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By Electronic Mail

February 10, 2021

The Honorable Elizabeth Warren
309 Hart Senate Office Building
Washington, D.C. 20510

Re: Genesis Healthcare, Inc.

Dear Senator Warren:

We write in response to your letter of January 27, 2021 to Genesis Healthcare, Inc. ("Genesis")[1] regarding executive compensation and the coronavirus crisis. Genesis appreciates the opportunity to address your concerns and to describe the challenges it has faced, as well as the extraordinary efforts its employees have made in confronting the coronavirus pandemic. The company wishes to correct some inaccuracies in the January 20, 2021 article in *The Washington Post* referenced in your letter. We hope to provide you with important additional information and context in this response.

As explained below, Genesis personnel at every level have taken unprecedented steps to protect residents and staff. At no time did Genesis ever limit or reduce spending on measures to protect residents and staff for any reason, including to fund executive compensation. To the contrary, from the very beginning of the pandemic, the need to acquire personal protective equipment ("PPE"), testing, and other critical infection fighting measures, and to maintain sufficient staffing levels at its facilities, drove Genesis' spending decisions. That choice had major consequences for the financial viability of the company, but the lives of residents and employees came first. And the company spent vastly more on additional pandemic-related pay for front line workers than it did to retain senior executives.

Genesis is greatly appreciative of the government support its facilities have received, and has followed and will follow all applicable conditions of those funds. In particular, all CARES Act funds received by Genesis will be allocated to expenses and lost revenue related to the coronavirus in accordance with the dictates of the law, and such expenses cannot and will not include executive compensation costs.

Due to the geographic footprint of its facilities, Genesis facilities were among the hardest hit nursing home operators early in the pandemic, when shortages of vital supplies and testing

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[1] Genesis Healthcare, Inc. is a holding company with subsidiaries and, as used in this response, "Genesis," the "company," and similar terms refer collectively to Genesis Healthcare, Inc. and its consolidated subsidiaries.

were widespread and the virus was still poorly understood. Yet an analysis of publicly available data by leading healthcare consultancy Avalere Health, engaged by Genesis to conduct this review, demonstrates that, contrary to *The Washington Post*'s misleading suggestion, Genesis facilities have had a death rate due to COVID-19 that is, on average, actually lower relative to non-Genesis facilities, when comparing facilities in the same geographic areas (in order to control for the community spread of the virus) and accounting for differences between facilities in reporting COVID-19 deaths during the earliest stages of the pandemic.

Background on Genesis

Genesis is a public company founded in 1985 and headquartered in Kennett Square, Pennsylvania. The company owns and operates approximately 280 skilled nursing facilities ("SNFs"), plus assisted living centers and independent living centers, across 24 states.[2] Although this makes Genesis one of the nation's largest skilled nursing care providers, the company accounts for only a small portion of the approximately 15,600 SNFs and 1.7 million SNF beds nationwide.[3] Significantly, Genesis' centers are largely concentrated in the northeastern United States, where broad community spread of COVID-19 occurred much earlier than in most other areas of the country.

Genesis places patient care at the forefront of its management. For this reason, senior company leadership includes two experienced clinicians. JoAnne Reifsnyder, PhD, MSN, MBA, FAAN is Genesis' Executive Vice President, Clinical Operations and Chief Nursing Officer. Richard Feifer, MD, MPH, FACP is Genesis' Executive Vice President and Chief Medical Officer. Dr. Reifsnyder and Dr. Feifer not only direct the companywide clinical response to the pandemic but also work with officials at the Centers for Disease Control and Prevention ("CDC"), U.S. Department of Health and Human Services, other national organizations, and state health agencies to provide advice and share best practices for responding to the pandemic.

Genesis, and the long-term care industry as a whole, have faced profound challenges in responding to the COVID-19 crisis. The company had to respond clinically and operationally to protect patients and staff. Details regarding how the company has been affected financially, how it has cared for patients, and how it has attempted to compensate employees for their efforts are provided below.

Genesis Financial Position

The pandemic has had a severe financial impact on Genesis, dramatically adding to its costs while also reducing its revenues. The increased costs of PPE and other care and safety supplies have been well-documented. Maintaining appropriate staffing levels, in order to take care of patients, has added to the company's overall labor costs. At the same time, occupancy is down as people exit long-term care and put off hospital procedures requiring rehabilitation

[2] Genesis also manages and/or owns approximately 35 additional facilities.

[3] Centers for Disease Control and Prevention, *Nursing Home Care*, (May 20, 2020), https://www.cdc.gov/nchs/fastats/nursing-home-care.htm.

stays. The additional costs of care in the pandemic and decreased census have placed the company (and the industry as a whole) under great financial strain. In August 2020, Genesis disclosed in regulatory filings that it had substantial doubt about its ability to continue as a going concern. In November 2020, Genesis disclosed that the company may be forced to seek reorganization under the U.S. Bankruptcy Code.

