TRANSCRIPT:

September 28, 2007

Bill Moyers talks with John Bogle.

BILL MOYERS: Welcome to the JOURNAL.

Every week we hear of another publicly traded company being bought by a private equity firm. Some of those investment firms — like Blackstone, the Carlyle Group, and Cerebrus — have become almost as well known as the brand-name companies they've been snapping up, from Chrysler to Dunkin' Donuts to Toys R Us. But private equity firms have no real interest in toys, cars, or baked goods. What they are after is big and quick returns on their capital. To get it, they buy a company and cut the wages, pensions and health benefits of the employees who work there.

Take a look at this front page story in Sunday's NEW YORK TIMES for a glimpse of how this kind of capitalism works. Thousands of nursing homes have been bought up by private equity firms like Warburg Pincus and Carlyle. Profits were increased by reducing costs, then investors quickly resold the facilities for a big profit Ð leaving and I quote- "residents at those nursing homes worse off, on average, than they were under previous owners."

Exhibit #1: Habana Health Care Center in Tampa, Florida, purchased by a group of private equity firms in 2002. "Within months, the number of clinical registered nurses at the home was half of what it had been a year earlier...budgets for nursing supplies, resident activities and other services also fell..." "When regulators visited, they found malfunctioning fire doors, unhygienic kitchens, and a resident using a leg brace that was broken..."

Basing its report on state government data, the TIMES says 15 at Habana died from what their families contend was negligent care. But when families sue, they often can't find out even who owns the nursing homes because of the complex corporate structures private equity firms have created to cover their tracks.

It's this kind of capitalism that drives John Bogle up the wall, as you're about to learn. John Bogle believes owners should be in charge — and accountable. He's known and respected world-wide as the father of index funds and the founder of The Vanguard Group, one of the largest mutual funds anywhere, with over a trillion dollars in assets.

FORTUNE magazine named him one of the four giants of the 20th century in the investment industry. TIME magazine called him one of the world's 100 most powerful and influential people. Among his six books is this one THE BATTLE FOR THE SOUL OF CAPITALISM and more recently THE LITTLE BOOK OF COMMON SENSE INVESTING. In the current issue of DAEDALUS, the Journal of the American Academy of Arts and Sciences, he has a blockbuster of an essay on democracy in corporate America. You'll find it on our Web site at pbs.org. I talked with John Bogle when he was in town earlier this week.

BILL MOYERS: Thanks for joining me.

JOHN BOGLE: My pleasure.

BILL MOYERS: This story in THE NEW YORK TIMES this week. What do you think when you read a story like that?

JOHN BOGLE: Well, first, it's a national disgrace. Simply put. And there are some things that must be entrusted to government and some things that must be entrusted to private enterprise. And what we see there, at least in my judgment, is that we've taken medical care, healthcare and going from making it a profession in which the patient is the object of the game — preserving the patient "first do no harm" as Hippocrates would say or would have said and turn that into a business. And so, it's a bottom line. I've often said we're in a bottom line society. We're measuring the wrong bottom line.

BILL MOYERS: What does it say to you that the real owners of the nursing home, the private investors have created this maze of smoke and mirrors that make it virtually impossible to find out who the owners really are?

JOHN BOGLE: Well, that's so typical of much that's going on in American finance, the way we structure these financial instruments, which are stock certificates or debt instruments. But it's the same thing of the removal of your friendly, local neighborhood bank holding the mortgage and being able to work with you when you fall on hard times to some unnamed, often unknown, financial institution who couldn't care less.

BILL MOYERS: These private equity firms that own these nursing homes wouldn't even talk to THE NEW YORK TIMES. They won't talk to reporters. I mean, there's no accountability to the public.

JOHN BOGLE: There's no accountability. And it's wrong. It's fundamentally a blight on our society.

BILL MOYERS: What does it say that big private money can operate so secretly, with so little accountability, that the people who are hurt by it, the residents in the nursing home have no recourse?

JOHN BOGLE: It says something very bad about American society. And you wonder — the first question anybody would have after reading the article — how in God's name do they get away with that? Well, we have all these attorneys that are capable of devising complex instruments, and money managers who are capable of devising highly complex financial schemes. And there's kind of no one to answer to the call of duty at the end of it.

BILL MOYERS: And we're talking about some of the most powerful names in the business. I mean, these are formidable forces, right?

JOHN BOGLE: They're formidable forces. But, I'm afraid--

BILL MOYERS: Respectable citizens, right?

