy LLC	1 Lindbergh Avenue, Perth Amboy, NJ
Teaneck Nursing Center	Fishel Rispler*	M.R. of Teaneck LLC	1104 Teaneck Rd, Teaneck, NJ
Oceana Rehab and Nursing Center	Mark Weisz*	Oceana Rehab and Nursing, LLC	502 Route 9 North, Cape May Court House, NJ
Shore Meadows Rehab & Nursing Center	David Lackner*	Shore Meadows Operations LLC	231 Warner Street, Toms River, NJ
Sterling Manor	Mark Weisz	HW Weidco/Ster, LLC	794 North Forklanding Road, Maple Shade, NJ

* Facility no longer owned by the individuals/organizations named in this report.

The Centers for Medicare and Medicaid Services's Star-Ratings of New Jersey Nursing Homes

Nursing Home	Review Period Average Rating	Overall Rating																			
		Q1 2023	Q4 2022	Q3 2022	Q2 2022	Q1 2022	Q4 2021	Q3 2021	Q2 2021	Q1 2021	Q4 2020	Q3 2020	Q2 2020	Q1 2020	Q4 2019	Q3 2019	Q2 2019	Q1 2019	Q4 2018	Q3 2018	Q2 2018
South Jersey Exended Care	**1.1**	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2	1	1	1
Sterling Manor	**1.1**	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	2	2
Oceana Rehab and Nursing Center	**1.2**	2	2	2	2	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Manahawkin Convalescent Center	**1.6**	2	2	2	2	2	2	2	2	2	2	2	1	2	1	1	1	1	1	1	1
Amboy Care Center	**2.0**	3	3	4	3	3	3	1	2	1	1	2	2	2	2	2	1	1	1	1	1
Royal Healthgate Nursing & Rehabilitation	**2.1**	1	1	2	2	2	2	2	2	2	3	3	3	2	2	2	2	2	2	2	2
ManhattanView Center for Rehabilitation and Healthcare	**2.1**	1	1	1	1	1	2	3	2	2	2	2	1	2	2	1	1	4	4	4	4
Shore Meadows Rehab & Nursing Center	**2.2**	3	3	2	2	1	3	2	2	2	1	1	1	2	3	4	3	3	2	2	2
Teaneck Nursing Center	**3.2**	2	2	3	4	2	1	2	2	3	3	3	3	3	4	4	4	4	5	5	4
Providence Nursing & Rehabilitation Center	**3.4**	2	3	4	4	4	4	4	3	3	3	3	3	3	3	3	3	4	3	4	4
Overall New Jersey State Average	**3.5**	3.2	3.2	3.3	3.4	3.5	3.5	3.5	3.5	3.4	3.6	3.5	3.5	3.5	3.5	3.5	3.4	3.6	3.7	3.6	3.7

SJEC's Key Contracts with Konig- and Krausman-Owned Entities

M&A/Comprehensive Health Care Management Systems, LLC (Comprehensive)

Comprehensive entered into a series of contracts with SJEC to provide the following services, among others, at a cost of seven percent of SJEC's gross revenues, plus $90,000 annually for the cost of an Administrator and $84,000 annually for the cost of an Assistant Administrator.

- Provide operational, accounting, and financial oversight to the facility;
- Provide management and administrative services to the facility;
- Oversee nursing care to patients, staffing, accounting, and maintenance of the facility's books and records, billing, collections, rate setting, and general onsite administration of third parties under contract with the facility;
- Negotiate service and vendor contracts on behalf of the facility;
- Oversee and supervise an appropriate quality assurance program;
- Arrange for the purchase of food, beverage, medical, cleaning and other supplies, equipment, furniture, and furnishings necessary for the operation and maintenance of the facility;
- Oversee, coordinate, and ensure that the facility is maintained and repaired;
- Ensure compliance with applicable federal, state, and local laws, rules, and regulations pertaining to licensing and certification of a skilled nursing facility and nursing facility;
- Monitor and manage cash flow of the facility on a weekly basis. Prepare and review all bank reconciliations for the facility accounts;
- Supervise disbursements from the Operating Account as required in Manager's reasonable business judgment; and
- Prepare an annual budget for facility expenses and operations.