Through January 2021, Genesis has received approximately $416.9 million in state and federal grants. As a condition of receiving CARES Act funds, Genesis is required to use the funds to pay for expenses and the impact of lost revenue attributable to the COVID-19 crisis. The company will be subject to a mandatory, independent audit of such expenses and lost revenue. The company has conservatively estimated that its qualifying expenses and the impact of lost revenue will significantly exceed the amount of the CARES Act funds it has received to date, excluding the loans and advances which must be repaid. Through January 2021, Genesis estimates it has incurred expenses and lost revenue of more than $460 million due to COVID-19.[4] In addition to state and federal grants, it has received $247.8 million in loans or advances that are subject to recoupment or must be repaid, with certain recoupments scheduled to begin in April 2021. Details regarding federal and state assistance are included in Appendix A.

Again, to be very clear: the law does not consider executive compensation a COVID-19-related expense, and Genesis will not include any executive compensation in expenses allocated for purposes of the CARES Act allocation and accounting process.

Despite this assistance, Genesis remains in distress. The company is compelled to confront restructuring even as its employees continue to respond to the crisis. These forces have affected the executive and other employee compensation that is the subject of your letter.

Compensation Information

In order to attract and retain the best possible team, Genesis undertakes to fairly and appropriately compensate all its employees, whether executives or front line staff. In recognition of employees' performance in the face of the pandemic and the need to retain those employees as the pandemic continues and the company considers restructuring, Genesis has provided COVID-19-related compensation to employees and contract staff throughout the company. As detailed below, that compensation has totaled over $100 million to acknowledge and sustain the efforts of its front line employees.[5] This is in addition to incentive compensation and other payments for which the company had contracted with its executives.

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[4] This number is only a preliminary estimate being provided in advance of public filings and is subject to audit.

[5] Approximately $13 million of this amount was funded with assistance provided by state governments.

Employee Compensation

Genesis has made it a priority to reward front line staff for their service in the face of the pandemic. To that end, the company has awarded over $100 million in what is informally called "hero dollars" to nearly 30,000 employees and contract staff working in its centers and caring for patients. This is in recognition of their care for patients in the face of the crisis and to help ensure their willingness to show up every shift and fill empty shifts during shortages, all at personal risk. Specifically, these payments have included:

- *Appreciation Pay*. Additional pay, totaling $49.6 million, for employees and contract workers (mainly dietary and housekeeping staff) for their time treating and caring for patients and providing onsite support of the direct care team, through increases in hourly pay for hourly staff and flat amounts for salaried staff. This includes pay for center-based staff as well as employees in Genesis' rehabilitation, physician services, and staffing agency units.

- *Supplemental Staffing Bonus*. Incentive pay, totaling $21.7 million, to reward center staff who worked additional shifts during shortages.

- *Perfect Attendance*. Award to workers, totaling $14.1 million, who were punctual and worked all shifts to which they had committed in the pay period.

- *State Stipends*. Some states made stipends available for worker pay. Genesis requested and/or facilitated these payments for its staff, totaling $13.6 million.

- *Staff Meals*. $1.2 million for meals for workers who remained on site for extended periods at times when they were unable to leave due to the pandemic.

Genesis has made these payments throughout the pandemic, based on decisions by senior company executives and its Board of Directors, including former CEO George Hager, in consultation with regional executives and others.

In addition to the above, Genesis made payments totaling $3.45 million to corporate staff who made extraordinary contributions to the company's Coronavirus Response Plan. Recipients must return these funds if they terminate employment prior to June 29, 2021.

Executive Compensation

Genesis' executive compensation is determined by the Compensation Committee of its Board of Directors, composed entirely of three Independent Directors. The Compensation Committee works closely with an independent compensation consultant and other advisors to examine the effectiveness and reasonableness of Genesis' compensation programs.

Former CEO George Hager and each of the company's other six Named Executive Officers, as identified in SEC filings, had or has an employment agreement with the company. Mr. Hager was employed by Genesis pursuant to an employment agreement that dated back to his appointment as CEO in 2003. That agreement, which was amended and extended numerous times, most recently in 2019, included terms for a severance payment under certain customary circumstances and in amounts common to such arrangements. Under that agreement, Mr. Hager was entitled to his severance payment if he resigned from the company for "good reason," which included a "substantial alteration in the nature or status of [Mr. Hager's] responsibilities," or if he was terminated without cause. The agreement also included terms for annual incentive compensation based on Mr. Hager and/or the company meeting certain goals. The agreements of the other six officers include similar provisions to pay severance and incentive compensation. Mr. Hager's total direct compensation was in the bottom quartile compared to peer companies at each of the four compensation reviews conducted by the company's compensation consultant since 2014.

Just before the onset of the pandemic crisis in March 2020, the Genesis Board of Directors initiated discussion of Mr. Hager's departure from the company. Mr. Hager had served Genesis for 28 years and succession planning had been under way for some time. Under his employment agreement, he would have been entitled to severance had he departed at that time. When it became clear, however, that Genesis was facing a public health emergency of historic proportions, the Board requested, and Mr. Hager agreed, that he remain as CEO to avoid a major disruption at a time when Genesis needed all hands on deck. Throughout the difficult early months of the pandemic and beyond, he provided vital and effective leadership to Genesis, even as the company struggled to contend with unprecedented crises.

