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Inquiries at Investor-Owned Nursing Homes

By CHARLES DUHIGG

Two Congressional committees announced yesterday that they would investigate business practices at nursing homes owned by private investment groups.

The scope of the inquiries by Representatives John D. Dingell of Michigan, chairman of the Energy and Commerce Committee, and Barney Frank of Massachusetts, head of the Financial Services Committee, are still being determined, but will probably include hearings and proposed legislation, a committee spokeswoman said.

The investigations are the latest scrutiny of private equity investments in nursing homes.

Last week, Senators Max Baucus, Democrat of Montana and chairman of the Finance Committee, and Charles E. Grassley, Republican of Iowa and its ranking minority member, sent letters to five private investment firms seeking information on their ownership and management of nursing home chains. The senators also asked the agency responsible for many payments to nursing homes, the Centers for Medicare and Medicaid Services, about its oversight of such homes.

This month, officials in five states expressed concern about the Carlyle Group's $6.3 billion acquisition of the nation's largest nursing home chain, HCR Manor Care. State legislators in Florida, Illinois, Pennsylvania, Michigan and Washington have asked regulators to investigate the acquisition by Carlyle, a private equity giant, or withhold approval pending greater scrutiny.

"There are serious concerns that private equity firms are reducing the care at nursing homes by decreasing the number of employees," Mr. Dingell said. "We've been made aware that nursing home residents are losing their ability to use lawsuits to fight poor care, and that people may be suffering."

A report last month in The New York Times said that private investment firms had bought thousands of nursing homes and often cut expenses and staff, sometimes below minimum legal requirements, to increase their profit. The article, which was cited by federal and state legislators as impetus for their investigations, described how investment groups used complicated corporate structures to avoid liability when residents suffered from neglect.

Representatives of the Carlyle Group and other private equity firms said their companies intended to cooperate with all inquiries. Carlyle said it was committed to maintaining high standards at the 552 Manor Care facilities after the deal closes, which is expected late this year.

The Manor Care deal was approved last week by shareholders but has drawn public protests, many coordinated by the Service Employees International Union, which represents some of Manor Care's workers.

"We've spent the last five years trying to improve long-term care for working Americans, and now private equity wants to come in and pocket as much as they can," the union's president, Andy Stern, said.

To counter such criticisms, Manor Care began sending letters to regulators and officials in the 32 states where its facilities are located, pledging to maintain staff levels and other quality standards. The company has also sent letters to residents and their families criticizing the article in The Times and the union's efforts. The mailings have said that the Carlyle Group does not intend to overhaul Manor Care in ways that make it harder for regulators to trace ownership.

But documents filed with Maryland regulators indicate that Carlyle plans to reorganize Manor Care to make each nursing home a stand-alone company, and to separate ownership of the homes' real estate and operations. Other private investment groups have used such structures to avoid liability and regulatory scrutiny.

In an interview, Manor Care's general counsel, Richard Parr, said the revamping was intended only to streamline operations and help the company achieve lower interest rates.

“It is very clear to regulators that Manor Care owns all of these entities, and that they are run by Manor Care employees, who are committed to delivering the best patient care possible,” Mr. Parr said in an interview.

Lawyers who specialize in suing nursing homes are skeptical.

“Manor Care already fights tooth and nail in every lawsuit to say that the parent company should escape liability,” said Nathan P. Carter, who has filed dozens of suits against Manor Care and other nursing home chains. “Every other chain that has this structure uses it to escape liability. I don’t know why Manor Care would be any different.”

The Congressional inquiries and hearings may lead to significant shifts within the nursing home industry.

“When Congress has examined nursing homes in the past, it’s led to fundamental changes,” said David Zimmerman, a professor at the University of Wisconsin and president of the Long Term Care Institute, a nonprofit group. “The government pays for a great deal of nursing home care. If they demand transparency on ownership and liability, they’ll get it. Private equity groups have reasons to be concerned.”