Broadway Health Care Management, LLC (Broadway or Broadway Management): Nursing and Infection Control

Broadway Management entered into multiple contracts with SJEC to provide "Nursing and Infection Control" services. These contracts included the costs of all nursing and ancillary staff (such as certified nurse aides/assistants (CNAs), the MDS coordinator, and other direct care staff) as well as the cost of the Director of Nursing. In 2021, the contract provided that these services would cost SJEC $398,125 per month ($4,777,500 annually). In 2022 and 2023, the cost increased to $449,881.25 per month ($5,398,575 annually).[1] Under these contracts Broadway Management was to provide the services described below, among others.

- Provide complete nursing and infection control services and personnel through appropriately licensed individuals to furnish professional and other nursing services, reasonably necessary for the day-to-day operation of the facility's nursing and infection control departments;
- Ensure the facility is and remains in full compliance with all state and federal laws, rules, and regulations pertaining to the provision of nursing and infection control services;

[1] SJEC did not have or could not provide its contracts with Broadway Management prior to 2021.

- Nursing services shall be provided under the supervision of a Registered Nurse (RN) and shall be designed to provide for the complete operation, management, and supervision of the facility's Nursing and Infection Control Departments. This includes ensuring that all assessment, documentation, and patient nursing care is performed in accordance with applicable federal and state licensure, certification, and accreditation standards, and in compliance with professional standards of nursing practice applicable to a long-term care facility;
- Provide a full-time Director of Nursing with appropriate qualifications and experience;
- Provide at least one RN on duty on all shifts;
- Provide a full-time Assistant Director of Nursing;
- Be responsible for all salaries, taxes, insurance, and benefits with respect to the personnel employed by Broadway Management; and
- Perform adequate and appropriate background checks, including checks of the nurse aide registry.

Broadway Health Care Management, LLC (Broadway or Broadway Management): Bookkeeping and Administrative Services

Broadway Management also entered into a series of contracts with SJEC to provide Bookkeeping and Administrative Services. Under these contracts, Broadway Management would provide the services described below, among others. In exchange, SJEC would pay Broadway Management $37,000 per month ($444,000 annually) in 2021 to 2023.

- Provide administrative support services, supplies, and personnel reasonably necessary for the day-to-day operation of the facility, specifically services necessary for the operation of the facility's Administrative Support Department;
- Provide all necessary or desirable data processing personnel and equipment;
- Provide cost break-downs and other appropriate financial reports on at least a monthly basis;
- Consult with the facility Manager with regard to recommended cost control actions;
- Provide ongoing review and continual monitoring of the Facility's compliance with all state and federal laws, rules, regulations, and policies applicable to the facility and its operations;
- Maintain a comprehensive system of books, records, and accounts;
- Oversee, coordinate, and use best efforts to ensure that routine goods and services procured by the facility are procured on the most advantageous terms to the facility;
- Oversee the preparation and payment of employee payroll and of all accounts payable.