In October and November 2020, recognizing the possibility that the company might have to file for bankruptcy or engage in other restructuring, the Board entered into retention agreements and amended employment agreements with Mr. Hager and several other key executives whom the Board deemed essential to the company's restructuring efforts and operational turnaround. These agreements gave company leaders a financial incentive to remain with Genesis through the historically challenging operational and financial circumstances brought on by the pandemic, ensuring ongoing access to their skills and experience. Such retention agreements are often a necessary step taken by companies engaged in restructuring activities to avoid the loss of critical personnel in a crisis situation when stability is paramount. At that time, the Board expected and needed Mr. Hager to remain as CEO, and his retention agreement contemplated that he would remain through the end of 2021.

Under the retention agreement, Mr. Hager was paid an advance of funds totaling $5,194,578, an amount he could keep only if he remained with the company through the end of the retention period or left under circumstances that qualified him for severance, such as resignation for "good reason" or removal without cause. Otherwise, Mr. Hager had the legal obligation to return a portion of the funds based on a schedule incorporated into his amended employment agreement. Under the revised employment agreement, any severance due to Mr. Hager would be offset by the amount advanced as a retention payment. In both the company's 2019 and 2020 proxy statements, it publicly estimated Mr. Hager's severance at approximately $5.1 million.

Genesis' Compensation Committee presented its plan for retention payments for seven executives, including Mr. Hager, to the full Board of Directors after careful analysis and consideration. This included consultation with the company's compensation consultant, Pearl Meyer & Partners LLC; the company's restructuring adviser, Ankura Consulting Group LLC; and the company's restructuring counsel, Skadden, Arps, Slate, Meagher & Flom LLP. Comparable company market data supported the amounts of these payments for similar positions, and the retention amounts were in exchange for the valuable benefits of stability and knowledge that the executives' retention would bring to the company. The ongoing service of the company's experienced leadership induced through retention payments subject to repayment, would also help avoid the potentially more costly disruption caused by key employee departures and provide some protection to employees performing critical services if the company ultimately had to initiate a chapter 11 proceeding to effect a restructuring.[6] At the time these payments were made, Genesis did not anticipate the imminent departure of Mr. Hager or any other participating executives.[7]

Circumstances at Genesis changed quickly and dramatically thereafter, however, in an unanticipated manner. In the challenging weeks ending 2020, the Board made governance changes, placed more reliance on outside advisors, and entered into challenging negotiations with creditors, all of which reduced Mr. Hager's role. It also became clear during the course of these developments that there were significant differences in strategic outlook between Mr. Hager and the rest of the Board. Accordingly, Mr. Hager and the Board mutually agreed that the time was right for his departure and negotiated a separation agreement.

In determining the amount Mr. Hager would receive pursuant to the separation agreement, the Compensation Committee reviewed the circumstances and operative agreements and consulted with outside counsel and its compensation consultant. Under the terms of Mr. Hager's employment agreement, his departure for "good reason" would obligate the company to pay him his severance, offset by the retention payment. In reaching a mutual agreement for Mr. Hager's departure, the company recognized that the changes in his role meant he could claim "good reason" for leaving his position and that differing outlooks made this an appropriate time to part ways. Mr. Hager therefore kept his retention payment under the terms of the retention agreement, which again offset severance for which Mr. Hager would otherwise have had a legal claim against the company.[8] He was also paid his 2020 incentive compensation due under the terms of his employment agreement. The company agreed to pay Mr. Hager $650,000 for his leadership during the COVID-19 crisis and $9,121 to offset medical benefit continuation coverage. To ensure Genesis' continued access to Mr. Hager's expertise, relationships, and institutional knowledge, the company also hired him as a consultant under a flat $300,000

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[6] The company is pursuing various out-of-court recapitalization options, including raising new equity capital.

[7] Should you wish to review board minutes related to executive compensation, please contact us to further discuss the request and possible arrangements for doing so.

[8] Given the underlying history of Mr. Hager's employment agreements and his contractual rights thereunder, the company believes that it received value in exchange for honoring Mr. Hager's severance, including through Mr. Hager's non-compete obligations and full and final release of any claims against the company.

contract. The amount that Mr. Hager received under the retention agreement was credited against, and is not duplicative of, his severance due under his employment agreement.

Ultimately, Mr. Hager's separation payment reflected his strong leadership and tireless commitment to protecting the company's residents, patients, and staff while simultaneously navigating Genesis through challenging financial pressures, all while remaining on a job that he was set to leave before the pandemic. It also recognized his 28 years of service at Genesis, during which he led the company through tremendous growth, multiple ownership changes, and monumental regulatory changes. A summary of Mr. Hager's pay is included as Appendix B.