JOHN BOGLE: Well, I mean, I don't know about that. But, it's certainly -- it's easy to say that greed is taking — playing a part — greed has a role in a capitalistic society. But, not the dominant role and--

BILL MOYERS: What should be the dominant? What is the job of capitalism?

JOHN BOGLE: Well, ultimately, the job of capitalism is to serve the consumer. Serve the citizenry. You're allowed to make a profit for that. But, you've got to provide good products and services at fair prices. And that's the long term, that's what businesses do in the long term. The businesses that have endured in America have done that and done that successfully.

But, in the short term, there's all these financial machinations in which people can get very rich in a very short period of time by creating highly complex financial instruments, providing services that can be cut back easily as in the hospital article, not measuring up to basically their duty.

We all know that in professions, the idea has been service to the client before service to self. That's what a profession is. That's what medicine was. That's what accountancy was. That's what attorneys used to be. That's what trusteeship used to be inside the mutual fund industry. But, we've moved from that to a big capital accumulation — self interest — creating wealth for the providers of these services when the providers of these services are in fact subtracting value from society. So, it doesn't work.

BILL MOYERS: So, the private equity nursing homes have added to their wealth. But, they've subtracted from society the care for people who need it.

JOHN BOGLE: That is exactly correct. Not good.

BILL MOYERS: THE WALL STREET JOURNAL editorial page celebrates what it called the animal spirits of business. And as if that's the heart of capitalism. What do you think about that?

JOHN BOGLE: Well, I like the animal spirits of business. I mean Lord Keynes told us about animal spirits. And it comes out of a part of his work that says, "You know, all the precise numbers and the perspectives mean nothing. What determines the future of a business is its animal spirits." You know, the desire for progress, the desire to create something new. That's all good. But, it's gotten misshapen. Badly--

BILL MOYERS: How so?

JOHN BOGLE: --misshapen.

BILL MOYERS: How so?

JOHN BOGLE: Well, it's gotten misshapen because the financial side of the economy is dominating the productive side of the economy

BILL MOYERS: What do you mean?

JOHN BOGLE: Well, let me say it very simply. The rewards of the growth in our economy comes from corporate, largely - from corporations who are a very important measure, from corporations that are providing goods and services at a fair price innovating and bringing in new technology — providing a higher quality of life for our society and they make money doing it. I mean, and the returns in business in the long run are 100 percent the dividends a corporation pays and the rate at which its earnings grow.

That still exists. But, it's been overwhelmed by a financial economy. The financial economy, which is the way you package all these ways of financing corporations, more and more complex, more and more expensive. The financial sector of our economy is the largest profit-making sector in America. Our financial services companies make more money than our energy companies — no mean profitable business in this day and age. Plus, our healthcare companies. They make almost twice as much as our technology companies, twice as much as our manufacturing companies. We've become a financial economy which has overwhelmed the productive economy to the detriment of investors and the detriment ultimately of our society.

BILL MOYERS: By the financial sector, you mean?

JOHN BOGLE: Banks, money managers, insurance companies, certainly annuity providers. They're all subtracting value from the economy. They have to subtract. To be clear on this now — I don't want to overstate it. To be clear on this, they have to subtract some value. But, the question is--

BILL MOYERS: What do you mean they subtract some value?

JOHN BOGLE: In other words, — you've go to pay somebody something to provide a service. It's just gotten totally out of hand. My estimate is that the financial sector takes $560 billion a year out of society. Five hundred and sixty billion.

BILL MOYERS: Where does it go?

JOHN BOGLE: It goes into the pockets of hedge fund managers, mutual fund managers, bankers, insurance companies. Let me give you this just one little example. If you didn't make a $129 million last year — I'm presuming that you didn't. You don't rank among the highest paid 25 hedge fund managers. A $129 million doesn't get you into the upper echelon.

BILL MOYERS: And on the way here this morning, I saw a story that now a $1 billion will not get you in the FORTUNE 400. A $1 billion!

JOHN BOGLE: Well, I spend a lot of time thinking about that. I mean, you kind of asked the question, which I've asked in some of my work. What is enough here? And the society is out of control. I mean, in THE BATTLE FOR THE SOUL OF CAPITALISM, I talk about the frightening similarities between the American economy in America, our nation, at the beginning of the 21st century and Rome all those centuries ago around the 4th century.

BILL MOYERS: What are the comparisons?