OSC's Analysis of SJEC's Staffing

Date	Total Residents in-House	Census after 3 Day Look Back	Rounded Day Shift 1 0700-1500 Required Staff* 1:8	Rounded Evening Shift 2 1500-2300 Required Staff* 1:10	Rounded Night Shift 3 2300-0700 Required Staff* 1:14	Total Required Staff Per Day	Average Day Shift 1 0700-1500 Actual Staff** 1:8	Average Evening Shift 2 1500-2300 Actual Staff** 1:10	Average Night Shift 3 2300-0700 Actual Staff** 1:14	Total Average Actual Staff Per Day**	Number of Deficient Staff Per Day**	Deficiency Rate***
02/21/2021	111	111	14	11	8	33	5	4	3	12	21	62.1%
03/20/2021	108	107	13	11	8	32	6	5	3	14	18	57.0%
04/11/2021	112	112	14	11	8	33	5	7	2	14	19	59.1%
04/16/2021	111	111	14	11	8	33	7	8	2	17	16	51.6%
05/07/2021	113	113	14	11	8	33	8	7	4	19	15	44.8%
05/11/2021	113	113	14	11	8	33	10	6	2	18	15	49.0%
05/20/2021	114	111	14	11	8	33	11	8	4	23	10	33.1%
05/31/2021	112	112	14	11	8	33	8	6	3	16	17	51.9%
06/01/2021	109	109	14	11	8	33	8	7	2	17	16	50.8%
06/03/2021	113	109	14	11	8	33	9	5	4	18	15	47.5%
06/11/2021	114	114	14	11	8	33	9	7	3	19	14	44.3%
07/04/2021	106	106	13	11	8	32	4	5	2	11	22	67.9%
07/18/2021	106	105	13	10	7	30	5	6	2	13	17	58.7%
07/23/2021	109	108	13	11	8	32	7	6	3	16	16	51.6%
08/01/2021	110	110	14	11	8	33	4	6	1	11	22	68.4%
08/15/2021	112	110	14	11	8	33	5	3	1	9	24	75.9%
08/23/2021	110	110	14	11	8	33	5	3	2	10	23	71.0%
09/02/2021	105	104	13	10	7	30	7	7	2	16	14	50.3%
09/07/2021	107	104	13	10	7	30	7	5	2	14	16	55.8%
09/16/2021	104	104	13	10	7	30	6	5	2	13	17	58.6%
10/02/2021	107	107	13	11	8	32	7	2	1	10	22	72.9%
10/10/2021	108	107	13	11	8	32	6	5	0	11	21	69.4%
10/17/2021	104	104	13	10	7	30	4	0	4	8	22	71.0%
10/20/2021	104	104	13	10	7	30	8	7	6	21	10	29.6%
11/18/2021	105	105	13	10	7	30	10	5	3	18	13	44.7%
12/08/2021	107	104	13	10	7	30	6	6	3	15	15	51.6%
12/14/2021	106	106	13	11	8	32	9	10	4	23	9	30.9%
12/29/2021	105	105	13	10	7	30	8	5	4	18	12	41.8%
01/17/2022	106	106	13	11	8	32	7	5	1	12	20	64.2%
01/18/2022	107	106	13	11	8	32	7	3	4	14	18	56.8%
01/21/2022	109	107	13	11	8	32	7	7	2	16	16	52.7%
02/18/2022	112	110	14	11	8	33	5	6	3	14	19	57.3%
03/11/2022	110	110	14	11	8	33	7	4	2	13	20	63.7%
03/12/2022	109	109	14	11	8	33	7	7	3	17	17	51.0%
03/14/2022	109	109	14	11	8	33	7	6	1	14	19	60.2%
03/16/2022	110	108	13	11	8	32	7	6	3	15	17	54.5%
03/27/2022	111	110	14	11	8	33	5	6	2	14	20	59.6%
04/26/2022	104	101	13	10	7	30	9	5	4	19	11	39.4%
05/04/2022	105	102	13	10	7	30	9	5	4	18	12	41.5%
05/17/2022	107	104	13	10	7	30	7	6	3	16	15	49.2%
05/23/2022	105	104	13	10	7	30	5	6	4	15	15	49.4%
05/28/2022	104	104	13	10	7	30	6	5	3	14	16	52.2%
06/03/2022	102	102	13	10	7	30	6	5	3	14	17	55.1%
06/05/2022	103	102	13	10	7	30	7	4	4	15	16	51.3%
06/11/2022	104	104	13	10	7	30	5	2	3	10	20	66.3%
06/16/2022	102	102	13	10	7	30	8	5	6	19	11	35.9%
07/02/2022	101	101	13	10	7	30	7	6	4	17	13	42.4%
07/12/2022	100	100	12	10	7	29	6	6	4	16	13	44.6%
07/21/2022	101	98	12	10	7	29	9	6	3	17	12	44.9%
08/16/2022	105	105	13	10	7	30	8	6	4	18	12	42.3%
08/19/2022	104	104	13	10	7	30	7	6	4	17	13	43.6%
08/23/2022	101	101	13	10	7	30	10	6	3	19	11	39.2%
08/27/2022	99	99	12	10	7	29	8	8	3	18	11	39.4%
10/07/2022	96	95	12	9	7	28	8	5	3	16	12	44.8%
10/10/2022	97	96	12	10	7	29	8	6	3	16	13	46.5%
11/03/2022	95	95	12	9	7	28	8	7	2	17	11	43.0%
11/06/2022	94	94	12	9	7	28	7	7	4	17	11	37.8%
11/08/2022	95	94	12	9	7	28	8	5	3	16	12	44.0%
11/16/2022	98	96	12	10	7	29	8	7	4	20	10	34.3%
11/27/2022	97	96	12	10	7	29	5	3	4	12	17	58.1%
12/11/2022	96	96	12	10	7	29	7	3	4	13	16	54.2%
12/31/2022	95	95	12	9	7	28	8	5	4	17	11	41.3%
01/12/2023	98	95	12	9	7	28	9	6	4	20	9	32.1%
01/13/2023	98	96	12	10	7	29	9	5	4	18	12	40.8%
01/15/2023	98	98	12	10	7	29	5	7	4	15	14	46.7%
01/18/2023	99	98	12	10	7	29	9	6	2	17	12	46.1%
01/23/2023	99	99	12	10	7	29	9	6	5	20	9	32.7%
01/24/2023	97	97	12	10	7	29	8	6	3	17	12	42.9%
01/26/2023	96	95	12	9	7	28	7	8	5	20	8	26.2%
01/27/2023	95	95	12	9	7	28	8	5	4	16	12	42.2%
02/09/2023	96	96	12	10	7	29	10	8	1	19	10	39.2%
02/10/2023	96	96	12	10	7	29	9	5	3	17	13	45.5%
02/16/2023	99	97	12	10	7	29	9	7	3	19	11	38.8%
02/17/2023	99	99	12	10	7	29	9	6	3	18	12	42.3%
02/18/2023	99	99	12	10	7	29	5	4	3	12	18	59.9%