As noted above, the Named Executives Officers and Mr. Hager participate in the company's longstanding annual incentive compensation program—the ICP—a program the company has historically offered to approximately 1,500 employees, including its executives. To protect these critical employees' right to payment under the ICP if the ICP's financial metrics were satisfied, the company funded approximately $2.1 million to a secular trust—an amount covering the seven employees' potential 2020 incentive payments if earned. Mr. Hager's incentive compensation was paid as part of his separation agreement, so a little over $1 million of the $2.1 million will be returned to the company's general funds pursuant to the terms of the trust agreement.[9] The remaining approximately $1 million is for distribution among the six other officers if they are awarded incentive compensation for 2020 performance. As a result of the unexpected changes to the global economy and the company's planning due to the pandemic, and with approval of the Compensation Committee, the Board altered the 2020 incentive compensation goals in September to reflect the company's changed goals and economic situation. The individual and company goals were collapsed into a single company financial goal, to help ensure the company is able to continue to operate and provide care. The company also paid $430,000 among the other six Named Executive Officers to acknowledge their efforts in executing the company's Coronavirus Response Plan.

Genesis' Pandemic Response

Genesis would like to take this opportunity to address statements in your letter, attributed to *The Washington Post* article, concerning death rates from COVID-19 at Genesis centers and PPE shortages. Without this background, the media coverage is very misleading.

Nursing homes have been hit particularly hard by the coronavirus pandemic due to the fragility of their residents and the group setting. Genesis, in particular, faced unique challenges because its facilities are concentrated in states that had major outbreaks in March and April 2020, when COVID-19 was little-understood; the disease's mortality rate was higher; PPE and testing capacity were in extremely short supply; and governments were focused on hospitals over other providers. While Genesis worked hard to overcome these structural challenges through early, frequent, and centralized communications with its centers; dramatic efforts to

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[9] The trust agreement provides that once all the funds are distributed to eligible beneficiaries, the remainder will be returned to the company.

secure PPE; and close coordination with federal and state agencies, these challenges were more than any one company could overcome on its own.

COVID-19 Mortality

Genesis has placed the health and safety of its patients and employees above all other concerns, and takes issue with *The Washington Post* statement, cited in your letter, that deaths at Genesis facilities "are higher than in comparable nursing home chains." An analysis conducted by Avalere comparing centers in the same geography over time shows that Genesis centers have a lower COVID-19 mortality rate compared to other providers. The *Post* seems to have arrived at its claim by dividing overall COVID-19 deaths, as reported by Genesis, by beds at Genesis facilities, and then comparing this to superficially similar numbers at other companies' facilities. The *Post*'s very rough calculation is misleading in several key respects because it fails to account for critical differences between Genesis and other providers, and it therefore does not make an "apples to apples" comparison.

- *Optional Early Reporting*. The federal government did not require nursing homes to report COVID-19 cases and deaths through the National Healthcare Safety Network ("NHSN") until May 24, 2020 (what NHSN refers to as "Week 1" or "Week Ending 05/24/2020"). In the interest of transparency and to show leadership in the industry, Genesis voluntarily, in an ongoing effort to be as transparent as possible, provided NHSN with COVID-19 cases and deaths that occurred in its facilities prior to the week ending May 24, 2020, as part of its Week 1 data. We understand that some providers did not provide this voluntary information. In other words, the data Genesis provided to NHSN in Week 1 covers the entire pandemic up to that point, while for other centers it may only include one week of data. This resulted in Genesis reporting more cases and deaths, and also skewed mortality rates due to the national experience of higher case fatality rates early in the pandemic. Because of this, the Centers for Medicare and Medicaid Services ("CMS") explicitly warns against using NHSN Week 1 data for comparative purposes:

  > [F]acilities may opt to report data retrospectively back to January 1, 2020. Therefore, some facilities may be reporting higher overall numbers of cases/deaths compared to other facilities due to their retrospective reporting. Numbers for Week Ending 05/24/2020 may include reporting for any time between 01/01/2020 through 05/24/2020. Reporting for subsequent weeks is on a weekly basis. Data reported for the week ending 05/24/2020 should not be used to perform trend analysis and longitudinal analyses.[10]

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[10] CMS, "COVID-19 Nursing Home Data," https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg (emphasis added).

The analysis conducted by Avalere, attached as Appendix C, shows figures both including and not including this Week 1 data.

- *Timing and Geography*. Genesis operates 45% of its beds in five states that were among the earliest and hardest hit during the pandemic (PA, NJ, CT, MA, and MD). Mortality rates from the virus, inside as well as outside Genesis, were twice as high during the first months of this pandemic versus later in 2020.[11] Comparing Genesis against centers nationwide, as *The Washington Post* has done, fails to account for the geographic spread of the pandemic. In contrast, Avalere's analysis attempts to control for this by comparing Genesis centers against other centers located in the same counties where Genesis centers operate. This results in comparing relative outcomes based on performance in comparable circumstances.