JOHN BOGLE: We have an idea that we are the world's value creator and leader. And I'm talking not just about economic value, but, we like to think of America as having the best values of integrity and citizenship in the world. We're getting a little bit too much self interested. We have our own bread and circuses. And they're a little different than the bread and circuses they had in Rome. But, we surely have our circuses whether it's sports teams or casino gambling or the lottery in the states. And we see this not just in our economy, in our financial system. This very short-term focus on everything. You see it, sadly, in our government.

Everybody knows social security is going to run into crisis. We can't run these federal deficits forever. But, everybody looks out two years and says, "Will I be elected two years from now or a year and a half from now?" And, the short term focus ultimately betrays the very values that we have come to be used to in this great nation of ours.

BILL MOYERS: You said the other day to someone that we think we can fight the war in Iraq without paying for it.

JOHN BOGLE: Well, we borrow the money to fight the Iraq War by some estimates and they're not absurd estimates is running now towards a $1 trillion. We could be doing what the British empire did. We could be bankrupting ourselves in the long run. And--

BILL MOYERS: You see us as an empire?

JOHN BOGLE: Well, of course it's an empire. We reach all over the world. We thought of ourselves in many, many respects as the policemen of the world. God knows we know we're the policemen of the Middle East. And there are those say, even from Alan Greenspan on up or down, that oil is the root of that. I mean, these are great societal questions. Protecting oil, which is in turn polluting the atmosphere.

We have problems as a society. And we don't have to surrender to them. But, we have to have a little introspection about where we are in America today. We've go to think through these things. We've got to develop a political system that is not driven by money. I mean, these are societal problems for us that don't have any easy answers.

But you don't have to be an economist to know that a great deal of or a minimum in our economy is coming from borrowed money. People are spending at a higher rate than they're earning, and we're starting to pay a price for that now. Particularly in the mortgage side. But, eventually, that could easily spread and people won't be able to do that anymore. You can't keep spending money you don't have. It gets a lot of it, you know, and it wasn't that many years ago — maybe a couple of generations ago — that if you wanted something, you saved for it. And when you completed saving for it, you bought it. Imagine that. And that wasn't so bad. But, now, we know that we can have the instant gratification and pay for it with interest payments, of course, over time, which is not an unfair way to do it. We're going to pay a big price for the excessive debt we've accumulated in this society both in the public side and the private side.

And it's no secret that this lack of savings in our economy — just about zero — is putting us at the mercy of foreign countries. China owns — I don't know the exact number — but, let me say about 25 percent of our federal debt. China does. What happens when they start to buy our corporations with all those extra dollars they've got there? I mean, I think that's very-- these problems are long term, are very much worrisome and very much intractable.

BILL MOYERS: Your book is called THE SOUL OF CAPITALISM. Tell me what you mean by the soul of capitalism.

JOHN BOGLE: Well, I try in the book a little definition from Thomas Aquinas about the core of being — he's talking about the human soul, of course — but, the core of being,the elements that give you meaning, the values that you have-- the whole kind of wrap up of what makes a human being a human being.

And that happens in a much more, you know, a much less profound way in a corporation. There is in a good corporation and in capitalism a core of being of providing goods and services, at raising the standard living. And it's done a very good job at that. I don't want to demean that. You know, we went from the beginning of time, to around 1800, — the way people lived barely changed at all. And since 1800, the Industrial Revolution, and capitalism around that time has taken us to standards of living that are just — that would have been unimaginable to anybody of that day. We have all the perquisites and ease and freedom and safety of modern life. And so I salute capitalism for doing that. It's just we've taken it too far. Today's capitalists are different from yesterday's capitalists-

BILL MOYERS: How so? What's the big difference?

JOHN BOGLE: Well, I think much more they're operating on their own. Instead of for the interest of whose money has been entrusted to them. It's an element — it's what we call a bottom-line society, again. But I think it's the wrong bottom line. I want to come back to the difference between the financial system and the productive system. The productive system adds to the value of our economy. And, by and large, the financial system subtracts. And, yet, it's growing and growing and growing. And this short term thing where short term orientation in which trading pieces of paper is regarded as a social value. It is not a social value. Some of it has to happen, don't mistake me.

BILL MOYERS: Right.

JOHN BOGLE: But not as much as we have.

BILL MOYERS: What does it say to you that people seem so indifferent to the fact that one tenth of one percent of the population owns most of the wealth in this country?