Average Number of Staff Required 31

Average Number of Staff Deficiency 14.9

Average Deficiency Rate 49.6%

* N.J.S.A. 30:13-18

** Round numbers shown for visual presentation

*** Deficiency rate was calculated per hour. The 24-hour day was then averaged to determine the daily deficiency rate.

Note: OSC defines "actual staff" as individuals who were adequately licensed and certified, and met all qualifications and requirements. Individuals who were present but not certified were not considered in the total staffing numbers.

OSC's Summary of SJEC's Documentation Deficiencies

Recipient	Lacked Electronic Health Records	Missing Plans of Care	Medication Administration Record Missing	No Documenation that Assistance was Provided for Necessary Activities of Daily Living
1	X		X	X
2	X		X	X
3	X	X	X	X
4	X	X	X	X
5	X	X		X
6	X		X	X
7	X		X	X
8	X		X	X
9	X			X
10	X			X
11	X	X	X	X
12	X		X	X
13	X		X	X
14	X	X	X	X
15	X			X
16	X		X	X
17	X		X	X
18	X	X	X	X
19	X		X	X
20	X			X
21	X		X	X
22	X		X	X
23	X			X
24	X	X		X
25	X	X		X
26	X			X
27	X	X	X	X
28	X			X
29	X		X	X
30	X	X		X
31	X		X	X
32	X			X
33	X	X		X
34	X	X		X
Number of Deficiencies	**34**	**12**	**20**	**34**

SJEC Results from Department of Health Surveys and Inspection Reports

- DOH cited SJEC for placing residents in immediate jeopardy.

    - Reports involving the highest level of risk to residents showed all residents in the facility were in danger multiple times based on SJEC's deficient care.
    - The immediate jeopardy findings involved deficiencies relating to abuse, reporting alleged violations, investigating/preventing/correcting alleged abuse, infection control, and outbreak response.

- DOH repeatedly cited SJEC for improper administration of medication.