- *Diligence in Reporting*. Despite ambiguous guidance from NHSN and the CDC regarding nursing home responsibility for identifying and reporting deaths that occurred after hospital transfer, leading to variable industry practice, in another effort to be as transparent as possible, Genesis instructed its centers to be diligent in follow up and to report all such deaths until NHSN clarified its guidance. This makes case count comparisons difficult because Genesis was reporting deaths that other centers may not have reported.

- *Occupancy Levels*. Genesis occupancy rates were about 89% before the pandemic. *The Washington Post*'s calculation of deaths "per bed" favors operators of centers that had lower occupancy rates, as empty beds cannot result in cases or deaths. Avalere's analysis is based on *occupied* beds, in order to provide a more accurate comparison of actual outcomes.

- *COVID-19-Positive Care Units*. Genesis has been a national leader in the development of specialized units to care for new COVID-19-positive admissions from hospitals, which helps relieve hospitals while protecting the COVID-19-negative nursing home population. Because these are facilities or units that are entirely devoted to patients who have contracted COVID-19 and have been hospitalized due to the disease, the patients tend to be sicker and at higher risk of death. Furthermore, NHSN specifically excludes patients admitted with COVID-19 from its count of cases, but includes any deaths from this population within its death counts. This artificially increases the case fatality rate (deaths divided by cases) for facilities with large numbers of COVID-19-positive admissions.

The experiences of other nursing homes are simply not comparable without fully accounting for these key differences. As your letter suggests, even the aggressive actions that

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[11] *See* Manuscript, Cyrus M. Kosar, et al., "Changes in Short-Term Mortality among Nursing Home Residents with SARS-CoV-2," https://www.editorialmanager.com/healthaffairs/download.aspx?id=68464&guid=2eca39bc-10f0-4473-b08a-2b1a52ccbf3a&scheme=1.

Genesis took could not prevent the spread of a highly contagious virus that was prevalent throughout the communities in which its facilities were located.

Based on Avalere's analysis, Genesis centers had lower average case and death rates than non-Genesis centers in the same counties, as detailed in Appendix C. For example, excluding the data reported in Week 1 per CMS instructions, Genesis had an average of 1.109 COVID-19 cases per week per 100 residents compared to 1.133 cases at non-Genesis centers. Likewise, Genesis had an average of 0.182 deaths per week per 100 residents compared to 0.242 deaths at non-Genesis centers. In light of this data, *The Washington Post*'s brief analysis does not fairly capture Genesis' performance. Regardless, the company deeply regrets and mourns every death that occurred notwithstanding its efforts to combat COVID-19.

PPE Shortages

Genesis has made every effort to secure PPE for its residents and staff even in the face of skyrocketing prices and worldwide shortages. The reality is that Genesis has had critical PPE, including N95 masks, available to its centers throughout the pandemic. Genesis takes issue with the implication that the company failed to protect residents and staff to the best of its ability given the worldwide shortages of PPE.

Even before the pandemic began, Genesis had a reserve of N95 masks on hand. As shortages developed, centers were sent masks from this reserve. As a result, there were N95 respirators available to all centers. Indeed, a CDC official told Genesis in March 2020 that she was not aware of any other long-term care companies that had a respiratory care program or N95 masks. Even with this foresight and preparedness, Genesis was not able to keep up with its massive need for additional PPE as the pandemic unfolded rapidly and unprecedented global shortages of supplies occurred.

An analysis Genesis conducted of its PPE purchasing in New Jersey shows, in stark terms, how Genesis' PPE needs increased dramatically in 2020 because of the pandemic. In May 2020, those New Jersey centers bought 797% more standard face masks; 6,654% more isolation gowns; and 3,365% more face shields than in May 2019. Costs also skyrocketed. The cost of face masks rose from $0.07 to $0.80 (up 1,043%); isolation gowns rose from $0.32 to $3.25 (up 916%); face shields rose from $0.53 to $3.50 (up 660%); and N95 respirators rose from $0.54 to $2.25 (up 417%).

That same analysis also showed how Genesis was forced to expand its sourcing of PPE beyond its standard third-party medical distributors. These distributors also experienced shortages and restricted access to some critical supplies. Genesis, therefore, had to supplement its normal supply chain with direct purchases on the spot market. It assigned multiple employees essentially full time to coordinate an effort to find and buy as much PPE as possible from any available source anywhere in the world, notwithstanding rapidly surging prices, and even if payment had to be made in advance and sight unseen. This meant finding masks in the United States, such as when Genesis acquired approximately 60,000 surgical masks from a confectioner in New Jersey. But it also meant reaching out directly to manufacturers in China.