JOHN BOGLE: Well, in the long run, I believe it's unsustainable. You know, this is not going to be, you know, a country like France, say, at the time of before the French Revolution. You know, the lords of France, the kings had probably the same kind of distribution of wealth we had today come by through long generations. Their own castles. We have those castles in America now. But it says to me that, in this society, it's not sustainable. There will be an outcry.

Even Allen Greenspan says in his book he's worried, new book-- he's worried about this division in the society. He's worried about dissatisfaction. He's worried about violence in our society. You can only have so much of an advantage to those at the top of the pyramid, and so much disadvantage that's at the bottom of the pyramid, before you start to get some very difficult things going on.

BILL MOYERS: This seems to me to be your great concern, that this self correcting faculty that is built into both democracy and capitalism is in jeopardy?

JOHN BOGLE: Actually, I think it's fair to say it's in jeopardy. But there's one sense that it's not in jeopardy. And that is, ultimately, the system will correct. The bigger the boom, I fear, the bigger the bust. In other words, you pay the price. It's not a self sustaining system at this kind of a level.

BILL MOYERS: Do we need new rules?

JOHN BOGLE: One thing is, I believe, to have a federal standard of fiduciary duty for money managers. They've come from eight percent ownership of American business to 74 percent ownership of American business. It's staggering, over unbelievable change. Without any rules as to how they're supposed to behave. We have state laws of proven investing and fiduciary duty and things of that nature. But they don't seem to be working. And our founding fathers actually thought about having a federal statute-- a federal corporate chartering statute. I think we probably need one because if some of the states step up and say improve their governance provisions, corporations will move to another state. So the state system I don't think can prevail.

So a federal standard of fiduciary duty which demands that our pension trustees and our mutual fund directors make sure that those pension funds and mutual funds are operated in the prime interest of those who have entrusted their money to them. And that includes responsibility for corporate governance. And it will ultimately turn to be focused more on long term investing.

When I came into this business in the 1950's, it was a business focused on the wisdom of long term investing. We changed in that period to a business that is focused on the folly of short term speculation. And think about this for a minute. If you're a true investor holding a company for the long term, you're well aware that the value in that company is company's earnings compounded over time, developing new products and services, developing efficiencies-- trying to size up the proper corporate strategy, you know, making the company more valuable. But, in the folly of short term speculation, you're just thinking will that stock be worth more or less six months from now or a year from now?

Give you a very specific example. In the first 15 years I was in this business, the average mutual fund held the average stock for seven years. Call that long term investing. Now, the average mutual fund holds the average stock for one year. That's short term speculation. So, if you're a speculator, you don't care much about ownership interest. You don't care so much about corporate governance. Why vote a proxy, for example, if you'll not even be holding a stock in three months?

The other part of it is,and this is really makes it a very difficult problem to solve. And that is a little about of — I guess it's Pogo — we have met the enemy and they are us. These mutual fund companies-- these management companies are now owned largely by corporate America. Or international corporations — Deutsche Bank — AXA, big international companies who have bought their way into the US financial system, which is-- don't mean to demean that. But, they own these public corporations-- giant public corporations like insurance companies, big banks-- foreign insurance companies and banks own 41 of the 50 largest mutual fund managers.

Now, what is the job of a corporation when they buy into a mutual fund management company? It's to earn a return on the capital they invest in that company. It's not to earn a return on the capital of the investors who invested with that mutual fund. Now, in fairness, they want to earn as much money as they can for the fund shareholders. But, not at their own expense.

What we've done is have you know, what I call in the book, a pathological mutation of capitalism from that old traditional owners' capitalism to a new form of capitalism, which is manager's capitalism. The evidence is quite compelling that today corporations are run in a very important way to maximize the returns of its managers at the expense of its stockholders.

BILL MOYERS: Its CEOs.

JOHN BOGLE: Its CEOs, well, the upper level of five or six top officers. And they get enormous amounts of pay for actually doing very little. I'm a businessman. Listen, we all-- we chief executives get an awful lot of credit that we don't deserve. Real work in companies is done by the people who are getting themselves together and doing the hard work of making companies grow--

BILL MOYERS: And, yet, these--

JOHN BOGLE: every day.

BILL MOYERS: These are the people who most often get laid off, right?

JOHN BOGLE: They get laid off. And, of course, the ironic part of that is they often get laid off — used to be called downsizing. But, of course, in today's America, it's called right sizing. They get laid off. That reduces expenses. That increases earnings and that means the CEO gets more.