    - Reports from 2019 and 2021 show that SJEC failed to provide medicine to residents on schedule and in accordance with doctor's orders.
    - In 2021, DOH reported that all four of the residents whose files they reviewed failed to receive their medicine on time. An LPN stated that at least half of all the medications she administered were late. Records showed medications were provided three to four hours later than ordered.
    - For a resident admitted in 2021 with End Stage Renal Disease, SJEC failed to provide her medication on time, which made it impossible for her to leave the facility to receive dialysis. The records also showed on 19 occasions in November and December 2021 that the nurses administered the medication at a time when the resident already left the facility for dialysis.
    - In 2021, DOH found that for 8 of 22 residents examined, SJEC had incorrect physician order forms for medicine on file.
    - DOH also found poor documentation of medicine being distributed: A 2021 audit revealed that of the 20 residents reviewed for whom medication should have been administered, SJEC did not possess any documentation for five of the residents. In total, SJEC failed to document as administered 13 medications and 2 supplements.

- DOH cited SJEC for violations involving abuse and neglect of residents.

    - Reports from 2020 and 2023 document violations that involve the abuse and neglect of residents at SJEC.
    - In 2020, DOH cited SJEC for failing to report allegations of abuse. Surveyors determined that the facility staff failed to ensure a resident was protected from actual abuse. Based on a review of a security camera recording, the surveyors found that a resident was "roughly handled when a staff member forcefully pulled back the resident's wheelchair causing the resident to fall forward out of the chair, subsequently fell to the floor, and sustained an abdominal injury. A second staff member then forcefully grabbed the resident by the upper arm, causing the resident to be held down in the wheelchair while the 1st staff member roughly pushed the resident backwards in the wheelchair returning the resident to their room." The resident was sent to the hospital complaining of chest pain and was

admitted on June 3, 2020, with a diagnosis of abdominal hematoma and anxiety. Surveyors found that residents were at risk for abuse in an immediate jeopardy situation.

- In 2023, DOH cited SJEC for using physical restraints when it was determined that the facility failed to ensure that a resident's movement in and out of a room was not restricted. The Surveyors found that a CNA tied the resident's bedroom door handle with a plastic trash bag and attached the other end of the trash bag to the handrail located just outside the resident's room door, which resulted in the resident not being able to exit the bedroom into the hallway.

- DOH cited SJEC for improper documentation of resident care and failure to ensure proper care.

  - Reports from 2019, 2020, 2021, and 2023 found that the facility failed to prepare appropriate MDS and Care Plans for residents.
  - A June 2020 survey found that a Care Plan for a resident had not been reviewed since September 2019.
  - In 2021, a survey found that SJEC staff failed to accurately transcribe a physician's order and failed to communicate with a physician in a timely manner about a resident's refusal to comply with the physician's orders.
  - A survey found that SJEC failed to ensure timely physician visits when a resident was not seen by an Attending Physician or Nurse Practitioner for a more than a two-month period in 2021.
  - In 2023, two residents who should have been identified as having serious mental illnesses were wrongly identified as not having serious mental illnesses.

- DOH repeatedly cited SJEC for improper practices involving food.

  - Surveys in 2019, 2020, and 2023 documented problems with food at SJEC.
  - In 2019, an inspection revealed 3 expired pantry items and 14 different food products in undated bags out of original packaging, including chicken, English muffins, ground beef, and shrimp. An opened one-gallon container of salad dressing had an opened date of November 2022 with a manufacturer's "use by date" of August 13, 2018.
  - In 2020, a survey revealed opened bags of meat that were stored open and exposed; chocolate pudding was kept an additional three days past the period permitted; and food was stored on freezer floor. A fan attached to wall above standing mixer was covered in dust and unidentified debris.
  - In 2023, a resident with end stage renal disease and hyperkalemia (high potassium in blood) was provided potatoes when the resident was not supposed to have potatoes.
  - In 2023, six food items observed by surveyor were undated and two half-pound containers of spices were expired by three to four years. A surveyor found a refrigerator/freezer with hair, solid black particles, ice buildup at the bottom, and a dried, brown substance on the bottom shelf. The surveyor also found that the

kitchen staff improperly sanitized/washed pots and pans in the three-compartment sink via improper testing procedures, which could lead to poisoning, bacterial growth, and potential sickness. Kitchen personnel were also found to not employ proper hygiene in handwashing or paper towel usage.