Genesis had to vet new PPE sources to verify legitimacy and product quality. Company personnel reviewed photographic and live teleconference evidence of quality and watched the product being placed on trucks for shipment to the United States. Genesis was often required to pay 50–80% of the cost of these products up front, which is not typical in the industry. This included advancing nearly $1 million to a potential supplier in at least one case, with no guarantee that products would even arrive. Through March and April, in shipments ranging from 15,000 to 700,000 items, Genesis acquired millions of standard face masks. Because of this massive, nimble, and expensive effort, by April 20, 2020, the company was able to provide its caregivers with enough standard face masks to avoid re-using masks across multiple shifts, a practice that had previously been necessary because of persistent shortages.

Genesis also had to handle distribution of the supplies it acquired. The company even turned its corporate headquarters into a warehouse and distribution center. Corporate staff assembled a makeshift site to collect PPE purchased on the spot market, load it onto trucks, and drive it directly to Genesis facilities across multiple states. Product arrived on pallets, was wheeled in through the front doors of the office, and was stored in the corporate lobby. Conference rooms became storage rooms and cubicles became packing and shipping hubs. Facilities could email company headquarters their needs and the company would overnight them available supplies. Headquarters personnel, normally accustomed to administrative duties, staffed this makeshift warehouse and distribution center.

Throughout the pandemic, shortages occurred across a number of essential items, and as the nature of the shortages shifted, Genesis adapted. For example, there were severe shortages of disposable isolation gowns. These gowns are normally inexpensive and in ready supply, but they became incredibly expensive and difficult to acquire. As a result, the company switched to reusable gowns.

In sum, while it is true that Genesis was hard hit by the pandemic, with tragic loss of life, the company is proud of the heroic efforts of its staff and the enormous efforts made, at great expense, to keep residents and employees safe. The suggestion that the company's efforts to retain personnel, as it faced unprecedented public health and financial circumstances, somehow compromised its commitment to patient safety is deeply unfair, as is the claim that it used CARES Act funds to pay executive bonuses, which it did not. The record is clear that Genesis devoted enormous resources to its ongoing battle with COVID-19, and that the ongoing efforts of its front line workers and executives alike helped save lives.

Genesis appreciates the opportunity to address these important issues. Please let us know if you have any questions.

Respectfully submitted,

Robert K. Kelner

Encl.

APPENDIX A

Genesis has accepted federal and state funds to prevent, prepare for, and respond to COVID-19 and to reimburse Genesis facilities for healthcare related expenses or lost revenues that are attributable to COVID-19. The impacts on Genesis of certain provisions of the CARES Act and other assistance, through January 2021, as available at the time of this letter, are summarized below.

- *Relief Funds*. Genesis facilities, rehabilitation gyms, and physicians groups have received $199.1 million in grants from the CARES Act Provider Relief Fund administered by the Department of Health and Human Services. The grants are primarily related to the skilled nursing care provided at Genesis' SNFs.

- *Additional Relief Funds*. Genesis has also received $54.5 million in federal grants for infection control, including support for increased testing and to meet staff and PPE needs, as well as a total of $28.5 million in payments under the Quality Incentive Payment Program intended to reward facilities that demonstrate strong infection control outcomes.

- *Medicare Accelerated and Advanced Payment Program ("MAAP").* Genesis has retained a total of $153.2 million in advance payments under MAAP, for which recoupment is currently set to begin in April 2021.

- *Payroll Tax Deferral.* As permitted by the CARES Act, Genesis has elected to defer payment, on an interest free basis, of the employer portion of social security payroll taxes, totaling $92.2 million in deferrals. One-half of such deferral amount will become due on each of December 31, 2021 and December 31, 2022.

- *Temporary Suspension of Medicare Sequestration*. In response to COVID-19, the CARES Act temporarily suspended the automatic 2.0% reduction of Medicare claim reimbursements imposed by the Budget Control Act of 2011. Genesis estimates this suspension has increased its revenue by $11.1 million to date.

- *State Relief.* Genesis has received state COVID-19 relief totaling $123.7 million, and a state loan totaling $2.3 million.

APPENDIX B

Since January 1, 2020, Mr. Hager has been paid $900,016 base salary; $1,035,018 for 2020 incentive compensation; $5,194,578 retention advance offsetting his severance claims;[12] $650,000 for service during the COVID-19 crisis; $300,000 for consulting services; and $9,121 for health benefits. He was not granted any new restricted stock units last year, though some prior grants vested and some are outstanding. He also received his 2019 incentive compensation of $973,000 in early 2020.

[12] To mitigate adverse tax consequences, Mr. Hager returned a portion of his advance to the company, to be replaced by payments totaling $963,412.22 in 2022, all in accordance with his agreements.

APPENDIX C

Analysis of Genesis Nursing Facility Data in the COVID-19 Nursing Home Dataset

Avalere Health | An Inovalon Company

February 8, 2021

Background and Data Source

Purpose

The purpose of this work is to examine trends in COVID-19 cases and mortality for Genesis facilities and non-Genesis facilities located in the same counties as Genesis facilities.

Data Source

Avalere analyzed data in the COVID-19 Nursing Home Dataset. These data are reported to the Center for Disease Control and Prevention's (CDC) National Healthcare Safety Network (NHSN) and available from the Centers for Medicare & Medicaid Services (CMS) website.