Just think about the country for a minute. For an agricultural economy, 95 percent, 98 percent agricultural when this country came into existence. And even by 1850, half agricultural. Now it's about, they moved from agricultural economy, to a manufacturing economy, to a service economy. And now to a financial service economy. And the financial service economy is what troubles me. Because it's diverting resources from the investors to the capitalists. To the entrepreneurs. To Wall Street. To the investment bankers. The hedge fund managers. To mutual fund managers. And that is a negative to our societal values.

Where agriculture and manufacturing and services, I mean, I'm perfectly willing to give a high value, for example, to art and poetry and literature. They add value to society. It may not be easy to measure it in a society that measures too much of what's not important. And not enough of what is important. As the sign in Einstein's office says-- "There are some things that count that can't be counted. And some things that can be counted that don't count."

BILL MOYERS: John Bogle, thank you for joining me.

JOHN BOGLE: My pleasure.

The New York Times

BUSINESS DAY

At Many Homes, More Profit and Less Nursing

By **CHARLES DUHIGG** SEPT. 23, 2007

Habana Health Care Center, a 150-bed nursing home in Tampa, Fla., was struggling when a group of large private investment firms purchased it and 48 other nursing homes in 2002.

The facility's managers quickly cut costs. Within months, the number of clinical registered nurses at the home was half what it had been a year earlier, records collected by the Centers for Medicare and Medicaid Services indicate. Budgets for nursing supplies, resident activities and other services also fell, according to Florida's Agency for Health Care Administration.

The investors and operators were soon earning millions of dollars a year from their 49 homes.

Residents fared less well. Over three years, 15 at Habana died from what their families contend was negligent care in lawsuits filed in state court. Regulators repeatedly warned the home that staff levels were below mandatory minimums. When regulators visited, they found malfunctioning fire doors, unhygienic kitchens and a resident using a leg brace that was broken.

"They've created a hellhole," said Vivian Hewitt, who sued Habana in 2004 when her mother died after a large bedsore became infected by feces.

Habana is one of thousands of nursing homes across the nation that large Wall Street investment companies have bought or agreed to acquire in recent years.

Those investors include prominent private equity firms like Warburg Pincus and the Carlyle Group, better known for buying companies like Dunkin' Donuts.

As such investors have acquired nursing homes, they have often reduced costs, increased profits and quickly resold facilities for significant gains.

But by many regulatory benchmarks, residents at those nursing homes are worse off, on average, than they were under previous owners, according to an analysis by The New York Times of data collected by government agencies from 2000 to 2006.

The Times analysis shows that, as at Habana, managers at many other nursing homes acquired by large private investors have cut expenses and staff, sometimes below minimum legal requirements.

Regulators say residents at these homes have suffered. At facilities owned by private investment firms, residents on average have fared more poorly than occupants of other homes in common problems like depression, loss of mobility and loss of ability to dress and bathe themselves, according to data collected by the Centers for Medicare and Medicaid Services.

The typical nursing home acquired by a large investment company before 2006 scored worse than national rates in 12 of 14 indicators that regulators use to track ailments of long-term residents. Those ailments include bedsores and easily preventable infections, as well as the need to be restrained. Before they were acquired by private investors, many of those homes scored at or above national averages in similar measurements.

In the past, residents' families often responded to such declines in care by suing, and regulators levied heavy fines against nursing home chains where understaffing led to lapses in care.

But private investment companies have made it very difficult for plaintiffs to succeed in court and for regulators to levy chainwide fines by creating complex corporate structures that obscure who controls their nursing homes.

By contrast, publicly owned nursing home chains are essentially required to disclose who controls their facilities in securities filings and other regulatory documents.

The Byzantine structures established at homes owned by private investment firms also make it harder for regulators to know if one company is responsible for multiple centers. And the structures help managers bypass rules that require them to report when they, in effect, pay themselves from programs like Medicare and Medicaid.

Investors in these homes say such structures are common in other businesses and have helped them revive an industry that was on the brink of widespread bankruptcy.

“Lawyers were convincing nursing home residents to sue over almost anything,” said Arnold M. Whitman, a principal with the fund that bought Habana in 2002, Formation Properties I.

Homes were closing because of ballooning litigation costs, he said. So investors like Mr. Whitman created corporate structures that insulated them from costly lawsuits, according to his company.

“We should be recognized for supporting this industry when almost everyone else was running away,” Mr. Whitman said in an interview.

Some families of residents say those structures unjustly protect investors who profit while care declines.