- DOH repeatedly cited SJEC for failing to maintain a safe and clean facility.
  - Surveys during inspections and in response to complaints in 2019, 2020, 2021, and 2023 documented problems with the SJEC facility.
  - In 2019, a surveyor found a door to a hazardous part of the facility did not close automatically when released.
  - In 2020, SJEC was cited for allowing a leaking fire sprinkler system to remain from at least April until September 2019, which delayed required inspections of the system.
  - In 2021, surveyors found that SJEC failed to ensure resident hallways and resident rooms were maintained in a clean and sanitary condition, which had the potential to affect all residents. Surveyors documented 24 areas that included, for instance, "Brown liquid spatter" and "Brown and green liquid and dried on spatter" on walls and "Brown smears on . . . handrails."
  - A 2023 survey documented a tube feeding pole in a room with caked, tan material imbedded on it and a privacy curtain with a large brown, circular stain on it that remained for at least three days. Also, in another room a privacy curtain that was between two residents had brown/tan-colored stains that were in place for at least three days. The report notes that the resident stated that they had informed staff about it, but it was not addressed.

Comparison of SJEC's Submissions of Patient Care Ratio (PCR) Reports to the Department of Human Services and OSC

	For the Period January 1, 2022 through December 31, 2022		For the Period January 1, 2023 through December 31, 2023	For the Period January 1, 2023 through October 31, 2023
	Submission to DHS	Submission to OSC	Submission to DHS	Submission to OSC
Revenue				
Total Revenue in accordance with GAAP	$ 9,821,431	$ 10,348,142	$ 9,757,391	$ 8,589,371
Total Bed Days	37,411	37,411	35,647	29,985
Medicaid/NJ FamilyCare Bed Days	32,915	32,932	30,359	25,086
Medicaid/NJ FamilyCare Revenue	$ 8,118,602	$ 7,979,677	$ 7,804,185	$ 6,232,553
Expenses				
Certified Nurse Aide (CNA) compensation	$ 2,591,316	$ 6	$ 304,296	$ 1
Non-CNA Direct Care compensation	$ 2,807,259	$ 5,872,001	$ 4,849,076	$ 4,937,391
Other Resident Care and Support compensation	$ 187,380	$ 2,356,797	$ 211,403	$ 2,180,045
General and Administrative compensation	$ 867,453	$ 62,864	$ 1,392,466	$ 70,489
Management Fee	$ -	$ 444,000	$ -	$ 370,000
Direct care materials and supplies	$ 3,155,330	$ 1,472,519	$ 2,884,118	$ 993,187
Other materials and supplies	$ 617,815	$ 83,770	$ 84,038	$ 53,651
Resident operations (e.g., equipment, maintenance, utilities)	$ 161,209	$ 302,974	$ 449,440	$ 274,299
Resident depreciation and rent	$ 770,929	$ 721,876	$ 802,751	$ 626,839
Staff training	$ -	$ -	$ -	$ -
Insurance policies	$ 152,358	$ 152,358	$ 238,100	$ 191,500
Interest on depreciable resident PP&E	$ -	$ -	$ 120,372	$ -
Other non-PP&E interest payments	$ 1,020	$ 1,020	$ -	$ 20,499
Routine licensing and regulatory fees	$ -	$ -	$ 87,694	$ -
Property taxes and similar payments in lieu of taxes	$ 209,919	$ 209,919	$ 211,881	$ 175,000
Sales and similar taxes, not otherwise reported	$ -	$ -	$ 262,899	$ -
Industry-wide assessments	$ -	$ 526,712	$ 417,288	$ 415,017
Expense to support other facilities, if multiple owned	$ -	$ -	$ -	$ -
Expense offset from supporting facilities, if multiple owned	$ -	$ -	$ -	$ -
Total expenses from above	$ 11,521,988	$ 12,206,817	$ 12,315,822	$ 10,307,919

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