Notes Regarding Data

Though the CDC initiated reporting requirements starting in May, facilities had the option to report retrospective data back to January 1, 2020 in their first submission. The documentation accompanying the data set on the CMS website cautions users regarding the use of data reported for the week ending May 24, 2020 (Week 1 of data submission) due to the potential variability in reporting across providers.

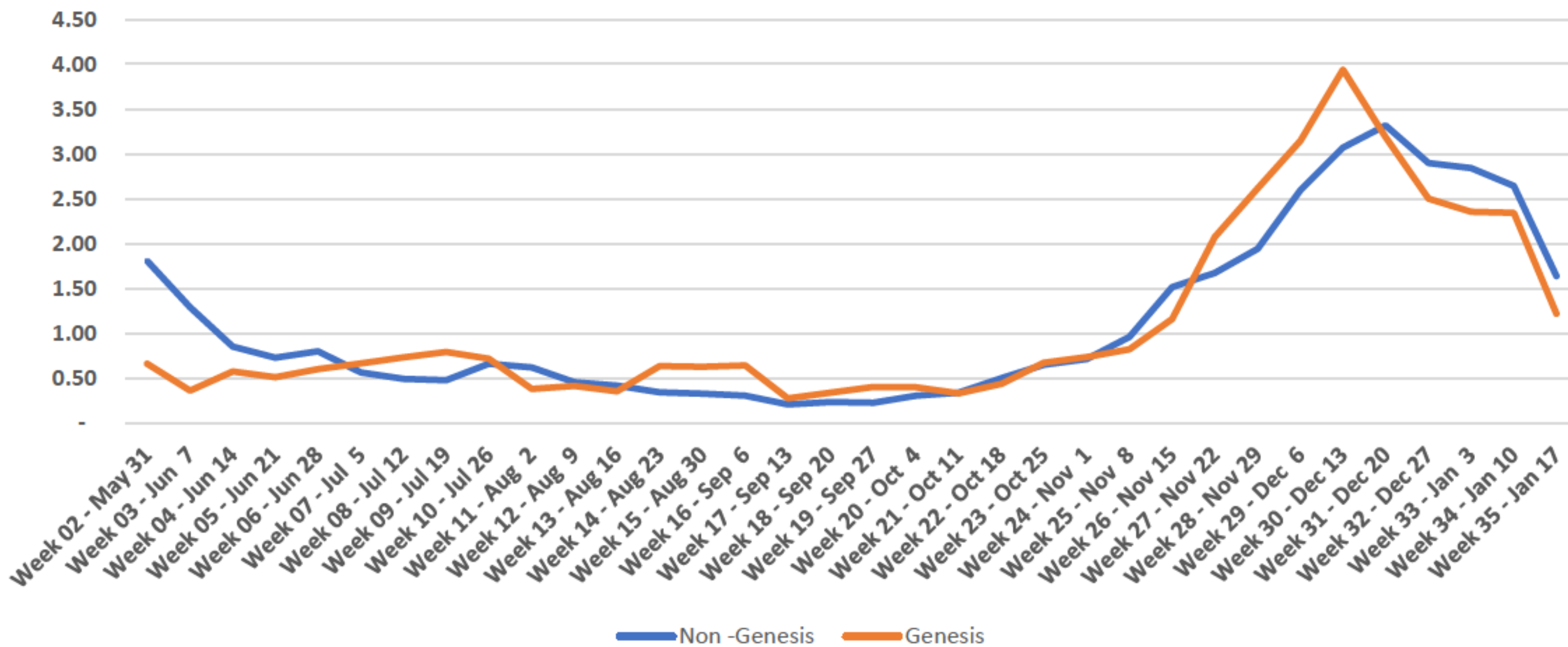
Note: COVID-19 Nursing Home Dataset available at Data.CMS.gov data. The analyses presented here used the data file updated as of January 28, 2021

Approach to Evaluating Case and Mortality Trends

Avalere Analysis - Key Steps

1. Identified 280 Genesis facilities using Genesis-provided Medicare Provider Numbers
2. Identified all other nursing facilities located in the same counties as Genesis facilities with data in the COVID-19 Nursing Home Dataset
3. If submitted data did not pass the CDC's NHSN quality check (based on "Passed Quality Assurance Check" variable in the Dataset), Avalere recoded values to missing
4. Calculated Confirmed COVID-19 Cases per 100 Occupied Beds per Reporting Week for each facility
5. Calculated COVID-19 Deaths per 100 Occupied Beds per Reporting Week for each facility
6. Calculated the average weekly measure across all Genesis facilities and then separately for all non-Genesis facilities (plots follow)
7. Calculated the average across all weeks of reported data for all Genesis facilities and separately for all non-Genesis facilities
8. Calculated #7 Including Week 1 and then Excluding Week 1