When Mrs. Hewitt sued Habana over her mother’s death, for example, she found that its owners and managers had spread control of Habana among 15 companies and five layers of firms.

As a result, Mrs. Hewitt’s lawyer, like many others confronting privately owned homes, has been unable to establish definitively who was responsible for her mother’s care.

Current staff members at Habana declined to comment. Formation Properties I said it owned only Habana’s real estate and leased it to an independent company, and thus bore no responsibility for resident care.

That independent company — Florida Health Care Properties, which eventually became Epsilon Health Care Properties and subleased the home's operation to Tampa Health Care Associates — is affiliated with Warburg Pincus, one of the world's largest private equity firms. Warburg Pincus, Florida Health Care, Epsilon and Tampa Health Care all declined to comment.

Demand for Nursing Homes

The graying of America has presented financial opportunities for all kinds of businesses. Nursing homes, which received more than $75 billion last year from taxpayer programs like Medicare and Medicaid, offer some of the biggest rewards.

"There's essentially unlimited consumer demand as the baby boomers age," said Ronald E. Silva, president and chief executive of Fillmore Capital Partners, which paid $1.8 billion last year to buy one of the nation's largest nursing home chains. "I've never seen a surer bet."

For years, investors shunned nursing home companies as the industry was battered by bankruptcies, expensive lawsuits and regulatory investigations.

But in recent years, large private investment groups have agreed to buy 6 of the nation's 10 largest nursing home chains, containing over 141,000 beds, or 9 percent of the nation's total. Private investment groups own at least another 60,000 beds at smaller chains and are expected to acquire many more companies as firms come under shareholder pressure to sell.

The typical large chain owned by an investment company in 2005 earned $1,700 a resident, according to reports filed by the facilities. Those homes, on average, were 41 percent more profitable than the average facility.

But, as in the case of Habana, cutting costs has become an issue at homes owned by large investment groups.

"The first thing owners do is lay off nurses and other staff that are essential to keeping patients safe," said Charlene Harrington, a professor at the University of

California in San Francisco who studies nursing homes. In her opinion, she added, “chains have made a lot of money by cutting nurses, but it’s at the cost of human lives.”

The Times’s analysis of records collected by the Centers for Medicare and Medicaid Services reveals that at 60 percent of homes bought by large private equity groups from 2000 to 2006, managers have cut the number of clinical registered nurses, sometimes far below levels required by law. (At 19 percent of those homes, staffing has remained relatively constant, though often below national averages. At 21 percent, staffing rose significantly, though even those homes were typically below national averages.) During that period, staffing at many of the nation’s other homes has fallen much less or grown.

Nurses are often residents’ primary medical providers. In 2002, the Department of Health and Human Services said most nursing home residents needed at least 1.3 hours of care a day from a registered or licensed practical nurse. The average home was close to meeting that standard last year, according to data.

But homes owned by large investment companies typically provided only one hour of care a day, according to The Times’s analysis of records collected by the Centers for Medicare and Medicaid Services.

For the most highly trained nurses, staffing was particularly low: Homes owned by large private investment firms provided one clinical registered nurse for every 20 residents, 35 percent below the national average, the analysis showed.

Regulators with state and federal health care agencies have cited those staffing deficiencies alongside some cases where residents died from accidental suffocations, injuries or other medical emergencies.

Federal and state regulators also said in interviews that such cuts help explain why serious quality-of-care deficiencies — like moldy food and the restraining of residents for long periods or the administration of wrong medications — rose at every large nursing home chain after it was acquired by a private investment group from 2000 to 2006, even as citations declined at many other homes and chains.

The typical number of serious health deficiencies cited by regulators last year was almost 19 percent higher at homes owned by large investment companies than the national average, according to analysis of Centers for Medicare and Medicaid Services records.

(The Times's analysis of trends did not include Genesis HealthCare, which was acquired earlier this year, or HCR Manor Care, which the Carlyle Group is buying, because sufficient data were not available.)

Representatives of all the investment groups that bought nursing home chains since 2000 — Warburg Pincus, Formation, National Senior Care, Fillmore Capital Partners and the Carlyle Group — were offered the data and findings from the Times analysis. All but one declined to comment.

An executive with a company owned by Fillmore Capital, which acquired 342 homes last year, said that because some data regarding the company were missing or collected before its acquisition, The Times's analysis was not a complete portrayal of current conditions. That executive, Jack MacDonald, also said that it was too early to evaluate the new management, that the staff numbers at homes over all was rising and that quality had improved by some measures.

