



# SENIORS' HOUSING ALERT

September 2002

**Ruskin Moscou Faltischek, P.C.**

*Counselors at Law*

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## HIPAA IS COMING - ARE YOU READY?



**Wayne L. Kaplan**

As you probably already know, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a federal statute enacted in 1996 as part of a broad Congressional attempt at incremental health care reform. Among its many purposes, HIPAA requires "administrative simplification" within the health care system.

HIPAA regulations mandate that health care providers use a uniform set of codes for electronic processing of claims and transactions, and that they maintain the confidentiality of patient health information.

HIPAA has staying power, so health care providers, including covered seniors' housing operators, will need to get busy implementing compliance programs.

Ruskin Moscou has a dedicated HIPAA Compliance Group that is presenting lectures across the state in order to help entities get ready for HIPAA. For more information, please call me at 516-663-6553. You can also see upcoming HIPAA seminars on our web site, [www.ruskinmoscou.com/calendar.htm](http://www.ruskinmoscou.com/calendar.htm).

### Important HIPAA Deadlines

#### Transactions and Code Sets Standard

Governs electronic transmission of certain administrative and financial transactions  
**October 16, 2002, unless a one-year extension is filed by October 15, 2002.**

#### Privacy Standard

Protects the privacy of health information  
**April 14, 2003**

#### Security Standard

Protects the security of health information  
**We expect the final form will be issued soon. In the meantime, we recommend implementation of the "common sense" requirements in conjunction with the implementation of the HIPAA compliance plan.**

## OCCUPANCY RATES STABLE

National assisted living occupancy rates have stopped falling during the first quarter of 2002, according to the National Investment Center for Seniors Housing and Care Industries (NIC). The median occupancy rate of 83% and the mean of 84% were approximately the same as the last quarter of 2001. This continues a 7-quarter trend that began in the autumn of 2000, when the average assisted living occupancy rate stood at 88.7%.

NIC's data also shows an increase in net move-in rates for ALFs, indicating that some facilities are experiencing a lot of resident turnover. There is also a major difference of opinion between buyers and sellers of ALFs on valuation and pricing - leading to gridlock in terms of facility sales.

For more information on the key financial indicators, go to [www.nic.org](http://www.nic.org) and click on "First Quarter 2002 Data."

## BABY BOOMERS GETTING OLDER

Baby boomers - those born from 1946 to 1964 - will begin turning 65 in 2011, according to the Census Bureau. I sit right in the middle of this group of boomers, and while these stats aren't personally encouraging, they should be good for the healthcare and seniors' housing businesses. From 2011 until 2030, the number of elderly people will rise from 40 million to 70 million, or 20% of the population.

## ALZHEIMER'S CASES MAY TRIPLE

The number of Americans with Alzheimer's disease could more than triple to 16 million by 2050, according to new research presented at an international Alzheimer's conference in Sweden. Some 4.6 million Americans currently suffer from Alzheimer's.

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## NEW FEDERAL LAWS COULD AFFECT ASSISTED LIVING

Several bills are in the works that could dramatically improve the lives of seniors in need of assisted living services. According to Eli's Senior Housing Report, Rep. John LaFalce (D-NY) introduced the Elderly Housing Quality Improvement Act in May (H.R. 4817), which authorizes capital repair grants for seniors' housing, grants for assisted living conversions, money for assisted living service coordinators and funding for a pilot program to study assisted living services in seniors' housing projects with mixed funding, including private pay.

The LaFalce bill augments H.R. 3995, the Housing Affordability for America Act of 2002 introduced by Rep. Marge Roukema (R-NJ) in March. H.R. 3995 includes a demonstration program for the modernization of projects under HUD's Section 236 program and mortgage insurance for integrated health care facilities. As of this writing, H.R. 4817 has been referred to the House subcommittee on Housing and Community Opportunity, and H.R. 3995 has been ordered to be reported by Voice Vote.

The good news is that these bills demonstrate an acknowledgement of the need for federal support for assisted living conversions and services in both subsidized and market-rate properties.

For more information, go to [www.house.gov](http://www.house.gov) and type in the bill number.

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### RUSKIN MOSCOU FALTISCHEK'S SENIORS' HOUSING CAPABILITIES:

- \* Licensing Applications and Regulatory Matters
- \* Real Estate, Construction and Financing
- \* Contract Draft and Reviews
- \* Counsel and Advice on Third Party Deals
- \* Project Related Litigation
- \* Compliance Audits
- \* Fostering Alliances Between Housing and Healthcare Providers
- \* Exit Strategies
- \* Facility Sales and Refinancing
- \* Evaluating Model Types for Developers
- \* Federal and State Legislation
- \* Employment Matters
- \* Occupational Safety and Health Administration (OSHA) Regulations
- \* Antitrust Regulations
- \* National Labor Relations Act
- \* Copyrights and Trademarks

## ETHNIC SENIOR POPULATION GROWING

The number of Hispanic seniors living in the U.S. who are over age 65 will triple by 2050 - growing from 5.6% of the total population of U.S. seniors in 2000 to 16% in 2050. The population of African-American seniors will increase from 8.1% of all seniors over 65 to 10% over the next 50 years, and those of Asian heritage will expand from 2.4% in 2000 to 7% by mid-century. These figures are from the American Seniors Housing Association's recently released Seniors Housing Statistical Handbook. Are you gearing up to serve this increasingly diverse population of seniors?

## NY TOPS MONTHLY COSTS LIST

The average monthly cost nationwide for a resident in assisted living is \$2,159, according to a study conducted by the MetLife Mature Market Institute. The most expensive cost is in New York City, where the average is \$3,696 a month, while Jackson, Mississippi, is the least expensive at \$592. About two-thirds of assisted living residents paid for their stays out of pocket, while the remainder use government assistance.

*Wayne Kaplan is a Partner at Ruskin Moscou Faltischek, P.C., one of New York's leading health-care and business law firms, and is head of the firm's Seniors' Housing Group. Wayne was one of the founders and General Counsel of Kapson SENIOR QUARTERS Corp. and is currently Chairman of the Legal Committee and Ex-Officio member of the Board of Directors of the Empire State Association of Adult Homes & Assisted Living Facilities. He can be reached at 516-663-6553 or [wkaplan@rmfpc.com](mailto:wkaplan@rmfpc.com). ~ ~ ~*



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