Findings: Average Weekly COVID-19 Cases per 100 Occupied Beds

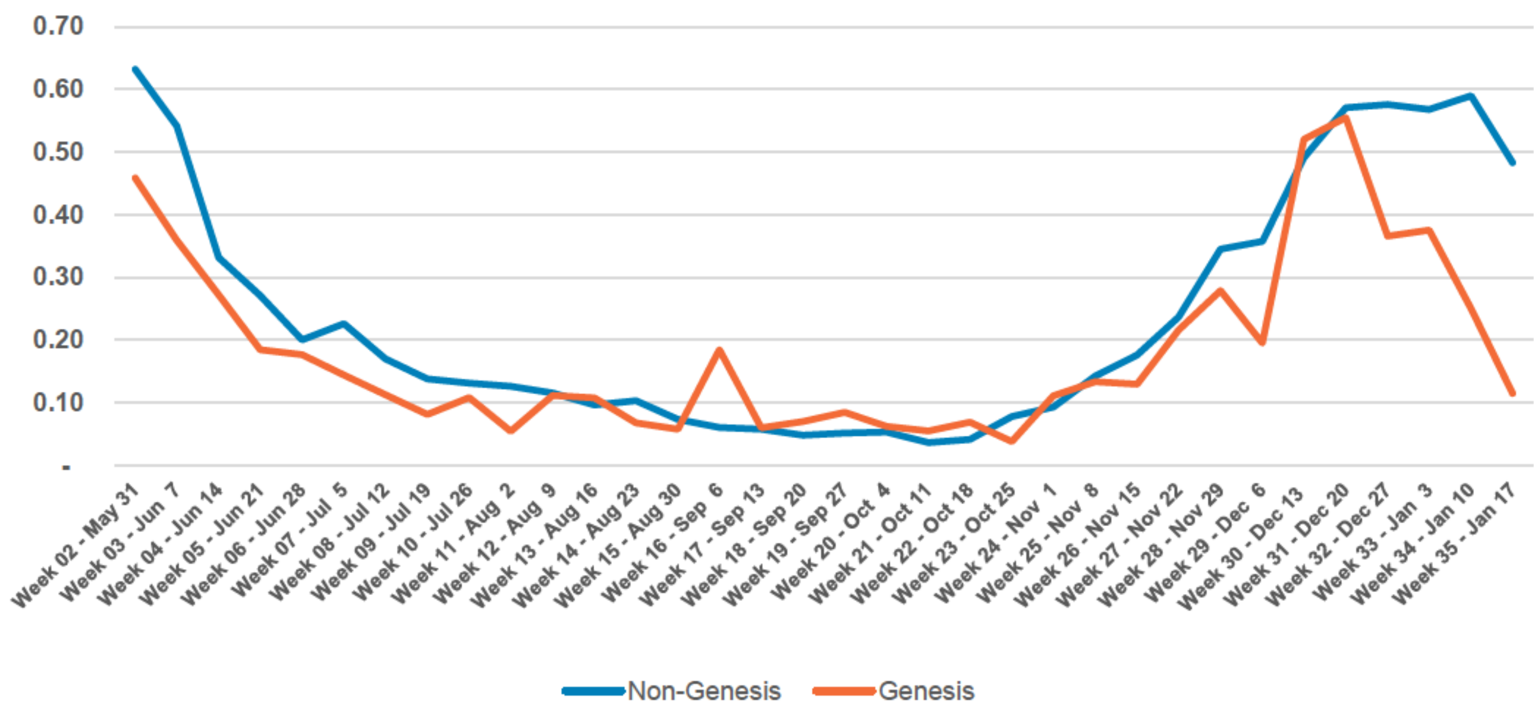


Average Weekly Confirmed COVID-19 Cases per 100 Occupied beds	Week 1-Week 35 (Data reported for week ending May 24, 2020 thru week ending January 17, 2021)	Week 2-Week 35 (Data reported for week ending May 31, 2020 thru week ending January 17, 2021)
Genesis	**1.828**	**1.109**
Non-Genesis	**1.600**	**1.133**

Avalere analysis of COVID-19 Nursing Home Dataset.

Note: The documentation accompanying the data set on the CMS website cautions users against using data reported for the week ending May 24, 2020 (Week 1 of data submission) for trend analyses due to the potential variability in reporting of historical cases and deaths across providers.

Findings: Average Weekly COVID-19 Deaths per 100 Occupied Beds



Average Weekly COVID-19 Deaths per 100 Occupied beds	Week 1-Week 35 (Data reported for week ending May 24, 2020 thru week ending January 17, 2021)	Week 2-Week 35 (Data reported for week ending May 31, 2020 thru week ending January 17, 2021)
Genesis	**0.359**	**0.182**
Non-Genesis	**0.388**	**0.242**

Avalere analysis of COVID-19 Nursing Home Dataset.

Note: The documentation accompanying the data set on the CMS website cautions users against using data reported for the week ending May 24, 2020 (Week 1 of data submission) for trend analyses due to the potential variability in reporting of historical cases and deaths across providers.