"We are focused on becoming a better organization today than we were 18 months ago," he said. "We are confident that we will be an even better organization in the future."

A Web of Responsibility

Vivian Hewitt's mother, Alice Garcia, was 81 and suffering from Alzheimer's disease when, in late 2002, she moved into Habana.

"I couldn't take care of her properly anymore, and Habana seemed like a really nice place," Mrs. Hewitt said.

Earlier that year, Formation bought Habana, 48 other nursing homes and four assisted living centers from Beverly Enterprises, one of the nation's largest chains, for $165 million.

Formation immediately leased many of the homes, including Habana, to an affiliate of Warburg Pincus. That firm spread management of the homes among dozens of other corporations, according to documents filed with Florida agencies and depositions from lawsuits.

Each home was operated by a separate company. Other companies helped choose staff, keep the books and negotiate for equipment and supplies. Some companies had no employees or offices, which let executives file regulatory documents without revealing their other corporate affiliations.

Habana's managers increased occupancy, and cut expenses by laying off about 10 of 30 clinical administrators and nurses, Medicare filings reveal. (After regulators complained, some positions were refilled and other spending increased.) Soon, Medicare regulators cited Habana for malfunctioning fire doors and moldy air vents.

Throughout that period, Formation and the Warburg Pincus affiliate received rent and fees that were directly tied to Habana's revenues, interviews and regulatory filings show. As the home's fiscal health improved, those payments grew. In total, they exceeded $3.5 million by last year. The companies also profited from the other 48 homes.

Though spending cuts improved the home's bottom line, they raised concerns among regulators and staff.

"Those owners wouldn't let us hire people," said Annie Thornton, who became interim director of nursing around the time Habana was acquired, and who left about a year later. "We told the higher-ups we needed more staffing, but they said we should make do."

Regulators typically visit nursing homes about once a year. But in the 12 months after Formation's acquisition of Habana, they visited an average of once a month, often in response to residents' complaints. The home was cited for failing to follow doctors' orders, cutting staff below legal minimums, blocking emergency exits, storing food in unhygienic areas and other health violations.

Soon after, nursing home inspectors wrote in Centers for Medicare and Medicaid

Services documents that Habana was at fault when a resident suffocated because his tracheotomy tube became clogged. Although he had complained of shortness of breath, there were no records showing that staff had checked on him for almost two days.

Those citations never mentioned Formation, Warburg Pincus or its affiliates. Warburg Pincus and its affiliates declined to discuss the citations. Formation said it was merely a landlord.

“Formation Properties owns real estate and leases it to an unaffiliated third party that obtains a license to operate it as a health care facility,” Formation said. “No citation would mention Formation Properties since it has no involvement or control over the operations at the facility or any entity that is involved in such operations.”

For Mrs. Hewitt’s mother, problems began within months of moving in as she suffered repeated falls.

“I would call and call and call them to come to her room to change her diaper or help me move her, but they would never come,” Mrs. Hewitt recalled.

Five months later, Mrs. Hewitt discovered that her mother had a large bedsore on her back that was oozing pus. Mrs. Garcia was rushed to the hospital. A physician later said the wound should have been detected much earlier, according to medical records submitted as part of a lawsuit Mrs. Hewitt filed in a Florida Circuit Court.

Three weeks later, Mrs. Garcia died.

“I feel so guilty,” Mrs. Hewitt said. “But there was no way for me to find out how bad that place really was.”

Death and a Lawsuit

Within a few months, Mrs. Hewitt decided to sue the nursing home.

“The only way I can send a message is to hit them in their pocketbook, to make it too expensive to let people like my mother suffer,” she said.

But when Mrs. Hewitt's lawyer, Sumeet Kaul, began investigating Habana's corporate structure, he discovered that its complexity meant that even if she prevailed in court, the investors' wallets would likely be out of reach.

Others had tried and failed. In response to dozens of lawsuits, Formation and affiliates of Warburg Pincus had successfully argued in court that they were not nursing home operators, and thus not liable for deficiencies in care.

Formation said in a statement that it was not reasonable to hold the company responsible for residents, "any more, say, than it would be reasonable for a landlord who owns a building, one of whose tenants is Starbucks, to be held liable if a Starbucks customer is scalded by a cup of hot coffee."

Formation, Warburg Pincus and its affiliates all declined to answer questions regarding Mrs. Hewitt's lawsuit.

Advocates for nursing home reforms say anyone who profits from a facility should be held accountable for its care.

"Private equity is buying up this industry and then hiding the assets," said Toby S. Edelman, a nursing home expert with the Center for Medicare Advocacy, a nonprofit group that counsels people on Medicare. "And now residents are dying, and there is little the courts or regulators can do."

Mrs. Hewitt's lawyer has spent three years and $30,000 trying to prove that an affiliate of Warburg Pincus might be responsible for Mrs. Garcia's care. He has not named Formation or Warburg Pincus as defendants. A judge is expected to rule on some of his arguments this year.

Complex corporate structures have dissuaded scores of other lawyers from suing nursing homes.

About 70 percent of lawyers who once sued homes have stopped because the cases became too expensive or difficult, estimates Nathan P. Carter, a plaintiffs' lawyer in Florida.

"In one case, I had to sue 22 different companies," he said. "In another, I got a

$400,000 verdict and ended up collecting only $25,000."

Regulators have also been stymied.

For instance, Florida's Agency for Health Care Administration has named Habana and 34 other homes owned by Formation and operated by affiliates of Warburg Pincus as among the state's worst in categories like "nutrition and hydration," "restraints and abuse" and "quality of care." Those homes have been individually cited for violations of safety codes, but there have been no chainwide investigations or fines, because regulators were unaware that all the facilities were owned and operated by a common group, said Molly McKinstry, bureau chief for long-term-care services at Florida's Agency for Health Care Administration.

And even when regulators do issue fines to investor-owned homes, they have found penalties difficult to collect.

"These companies leave the nursing home licensee with no assets, and so there is nothing to take," said Scott Johnson, special assistant attorney general of Mississippi.

Government authorities are also frequently unaware when nursing homes pay large fees to affiliates.

For example, Habana, operated by a Warburg Pincus affiliate, paid other Warburg Pincus affiliates an estimated $558,000 for management advice and other services last year, according to reports the home filed.

Government programs require nursing homes to reveal when they pay affiliates so that such disbursements can be scrutinized to make sure they are not artificially inflated.

However, complex corporate structures make such scrutiny difficult. Regulators did not know that so many of Habana's payments went to companies affiliated with Warburg Pincus.

"The government tries to make sure homes are paying a fair market value for things like rent and consulting and supplies," said John Villegas-Grubbs, a Medicaid expert who has developed payment systems for several states. “But when home owners pay themselves without revealing it, they can pad their bills. It’s not feasible to expect regulators to catch that unless they have transparency on ownership structures.”

Formation and Warburg Pincus both declined to discuss disclosure issues.

Groups lobbying to increase transparency at nursing homes say complicated corporate structures should be outlawed. One idea popular among organizations like the National Citizens’ Coalition for Nursing Home Reform is requiring the company that owns a home’s most valuable assets, its land and building, to manage it. That would put owners at risk if care declines.

But owners say that tying a home’s property to its operation would make it impossible to operate in leased facilities, and exacerbate a growing nationwide nursing home shortage.

Moreover, investors say, they deserve credit for rebuilding an industry on the edge of widespread insolvency.

“Legal and regulatory costs were killing this industry,” said Mr. Whitman, the Formation executive.

For instance, Beverly Enterprises, which also had a history of regulatory problems, sold Habana and the rest of its Florida centers to Formation because, it said at the time, of rising litigation costs. AON Risk Consultants, a research company, says the average cost of nursing home litigation in Florida during that period had increased 270 percent in five years.

“Lawyers were suing nursing homes because they knew the companies were worth billions of dollars, so we made the companies smaller and poorer, and the lawsuits have diminished,” Mr. Whitman said. This year, another fund affiliated with Mr. Whitman and other investors acquired the nation’s third-largest nursing home chain, Genesis HealthCare, for $1.5 billion.

If investors are barred from setting up complex structures, “this industry makes no economic sense,” Mr. Whitman said. “If nursing home owners are forced to operate at a loss, the entire industry will disappear."

However, advocates for nursing home reforms say investors exaggerate the industry's precariousness. Last year, Formation sold Habana and 185 other facilities to General Electric for $1.4 billion. A prominent nursing home industry analyst, Steve Monroe, estimates that Formation's and its co-investors' gains from that sale were more than $500 million in just four years. Formation declined to comment on that figure.

A version of this article appears in print on , on page 11 of the New York edition with the headline: At Many Homes, More Profit and Less Nursing.